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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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 946

[Docket No. FV05–946–1 FR]

Irish Potatoes Grown in Washington; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule increases the assessment rate established for the State of Washington Potato Committee (Committee) for the 2005–2006 and subsequent fiscal periods from $0.002 to $0.0035 per hundredweight of potatoes handled. The Committee locally administers the marketing order which regulates the handling of Irish potatoes grown in Washington. Authorization to assess potato handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period begins July 1 and ends June 30. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: *Effective Date:* June 18, 2005.

FOR FURTHER INFORMATION CONTACT: Teresa L. Hutchinson, Marketing Specialist, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, Suite 385, Portland, OR 97204; Telephone: (503) 326–2724, Fax: (503) 326–7440; or George J. Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 113 and Marketing Order No. 946, both as amended (7 CFR part 946), regulating the handling of Irish potatoes grown in Washington, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Washington potato handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable potatoes beginning July 1, 2005, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule increases the assessment rate established for the Committee for the 2005–2006 and subsequent fiscal periods from $0.002 to $0.0035 per hundredweight of potatoes handled.

The order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers in Washington. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate was formulated and discussed at a public meeting, thus all directly affected persons had an opportunity to participate and provide input.

For the 1997–98 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on February 3, 2005, and unanimously recommended 2005–2006 expenditures of $36,750 and an assessment rate of $0.0035 per hundredweight of potatoes. In comparison, last year's budgeted expenditures were $38,500. The assessment rate of $0.0035 is $0.0015 higher than the rate for the 2004–2005 fiscal period. The Committee recommended the higher assessment rate to maintain its monetary reserve at a satisfactory level.

The major expenditures recommended by the Committee for the 2005–2006 fiscal period include $18,000 for surveillance inspections, $4,800 for Washington State Potato Commission (Commission) expenses, $3,000 for office supplies, $3,000 for Committee expense, $1,500 for Committee member compensation, and $1,500 for the financial audit. The Committee operates under an agreement with the Commission. The Commission provides the Committee office space and administrative services. Budgeted expenses for these items in 2004–2005 were $20,000, $4,800, $3,000, $1,500, $1,500, and $2,000, respectively.

The assessment rate recommended by the Committee was derived by multiplying anticipated shipments of Washington potatoes by various assessment rates. Applying the $0.0035 per hundredweight assessment rate to the Committee's 10,000,000 hundredweight crop estimate should provide $35,000 in assessment income. Thus, income derived from handler assessments and interest ($800) plus $950 from the Committee's monetary reserve will be adequate to cover the recommended $36,750 budget for 2005–2006.

Funds in the reserve were $50,277 as of January 31, 2005. The Committee estimates that $17,700 will be deducted from the reserve to cover budgeted expenses for 2004–2005. Thus, the Committee estimates a reserve of $32,577 on June 30, 2005, which will be within the maximum permitted by the order of approximately two fiscal period's operational expenses (§ 946.42).

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate will be in effect for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate the Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2005–2006 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by USDA.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 48 handlers of Washington potatoes subject to regulation under the order and approximately 286 producers in the regulated production area. Small agricultural service firms are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $6,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000.

During the 2003–2004 marketing year, 10,652,495 hundredweight of Washington potatoes were inspected under the order and sold into the fresh market. Based on an estimated average f.o.b. price of $7.45 per hundredweight, the Committee estimates that 45 handlers, or about 94 percent, had annual receipts of less than $6,000,000.

In addition, based on information provided by the National Agricultural Statistics Service, the average producer price for Washington potatoes for the 2003 marketing year was $5.25 per hundredweight. The average annual producer revenue for the 286 Washington potato producers is therefore calculated to be approximately $195,544. In view of the foregoing, the majority of the Washington potato producers and handlers may be classified as small entities.

This rule increases the assessment rate established for the Committee and collected from handlers for the 2005–2006 and subsequent fiscal periods from $0.002 to $0.0035 per hundredweight for potatoes. The Committee unanimously recommended 2005–2006 expenditures of $36,750 and the $0.0035 per hundredweight assessment rate. The assessment rate of $0.0035 is $0.0015 higher than the rate for the 2004–2005 fiscal period. With an estimated 2005–2006 potato crop of 10,000,000 hundredweight, the $0.0035 rate should provide the Committee with $35,000 in assessment income which combined with interest income and funds from the monetary reserve will be adequate to cover budgeted expenses. The Committee recommended the higher assessment rate to help ensure that its monetary reserve is maintained at a satisfactory level. Funds in the reserve were $50,277 as of January 31, 2005. The Committee estimates that $17,700 will be deducted from the reserve to cover budgeted expenses for 2004–2005. Thus, the Committee estimates a reserve of $32,577 on June 30, 2005, which will be within the maximum permitted by the order of approximately two fiscal period's operational expenses (§ 946.42).

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The Committee discussed alternatives to this rule, including alternative expenditure levels. The Committee ultimately determined that the recommended expenses were reasonable. Lower assessment rates were considered, but not recommended because they would not generate the income necessary to administer the program with an adequate reserve.

A review of historical information and preliminary information pertaining to the upcoming crop year indicates that the producer price for the 2005–2006 season could range from about $5.25 per hundredweight to about $5.85 per hundredweight. Therefore, the estimated assessment revenue for the 2005–2006 fiscal period as a percentage of total producer revenue could range between 0.060 and 0.067 percent.

This action increases the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs are offset by the benefits derived by the operation of the order. In addition, the Committee's meeting was widely publicized throughout the Washington potato industry and all interested persons were invited to attend and participate in the Committee's deliberations on all issues. Like all Committee meetings, the February 3, 2005, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This rule imposes no additional reporting or recordkeeping requirements on either small or large Washington potato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A proposed rule concerning this action was published in the **Federal Register** on April 1, 2005 (70 FR 16759). Copies of the proposed rule were also mailed or sent via facsimile to all Committee members. Finally, the proposal was made available through the Internet by USDA and the Office of the Federal Register. A 30-day comment period ending May 2, 2005, was provided for interested persons to respond to the proposal. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ama.usda.gov/fv/moab.html*. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The 2005–2006 fiscal period begins on July 1, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable Washington potatoes handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay for expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years. Also, a 30-day comment period was provided for in the proposed rule and no comments were received.

List of Subjects in 7 CFR Part 946

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 946 is amended as follows:

PART 946—IRISH POTATOES GROWN IN WASHINGTON

■ 1. The authority citation for 7 CFR part 946 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 946.248 is revised to read as follows:

§ 946.248 Assessment rate.

On and after July 1, 2005, an assessment rate of $0.0035 per hundredweight is established for Washington potatoes.

Dated: June 9, 2005.

Barry L. Carpenter,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 05–12005 Filed 6–16–05; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 381

[Docket No. 04–036F]

RIN 0583–AD13

Termination of Designation of the State of North Dakota With Respect to the Inspection of Poultry Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the poultry products inspection regulations by terminating the designation of the State of North Dakota under sections 1 through 4, 6 through 10, 11(b), 11(c), and 12 through 22 of the Poultry Products Inspection Act (PPIA). FSIS has concluded that North Dakota is in a position to administer a State poultry inspection program, which is at least equal to the Federal poultry products inspection program.

DATES: Effective on June 17, 2005.

FOR FURTHER INFORMATION CONTACT: Royce E. Sperry, Deputy Director; Review Staff; Office of Program Evaluation, Enforcement and Review, FSIS, USDA, telephone (402) 221–7401, extension 7484.

SUPPLEMENTARY INFORMATION:

Background

Section 5(c)(1) of the PPIA (21 U.S.C. 454(c)) authorizes the Secretary of Agriculture to designate a State as one in which the provisions of sections 1 through 4, 6 through 10, 11(b), 11(c), and 12 through 22 of the PPIA will apply to operations and transactions wholly within the State if the Secretary has determined that requirements at least equal to those imposed under the Act have not been developed and effectively enforced by the State.

The Secretary of Agriculture designated the State of North Dakota under paragraph 5(c)(1) of the PPIA, effective January 2, 1971 (42 FR 2949). The designation specified that North Dakota is a State in which the United States Department of Agriculture is responsible for providing poultry products inspection at eligible establishments and for otherwise enforcing the applicable provisions of the PPIA.

In addition, on July 23, 1973, a notice was published in the **Federal Register** (38 FR 19671) announcing that, effective on that date, the Department would assume the responsibility of administering the authorities provided for under sections 11(b) and (c) (21 U.S.C. 460(b) and (c) of the PPIA regarding certain categories of processors of poultry products.

This designation was undertaken by the Department when USDA determined that the State of North Dakota was not in a position to enforce inspection requirements under State laws for poultry and poultry products in intrastate commerce that were at least equal to the requirements of the PPIA enforced by the Federal Government.

Section 5(c)(3) of the PPIA provides that whenever the Secretary of Agriculture determines that any designated State has developed and will enforce State poultry products inspection requirements that are at least equal to those imposed by the Federal Government under the PPIA, with respect to operations and transactions within the State, the Secretary will terminate the designation of the State. The Secretary has determined that the State of North Dakota has developed and will enforce a State poultry products inspection program in accordance with the provisions of the PPIA. FSIS has evaluated the North Dakota program and determined that it is at least equal to the Federal Government requirements. This evaluation also has shown that the State of North Dakota is in a position to enforce effectively the provisions of section 11(b) and (c) of the PPIA. Therefore, the designation of the State of North Dakota under sections 1 through 4, 6 through 10, 11(b), 11(c), and 12 through 22 of the PPIA is terminated.

FSIS published a proposed rule on March 14, 2005 (70 FR 12420). The public comment period ended on April 13, 2005. No comments were received.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. It has been determined to be not significant,

and has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court proceedings challenging this rule. However, the administrative procedures specified in 9 CFR 306.5 must be exhausted before any judicial challenge of the application of the provisions of this proposed rule, if the challenge involves any decision of an FSIS employee relating to inspection services provided under the *Additional Public Notification.*

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that the public and in particular minorities, women, and persons with disabilities, are aware of this final rule, FSIS will announce it online through the FSIS Web page located at *http://www.fsis.usda.gov/regulations_&_policies/2005_Interim_&_Final_Rules_Index/index.asp.*

The Regulations.gov Web site is the central online rulemaking portal of the United States Government. It is being offered as a public service to increase participation in the Federal Government's regulatory activities. FSIS participates in Regulation.gov and will accept comments on documents published on the site. The site allows visitors to search by keyword or Department of Agency for rulemakings that allow for public comment. Each entry provides a quick link to a comment form so that visitors can type in their comments and submit them to FSIS. The Web site is located at *http://www.regulations.gov/.*

FSIS also will make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and other types of information that could affect or would be of interest to our constituents and stakeholders. The update is communicated via Listserv, a free e-mail subscription service consisting of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals who have requested to be included. The update also is available on the FSIS Web page. Through Listserv and the Web page, FSIS is able to provide information to a much broader, more diverse audience.

In addition, FSIS offers an electronic mail subscription service that provides an automatic and customized notification when popular pages are updated, including **Federal Register** publications and related documents. This service is available at *http://www.fsis.usda.gov/news_and_events/email_subscription/* and allows FSIS customers to sign up for subscription options in eight categories. Options range from recalls to export information to regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

List of Subjects in 9 CFR Part 381

Poultry and poultry products.

■ For the reasons discussed in the preamble, FSIS is proposing to amend 9 CFR Chapter III as follows:

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

■ 1. The authority citation for part 381 continues to read as follows:

Authority: 7 U.S.C. 138f; 7 U.S.C. 450; 21 U.S.C. 451–470; 7 CFR 2.17, 2.55.

§ 381.221 [Amended]

■ 2. Section 381.221 is amended by removing from the table the entry for ''North Dakota.''

§ 381.224 [Amended]

■ 3. Section 381.224 is amended by removing from the table the two entries for ''North Dakota.''

Done at Washington, DC, on June 7, 2005.

Barbara J. Masters,

Acting Administrator.

[FR Doc. 05–12009 Filed 6–16–05; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NM–89–AD; Amendment 39–14134; AD 2005–12–18]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 757 Series Airplanes

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

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 757 series airplanes. For certain affected airplanes, this action requires repetitive testing of the secondary brakes of the horizontal stabilizer trim actuator (HSTA). For all affected airplanes, this action requires repetitive overhauls of the primary brake and differential assembly of the HSTA, which would constitute terminating action for the repetitive testing of the secondary brake. This action is necessary to prevent grease contamination on the primary HSTA brake and consequent loss of the primary brake function, which, in combination with the loss of the secondary HSTA brake function, could result in loss of control of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective July 22, 2005.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 22, 2005.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

FOR FURTHER INFORMATION CONTACT: Kenneth W. Frey, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (425) 917–6468; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Boeing Model 757 series airplanes was published in the **Federal Register** on December 22, 2003 (68 FR 71047). For certain affected airplanes, that action proposed to require repetitive testing of the secondary brakes of the horizontal stabilizer trim actuator (HSTA). For all affected airplanes, that action proposed to require repetitive overhauls of the primary brake, ballscrew assembly, and

differential assembly of the HSTA, which would constitute terminating action for the repetitive testing of the secondary brake.

Comments

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

Request for Alternative Actions to the Overhaul of the HSTA Ballscrew Assembly

Two commenters request that alternative actions be accomplished instead of the overhaul of the HSTA ballscrew assembly specified in the proposed AD.

One commenter requests that the actions specified in Boeing Alert Service Bulletin 757–27A0144, dated August 7, 2003, be required to address corrosion findings in the ballscrew assemblies. The commenter notes that this service bulletin provides a detailed inspection of the ballscrew primary load path for damage, cracking, corrosion, and wear. In addition, the commenter states the service bulletin provides a freeplay check and an increased lubrication interval for the HSTA. The commenter notes that all of these service bulletin actions are included in the Boeing maintenance planning document (MPD). The commenter contends that these procedures further the airworthiness of the HSTA assembly specific to concerns presented by the proposed AD. The commenter notes that these procedures have not been referenced in the proposed AD. The commenter adds that the initial compliance times of the proposed AD, the availability of spares, and the costs of the initial requirements of the proposed AD pose an industrywide concern over the ability to meet compliance with the proposed AD. The commenter concludes that consideration of the actions provided by the service bulletin would increase the level of safety of the HSTA assembly, lessen impact on component maintenance and spares availability, and help spread the cost associated with the initial requirements of the proposed AD over time.

The other commenter states that the proposed AD specifies that, ''* * * all ballscrew assemblies on HSTAs that have been recently overhauled showed corrosion or wear.'' The commenter notes that this is not consistent with its findings. The commenter believes the lack of data regarding the severity or consequences of corrosion or wear is significant. The commenter suggests that, since the reason for the proposed AD is to address contamination of the primary brake, the corrosion on the ballscrew could be identified and corrected during on-wing detailed inspections and freeplay checks. The commenter states that overhaul of the ballscrew should be based on the condition of the part or at the discretion of the operator since an unsafe condition has not been established.

We agree that alternative actions should be accomplished instead of the requirement to overhaul the ballscrew assembly specified in the proposed AD. The identified unsafe condition in the final rule involves grease contamination on the primary HSTA brake. The corrosion findings in the ballscrew assemblies referenced in Boeing Alert Service Bulletin 757–27A0142, Revision 2, dated October 23, 2003; and Boeing Alert Service Bulletin 757–27A0143, Revision 1, dated October 23, 2003; which are referenced in the final rule; are not related to the identified unsafe condition addressed in this final rule. Thus, we have determined that it is not necessary to mandate the periodic overhaul of the ballscrew assembly. The corrosion findings are addressed in Boeing Alert Service Bulletin 757–27A0144, dated August 7, 2003; and Boeing Alert Service Bulletin 757–27A0145, dated August 7, 2003. The service bulletins provide instructions to perform a freeplay and a detailed inspection/lubrication of the HSTA ballscrew assembly. These service bulletins are intended to prevent the loss the HSTA primary and secondary load paths. We are planning to review these service bulletins and may consider further rulemaking action. We have removed the requirement to overhaul the ballscrew assembly from paragraphs (a), (b), and (f) of the final rule.

Request To Revise the Cost Impact

Many commenters request that the Cost Impact paragraph of the proposed AD be revised. The commenters state that the estimate in the proposed AD is too low. Several commenters mention that the costs of materials/components are not included in the estimate. One commenter also states that testing is not included in the estimate. The commenters estimate the cost of the overhaul to be between $40,000 and $80,000. One commenter also notes there is a high cost impact on operators due to the combination of material costs for the overhaul and performing the overhaul within the initial compliance time. Another commenter also believes that the estimated labor hours in the proposed AD is 20 percent too low.

We partially agree to revise the Cost Impact paragraph in the final rule. We included only an estimate of labor hours for the overhaul and an estimate of the labor hours for the brake test in the proposed AD. We did not include the cost of parts associated with the overhaul. Based on the manufacturer's and operators' estimates, we now estimate the cost to overhaul the primary brake and differential assembly to be $60,000 per airplane, per overhaul. The cost of overhauling the ballscrew assembly is not included in the estimate, as the final rule does not contain a requirement to overhaul the ballscrew assembly. We have revised the Cost Impact paragraph of the final rule to include an estimate of $60,000 per airplane for the overhaul.

However, we do not agree with the one commenter that the labor hours specified in the final rule are too low. The labor hours are based on manufacturer estimates and represent only the time necessary to perform the specific actions actually required by the AD. Labor hours typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions. No change is made to the final rule in this regard.

We also acknowledge there is a high cost impact on operators during the initial compliance time. However, the actions required by the final rule must be done within the compliance times specified in the final rule to ensure continued operational safety. In developing an appropriate compliance time for this AD, we considered the safety issues as well as the recommendations of the manufacturer, the availability of necessary repair parts, and the practical aspect of accomplishing the required inspection within an interval of time that corresponds to the normal maintenance schedules of most affected operators.

Request To Limit Actions to the Inspection of the Differential Assembly

One commenter requests that the requirements of the proposed AD for the differential shaft be limited to inspecting the differential assembly for signs of corrosion every 30,000 flight hours as specified in the proposed AD. The commenter notes that the proposed AD specifies that the FAA received reports that ''* * * corrosion or cracking was found during HSTA overhaul in some differential assemblies.'' The commenter believes that the corrosion and cracking discussed in Boeing All Operator Letter M–7200–03–01358, dated September 30, 2003, is the report mentioned in the proposed AD. The commenter states the

all operator letter discusses the finding of a single cracked differential shaft. The commenter believes that requiring an overhaul of the differential assembly goes beyond the actions necessary to ensure safety. The commenter states that doing an overhaul is an economic decision that should be based upon the condition of the parts.

While we agree with the commenter that the differential assembly should be inspected for corrosion every 30,000 flight hours as required in the final rule, we do not agree that the inspection should be the only action required. A detailed inspection is not sufficient to detect subsurface cracks in the differential shafts that could propagate and cause the differential shaft to fail. The overhaul required by the final rule includes a magnetic particle check of the differential assembly for cracking and is necessary to address the identified unsafe condition. No change is made to the final rule in this regard.

Request To Test Primary Brake Instead of Doing Overhaul

One commenter requests that the proposed AD be revised to allow testing of the primary brake every 2 years instead of doing an overhaul. The commenter notes that the proposed AD addresses concerns about grease contamination on the primary HSTA brake. The commenter believes that requiring the overhaul of the primary brake goes beyond addressing the stated safety concern. The commenter states that although Boeing indicated that an effective on-airplane primary brake test is not available, the HSTA could be removed to conduct the brake test. The commenter concludes that the replacement of bearings, etc., should be based on the condition of the parts or on the operator's discretion.

We do not agree with the request to allow a primary brake test every 2 years instead of the overhaul required by the final rule. Even with the grease contamination on the primary brake, a primary brake test may indicate that the primary brake is functioning to its full capacity. It has been shown that grease contamination on the primary brake did not produce repeatable results when the brake test was conducted. Brake test results can change due to environmental conditions of the test setup. The only way to ensure that the primary brake will function to its full capacity is to overhaul the brake assembly using the procedures in the applicable component maintenance manual (CMM) (referenced in Boeing Alert Service Bulletin 757–27A0142, Revision 2, dated October 23, 2003; and Boeing Alert Service Bulletin 757–27A0143, Revision 1, dated October 23, 2003; which are the appropriate sources of service information for accomplishing the required actions). During the overhaul, the HSTA thrust bearings and seal will be replaced. Replacing the thrust bearings and seal at the overhaul intervals specified in the Boeing Alert Service Bulletins should reduce the chance of grease contamination on the primary brake. If the thrust bearings are not changed during the overhaul, it is likely that grease will eventually leak from the thrust bearing and contaminate the primary brake. No change is made to the final rule in this regard.

Request To Extend Compliance Time

One commenter requests that several of the compliance times in the proposed AD be extended. The commenter suggests making the following changes to the compliance times specified in paragraph (a) of the proposed AD:

- Where paragraph A of the table referenced in paragraph (a) of the proposed AD says ''Overhaul the primary brake, ballscrew assembly and differential assembly of the HSTA within 2 years,'' revise it to say ''overhaul the primary brake, ballscrew assembly and differential assembly of the HSTA within 3 years after the effective date of this AD.''
- Where paragraphs B, C, and D of the table referenced in paragraph (a) of the proposed AD say ''Overhaul the primary brake, ballscrew assembly and differential assembly of the HSTA within 5 years or within 2 years after the HSTA reaches 42,000 hours, whichever comes first,'' revise it to say ''overhaul the primary brake, ballscrew assembly and differential assembly of the HSTA within 6 years or within 3 years after the HSTA reaches 42,000 hours, whichever comes first.''
- Where paragraph D of the table referenced in paragraph (a) of the proposed AD says ''If the HSTA has less than 30,000 hours within five years, overhaul the primary brake, ballscrew assembly and differential assembly of the HSTA when or before the HSTA reaches 30,000 hours,'' revise it to say ''if the HSTA has less than 30,000 hours within 6 years, overhaul the primary brake, ballscrew assembly and differential assembly of the HSTA when or before the HSTA reaches 30,000 hours.''

The commenter states that the unsafe condition with the primary brake specified in the proposed AD is overcome by the secondary brakes and would not affect the operation of the HSTA assembly. The commenter also notes that the manufacturer has not reported any Model 757 airplane events associated with the findings referenced by Boeing Alert Service Bulletin 757–27A0142, Revision 2, dated October 23, 2003; and Boeing Alert Service Bulletin 757–27A0143, Revision 1, dated October 23, 2003. The commenter believes that any in-service difficulty related to the finding on one differential assembly would not result in a ''run-away'' stabilizer and would be adequately managed by the flightcrew. The commenter concludes that, by revising the proposed AD to require 3-year and 6-year initial compliance times, along with proposed secondary brake checks, the intent of the proposed AD will be accomplished within a timeframe better aligned with scheduled maintenance, and the continued safety of the aircraft will be ensured.

Furthermore, the commenter proposes that more frequent secondary brake checks or consideration of actions specified in Boeing Alert Service Bulletin 757–27A0144, dated August 7, 2003, and the corresponding MPD changes would further increase the level of safety of the HSTA assembly to support the extended initial compliance times. The commenter believes that the extended compliance times and more efficient alignment with scheduled maintenance will reduce the impact of removing airplanes from scheduled service and will help spread the tremendous financial burden associated with the material and initial overhaul cost over time while maintaining a safe Model 757 fleet.

We do not agree with the request to extend the compliance times in the final rule. While we agree the manufacturer has not reported any Model 757 airplane events, the intent of the final rule is to perform the required actions before an airplane event occurs due to the identified unsafe condition. We also do not agree with the commenter that more frequent secondary brake checks or actions specified in Boeing Alert Service Bulletin 757–27A0144, dated August 7, 2003, and the corresponding MPD changes would increase the level of safety of the HSTA assembly. A contaminated primary brake is a latent failure until the HSTA is overhauled. Also, a cracked differential shaft is a latent failure until the HSTA is overhauled. A secondary brake test shows only whether the secondary brake and one of two differential shafts are functioning. Even after passing the secondary brake test, the HSTA assembly may be one failure from the identified unsafe condition. No change is made to the final rule in this regard.

We acknowledge the commenter's statement that the compliance times in the final rule may not align with

scheduled maintenance. Generally, we make every effort to establish compliance times that align with operators' scheduled maintenance. In this case, the compliance times in the final rule are based on Boeing airplane-level risk assessment, service history, and input from the lead airline. However, according to the provisions of paragraph (h) of the final rule, we may approve requests to adjust the compliance time if the request includes data that prove that the new compliance time would provide an acceptable level of safety.

Request To Reduce Repetitive Inspection Interval

One commenter requests the repetitive secondary brake test interval required by the proposed AD be revised. The commenter recommends the repetitive interval to be the closest scheduled maintenance (letter) check within every 500 flight hour interval. The commenter states that the test requires two engineers and the use of ground equipment for access, which are not always readily available during normal operational visits. The commenter suggests that its proposed repetitive interval would allow flexibility for operators that have an approved escalated schedule to perform tests at regularly scheduled maintenance intervals.

We do not agree to revise the repetitive secondary brake test interval. Compliance times have to be based on defined intervals to ensure that the required action in a final rule will be done within an appropriate timeframe for safe operation of the airplane. Since maintenance schedules vary among operators, it is not possible to align the compliance time to fit all operators' scheduled maintenance (letter) checks. The repetitive interval of 600 flight hours required in the final rule is based on a Boeing airplane-level risk assessment and input from the lead airline. No change is made to the final rule in this regard. However, according to the provisions of paragraph (h) of the final rule, we may approve requests to adjust the compliance time if the request includes data that prove that the new compliance time would provide an acceptable level of safety.

Request To Revise Initial Compliance Time

One commenter states the compliance times in Boeing Alert Service Bulletin 757–27A0142, dated February 13, 2003, ''range from 2 years for aircraft with 42,000 flight hours or more, to 5 years for aircraft with 30,000 but less than 42,000 flight hours.'' The commenter notes that its data for the overhaul of HSTAs show that the 2-year compliance time specified in the service bulletin for aircraft with 42,000 flight hours or more is not being complied with. The commenter also points out that the initial compliance time for the same aircraft in the proposed AD (which is 2 years after the effective date of the AD) may result in overhauls not being required to be done until close to 4 years after February 13, 2003, (the issue date of Boeing Alert Service Bulletin 757–27A0142). The commenter is concerned that this compliance time in the proposed AD may result in an unacceptable exposure to the identified unsafe condition.

We infer that the commenter is requesting that the initial compliance time specified in paragraph (c) of the proposed AD be revised from ''after the effective date of this AD'' to a time closer to or matching after the date of the ''initial release of the service bulletin.'' We do not agree to revise the initial compliance time in the final rule. In developing the compliance time for this AD, we considered not only the safety implications of the identified unsafe condition, but the average utilization rate of the affected fleet, the practical aspects of doing the overhauls of the fleet during regular maintenance periods, and the time necessary for the rulemaking process. We determined that using an initial compliance time following the effective date of the final rule is appropriate. Further, we arrived at the proposed compliance time with manufacturer concurrence.

In addition, reducing the compliance time would necessitate (under the provisions of the Administrative Procedure Act) reissuing the notice, reopening the period for public comment, considering additional comments subsequently received, and eventually issuing a final rule. We have determined that further delay of this final rule is not appropriate. However, if additional data are presented that would justify a shorter compliance time, we may consider further rulemaking on this issue. No change is made to the final rule in this regard.

Request To Include Overhaul of Secondary Brake

Two commenters request that the overhaul of the secondary brake be included in the proposed AD.

One commenter requests the same compliance time for the overhaul of the secondary brake as time specified in the proposed AD for the overhaul of the primary brake, differential, and ballscrew. The commenter notes that the proposed AD does not mandate the overhaul of the secondary brake or hydraulic motor, which are integral parts of the HSTA. The commenter points out that hydraulic fluid leakage from secondary brakes and hydraulic motors into the differential washes the grease off of the differential and leads to corrosion and, therefore, necessitates the overhaul of the differential. The commenter states, ''Brakes or motors, which are not overhauled, would likely start leaking as soon as the HSTA is put back into service after overhaul. When the brakes and motors were new (or fully overhauled) such corrosion causing leakage would not likely have begun for several years.''

The other commenter requests that the overhaul of the secondary brake be recommended in the proposed AD. The commenter recommends adding notes like the ones specified in Boeing Alert Service Bulletin 757–27A0142, Revision 2, dated October 23, 2003; and Boeing Alert Service Bulletin 757–27A0143, Revision 1, dated October 23, 2003; to paragraphs (a) and (b) of the proposed AD, as follows: ''It is recommended that you also do an overhaul of the secondary hydraulic brakes and hydraulic motors of the HSTA. Hydraulic fluid can leak from these components and wash the grease out of the differential assembly.'' The commenter suggests adding the following note to paragraph (d) of the proposed AD: ''It is recommended that you also do an overhaul of the secondary hydraulic brakes and hydraulic motors of the HSTA. Hydraulic fluid can leak from these components and wash the grease out of the differential assembly. Boeing also recommends that you do an operational test of the HSTA secondary brakes (refer to MPD 27–41–00–5D) when the HSTA reaches 24,000 flight hours.'' The commenter notes that the proposed AD does not address that the secondary brakes should be overhauled as specified in the service bulletins. The commenter states that the secondary brake was never designed to perform the operation of the primary brake in repetitive circumstances. The commenter indicates that if the secondary brake is subject to the braking requirements of the primary brake, there may be wear to the internal parts in the secondary brake that would not be identified during the limited testing required by the proposed AD. The commenter proposes that the only way to identify any potential premature wear to the rotors or stators in the secondary brake is to disassemble and inspect internal components within the secondary brake.

We do not agree to include the overhaul of the secondary brake in the final rule. The intent of the final rule is to require actions that address the identified unsafe condition, which is the loss of primary and secondary braking function. The overhaul of the secondary brake is a recommended maintenance practice, which does not address the identified unsafe condition. Also, the service history of the secondary brakes shows the brakes are functioning normally, and testing shows that the HSTA secondary brakes could last one airplane life under normal operations with no assistance from any other braking system. No change is made to the final rule in this regard.

In regard to the commenter's statement about hydraulic fluid leakage from the secondary brakes and hydraulic motor, we recognize that hydraulic fluid can leak from the secondary brake or hydraulic motor, washing away grease and leading to corrosion or damage to the differential bearings. The leakage of hydraulic fluid from the secondary brake and hydraulic motor may infrequently cause loss of trim capability in one or both directions and does not affect braking function. Infrequent inability to move the horizontal stabilizer is not related to the identified unsafe condition of the final rule. However, we may consider further rulemaking on this issue of hydraulic fluid leakage if additional data are presented that would justify additional rulemaking.

Request To Clarify Scope of the Proposed AD

One commenter requests that paragraphs (a)(2) and (b) of the proposed AD be revised to clarify the intended scope of the overhaul of the primary brake, ballscrew assembly, and differential assembly in order to differentiate this overhaul from an overhaul of the HSTA assembly. The commenter also recommends that the related service bulletins and CMMs be revised to provide specific work instructions before issuance of the final rule. The commenter notes that CMM 27–41–05 does not define an overhaul of the HSTA assembly nor does it itemize requirements for an overhaul of the primary brake, ballscrew assembly, or differential assembly.

The commenter also points out that the use of the terms ''restore'' and ''overhaul'' in various Boeing documents has generated much confusion and discussion throughout the industry regarding the definition of the work scope that will be needed to accomplish the full intent of this HTSA effort and the requirements of the proposed AD. The commenter notes that restoration versus overhaul significantly affects the extent to which part disassembly and inspection are accomplished on the HSTA assembly.

We do not agree that clarification of the scope of the work in the final rule is needed. The final rule requires overhaul of the primary brake and differential assembly of the HSTA. The overhaul of the primary brake and differential assembly consists of inspection, testing and troubleshooting, disassembly, cleaning, check, repair, and assembly as described in the applicable CMM referenced in Boeing Alert Service Bulletin 757–27A0142, Revision 2, dated October 23, 2003; and Boeing Alert Service Bulletin 757–27A0143, Revision 1, dated October 23, 2003. We consider the CMM reference to be of sufficient detail to correct the identified unsafe condition. No change is made to the final rule in this regard.

Request To Add Statement To Allow Credit for Secondary Brake Tests

One commenter requests adding a statement to the ''Difference Between the Proposed Rule and Service Bulletin 757–27A0142'' paragraph of the proposed AD that allows operators to take credit for secondary brake tests performed according to their scheduled maintenance program at the 4C interval. No specific reason was given for the request.

We do not agree to add a statement allowing credit for secondary brake tests to the ''Difference Between the Proposed Rule and Service Bulletin 757–27A0142'' paragraph as the ''Difference Between the Proposed Rule and Service Bulletin 757–27A0142'' paragraph is not restated in the final rule. We also have verified the paragraph and find that no changes are necessary. For actions performed according to methods other than those specified in the final rule or at different compliance times, operators may request an alternative method of compliance (AMOC) according to the provisions of paragraph (h) of the final rule, if sufficient data are included to justify that the AMOC would provide an acceptable level of safety. Because operators' schedules vary substantially, we cannot accommodate every operator's optimal scheduling in the compliance times of each AD. We have not changed the final rule regarding this issue.

Request To Clarify Paragraph (g) of the Proposed AD

Two commenters request clarification of paragraph (g) of the proposed AD, which gives operators credit for overhauls accomplished according to previous issues of the service bulletin. One commenter wants the proposed AD to indicate that the accomplishment of previous issues of the service bulletins constitutes only partial compliance with the proposed AD. The other commenter believes that the overhauls of the ballscrew assembly and differential assembly accomplished according to applicable Thomson Saginaw service bulletins, Boeing service bulletins, or operator's equivalent CMMs (during primary brake overhaul done according to Boeing Alert Service Bulletin 757–27A0142, dated February 13, 2003; or Revision 1, dated April 10, 2003) should be acceptable for compliance with the proposed AD.

We do not find it necessary to change paragraph (g) of the final rule. The paragraph indicates that certain previous overhauls of the primary brakes and tests of the secondary brakes are acceptable for compliance with the corresponding action in the final rule. We do not find it necessary to indicate that this is only partial compliance with the final rule. The remaining actions in the final rule such as the overhaul of the differential assembly are still required. However, for clarity, we have revised the header above paragraph (g) of the final rule from ''overhauls accomplished * * *'' to ''actions accomplished * * *'' since paragraph (g) of the final rule describes both overhauls and tests.

Overhaul of the ballscrew assembly is not a requirement of this final rule for the reasons discussed above in the paragraph titled ''Request for Alternative Actions to the Overhaul of the HSTA Ballscrew Assembly.'' We also cannot give credit for overhauls of the differential assembly accomplished according to Boeing service bulletins or operator's equivalent CMMs. The commenter did not provide sufficient data to indicate that previous overhauls of the differential assembly according to these methods would provide an acceptable level of safety. Also, Boeing Alert Service Bulletin 757–27A0142, dated February 13, 2003; and Boeing Alert Service Bulletin 757–27A0142, Revision 1, dated April 10, 2003; do not provide procedures to overhaul the differential assembly. We have not changed the final rule in this regard. However, according to the provisions of paragraph (h) of the final rule, operators may request an AMOC if sufficient data are included to justify that the AMOC would provide an acceptable level of safety.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air

safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 1,085 airplanes of the affected design in the worldwide fleet. The FAA estimates that 754 airplanes of U.S. registry will be affected by this AD; 722 of the affected airplanes of U.S. registry are Model 757–200, -200PF, and -200CB series airplanes, and 32 are Model 757–300 series airplanes.

For the affected Model 757–200 and Model 757–300 series airplanes, we estimate the cost impact of the overhaul on U.S. operators to be $45,240,000, or $60,000 per airplane, per overhaul cycle.

For the affected Model 757–200 series airplanes, the FAA estimates that it will take approximately 1 work hour per airplane to accomplish the test of the HSTA secondary brake, and that the average labor rate is $65 per work hour. Based on these figures, the cost impact of the secondary brake test on U.S. operators is estimated to be $46,930, or $65 per airplane, per test.

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

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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.

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

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

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 the following new airworthiness directive:

2005–12–18 Boeing: Amendment 39–14134. Docket 2003–NM–89–AD.

Applicability: All Model 757–200, –200PF, –200CB, and –300 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent grease contamination on the primary horizontal stabilizer trim actuator (HSTA) brake and consequent loss of the primary brake function, which, in combination with the loss of the secondary HSTA brake function, could result in loss of control of the airplane, accomplish the following:

For Model 757–200, –200CB, and –200PF Series Airplanes: Repetitive Overhauls and Tests

(a) For Model 757–200, –200CB, and –200PF series airplanes: Except as provided by paragraphs (c), (d), and (e) of this AD, at the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 757–27A0142, Revision 2, dated October 23, 2003; including the compliance time ''since the most recent overhaul of the primary brake, the ballscrew assembly, and the differential assembly''; do the actions specified in paragraphs (a)(1) and (a)(2) of this AD.

(1) Test the secondary brakes of the HSTA in accordance with Part 2 of the Accomplishment Instructions of the service bulletin. If any secondary brake fails, before further flight, replace with a serviceable brake or overhaul in accordance with Part 2 of the Accomplishment Instructions of the service bulletin.

(2) Overhaul the primary brake and differential assembly of the HSTA in accordance with Part 1 of the Accomplishment Instructions of the service bulletin. Accomplishment of the overhaul constitutes terminating action for the repetitive tests of the secondary brake required by paragraph (a)(1) of this AD.

(b) Repeat the overhaul of the primary brake and differential assembly of the HSTA at intervals not to exceed 30,000 flight hours, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 757–27A0142, Revision 2, dated October 23, 2003.

(c) Where the service bulletin specified in paragraph (a) of this AD specifies a date from which the initial compliance time interval starts as being the date of the initial release of the service bulletin, this AD requires compliance within the applicable initial compliance time after the effective date of this AD.

(d) Where the service bulletin specified in paragraph (a) of this AD states ''total hours since delivery,'' this AD requires compliance prior to the accumulation of the applicable number of flight hours since the date of issuance of the original Airworthiness Certificate or the date of issuance of the original Export Certificate of Airworthiness.

(e) Where paragraph D. of the table in paragraph 1.E., ''Compliance,'' of the service bulletin specified in paragraph (a) of this AD states: ''Test the HSTA secondary brake when the HSTA reaches 24,000 hours (4C) (this is currently a scheduled maintenance task)'; this AD requires testing secondary brakes that have accumulated between 15,000 and 23,999 flight hours when the HSTA reaches 24,000 flight hours or within 500 flight hours after the effective date of this AD, whichever occurs later. For HSTAs that have accumulated between 24,000 and 29,999 flight hours, this AD requires testing the secondary brake within 500 flight hours after the effective date of this AD. All testing

should be done in accordance with the service bulletin.

For Model 757–300 Series Airplanes: Repetitive Overhauls

(f) For Model 757–300 series airplanes: Prior to the accumulation of 30,000 total flight hours, overhaul the primary brake and differential assembly of the HSTA in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 757–27A0143, Revision 1, dated October 23, 2003. Repeat the overhaul thereafter at intervals not to exceed 30,000 flight hours.

Actions Accomplished Per Previous Issues of Service Bulletins

(g) Overhauls of the primary brake and tests of the secondary brakes accomplished before the effective date of this AD in accordance with Boeing Alert Service Bulletin 757–27A0142, dated February 13, 2003; or Revision 1, dated April 10, 2003; and overhauls of the primary brake accomplished before the effective date of this AD in accordance with Boeing Alert Service Bulletin 757–27A0143, dated February 13, 2003; are considered acceptable for compliance with the overhaul of the primary brake only and tests of the secondary brakes specified in this AD.

Alternative Methods of Compliance (AMOCs)

(h) In accordance with 14 CFR 39.19, the Manager, Seattle Aircraft Certification Office (ACO), FAA, is authorized to approve AMOCs for this AD.

Incorporation by Reference

(i) Unless otherwise specified in this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin 757–27A0142, Revision 2, dated October 23, 2003; or Boeing Alert Service Bulletin 757–27A0143, Revision 1, dated October 23, 2003; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

Effective Date

(j) This amendment becomes effective on July 22, 2005.

Issued in Renton, Washington, on June 3, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–11793 Filed 6–16–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21469; Directorate Identifier 2005–NM–124–AD; Amendment 39–14133; AD 2005–12–17]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–400 Series Airplanes

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

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Bombardier Model DHC–8–400 series airplanes. This AD requires inspecting the electrical connectors of the fire extinguisher bottles for the forward and aft baggage compartments and for the auxiliary power unit and engine nacelles to determine if they are connected correctly; and doing related investigative and corrective actions, if necessary. This AD is prompted by reports of the electrical connectors for the fire bottles in the forward and aft baggage compartments being cross connected. We are issuing this AD to detect and correct cross connection of the fire extinguisher bottles, which could result in failure of the fire bottles to discharge and consequent inability to extinguish a fire in the affected areas.

DATES: Effective July 5, 2005.

The incorporation by reference of a certain publication listed in the AD is approved by the Director of the Federal Register as of July 5, 2005.

We must receive comments on this AD by August 16, 2005.

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

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL–401, Washington, DC 20590.
- Fax: (202) 493–2251.
- 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 AD, contact Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, 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–2005–21469; the directorate identifier for this docket is 2005-NM–124-AD.

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 Docket Management System (DMS) receives them.

FOR FURTHER INFORMATION CONTACT: Ezra Sasson, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, suite 410, Westbury, New York 11590; telephone (516) 228–7320; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION: Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on certain Bombardier Model DHC–8–400 series airplanes. TCCA advises that it has received three reports of the electrical connectors for the fire extinguisher bottles in the forward and aft baggage compartments being cross connected. Investigation has revealed that similar conditions could exist in the fire extinguisher bottles for the auxiliary power unit (APU) and engine nacelles. Cross connection of the fire extinguisher bottles, if not corrected, could result in failure of the fire bottles to discharge and consequent inability to extinguish a fire in the affected areas.

Relevant Service Information

Bombardier has issued Alert Service Bulletin A84–26–06, dated May 12, 2005. The service bulletin describes procedures for inspecting the electrical connectors of the fire extinguisher bottles for the forward and aft baggage compartments and for the APU and engine nacelles to determine if they are

connected correctly; and doing related investigative and corrective actions if necessary. For certain fire extinguisher bottles, the related investigative action includes inspecting the connector pins for damage if the electrical connectors have been cross connected. The corrective actions include replacing any damaged electrical connectors with new electrical connectors and correcting any incorrect electrical connections, if necessary. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. TCCA mandated the service bulletin and issued Canadian airworthiness directive CF–2005–14, dated May 16, 2005, to ensure the continued airworthiness of these airplanes in Canada.

FAA's Determination and Requirements of This AD

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the TCCA has kept the FAA informed of the situation described above. We have examined the TCCA'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 issuing this AD to detect and correct cross connection of the fire extinguisher bottles, which could result in failure of the fire bottles to discharge and consequent inability to extinguish a fire in the affected areas. This AD requires accomplishing the actions specified in the service information described previously, except as discussed under ''Difference Between the AD, Canadian Airworthiness Directive, and Service Bulletin.''

Difference Between the AD, Canadian Airworthiness Directive, and Service Bulletin

Operators should note that, although Canadian airworthiness directive CF–2005–14 and the Accomplishment Instructions of the referenced service bulletin describe procedures for submitting inspection results to the airplane manufacturer, this AD does not require that action. We do not need this information from operators.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD; therefore, providing notice and opportunity for public comment before the AD is issued is impracticable, and good cause exists to make this AD effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements that affect flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any relevant written data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES.** Include ''Docket No. FAA–2005–21469; Directorate Identifier 2005–NM–124–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this AD. Using the search function of our docket Web site, 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.*

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that 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 a regulatory evaluation of the estimated costs to comply with this 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, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2005–12–17 Bombardier, Inc. (Formerly de Havilland, Inc.): Amendment 39–14133. Docket No. FAA–2005–21469; Directorate Identifier 2005–NM–124–AD.

Effective Date

(a) This AD becomes effective July 5, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bombardier Model DHC–8–400 series airplanes, certificated in any category; as identified in Bombardier

Alert Service Bulletin A84–26–06, dated May 12, 2005.

Unsafe Condition

(d) This AD was prompted by reports of the electrical connectors for the fire bottles in the forward and aft compartments being cross connected. The FAA is issuing this AD to detect and correct cross connection of the fire extinguisher bottles, which could result in failure of the fire bottles to discharge and consequent inability to extinguish a fire in the affected areas.

Compliance

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

Inspection and Corrective Action

(f) Within 14 days after the effective date of this AD, inspect the electrical connectors of the fire extinguisher bottles for the forward and aft baggage compartments and for the auxiliary power unit and engine nacelles to determine if they are connected correctly; and, before further flight, do the related investigative and corrective actions, as applicable; by doing all of the applicable actions specified in the Accomplishment Instructions of Bombardier Alert Service Bulletin A84–26–06, dated May 12, 2005. 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)

(g) The Manager, New York 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.

Related Information

(h) Canadian airworthiness directive CF–2005–14, dated May 16, 2005, also addresses the subject of this AD.

Material Incorporated by Reference

(i) You must use Bombardier Alert Service Bulletin A84–26–06, dated May 12, 2005, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approves the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To get copies of the service information, contact Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. To view the AD docket, go to the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Nassif Building, Washington, DC. To review copies of the service information, go to the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on June 7, 2005.

Michael J. Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–11792 Filed 6–16–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

New Animal Drugs; Change of Sponsor's Name

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor's name from Rhodia Limited to Rhodia UK Limited.

DATES: This rule is effective June 17, 2005.

FOR FURTHER INFORMATION CONTACT: David R. Newkirk, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6967, e-mail: *david.newkirk@fda.gov*.

SUPPLEMENTARY INFORMATION: Rhodia Limited, P.O. Box 46, St. Andrews Rd., Avonmouth, Bristol BS11 9YF, England, UK, has informed FDA of a change of sponsor's name to Rhodia UK Limited. Accordingly, the agency is amending the regulations in 21 CFR 510.600(c) to reflect the change.

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

List of Subjects in 21 CFR Part 510

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

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

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

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

§510.600 [Amended]

■ 2. Section 510.600 is amended in the table in paragraph (c)(1) in the entry for ''Rhodia Limited'' by removing ''Rhodia Limited'' and by adding in its place ''Rhodia UK Limited'', and in the table in paragraph (c)(2) in the entry for ''059258'' by removing ''Rhodia Limited'' and by adding in its place ''Rhodia UK Limited''.

Dated: June 8, 2005.

Steven D. Vaughn,

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

[FR Doc. 05–11928 Filed 6–16–05; 8:45 am]

BILLING CODE 4160–01–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7924–5]

National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Direct final notice of deletion of Metropolitan Mirror and Glass (MM&G) Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 3 is publishing a direct final notice of deletion of the MM&G, Superfund Site (Site), located in Frackville, Schuylkill County, Commonwealth of Pennsylvania, from the National Priorities List (NPL).

The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with concurrence of the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection (PADEP), because EPA has determined that all appropriate response actions under CERCLA have been completed and, therefore, further remedial action pursuant to CERCLA is not appropriate.

DATES: This direct final deletion will be effective August 16, 2005 unless EPA receives adverse comments by July 18, 2005. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal**

Register informing the public that the deletion will not take effect.

ADDRESSES: Comments may be mailed to: Eugene Dennis (3HS21), Remedial Project Manager, U.S. Environmental Protection Agency, Region 3, 1650 Arch Street, Philadelphia, Pennsylvania, 19103–2029, (215) 814–5254 or (800) 553–2509.

Information Repositories: Comprehensive information about the Site is available for viewing and copying at the Site information repositories located at: Regional Center for Environmental Information, U.S. EPA, Region 3, 1650 Arch Street, Philadelphia, Pennsylvania, 19103, (215) 814–5254 or (800) 553–2509, Monday through Friday 8 a.m. to 4:30 p.m.; West Mahanoy Township Building, 190 Pennsylvania Avenue, Shenandoah, Pennsylvania 17976, (570) 462–2958.

FOR FURTHER INFORMATION CONTACT: Eugene Dennis (3HS21), Remedial Project Manager, U.S. EPA, Region 3, 1650 Arch Street, Philadelphia, Pennsylvania, 19103–2029. Telephone (215) 814–3202 or (800) 553–2509, e-mail address: *dennis.eugene@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Site Deletion
V. Deletion Action

I. Introduction

EPA Region 3 is publishing this direct final notice of deletion of the MM&G Superfund Site from the NPL.

EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As described in the § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions if conditions at a deleted site warrant such action.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of notice of intent to delete. This action will be effective August 16, 2005 unless EPA receives adverse comments by July 18, 2005. If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final deletion before the effective date of the deletion and the deletion will not take effect. EPA, as appropriate, will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses the procedures that EPA is using for this action. Section IV discusses the MM&G Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

Section 300.425(e)(1) of the NCP provides that releases may be deleted from the NPL where no further response is appropriate. In making a determination to delete a Site from the NPL, EPA shall consider, in consultation with the State (PADEP), whether any of the following criteria have been met:

(i) Responsible parties or other parties have implemented all appropriate response actions required;

(ii) All appropriate Fund-financed (Hazardous Substance Superfund Response Trust Fund) response under CERCLA has been implemented, and no further action by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, remedial measures are not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, CERCLA section 121(c), 42 U.S.C. 9621(c), requires that a subsequent review of the site be conducted at least every five years after the initiation of the remedial action at the deleted site to ensure that the action remains protective of public health and the environment. If new information which indicates a need for further action becomes available, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures were used for the intended deletion of this Site:

1. EPA consulted with Pennsylvania on the deletion of the Site from the NPL prior to developing this direct final notice of deletion.

2. Pennsylvania concurred with the deletion of the Site from the NPL.

3. Concurrently with the publication of this direct final notice of deletion, a notice of the availability of the parallel notice of intent to delete published today in the ''Proposed Rules'' section of the **Federal Register** is being published in a major local newspaper of general circulation at or near the Site and is being distributed to appropriate Federal, State, and local officials and other interested parties; the newspaper notice announces the 30-day public comment period concerning the notice of intent to delete the Site from the NPL.

4. EPA placed copies of documents supporting the deletion in the Site information repositories identified above.

5. If adverse comments are received within the 30-day public comment period on this notice or the companion notice of intent to delete also published in today's **Federal Register**, EPA will publish a timely notice of withdrawal of this direct final notice of deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Intended Site Deletion

The following information provides the EPA's rationale for deleting this Site from the NPL:

Site Location

The Site is approximately 12.5 acres and is located on Industrial Park Road in Frackville, Schuylkill County, Pennsylvania. To facilitate Site investigations, the Site, as a whole, was treated as one operable unit (OU) divided into five areas of concern (AOCs), according to geographic features and suspected waste-handling activities: AOC 1, the north building area, which includes the drum storage area and the suspected spill area; AOC 2, existing wastewater settling lagoons; AOC 3, dredge material disposal area; AOC 4, former lagoon area; and AOC 5, south parking lot area.

Site History

The Site is at the intersection of Industrial Park Road and Altamount Boulevard in Frackville, Pennsylvania. The Site covers approximately 12.5 acres, including several rights-of-way for utilities, Interstate 81, and a former (abandoned) railroad. Developments on the Site are a single-story manufacturing building, a small pump house, a water tower, two lagoons, three drainage ditches, a small building connected to the north wall of the manufacturing building and a water-supply well located inside the pump house. A parking lot is along the south wall of the manufacturing building.

Before 1959, the Site was owned by the Kimerling Estate. In 1959, the Kimerling Estate sold the Site to the Frackville Merchants Association, which subsequently donated the Site to Greater Pottsville Industrial Development Corporation (GPIDC). MM&G purchased the Site from GPIDC in 1959 and operated the facility until 1982 when it declared bankruptcy. The Site then was acquired by National Patent Development Corporation, which sold the Site and facilities to the St. Jude Polymer Company in May 1987. St. Jude Polymer Company operates a plastic-bottle recycling center on the Site.

Between 1959 and May 1982, MM&G manufactured mirrors at the Site. The manufacturing was a five-stage assembly line process. The process used silver solutions, paint strippers, paint thinners and other solvents.

Under the direction of PADEP, an initial sampling event was conducted by BES Environmental in August 1987. Between 1988 and 1990, NUS Corporation performed three phases of site inspection under the direction of EPA. A preliminary assessment that identified areas of concern and performed limited sampling was completed in 1989. A screening site inspection report was completed in 1989 and a listing site inspection report was completed in 1990. The groundwater, surface water and sediments in Stony Creek and drainage ditches also were sampled during the initial investigation.

The Site was formally added to the NPL on October 14, 1992.

Record of Decision

The alternative EPA has selected for this Site is ''No Action.'' Under this alternative, EPA requires no action beyond the removal action that took place at the Site in the spring and summer of 1997. EPA has determined that contaminants in groundwater and sediment are not site-related. There is no cost associated with the No Action alternative.

EPA has determined that its response at the Site is complete and no action is necessary at the Site. Therefore, all construction is complete.

Five-Year Review

In accordance with CERCLA section 121 (c), a five-year review for the Site was completed in December 2003. No further five-year review will be conducted for the Site as no hazardous substances, pollutants, or contaminants remain on Site that exceed levels that allow for unlimited use and unrestricted exposure.

Community Involvement

Public participation activities have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the deletion docket which EPA relied on for recommendation of the deletion from the NPL are available to the public in the information repositories.

V. Deletion Action

The EPA, with concurrence of Pennsylvania, has determined that all appropriate responses under CERCLA have been completed, and that no further response actions, under CERCLA, are necessary.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of notice of intent to delete. This action will be effective August 16, 2005 unless EPA receives adverse comments by July 18, 2005. If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final deletion before the effective date of the deletion and the deletion will not take effect. EPA will prepare, as appropriate, a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

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

Dated: May 31, 2005.

Richard J. Kampf,

Acting Regional Administrator, Region 3.

■ 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—[Amended]

■ 2. Table 1 of Appendix B to part 300 is amended under Pennsylvania (PA) by removing the site name ''Metropolitan Mirror and Glass'' and the city ''Frackville.''

[FR Doc. 05–11827 Filed 6–16–05; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 70, No. 116
Friday, June 17, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 205

[Docket Number TM–04–07]

National Organic Program, Sunset Review

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Advance notice of proposed rulemaking with request for comments.

SUMMARY: As required by the Organic Foods Production Act of 1990 (OFPA), the allowed use of 165 synthetic and non-synthetic substances in organic production and handling will expire on October 21, 2007. In addition, prohibitions on the use of 9 non-synthetic substances will expire in organic production on October 21, 2007. The Agricultural Marketing Service (AMS) is publishing this advance notice of proposed rulemaking (ANPR) to make the public aware of this OFPA requirement. AMS believes that public comment is essential in the review process to determine whether these substances should continue to be allowed or prohibited in the production and handling of organic agricultural products.

DATES: Comments must be submitted on or before August 16, 2005.

ADDRESSES: Interested persons may submit written comments on this ANPR using the following addresses:

- Mail: Arthur Neal, Director, Program Administration, National Organic Program, USDA–AMS—TMP–NOP, 1400 Independence Ave., SW., Room 4008—So., Ag Stop 0268, Washington, DC 20250.
- E-mail: *National.List@usda.gov.*
- Fax: (202) 205–7808.

Written comments responding to this ANPR should be identified with the docket number TM–04–07. You should clearly indicate your position to continue or not continue the allowance or prohibition of the substances identified in this ANPR and the reasons for your position. You should include relevant information and data to support your position (*e.g.* scientific, environmental, manufacturing, industry impact information, etc.). You should also supply information on alternative substances or alternative management practices, where applicable, that support a change from the current exemption or prohibition of the substance. Only the supporting material relevant to your position will be considered.

It is our intention to have all comments concerning this ANPR, whether submitted by mail, E-mail, or fax, available for viewing on the National Organic Program (NOP) home-page (*http://www.ams.usda.gov/nop*). Comments submitted in response to this ANPR will also be available for viewing in person at USDA–AMS, Transportation and Marketing Programs, Room 4008–South Building, 1400 Independence Ave., SW., Washington, DC 20250, from 9 a.m. to 12 noon and from 1 p.m. to 4 p.m., Monday through Friday (except official Federal holidays). Persons wanting to visit the USDA South Building to view comments received in response to this ANPR are requested to make an appointment in advance by calling (202) 720–3252.

FOR FURTHER INFORMATION CONTACT: Arthur Neal, Director, Program Administration, National Organic Program, USDA–AMS–TMP–NOP, 1400 Independence Ave., SW., Room 4008-So. Bldg., Ag Stop 0268, Washington, DC 20250. Telephone: (202) 720–3252; Fax: (202) 205–7808. E-mail: *arthur.neal@usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Organic Foods Production Act (OFPA), 7 U.S.C. 6501 *et seq.*, authorizes the establishment of the National List of exempted and prohibited substances. The National List identifies synthetic substances (synthetics) that are exempted (allowed) and nonsynthetic substances (nonsynthetics) that are prohibited in organic crop and livestock production. The National List also identifies nonsynthetics and synthetics that are exempted for use in organic handling.

The exemptions and prohibitions granted under the OFPA are required to be reviewed every 5 years by the National Organic Standards Board (NOSB). The Secretary of Agriculture has authority under the OFPA to renew such exemptions and prohibitions. If they are not reviewed by the NOSB and renewed by the Secretary within 5 years of their inclusion on the National List, their authorized use or prohibition expires. This means that a synthetic substance currently allowed for use in organic production will no longer be allowed for use after October 21, 2007; a non-synthetic substance currently prohibited from use in organic production will be allowed after October 21, 2007; and a synthetic or nonsynthetic substance currently allowed for use in organic handling will be prohibited after October 21, 2007.

Expiration of the exempted or prohibited use of substances is provided for under the OFPA's sunset provision. This ANPR announces the sunset of 165 exempted and 9 prohibited substances currently on the National List, which became effective October 21, 2002. This ANPR establishes October 21, 2007, as the date by which the sunset review and renewal process must be concluded and also begins the public comment process on whether the existing specific exemptions or prohibitions on the National List should be continued. This ANPR discusses how the NOP will manage the sunset review and renewal process.

Because these substances may be critical to the production and handling of a wide array of raw and processed organic agricultural products, their expiration could cause disruption of well-established and accepted organic production, handling, and processing systems. Therefore, the NOP is initiating the sunset review and renewal process now, in order to provide ample opportunity for you to make your views known.

The Sunset Process

As the first step in this process, we invite public comment on the specific exemptions or prohibitions currently on the National List that are described in this document. All substances currently on the National List have been previously evaluated and determined by the NOSB for consistency with OFPA and its implementing regulations. According to section 6517 (e) of the OFPA, these substances must be reviewed by the NOSB and renewed by the Secretary for their use or prohibition

to continue after 5 years of their addition to the National List, which will be October 21, 2007. Public comments will be considered in the review and renewal process.

The NOP will forward comments received under this ANPR to the NOSB for review. The NOSB will review the exemptions and prohibitions of the substances designated to sunset on October 21, 2007, including the public comments received during this review. The NOSB will review each substance on the National List and may determine that certain substances warrant a more in-depth review and require additional information or research that considers new scientific data and technological and market advances.

Following the NOSB's review, the NOSB will make a recommendation to the Secretary about the continuation of specific exemptions and prohibitions contained on the National List. After the Secretary receives the NOSB's recommendations, the NOP will publish a proposed rule containing the NOSB recommendations. This proposed rule will provide an additional opportunity for you to express your views. Comments received on the proposed rule will be used to develop a final rule. Because the sunset review and renewal process involves rulemaking, the NOP believes it is appropriate to initiate the process now.

Guidance on Submitting Your Comments

Comments That Support Existing Exemptions or Prohibitions

If you provide comments that support the renewal of any or all existing exemptions or prohibitions contained on the National List, you should clearly indicate this and provide your reasons and any relevant documentation that supports your position.

Comments That DO NOT Support Continuing an Existing Exemption

If you provide comments that do not support continuing an existing exemption, you should provide reasons why the use of the substance should no longer be allowed in organic agricultural production and handling. The current exemptions were originally recommended by the NOSB based on evidence available to the NOSB at the time of review which demonstrated that the substances were found to be: (1) Not harmful to human health or the environment, (2) necessary because of the unavailability of wholly nonsynthetic alternatives, and (3) consistent and compatible with organic practices. Therefore, comments against the continued exemption of a substance should demonstrate how the current substance is: (1) harmful to human health or the environment, (2) not necessary to the production of the agricultural products because of the availability of wholly nonsynthetic substitute products, or (3) inconsistent with organic farming and handling.

An Appendix to this ANPR contains worksheets to assist you in gathering relevant information concerning these issues. These worksheets are not required to submit a comment. These worksheets are used by the NOSB to develop their recommendations to the Secretary to include an exempted or prohibited substance on the National List. You do not have to answer the questions on the worksheets; they are intended only to help you provide substantive comments to the NOSB when you provide comments on the specific substance.

In addition, comments that do not support the continued use of a substance(s) on the National List should also provide the evidence concerning viable alternatives for the substance you believe should be discontinued. Viable alternatives include, but are not limited to: alternative management practices that would eliminate the need for the specific substance; other currently exempted substances that are on the National List which could eliminate the need for this specific substance; and other organic or nonorganic agricultural substances. Such evidence also should adequately demonstrate that the alternative has a function and effect that equals or surpasses the specific exempted substance that you do not want to be continued. Assertions about an alternative substance except for those alternatives that already appear on the National List should, if possible include the name and address of the manufacturer of the alternative. Further, your comments should include a copy or the specific source of any supportive literature, which could include product or practice descriptions; performance and test data; reference standards; name and address of producers who have used the alternative under similar conditions and the date of use; and an itemized comparison of the function and effect of the proposed alternative(s) with substance under review. The chart below can help you describe recommended alternatives for different types of organic operations in place of a current exempted substance that you do not want to be continued.

If the currently listed substance is used in . . .	And is a (an) . . .	Then the recommended alternative should be a (an) . . .
Crop or Livestock Production	Synthetic substance	—Another currently listed synthetic substance; —Nonsynthetic substance; or —Management practice.
Crop or Livestock Production	Synthetic inert substance (pesticidal)	—Another currently listed synthetic substance or —Nonsynthetic substance.
Handling	Synthetic substance	—Another currently listed synthetic substance; —Nonsynthetic (non-ag) substance; or —Management practice.
Handling	Nonsynthetic (non-ag) substance	—Agricultural substance; or —Management practice.
Handling	Nonorganic agricultural product	—Organic agricultural product.

The NOP understands that supportive technical or scientific information for synthetic alternatives not currently on the National List may not be easily available to organic producers and handlers. Such information may, however, be available from the research community including universities, or other sources, including international organic programs.

Comments that DO NOT Support Continuing an Existing Prohibition

If you provide comments against the continuation of a prohibition contained on the National List, you should specify how the prohibited substance is now consistent with the criteria in the OFPA and the NOP regulation. When these prohibitions were originally recommended by the NOSB, they were accepted because the evidence available to the NOSB at the time of review demonstrated that the substances were

found to be harmful to human health or the environment and were inconsistent and not compatible with organic practices. Therefore, any comments against the continuation of an existing prohibited substance that is currently on the National List should provide new information, including a copy of the specific source of any supportive literatures showing that the currently prohibited substance is no longer harmful to human health or the environment and is consistent and compatible with organic practices.

An Appendix to this ANPR contains worksheets to assist you in gathering relevant information concerning these issues. These worksheets are not required for you to submit a comment. These worksheets are used by the NOSB to develop their recommendations to the Secretary to include an exempted or prohibited substance on the National List. You do not have to answer the questions on the worksheets; they are intended to help you provide substantive comments to the NOSB when you provide comments on the specific substance.

Request for Comments

The NOP requests that you comment whether the NOSB should continue to recommend the following exemptions and prohibitions on the National List of Allowed and Prohibited Substances for organic agricultural production and handling:

§ 205.601 Synthetic substances allowed for use in organic crop production.

(a) As algicide, disinfectants, and sanitizer, including irrigation system cleaning systems.

(1) Alcohols.

(i) Ethanol.

(ii) Isopropanol.

(2) Chlorine materials—*Except*, That, residual chlorine levels in the water shall not exceed the maximum residual disinfectant limit under the Safe Drinking Water Act.

(i) Calcium hypochlorite.

(ii) Chlorine dioxide.

(iii) Sodium hypochlorite.

(4) Hydrogen peroxide.

(7) Soap-based algicide/demossers.

(b) As herbicides, weed barriers, as applicable.

(1) Herbicides, soap-based—for use in farmstead maintenance (roadways, ditches, right of ways, building perimeters) and ornamental crops.

(2) Mulches.

(i) Newspaper or other recycled paper—without glossy or colored inks.

(ii) Plastic mulch and covers (petroleum-based other than polyvinyl chloride (PVC)).

(c) As compost feedstocks—Newspapers or other recycled paper—without glossy or colored inks.

(d) As animal repellents—Soaps, ammonium—for use as a large animal repellant only, no contact with soil or edible portion of crop.

(e) As insecticides (including acaricides or mite control).

(1) Ammonium carbonate—for use as bait in insect traps only, no direct contact with crop or soil.

(2) Boric acid—structural pest control, no direct contact with organic food or crops.

(4) Elemental sulfur.

(5) Lime sulfur—including calcium polysulfide.

(6) Oils, horticultural—narrow range oils as dormant, suffocating, and summer oils.

(7) Soaps, insecticidal.

(8) Sticky traps/barriers.

(f) As insect management. Pheromones.

(g) As rodenticides.

(1) Sulfur dioxide—underground rodent control only (smoke bombs).

(2) Vitamin D_3.

(i) As plant disease control.

(1) Coppers, fixed—copper hydroxide, copper oxide, copper oxychloride, includes products exempted from EPA tolerance, *Provided*, That, copper-based materials must be used in a manner that minimizes accumulation in the soil and shall not be used as herbicides.

(2) Copper sulfate—Substance must be used in a manner that minimizes accumulation of copper in the soil.

(3) Hydrated lime.

(4) Hydrogen peroxide.

(5) Lime sulfur.

(6) Oils, horticultural, narrow range oils as dormant, suffocating, and summer oils.

(8) Potassium bicarbonate.

(9) Elemental sulfur.

(10) Streptomycin, for fire blight control in apples and pears only.

(11) Tetracycline (oxytetracycline calcium complex), for fire blight control only.

(j) As plant or soil amendments.

(1) Aquatic plant extracts (other than hydrolyzed)—Extraction process is limited to the use of potassium hydroxide or sodium hydroxide; solvent amount used is limited to that amount necessary for extraction.

(2) Elemental sulfur.

(3) Humic acids—naturally occurring deposits, water and alkali extracts only.

(4) Lignin sulfonate—chelating agent, dust suppressant, floatation agent.

(5) Magnesium sulfate—allowed with a documented soil deficiency.

(6) Micronutrients—not to be used as a defoliant, herbicide, or desiccant. Those made from nitrates or chlorides are not allowed. Soil deficiency must be documented by testing.

(i) Soluble boron products.

(ii) Sulfates, carbonates, oxides, or silicates of zinc, copper, iron, manganese, molybdenum, selenium, and cobalt.

(7) Liquid fish products—can be pH adjusted with sulfuric, citric or phosphoric acid. The amount of acid used shall not exceed the minimum needed to lower the pH to 3.5.

(8) Vitamins, B_1, C, and E.

(k) As plant growth regulators. Ethylene gas—for regulation of pineapple flowering.

(l) As floating agents in postharvest handling.

(1) Lignin sulfonate.

(2) Sodium silicate—for tree fruit and fiber processing.

(m) As synthetic inert ingredients as classified by the Environmental Protection Agency (EPA), for use with nonsynthetic substances or synthetic substances listed in this section and used as an active pesticide ingredient in accordance with any limitations on the use of such substances.

(1) EPA List 4—Inerts of Minimal Concern.

§ 205.602 Nonsynthetic substances prohibited for use in organic crop production.

(a) Ash from manure burning.

(b) Arsenic.

(d) Lead salts.

(e) Potassium chloride—unless derived from a mined source and applied in a manner that minimizes chloride accumulation in the soil.

(f) Sodium fluoaluminate (mined).

(g) Sodium nitrate—unless use is restricted to no more than 20% of the crop's total nitrogen requirement; use in spirulina production is unrestricted until October 21, 2005.

(h) Strychnine.

(i) Tobacco dust (nicotine sulfate).

§ 205.603 Synthetic substances allowed for use in organic livestock production.

(a) As disinfectants, sanitizer, and medical treatments as applicable.

(1) Alcohols.

(i) Ethanol—disinfectant and sanitizer only, prohibited as a feed additive.

(ii) Isopropanol—disinfectant only.

(2) Aspirin—approved for health care use to reduce inflammation.

(3) Biologics—Vaccines.

(4) Chlorhexidine—Allowed for surgical procedures conducted by a veterinarian. Allowed for use as a teat dip when alternative germicidal agents and/or physical barriers have lost their effectiveness.

(5) Chlorine materials—disinfecting and sanitizing facilities and equipment. Residual chlorine levels in the water shall not exceed the maximum residual disinfectant limit under the Safe Drinking Water Act.

(i) Calcium hypochlorite.

(ii) Chlorine dioxide.

(iii) Sodium hypochlorite.

(6) Electrolytes-without antibiotics.

(7) Glucose.

(8) Glycerine—Allowed as a livestock teat dip, must be produced through the hydrolysis of fats or oils.

(9) Hydrogen peroxide.

(10) Iodine.

(11) Magnesium sulfate.

(12) Oxytocin—use in postparturition therapeutic applications.

(13) Paraciticides. Ivermectin—prohibited in slaughter stock, allowed in emergency treatment for dairy and breeder stock when organic system plan-approved preventive management does not prevent infestation. Milk or milk products from a treated animal cannot be labeled as provided for in subpart D of this part for 90 days following treatment. In breeder stock, treatment cannot occur during the last third of gestation if the progeny will be sold as organic and must not be used during the lactation period for breeding stock.

(14) Phosphoric acid—allowed as an equipment cleaner, *Provided*, That, no direct contact with organically managed livestock or land occurs.

(b) As topical treatment, external parasiticide or local anesthetic as applicable.

(1) Copper sulfate.

(2) Iodine.

(3) Lidocaine—as a local anesthetic. Use requires a withdrawal period of 90 days after administering to livestock intended for slaughter and 7 days after administering to dairy animals.

(4) Lime, hydrated—as an external pest control, not permitted to cauterize physical alterations or deodorize animal wastes.

(5) Mineral oil—for topical use and as a lubricant.

(6) Procaine—as a local anesthetic, use requires a withdrawal period of 90 days after administering to livestock intended for slaughter and 7 days after administering to dairy animals.

(c) As feed supplements—Milk replacers without antibiotics, as emergency use only, no nonmilk products or products from BST treated animals.

(d) As feed additives.

(2) Trace minerals, used for enrichment or fortification when FDA approved.

(3) Vitamins, used for enrichment or fortification when FDA approved.

(e) As synthetic inert ingredients as classified by the Environmental Protection Agency (EPA), for use with nonsynthetic substances or a synthetic substances listed in this section and used as an active pesticide ingredient in accordance with any limitations on the use of such substances.

(1) EPA List 4—Inerts of Minimal Concern.

§ 205.604 Nonsynthetic substances prohibited for use in organic livestock production.

(a) Strychnine.

§ 205.605 Nonagricultural (nonorganic) substances allowed as ingredients in or on processed products labeled as ''organic'' or ''made with organic (specified ingredients or food groups(s)).''

(a) Nonsynthetics allowed:

Acids (Alginic; Citric—produced by microbial fermentation of carbohydrate substances; and Lactic).

Agar-agar.

Bentonite.

Calcium carbonate.

Calcium chloride.

Carageenan.

Colors—nonsynthetic sources only.

Dairy cultures.

Diatomaceous earth—food filtering aid only.

Enzymes—must be derived from edible, nontoxic plants, nonpathogenic fungi, or nonpathogenic bacteria.

Flavors—nonsynthetic sources only and must not be produced using synthetic solvents and carrier systems or any artificial preservative.

Kaolin.

Magnesium sulfate, nonsynthetic sources only.

Nitrogen—oil-free grades.

Oxygen—oil-free grades.

Perlite—for use only as a filter aid in food processing.

Potassium chloride.

Potassium iodide.

Sodium bicarbonate.

Sodium carbonate.

Tartaric acid.

Waxes—nonsynthetic (Carnauba wax; and Wood resin).

Yeast—nonsynthetic, growth on petrochemical substrate and sulfite waste liquor is prohibited (Autolysate; Bakers; Brewers; Nutritional; and Smoked—nonsynthetic smoke flavoring process must be documented).

(b) Synthetics allowed:

Alginates.

Ammonium bicarbonate—for use only as a leavening agent.

Ammonium carbonate—for use only as a leavening agent.

Ascorbic acid.

Calcium citrate.

Calcium hydroxide.

Calcium phosphates (monobasic, dibasic, and tribasic).

Carbon dioxide.

Chlorine materials—disinfecting and sanitizing food contact surfaces, *Except*, That, residual chlorine levels in the water shall not exceed the maximum residual disinfectant limit under the Safe Drinking Water Act (Calcium hypochlorite; Chlorine dioxide; and Sodium hypochlorite).

Ethylene—allowed for postharvest ripening of tropical fruit and degreening of citrus.

Ferrous sulfate—for iron enrichment or fortification of foods when required by regulation or recommended by an independent organization.

Glycerides (mono and di)—for use only in drum drying of food.

Glycerin—produced by hydrolysis of fats and oils.

Hydrogen peroxide.

Lecithin—bleached.

Magnesium carbonate—for use only in agricultural products labeled ''made with organic (specified ingredients or food group(s)), ''prohibited in agricultural products labeled'' ''organic''.

Magnesium chloride—derived from sea water.

Magnesium stearate—for use only in agricultural products labeled ''made with organic (specified ingredients or food group(s)),'' prohibited in agricultural products labeled ''organic''.

Nutrient vitamins and minerals, in accordance with 21 CFR 104.20, Nutritional Quality Guidelines for Foods.

Ozone.

Pectin (low-methoxy).

Phosphoric acid—cleaning of food-contact surfaces and equipment only.

Potassium acid tartrate.

Potassium tartrate made from tartaric acid.

Potassium carbonate.

Potassium citrate.

Potassium hydroxide—prohibited for use in lye peeling of fruits and vegetables except when used for peeling peaches during the Individually Quick Frozen (IQF) production process.

Potassium iodide—for use only in agricultural products labeled ''made with organic (specified ingredients or food group(s)),'' prohibited in agricultural products labeled ''organic''.

Potassium phosphate—for use only in agricultural products labeled ''made with organic (specified ingredients or food group(s)),'' prohibited in agricultural products labeled ''organic''.

Silicon dioxide.

Sodium citrate.

Sodium hydroxide—prohibited for use in lye peeling of fruits and vegetables.

Sodium phosphates—for use only in dairy foods.

Sulfur dioxide—for use only in wine labeled ''made with organic grapes,'' *Provided,* That, total sulfite concentration does not exceed 100 ppm.

Tartaric acid.

Tocopherols—derived from vegetable oil when rosemary extracts are not a suitable alternative.

Xanthan gum.

§ 205.606 Nonorganically produced agricultural products allowed as ingredients in or on processed products labeled as ''organic'' or ''made with organic (specified ingredients or food group(s)).''

(a) Cornstarch (native).

(b) Gums—water extracted only (arabic, guar, locust bean, carob bean).

(c) Kelp—for use only as a thickener and dietary supplement.

(d) Lecithin—unbleached.

(e) Pectin (high-methoxy).

All comments will be considered in the development of the NOSB's recommendations to the Secretary.

Authority: 7 U.S.C. 6501 et seq. and 7 CFR part 205.

Dated: June 13, 2005.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

Appendix

This Appendix contains worksheets to assist you in gathering relevant information concerning the compatibility of substances with evaluation criteria of the OFPA. These worksheets are not required to submit a comment. These worksheets are used by the NOSB to develop their recommendations to the Secretary to include an exempted or prohibited substance on the National List. You do not have to answer the questions on the worksheets; they are intended only to help you provide substantive comments to the NOSB when you provide comments on the specific substance.

Evaluation Criteria for Substances Added to the National List

Question	Yes	No	N/A [1]	Documentation (TAP; petition; regulatory agency; other)
Category 1. Adverse impacts on humans or the environment?				
1. Is there environmental contamination during manufacture, use, misuse, or disposal? [§ 6518 m.3].				
2. Is the substance harmful to the environment? [§ 6517c(1)(A)(i); 6517(c)(2)(A)i].				
3. Does the substance contain List 1, 2, or 3 inerts? [§ 6517c(1)(B)(ii)].				
4. Is there potential for detrimental chemical interaction with other materials used? [§ 6518 m.1].				
5. Are there adverse biological and chemical interactions in agro-ecosystem? [§ 6518 m.5].				
6. Are there detrimental physiological effects on soil organisms, crops, or livestock? [§ 6518 m.5].				
7. Is there a toxic or other adverse action of the material or its breakdown products? [§ 6518 m.2].				
8. Is there undesirable persistence or concentration of the material or breakdown products in environment? [§ 6518 m.2].				
9. Is there any harmful effect on human health? [§ 6517c(1)(A)(i); 6517c(2)(A)i; § 6518 m.4].				
Category 2. Is the substance essential for organic production?				
1. Is the substance formulated or manufactured by a chemical process? [6502 (21)].				
2. Is the substance formulated or manufactured by a process that chemically changes a substance extracted from naturally occurring plant, animal, or mineral, sources? [6502 (21)].				
3. Is the substance created by naturally occurring biological processes? [6502 (21)].				
4. Is there a wholly natural substitute product? [§ 6517c(1)(A)(ii)].				
5. Is the substance used in handling, not synthetic, but not organically produced? [§ 6517c(1)(B)(iii)].				
6. Is there any alternative substances? [§ 6518 m.6].				
7. Is there another practice that would make the substance unnecessary? [§ 6518 m.6].				
Category 3. Is the substance compatible with organic production practices?				
1. Is the substance consistent with organic farming and handling? [§ 6517c(1)(A)(iii); 6517c(2)(A)(ii)].				
2. Is the substance compatible with a system of sustainable agriculture? [§ 6518 m.7].				
3. Is the substance used in production, and does it contain an active synthetic ingredient in the following categories:				

Question	Yes	No	N/A [1]	Documentation (TAP; petition; regulatory agency; other)
a. copper and sulfur compounds; b. toxins derived from bacteria; c. pheromones, soaps, horticultural oils, fish emulsions, treated seed, vitamins and minerals? d. livestock parasiticides and medicines? e. production aids including netting, tree wraps and seals, insect traps, sticky barriers, row covers, and equipment cleaners?				

[1] If the substance under review is for crops or livestock production, all of the questions from 205.600(b) are N/A—not applicable.

[FR Doc. 05–12007 Filed 6–16–05; 8:45 am]
BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 981

[Docket No. FV05–981–2 PR]

Almonds Grown in California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the Almond Board of California (Board) for the 2005–06 and subsequent crop years from $0.025 to $0.030 per pound of almonds received. Of the $0.030 per pound assessment, 60 percent (or $0.018 per pound) would be available as credit-back for handlers who conduct their own promotional activities. The Board locally administers the marketing order which regulates the handling of almonds grown in California. Authorization to assess almond handlers enables the Board to incur expenses that are reasonable and necessary to administer the program. The crop year begins August 1 and ends July 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by June 27, 2005.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938, E-mail: *moab.docketclerk@usda.gov*, or Internet: *http://www.regulations.gov.* Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html.*

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, Senior Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 981, as amended (7 CFR part 981), regulating the handling of almonds grown in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California almond handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable almonds beginning August 1, 2005, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom.

Such handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would increase the assessment rate established for the Board for the 2005–06 and subsequent crop years from $0.025 to $0.030 per pound of almonds received. Of the $0.030 per pound assessment, 60 percent (or $0.018 per pound) would be available as credit-back for handlers who conduct their own promotional activities.

The order provides authority for the Board, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Board are producers and handlers of California almonds. They are familiar with the Board's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2004–05 and subsequent crop years, the Board recommended, and USDA approved, an assessment rate that would continue in effect from crop year

to crop year unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Board or other information available to USDA.

The Board met on May 12, 2005, and unanimously recommended 2005–06 expenditures of $28,756,000. In comparison, last year's budgeted expenditures were $24,077,344. The recommended assessment rate of $0.030 would be $0.005 higher than the rate currently in effect, and the credit-back portion of the assessment rate ($0.018 per pound) would be $0.004 more than the credit-back portion currently in effect.

The major expenditures recommended by the Board for the 2005–06 crop year include $15,423,000 for domestic advertising, market research, and public relations; $4,920,000 for operational expenses; $4,873,000 for international public relations and other promotion and education programs, including a Market Access Program (MAP) administered by USDA's Foreign Agricultural Service (FAS); $1,200,000 for nutrition research; $850,000 for production research; $830,000 for food quality programs; and $500,000 for environmental research, plus other minor sums. Budgeted expenses for these items in 2004–05 were $12,540,000 for domestic advertising, market research, and public relations; $3,611,981 for operational expenses; $4,340,000 for international public relations and other promotion and education programs, including a MAP administered by USDA's FAS; $1,200,000 for nutrition research; $947,321 for production research; $858,000 for food quality programs; and $460,042 for environmental research, plus other minor sums.

The Board recommended increasing the assessment rate from $0.025 per pound to $0.030 per pound of almonds handled. Of the $0.030 per pound assessment, 60 percent (or $0.018 per pound) would be available as credit-back for handlers who conduct their own promotional activities consistent with § 981.441 of the order's regulations and subject to Board approval. The increased assessment rate is needed because the 2005–06 crop is projected at 816 million pounds of assessable almonds, down from the 1.0368 billion pound 2004–05 crop, and projected assessment revenue will likely be reduced. The increased rate should generate adequate revenue to fund the Board's 2005–06 budgeted expenses and to maintain a small financial reserve. Section 981.81(c) authorizes a financial reserve of approximately one-half year's budgeted expenses. One-half of the 2005–06 crop year's budgeted expenses of $28,756,000 equals $14,378,000. The Board's financial reserve at the end of the 2005–06 crop year is projected to be $1.1 million which is well within the authorized reserve.

The assessment rate recommended by the Board was derived by considering anticipated expenses and production levels of California almonds, and additional pertinent factors. In its recommendation, the Board utilized an estimate of 816 million pounds of assessable almonds for the 2005–06 crop year. If realized, this would provide estimated assessment revenue of $9,792,000 from all handlers, and an additional $9,180,000 from those handlers who do not participate in the credit-back program, for a total of $18,972,000. In addition, it is anticipated that $10,851,797 will be provided by other sources, including interest income, MAP funds, grant funds, miscellaneous income, and reserve/carryover funds. When combined, revenue from these sources would be adequate to cover budgeted expenses. Any unexpended funds from the 2005–06 crop year may be carried over to cover expenses during the succeeding crop year. Funds in the reserve at the end of the 2005–06 crop year are estimated to be approximately $1.1 million which would be within the amount permitted by the order.

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Board or other available information.

Although this assessment rate would be in effect for an indefinite period, the Board will continue to meet prior to or during each crop year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Board meetings are available from the Board or USDA. Board meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate Board recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Board's 2005–06 budget and those for subsequent crop years would be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 6,000 producers of almonds in the production area and approximately 115 handlers subject to regulation under the order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $6,000,000.

Data for the most recently completed crop year indicate that about 48 percent of the handlers shipped over $6,000,000 worth of almonds and about 52 percent of handlers shipped under $6,000,000 worth of almonds. In addition, based on production and grower price data reported by the California Agricultural Statistics Service (CASS), and the total number of almond growers, the average annual grower revenue is estimated to be approximately $261,248. Based on the foregoing, the majority of handlers and producers of almonds may be classified as small entities.

This rule would increase the assessment rate established for the Board and collected from handlers for the 2005–06 and subsequent crop years from $0.025 to $0.030 per pound of almonds. Of the $0.030 per pound assessment, 60 percent (or $0.018 per pound) would be available as credit-back for handlers who conduct their own promotional activities consistent with § 981.441 of the order's regulations and subject to Board approval.

The Board met on May 12, 2005, and unanimously recommended 2005–06 expenditures of $28,756,000 and an assessment rate of $0.030 per pound. Of the $0.030 per pound assessment, 60 percent (or $0.018 per pound) would be available as credit-back for handlers who conduct their own promotional activities. The proposed assessment rate of $0.030 would be $0.005 higher than the current rate, and the credit-back portion of $0.018 per pound would be $0.004 more than the current credit-back portion. The quantity of assessable almonds for the 2005–06 crop year is estimated at 816,000,000 pounds. The

proposed assessment rate would provide estimated assessment revenue of $9,792,000 from all handlers, and an additional $9,180,000 from those handlers who do not participate in the credit-back program, for a total of $18,972,000. In addition, it is anticipated that $10,851,797 will be provided by other sources, including interest income, MAP funds, grant funds, miscellaneous income, and reserve/carryover funds. When combined, revenue from these sources would be adequate to cover budgeted expenses. The projected financial reserve at the end of 2005–06 would be $1,137,797 which would be within the maximum permitted under the order.

The major expenditures recommended by the Board for the 2005–06 crop year include $15,423,000 for domestic advertising, market research, and public relations; $4,920,000 for operational expenses; $4,873,000 for international public relations and other promotion and education programs, including a MAP administered by USDA's FAS; $1,200,000 for nutrition research; $850,000 for production research; $830,000 for food quality programs; and $500,000 for environmental research, plus other minor sums. Budgeted expenses for these items in 2004–05 were $12,540,000 for domestic advertising, market research, and public relations; $3,611,981 for operational expenses; $4,340,000 for international public relations and other promotion and education programs, including a MAP administered by USDA's FAS; $1,200,000 for nutrition research; $947,321 for production research; $858,000 for food quality programs; and $460,042 for environmental research, plus other minor sums.

The Board considered alternative assessment rate levels, including the portion available for handler credit-back. After deliberating the issue, the Board recommended increasing the assessment rate to $0.030 per pound, with 60 percent (or $0.018 per pound) available for handler credit-back. In arriving at its budget, the Board considered information from its various committees. Alternative expenditure levels were discussed by these groups, based on the value of various activities to the industry. The committees ultimately recommended appropriate activities and funding levels, which were adopted by the Board.

A review of historical information and preliminary information pertaining to the upcoming crop year indicates that the average grower price for the 2005–06 season could range between $3.00 and $3.50 per pound of almonds. Therefore, the estimated assessment revenue for the 2005–06 crop year (disregarding any amounts credited pursuant to §§ 981.41 and 981.441) as a percentage of total grower revenue could range between 1.00 and 0.86 percent, respectively.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the marketing order. In addition, the Board's meeting was widely publicized throughout the California almond industry and all interested persons were invited to attend the meeting and participate in Board deliberations on all issues. Like all Board meetings, the May 12, 2005, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large California almond handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html*. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 10-day comment period is provided to allow interested persons to respond to this proposed rule. Ten days is deemed appropriate because: (1) The 2005–06 crop year begins on August 1, 2005, and the order requires that the rate of assessment for each crop year apply to all assessable almonds handled during such crop year; (2) a final decision on the increase should be made as soon as possible so handlers can plan accordingly; (3) the Board needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (4) handlers are aware of this action which was unanimously recommended by the Board at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 981 is proposed to be amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 981 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 981.343 is revised to read as follows:

§ 981.343 Assessment rate.

On and after August 1, 2005, an assessment rate of $0.030 per pound is established for California almonds. Of the $0.030 assessment rate, 60 percent per assessable pound is available for handler credit-back.

Dated: June 10, 2005.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 05–12006 Filed 6–16–05; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 45, 46, and 131

[Docket No. RM05–13–000]

Electronic Filing of Interlocking Positions and Twenty Largest Purchasers Information

May 26, 2005.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to revise its regulations for filings by persons holding interlocking positions and for utilities listing their twenty largest purchasers of electricity. The proposed revisions provide for electronic filing. The modifications in this Proposed Rule are the result of a review conducted by the Commission's Information Assessment Team (FIAT), identifying the Commission's current information collections, evaluating their original purposes and current uses, and proposing ways to reduce the reporting burden on industry through the

elimination, reduction, streamlining or reformatting of current collections.

DATES: Comments are due on this Notice of Proposed Rulemaking August 16, 2005.

ADDRESSES: Comments on this Notice of Proposed Rulemaking may be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov* . Commenters unable to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street NE., Washington, DC, 20426. Refer to the Comment Procedures section of the preamble for additional information on how to file comments.

FOR FURTHER INFORMATION CONTACT:

Samuel Berrios, Jr. (Technical Information), Office of Market Oversight and Investigations, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6212.

Patricia Morris (Technical Information), Office of the Executive Director, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8730.

Joseph A. Lynch (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8497.

I. Introduction

1. The Commission proposes modifying its regulations to modernize the filing method and standardize the filing format to ensure easier filing and use of the Application for Authority To Hold Interlocking Directorate Positions (FERC 520), the Annual Report of Interlocking Positions (FERC Form 561), and the Annual Report of a Utility's Twenty Largest Purchasers (FERC 566).

2. In this Notice of Proposed Rulemaking, the Commission is proposing to allow for electronic filing (eFiling) of FERC 520, FERC Form 561, and FERC 566. As described more fully below, we propose to implement software changes to the Commission's Web site (*http://www.ferc.gov)* that will allow filers to electronically submit interlocking position information and related information, as well as to submit amended filings.

3. The requirements for these information collections and descriptions of the contents of the filings are found in the Commission regulations at 18 CFR parts 45, 46 and 131.

II. Discussion

4. Section 305(b) of the Federal Power Act [1] (FPA) prohibits individuals from holding positions as an officer or director of more than one public utility, to hold the positions of officer or director of a public utility and of an entity authorized by law to underwrite or participate in the marketing of public utility securities; or to hold the positions of officer or director of a public utility and of an entity supplying electrical equipment to that particular public utility, unless the Commission has granted prior authorization to hold the positions upon a finding that neither public nor private interests will be adversely affected. The Commission implements this statutory mandate using FERC 520.

5. Once the Commission approves the holding of interlocking positions, the officer or director must file a FERC Form 561 annually by April 30th. FERC Form 561 is currently filed in hardcopy format. To assist filers in submitting the information in the prescribed format, however, the Commission, through Order No. 601,[2] e-mails a spreadsheet to each filer. Each filer must then update the previous year's information on the spreadsheet to reflect that year's positions. The officer or director then prints the spreadsheet out in hard copy, signs it, and mails it to the Commission.

6. In addition, each public utility must file a report, FERC 566, identifying its twenty largest customers annually by January 31st.

7. The Commission proposes to require the electronic filing of FERC 520, FERC Form 561, and FERC 566. The Commission, in recognition of the E-Government Act initiatives,[3] has a Web-based FERC Online [4] portal system, which, among other things, allows for electronic filing of certain information. It is through this system that the Commission proposes to accept FERC 520 and FERC 566 filings.

8. While the FERC 520 and FERC 566 will be filed through the eFiling [5] portal, the FERC Form 561 will be filed through the eForms [6] application on the Commission's Web site. The filer will complete the electronic FERC Form 561 using Commission provided software then transmit the completed form to the Commission.

9. Electronic filing of this information will allow for easier storage, access, retrieval, and analysis.

III. Regulatory Flexibility Act Statement

10. The Regulatory Flexibility Act (RFA) requires rulemakings to contain either a description and analysis of the effect that the rule will have on small entities or to contain a certification that the rule will not have a significant economic impact on a substantial number of small entities.[7]

11. The Commission concludes that this rule would not have such an impact on small entities. Most public utilities to which the proposed rule would apply do not fall within the RFA's definition of a small entity.[8] Consequently, the Commission certifies that this Final Rule will not have ''a significant economic impact on a substantial number of small entities.''

IV. Environmental Analysis

12. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[9] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment.[10] The actions proposed to be taken here fall within the categorical exclusions in the Commission's regulations for rules that involve information gathering, analysis, and dissemination and that involve interlocking positions.[11] Therefore, an environmental assessment is

[1] 16 U.S.C. 825d(b).

[2] *Filing Requirements Under Parts 46 and 131 for Persons Holding Interlocking Directorates,* Order 601, 63 FR 72167 (1998), FERC Stats. & Regs. Regulations Preambles 1996–2000 ¶ 31,069 (1998).

[3] 44 U.S.C. 36.

[4] *http://www.ferc.gov/docs-filing/ferconline.asp.* Further information on FERC Online can be found at *http://www.ferc.gov/docs-filing/egov-act-2004.pdf.*

[5] *http://www.ferc.gov/docs-filing/efiling.asp.*

[6] *http://www.ferc.gov/docs-filing/eforms-elec.asp.*

[7] 5 U.S.C. 601–12.

[8] 5 U.S.C 601(3), citing to section 3 of the Small Business Act, 15 U.S.C. 632, section 3 of the Small Business Act defines a ''small-business concern'' as a business which is independently owned and operated and which is not dominant in its field of operation. In addition, the RFA definition of ''small entity'' refers to the definition provided in the Small Business Act, which defines a ''small business concern'' as a business that is independently owned and operated and that is not dominant in its field of operation. 15 U.S.C. 632. The Small Business Size Standards component of the North American Industry Classification System defines a small electric utility as one that, including its affiliates, is primarily engaged in the generation, transmission, and/or distribution of electric energy for sale and whose total electric output for the preceding fiscal year did not exceed 4 million MWh. 13 CFR 121.201.

[9] *Regulations Implementing the National Environmental Policy Act*, Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986–1990 ¶ 30,783 (1987).

[10] 18 CFR 380.4(a)(2)(ii).

[11] 18 CFR 380.4(a)(5).

unnecessary and has not been prepared for this rulemaking.

V. Information Collection Statement

13. The Office of Management and Budget (OMB) regulations require OMB to approve certain information collection requirements imposed by agency rule.[12] Comments are solicited on the Commission's need for this information, whether the information will have practical utility, the accuracy of provided burden estimates, ways to enhance the quality, utility and clarity of the information to be collected, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques.

Estimated Annual Burden

14. The current reporting burden is as follows:

Data collection	Number of respondents	Number of hours	Number of responses	Total annual hours
FERC 520	28	51	1	1450
FERC Form 561	1649	.25	1	412
FERC 566	183	6	1	1098
Total				2960

The burden reduction will be twenty percent for each information collection. A total of 592 hours combined will be eliminated, resulting in a total annual burden of 2,368 hours.

Title: Application for Authority to Hold Interlocking Positions (FERC 520).

Annual Report of Interlocking Positions (FERC Form 561).

Annual Report of Utility Twenty Largest Purchasers (FERC 566).

Action: Electronic Filing of Information.

OMB Control Nos.: 1902–0083, 1902–0099, and 1902–0114.

Respondents: Businesses, other for profit and not-for-profit institutions, and persons.

Frequency of Responses: Annual (FERC Form 561 and FERC 566) and Occasional (FERC 520).

Necessity of Information: The proposed regulations will revise the filing methods for the FERC 520 (Application for Authorization to Hold Interlocking Positions), FERC Form 561 (Annual Report of Interlocking Positions), and FERC 520 (Annual Report of Utility's Twenty Largest Purchasers).

The Commission uses the FERC 520, which is filed as necessary in hardcopy, to gather information to act on a filer's request to hold interlocking positions. The FERC 520 is a narrative that details the interlocking positions applied for as well as existing interlocking positions held by the filer. The Commission, in turn, uses the information (in conjunction with the filer's FERC Form 561), to make a determination whether or not the filer should be granted authorization to hold the position.

The FERC Form 561, expressly required by section 305(c) of the Federal Power Act and filed annually, lists the interlocking positions held by the filer and is typically submitted in hardcopy. The Commission uses the FERC Form 561 in conjunction with the FERC 520 to determine if a person is currently holding an interlocking position (as listed in the FERC Form 561) that they did not apply for originally in the FERC 520. In turn, the Commission checks to see if the person was approved to hold an interlocking position (as stated in the FERC 520) but did not list the respective interlocking position in the FERC Form 561. The Commission also uses FERC Form 561 in conjunction with FERC 566 to identify potential conflicts of interest between utilities and other corporate entities.

The FERC 566, expressly required by section 305(c) of the Federal Power Act and filed annually, lists the filing utility's twenty largest purchasers and the amount of electricity sold. As stated previously, the Commission uses the FERC 566 in conjunction with the FERC Form 561 to identify potential conflicts of interest.

The proposed revisions will reduce respondent burden by allowing this information to be submitted electronically. More specifically, respondent burden will be lowered by eliminating or substantially reducing printing and mailing costs thereby lessening the time to file and/or refile the aforementioned information. The Commission will also benefit through the elimination/reduction of paper processing costs.

Internal Review: The Commission has reviewed the proposed amendment to its regulations modifying the filing methods for interlocking directorates. The filings submitted are required by the Federal Power Act and allow the Commission to ensure that filers are in compliance. The revisions to the filing requirements will provide more effective analysis by reducing data errors and by preserving the integrity of the data. Electronic filing will allow for efficient dissemination of information, allowing the Commission to more effectively analyze the information. The Commission has assured itself, by means of internal review, that there is specific, objective support for the burden estimates associated with the information retention requirements.

Interested persons may obtain information on the filing requirements by contacting the following: Federal Energy Regulatory Commission (FERC), 888 First Street, NE., Washington, DC 20426 [Attention: Michael Miller, Information Clearance Officer, Office of the Executive Director, Phone: (202) 502–8415, Fax: (202) 273–0873, e-mail: *michael.miller@ferc.gov*]. For submitting comments concerning the collection of information and associated burden estimates, please send your comments to the contact listed above and to: Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), Washington, DC 20503 [Attention: Desk Officer for FERC] Phone: (202) 395–4650, Fax: (202) 395–7285.

VI. Comment Procedures

15. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due August 16, 2005. Comments must refer to Docket No. RM05–13–000, and must include the commenters name, the organization they represent, if applicable, and their address in their comments.

16. Comments may be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov* . The Commission accepts most standard word processing formats and commenters may attach additional files with supporting information in

[12] 5 CFR 1320.11.

certain other file formats. Commenters filing electronically do not need to make a paper filing. Commenters that are not able to file comments electronically must send an original and 14 copies of their comments to: The Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street NE., Washington, DC 20426.

17. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters discussing this proposal are not required to serve copies of their comments on other third parties.

VII. Document Availability

18. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's home page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426. E-mail the Public Reference Room at *public.referenceroom@ferc.gov* or (202) 502–8371.

19. From the Commission's home page on the Internet, this information is available in its eLibrary. The full text of this document is available in the eLibrary both in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number, excluding the last three digits, of this document in the docket number field.

20. User assistance is available for eLibrary and the Commission's Web site during our normal business hours. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

List of Subjects in 18 CFR Part 45, 46, and 131

Interlocking directorates; public utilities.

By direction of the Commission.

Linda Mitry,

Deputy Secretary.

In consideration of the foregoing, the Commission proposes to amend parts 45, 46, and 131, Chapter I, Title 18, *Code of Federal Regulations*, as follows.

PART 45—APPLICATION FOR AUTHORITY TO HOLD INTERLOCKING POSITIONS

1. The authority citation for part 45 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); Exec. Order No. 12,009, 3 CFR 142 (1978); Independent Offices Appropriations Act, 31 U.S.C. 9701 (1982); Federal Power Act, 16 U.S.C. 971a–825r (1982); Public Utility Regulatory Policy Act, 16 U.S.C. 2601–2645 (1982).

2. Revise § 45.7 to read as follows:

§ 45.7 Form of application.

The application, supplemental application, statement of supplemental information, notice of change and report required by this part, shall be filed with the Commission. An original hardcopy of such filing shall be dated, signed by the applicant and verified under oath in accordance with § 131.60 of this chapter, and retained at the applicant's business address. Such filing is an electronic file that is classified as a ''qualified document'' in accordance with § 385.2003(c)(1) and (2) of this chapter. As a qualified document, no paper copy version of the filing is required unless there is a request for privileged or protected treatment or the document is combined with another document as provided in § 385.2003(c)(3) or (4). Submit each such filing in electronic form in accordance with § 385.2003.

PART 46—PUBLIC UTILITY FILING REQUIREMENTS AND FILING REQUIREMENTS FOR PERSONS HOLDING INTERLOCKING POSITIONS

1. The authority citation for part 46 continues to read as follows:

Authority: Federal Power Act, as amended (16 U.S.C. 792–828c); Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601–2645; Department of Energy Organization Act, (42 U.S.C. 7101–7352); E.O. 12009, 3 CFR 142 (1978).

2. Section 46.3 is amended by revising paragraph (a) to read as follows:

§ 46.3 Purchaser list.

(a) *Compilation and filing list.* On or before January 31 of each year, each public utility shall compile a list of the purchasers described in paragraph (b) of this section and shall identify each purchaser by name and principal business address. The filing is an electronic file that is classified as a ''qualified document'' in accordance with § 385.2003(c)(1) and (2) of this chapter. As a qualified document, no paper copy version of the filing is required unless there is a request for privileged or protected treatment or the document is combined with another document as provided in § 385.2003(c)(3) or (4). Submit the filing in electronic form in accordance with § 385.2003. A hardcopy of the list shall be made publicly available through the public utility's principal business office.

* * * * *

3. Section 46.6 is amended by revising paragraph (d)(1), removing paragraph (d)(2), and redesignating paragraph (d)(3) as paragraph (d)(2) and revising it to read as follows:

§ 46.6 Contents of the written statement and procedures for filing.

* * * * *

(d)(1) Each person shall file an electronic version of such written statement in accordance with § 385.2003 of this chapter with the Office of the Secretary of the Commission on or before April 30 of each year immediately following the calendar year during any portion of which such person held a position described in § 46.4. An original hardcopy of such statement shall be dated and signed by such person and retained at the person's business address.

(2) Such statement shall be available to the public during regular business hours through the Commission's Public Reference Room and shall be made publicly available through the principal business offices of the public utility and any entity to which it applies on or before April 30 of the year the statement was filed with the Commission.

* * * * *

PART 131—FORMS

1. The authority for part 131 continues to read as follows:

Authority: 16 U.S.C. 791a—825n, 2601—2645; 31 U.S.C. 9701; 42 U.S.C. 7101—7352.

2. Section 131.31 is revised to read as follows:

§ 131.31 FERC Form No. 561, annual report of interlocking positions.

(*See* section 46.4 of this chapter.)

(Submit in electronic format in accordance with § 385.2003).

[FR Doc. 05–11531 Filed 6–16–05; 8:45 am]

BILLING CODE 6717–01–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Regulation Nos. 4 and 16]

RIN 0960–AF19

Evidentiary Requirements for Making Findings About Medical Equivalence

AGENCY: Social Security Administration.

ACTION: Proposed rule.

SUMMARY: We propose to revise our regulations that pertain to the processing of claims for disability benefits under title II and title XVI of the Social Security Act (the Act). The proposed revisions would make the language in the rules we use under title II of the Act for making findings about medical equivalence consistent with the language in the rules that we use under title XVI of the Act. The proposed revisions would also clarify our rules about the evidence we use when we make findings about medical equivalence for adults and children. We also propose to update and clarify our rules that explain the Listing of Impairments (the listings) and how your impairment(s) can meet a listing.

DATES: To be sure your comments are considered, we must receive them by August 16, 2005.

ADDRESSES: You may give us your comments by: using our Internet site facility (*i.e.*, Social Security Online) at *http://policy.ssa.gov/pnpublic.nsf/LawsRegs* or the Federal eRulemaking Portal at *http://www.regulations.gov;* e-mail to *regulations@ssa.gov;* telefax to (410) 966–2830, or letter to the Commissioner of Social Security, P.O. Box 17703, Baltimore, Maryland 21235–7703. You may also deliver them to the Office of Regulations, Social Security Administration, 100 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, between 8 a.m. and 4:30 p.m. on regular business days. Comments are posted on our Internet site, at *http://policy.ssa.gov/pnpublic.nsf/LawsRegs,* or you may inspect them on regular business days by making arrangements with the contact person shown in this preamble.

Electronic Version: The electronic file of this document is available on the date of publication in the **Federal Register** at *http://www.gpoaccess.gov/fr/index.html.* It is also available on the Internet site for SSA (*i.e.*, Social Security Online) at *http://policy.ssa.gov/pnpublic.nsf/LawsRegs.*

FOR FURTHER INFORMATION CONTACT: Robert Augustine, Social Insurance Specialist, Office of Regulations, Social Security Administration, 100 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, (410) 965–0020 or TTY (410) 966–5609. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet Web site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION: We propose to revise our regulations that explain how we make findings about whether your impairment(s) medically equals a listing. Since February 11, 1997, § 416.926, our regulation for making findings about medical equivalence under title XVI, has included different language from § 404.1526, our regulation about medical equivalence under title II. We are now proposing to update § 404.1526 so that it is the same as § 416.926.

As we discuss in more detail below, we are also proposing revisions to clarify language that was at issue in the decision in *Hickman* v. *Apfel,* 187 F.3d 683 (7th Cir. 1999), about the evidence we consider when we make findings about medical equivalence. When we issue any final rules, we will consider whether to rescind the Acquiescence Ruling (AR) that we issued in response to the court's decision (AR 00–2(7)) and to restore national uniformity in our adjudications.

In addition, we are proposing to update and clarify our rules in §§ 404.1525 and 416.925. As we explain below, the proposed changes are not substantive.

We are also proposing minor editorial changes throughout §§ 404.1525, 404.1526, 416.925, and 416.926, as well as conforming changes in other regulations to reflect the changes we are proposing in these sections.

What Programs Would These Proposed Regulations Affect?

These proposed regulations would affect disability determinations and decisions that we make under title II and title XVI of the Act. In addition, to the extent that Medicare entitlement and Medicaid eligibility are based on whether you qualify for disability benefits under title II or title XVI, these proposed regulations would also affect the Medicare and Medicaid programs.

Who Can Get Disability Benefits?

Under title II of the Act, we provide for the payment of disability benefits if you are disabled and belong to one of the following three groups:

- Workers insured under the Act,
- Children of insured workers, and
- Widows, widowers, and surviving divorced spouses (see § 404.336) of insured workers.

Under title XVI of the Act, we provide for Supplemental Security Income (SSI) payments on the basis of disability if you are disabled and have limited income and resources.

How Do We Define Disability?

Under both the title II and title XVI programs, disability must be the result of any medically determinable physical or mental impairment or combination of impairments that is expected to result in death or which has lasted or is expected to last for a continuous period of at least 12 months. Our definitions of disability are shown in the following table:

If you file a claim under . . .	And you are . . .	Disability means you have a medically determinable impairments(s) as described above that result in . . .
Title II	An adult or child	The inability to do any substantial gainful activity (SGA).
Title XVI	A person age 18 or older	The inability to do any SGA.
Title XVI	A person under age 18	Marked and severe functional limitations.

How Do We Decide Whether You Are Disabled?

If you are seeking benefits under title II of the Act, or if you are an adult seeking benefits under title XVI of the Act, we use a five-step ''sequential evaluation process'' to decide whether you are disabled. We describe this five-step process in our regulations at §§ 404.1520 and 416.920. We follow the five steps in order and stop as soon as we can make a determination or decision. The steps are:

1. Are you working, and is the work you are doing substantial gainful activity? If you are working and the work you are doing is substantial gainful activity, we will find that you are not disabled, regardless of your medical condition or your age, education, and work experience. If you are not, we will go on to step 2.

2. Do you have a ''severe'' impairment? If you do not have an impairment or combination of impairments that significantly limits your physical or mental ability to do basic work activities, we will find that you are not disabled. If you do, we will go on to step 3.

3. Do you have an impairment(s) that meets or medically equals the severity of an impairment in the listings? If you do, and the impairment(s) meets the duration requirement, we will find that you are disabled. If you do not, we will go on to step 4.

4. Do you have the residual functional capacity to do your past relevant work? If you do, we will find that you are not disabled. If you do not, we will go on to step 5.

5. Does your impairment(s) prevent you from doing any other work that exists in significant numbers in the national economy, considering your residual functional capacity, age, education, and work experience? If it does, and it meets the duration requirement, we will find that you are disabled. If it does not, we will find that you are not disabled.

We use a different sequential evaluation process for children who apply for payments based on disability under SSI. If you are already receiving benefits, we also use a different sequential evaluation process when we decide whether your disability continues. See §§ 404.1594, 416.924, 416.994, and 416.994a of our regulations. However, all of these processes include steps at which we consider whether your impairment(s) meets or medically equals one of our listings.

What Are the Listings?

The listings are examples of impairments that we consider severe enough to prevent you as an adult from doing any gainful activity. If you are a child seeking SSI payments based on disability, the listings describe impairments that we consider severe enough to result in marked and severe functional limitations. Although the listings are contained only in appendix 1 to subpart P of part 404 of our regulations, we incorporate them by reference in the SSI program in § 416.925 of our regulations, and apply them to claims under both title II and title XVI of the Act.

How Do We Use the Listings?

The listings are in two parts. There are listings for adults (part A) and for children (part B). If you are a person age 18 or over, we apply the listings in part A when we assess your claim, and we never use the listings in part B.

If you are a person under age 18, we first use the criteria in part B of the listings. If the listings in part B do not apply, and the specific disease process(es) has a similar effect on adults and children, we then use the criteria in part A. (See §§ 404.1525 and 416.925.) If your impairment(s) does not meet any listing, we will also consider whether it medically equals any listing; that is, whether it is as medically severe. (See §§ 404.1526 and 416.926.)

What if You Do Not Have an Impairment(s) That Meets or Medically Equals a Listing?

We use the listings only to decide that you are disabled or that you are still disabled. We will never deny your claim or decide that you no longer qualify for benefits because your impairment(s) does not meet or medically equal a listing. If you have a severe impairment(s) that does not meet or medically equal any listing, we may still find you disabled based on other rules in the ''sequential evaluation process.'' Likewise, we will not decide that your disability has ended only because your impairment(s) does not meet or medically equal a listing.

Also, when we conduct reviews to determine whether your disability continues, we will not find that your disability has ended because we have changed a listing. Our regulations explain that, when we change our listings, we continue to use our prior listings when we review your case, if you qualified for disability benefits or SSI payments based on our determination or decision that your impairment(s) met or medically equaled a listing. In these cases, we determine whether you have experienced medical improvement, and if so, whether the medical improvement is related to the ability to work. If your condition(s) has medically improved, so that you no longer meet or medically equal the prior listing, we evaluate your case further to determine whether you are currently disabled. We may find that you are currently disabled, depending on the full circumstances of your case. See §§ 404.1594(c)(3)(i) and 416.994(b)(2)(iv)(A). If you are a child who is eligible for SSI payments, we follow a similar rule when we decide whether you have experienced medical improvement in your condition(s). See § 416.994a(b)(2).

Why Are We Proposing To Revise Our Evidentiary Requirements for Making Findings About Medical Equivalence?

Current §§ 404.1526 and 416.926 do not contain the same language because of changes we made to § 416.926 in final rules that we published on February 11, 1997. On that date, we published interim final rules to implement the childhood disability provisions of Public Law 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The rules became effective on April 14, 1997 (62 FR 6408).

Before April 14, 1997, §§ 404.1526 and 416.926 were essentially identical, with only minor differences specific to titles II and XVI. However, § 416.926 applied only to adults; our rules for evaluating medical equivalence for children under the SSI program were in § 416.926a of our regulations, along with our policies about functional equivalence in children. In the interim final rules that became effective on April 14, 1997, we moved the rules for medical equivalence in children into the same section as the rules for medical equivalence in adults, reserving § 416.926a solely for functional equivalence.

Before April 14, 1997, we provided more detailed rules for determining medical equivalence for children in § 416.926a than in the corresponding rules for determining medical equivalence for adults in §§ 404.1526 and 416.926. We adopted this language in our childhood regulations from internal operating instructions about medical equivalence that we applied to all individuals. When we revised § 416.926 in 1997, we decided to use the more detailed rules for both children and adults. We explained in the preamble to the interim final rules that:

> [w]e decided to use the provisions of former § 416.926a(b) to explain our rules for determining medical equivalence for both adults and children. This is not a substantive change, but a clearer statement of our longstanding policy on medical equivalence than was previously included in prior § 416.926(a), as it was clarified for children in prior § 416.926a(b). This merely allows us to address only once in our regulations the policy of medical equivalence, which is and always has been the same for adults and children.

62 FR at 6413

While we did not revise § 404.1526 when we revised § 416.926 in 1997, we also recognized that there was no substantive difference between the two rules. We noted in the preamble that ''[a]lthough some of the text of [§ 416.926(a)] will differ from the text of

§ 404.1526(a), both sections * * * will continue to provide the same substantive rules.'' 62 FR at 6413. Since we did not revise § 404.1526 when we published the interim final rules for evaluating disability in children, we also did not revise it when we published final rules in 2000. 65 FR 54747, 54768 (2000). We are now proposing to revise § 404.1526 so that it includes the same language as § 416.926.

In addition, we propose to make minor revisions to the language in our rules on medical equivalence to clarify that we consider all information that is relevant to our finding about whether your impairment(s) medically equals the criteria of a listing. In *Hickman* v. *Apfel*, 187 F.3d 683 (7th Cir. 1999), the Court of Appeals interpreted our statement in current § 416.926(b) that ''[w]e will always base our decision about whether your impairment(s) is medically equal to a listed impairment on medical evidence only'' differently from what we intended. The *Hickman* court held that this provision means that we can use evidence only from medical sources when we make findings about medical equivalence. However, we intend the phrase ''medical evidence only'' in this regulation section only to exclude consideration of the vocational factors of age, education, and work experience, as defined in a number of our regulations. See, for example, §§ 404.1501(g), 404.1505, 404.1520(g), and 404.1560(c)(1) in part 404, and §§ 416.901(j), 416.905, 416.920(g), and 416.960(c)(1) in part 416 of our regulations. Under our interpretation of our regulations, the phrase ''medical evidence'' includes not just findings reported by medical sources but other information about your medical condition(s) and its effects, including your own description of your impairment(s).

The *Hickman* court believed that when we amended the regulations in 1997 to add § 416.926(b) we added a rule that ''explicitly eliminates any recourse to non-medical evidence.'' *Hickman,* 187 F.3d at 688. However, as we have already noted in the above quotes from the preamble to the 1997 interim final regulations, we stated in that preamble that this was not our intent. Thus, the court's decision interpreted the language of our regulations more narrowly than we intended.

Because of this, we issued AR 00–2(7) to implement the Court of Appeals' holding within the States in the Seventh Circuit. 65 FR 25783 (2000). In the AR, we stated that we intended to clarify the language at issue in *Hickman* at §§ 404.1526 and 416.926 through the issuance of a regulatory change and that we might rescind the AR once we clarified the regulations. 65 FR at 25785. Likewise, when we published the final rules for evaluating disability in children on September 11, 2000, we indicated in response to comments that we planned to revise § 404.1526 to clarify this issue in response to *Hickman.* 65 FR at 54768. We are now proposing to clarify our longstanding interpretation of the regulations in response to the *Hickman* decision.

When Will We Start To Use These Proposed Rules?

We will not use these proposed rules until we evaluate the public comments we receive on them, determine whether they should be issued as final rules, and issue final rules in the **Federal Register**. If we publish final rules, we will explain in the preamble how we will apply them, and summarize and respond to the public comments. Until the effective date of any final rules, we will continue to use our current rules.

What Revisions Are We Proposing?

Section 404.1526 Medical Equivalence

Section 416.926 Medical Equivalence for Adults and Children

We propose to revise §§ 404.1526 and 416.926 so that they use the same language. We also propose to revise these sections to clarify that we consider all relevant evidence in your case record when we make a finding about whether your impairment or combination of impairments medically equals a listing. The specific proposals are as follows.

We propose to replace all of the headings with questions, to revise text to put it into active voice and use simpler language where possible, and to reorganize text and provide more subparagraphs for ease of reading.

Proposed §§ 404.1526(a) and 416.926(a)—''What is medical equivalence?''—correspond to the first sentence of current § 416.926(a)—''How medical equivalence is determined.'' They provide a basic definition of medical equivalence.

Proposed §§ 404.1526(b) and 416.926(b)—''How do we determine medical equivalence?''—correspond to the last sentence of current § 416.926(a) and the provisions of current §§ 416.926(a)(1) and (a)(2). Throughout these proposed sections, we propose to remove the word ''medical'' from the phrase ''medical findings'' to help clarify that we consider all relevant information when we determine whether your impairment(s) medically equals the requirements of a listing.

We are also proposing new §§ 404.1526(b)(4) and 416.926(b)(4) to provide cross-references to §§ 404.1529(d)(3) and 416.929(d)(3). Those sections explain how we consider symptoms when we make findings about medical equivalence.

Proposed §§ 404.1526(c) and 416.926(c)—''What evidence do we consider when we determine if your impairment(s) medically equals a listing?''—correspond to current §§ 404.1526(b) and 416.926(b) and the third sentence of current § 416.926(a). In these proposed sections, we clarify that we consider all evidence in your case record about your impairment(s) and its effects on you that is relevant to our finding whether your impairment(s) medically equals a listing. We also explain that this means only that we do not consider your vocational factors of age, education, and work experience. The last sentence of proposed §§ 404.1526(c) and 416.926(c) corresponds to the last sentence of §§ 404.1526(b) and 416.926(b). We are proposing minor editorial changes to the language of that sentence, including the deletion of the word ''medical'' from the phrase ''medical opinion.'' Under §§ 404.1527(a) and 416.927(a) of our regulations, the term ''medical opinion'' has a specific meaning that does not include opinions about medical equivalence. This proposed change will only update the language of §§ 404.1526(b) and 416.926(b) to match our other rules.

Because we are proposing to add new §§ 404.1526(c) and 416.926(c), we would redesignate current §§ 404.1526(c) and 416.926(c) as §§ 404.1526(d) and 416.926(d). These paragraphs explain who we consider to be designated medical and psychological consultants for purposes of determining medical equivalence. We propose only a minor editorial correction to the heading of current paragraph (c) (proposed paragraph (d)): the addition of a question mark.

We would also redesignate current § 416.926(d) as § 416.926(e) because of the addition of proposed new § 416.926(c). This paragraph explains who is responsible for determining medical equivalence at each level of the administrative review process. We propose a minor correction to the second sentence to reflect our current organization. The current sentence refers to ''the Associate Commissioner for Disability.'' This reference is out of date because we no longer have an organization called the Office of Disability. The appropriate reference is now to ''the Associate Commissioner for Disability Determinations.'' For an

explanation of the reorganization that resulted in this change, see 67 FR 69287 (November 15, 2002). (For similar reasons, we are proposing to replace the title ''Director of the Office of Disability Hearings'' with the title ''Associate Commissioner for Disability Determinations'' in a number of our rules in subpart J of part 404 and subpart N of part 416 to update those rules as well. We are also making a minor revision in the heading of this paragraph.)

Section 404.1526 does not currently include a provision analogous to current § 416.926(d) (proposed § 416.926(e)), so we propose to add § 404.1526(e) to make § 404.1526 the same as proposed § 416.926.

What Other Revisions Are We Proposing?

Section 404.1525 Listing of Impairments in Appendix 1

Section 416.925 Listing of Impairments in Appendix 1 of Subpart P of Part 404 of This Chapter

We propose to update and clarify these sections, which describe the listings and how we use them. As in proposed §§ 404.1526 and 416.926, we propose to replace all of the headings with questions, to delete the word ''medical'' from the phrase ''medical criteria,'' to revise text to put it into active voice and into simpler language where possible, and to reorganize text and provide more subparagraphs for ease of reading. We also propose to explain better how we organize listings sections and to provide an explanation of what it means to ''meet'' a listing.

We are also proposing to update our descriptions of the part B listings to reflect the current listings. As we explain below, some of the current provisions regarding the part B listings date back to 1977 and no longer accurately describe the content of those listings. Finally, we propose to move the provisions on symptoms as they pertain to meeting the listings to §§ 404.1529 and 416.929, our rules on evaluating symptoms, and to delete a provision that is unnecessary because it is redundant of other rules.

The following is a summary of the major changes we are proposing in §§ 404.1525 and 416.925.

We propose to move the discussion of duration in the last two sentences of current §§ 404.1525(a) and 416.925(a) to proposed §§ 404.1525(c) and 416.925(c), where we discuss how we use the listings.

Proposed §§ 404.1525(b) and 416.925(b)—''How is appendix 1 organized?''— correspond to current §§ 404.1525(b) and 416.925(b). They explain that the listings are in two parts: part A, which is primarily for adults, and part B, which is only for children. In paragraph (b)(2), the paragraph that describes part B of the listings, we propose to delete language that is out of date and no longer necessary.

When we originally published the part B listings for children in 1977, we intended them to supplement the part A listings. In the preamble to the publication of the part B listings, we explained that we originally developed the part A listings primarily for determining disability in adults. We indicated that a number of the listings for adults at that time were appropriate for evaluating disability in children too, but that there were also some listings that were not appropriate because certain listed impairments had different effects in children. We also noted that there were some diseases and other impairments in young children that were not addressed in the adult listings. Therefore, we published the part B listings, which we referred to as ''additional criteria.'' See 42 FR 14705 (March 16, 1977). The regulation at that time stated:

> Part B is used where the criteria in Part A do not give appropriate consideration to the particular effects of disease processes in childhood; *i.e.*, when the disease process is generally found only in children or when the disease process differs in its effect on children than on adults. Where additional criteria are included in Part B, the impairment categories are, to the extent feasible, numbered to maintain a relationship with their counterparts in Part A. The method for adjudicating claims for children under age 18 is to look first to Part B. Where the medical criteria in Part B are not applicable, the medical criteria in Part A should be used.

20 CFR 416.906 (1977). (In 1977, we published the childhood listings and the regulation that explained them only in subpart I of part 416 of our regulations. In 1980, we changed to the current version of our rules, in which we publish both the child and adult listings only in appendix 1 of subpart P of part 404 of our regulations and provide explanations of the listings in both §§ 404.1525 and 416.925. (45 FR 55566, August 20, 1980.))

With minor editorial changes, the corresponding language of the current rules in §§ 404.1525(b)(2) and 416.925(b)(2) is essentially the same as the language that we first published. However, since we originally published the listings, we have greatly expanded the childhood listings in part B so that it is no longer appropriate to speak of them as a supplement to the part A listings. To the contrary, the part B listings are for the most part stand-alone; that is, in addition to listings that are specifically for children and with relatively few exceptions, they include the same listings as part A when those listings are applicable to both adults and children. Although it is still appropriate in claims of children to refer to certain listings in part A when the part B listings do not apply, the current relationship of part A to part B is the opposite of what it was when we first published the part B listings in 1977. For children, the primary listings are in part B, and we may use certain part A listings in addition to the part B listings.

We believe that the language in the first three sentences of current §§ 404.1525(b)(2) and 416.925(b)(2) is not only out of date but also unnecessary. We first published it (and the part B listings) to provide rules for adjudicating claims of children under the SSI program when that program was still relatively young. Rules explaining the relationship between part A and the new part B were helpful in those early years, but we believe that we do not need this kind of explanation in our regulations anymore. They do not provide rules for adjudication or guidelines for our adjudicators to follow when they determine disability in children under the listings, and we do not believe that they provide information that is especially helpful to public understanding of our rules.

Therefore, we propose to delete most of the language in the first three sentences of current §§ 404.1525(b)(2) and 416.925(b)(2). We propose to clarify in the third sentence of proposed §§ 404.1525(b)(2) and 416.925(b)(2)(i) that, if the criteria in part B do not apply, we may use the criteria in part A when those criteria give appropriate consideration to the effects of the impairment(s) in children. This is a more accurate statement of how we now use the part A listings in childhood claims. In the fourth sentence of the proposed rules, we propose to retain the provision in the third sentence of the current rules that explains that, to the extent possible, we number the provisions in part B to maintain a relationship with part A. We propose to retain this statement in our rules because there are still some body systems in part B in which the listings are not numbered consecutively because of this relationship, and this provision will continue to answer questions about why some listings in part B are not consecutively numbered.

In the current rules, § 416.925(b)(2) is longer than § 404.1525(b)(2). This is because the paragraph in part 416

includes rules about our definition of the phrase ''listing-level severity,'' which we use when we evaluate claims of children seeking SSI payments based on disability under title XVI of the Act. We do not propose any substantive changes to this language, but we are proposing minor editorial changes in proposed § 416.925(b)(2)(ii). None of these revisions would be a substantive change in our rules.

- First, because the current paragraph is long, we propose to divide it into two subparagraphs. Proposed § 416.925(b)(2)(i) would be the same as proposed § 404.1525(b)(2). Proposed § 416.925(b)(2)(ii) would contain the provisions unique to part 416 that now start at the sixth sentence of current § 416.925(b)(2).
- Second, the current section refers to both ''domains of functioning'' and ''broad areas of functioning.'' These terms are synonymous in our rules; however, we currently use the phrase ''domains of functioning'' more frequently. Therefore, in the proposed rules, we propose to change the phrase ''broad areas of functioning'' to ''domains of functioning'' for consistency of language within the rules.
- Third, in the current rules, we inadvertently refer inconsistently to both ''extreme *limitations*'' and ''extreme *limitation*'' in a domain as a standard of listing-level severity. We are correcting this inconsistency by changing the word ''limitations'' to ''limitation'' consistent with the standards in our other rules; see, for example, § 416.926a(a).
- Finally, we are deleting a duplicate cross-reference to § 416.926a. We inadvertently included the same parenthetical cross-reference to the definitions of the terms ''marked'' and ''extreme'' in the seventh and ninth sentences of current § 416.925(b). We propose to delete the second reference.

Proposed §§ 404.1525(c) and 416.925(c)—''How do we use the listings?''— correspond to current §§ 404.1525(c) and 416.925(c). We propose to break up the current paragraph into shorter subparagraphs and to make editorial changes for clarity. In the second sentence of proposed §§ 404.1525(c)(2) and 416.925(c)(2), we propose to expand and clarify the second sentence of current §§ 404.1525(c) and 416.925(c). The proposed rules would clarify that we sometimes provide information in the introductory section of each body system that is necessary to show whether your impairment meets the criteria of a particular listing, not just to establish a diagnosis or the existence of a medically determinable impairment. For example, to meet most musculoskeletal listings, you must show that you have either an ''inability to ambulate effectively'' or an ''inability to perform fine and gross movements effectively.'' We define these severity terms from the individual musculoskeletal listings in the introductory text of the musculoskeletal body system, in section 1.00B2 for adults and 101.00B2 for children. Likewise, to meet listings 12.05 and 112.05, you must have mental retardation that satisfies the criteria in the introductory paragraph of those listings (the so-called capsule definition) in addition to the criteria in one of the paragraphs that follows the capsule definition; that is, listing 12.05A, B, C, or D for adults or 112.05A, B, C, D, or E for children. We explain this requirement for meeting listings 12.05 and 112.05 in the fourth paragraph of section 12.00A for adults and the eighth paragraph of section 112.00A for children.

Proposed §§ 404.1525(c)(3) and 416.925(c)(3) correspond to the next-to-last sentence of current §§ 404.1525(c) and 416.925(c). However, we propose to expand the information and to clarify it to define what we mean when we say that your impairment ''meets'' the requirements of a listing. We propose to delete the explanation in the next-to-last sentence of the current rules that the required level of severity in a listing is shown by ''one or more sets of medical findings'' and to delete the last sentence, which says that the medical findings ''consist of symptoms, signs, *and* laboratory findings.'' These descriptions of our listings are no longer accurate. For many years, we have had listings that also include functional criteria. Further, we have a number of listings that do not include symptoms, signs, *and* laboratory findings in their criteria. We do not propose to replace the current sentences because we believe that the proposed rules would be clear enough without a detailed description of all the possible kinds of criteria a given listing might contain. Instead, we simply provide that your impairment(s) meets the requirements of a listing when it satisfies all of the criteria of that listing, including any relevant criteria in the introduction to the body system, and meets the duration requirement.

Proposed §§ 404.1525(c)(4) and 416.925(c)(4) correspond to the last two sentences of current §§ 404.1525(a) and 416.925(a). In the current rules, these sentences explain that

> [m]ost of the listed impairments are permanent or expected to result in death, or a specific statement of duration is made. For all others, the evidence must show that the impairment has lasted or is expected to last for a continuous period of at least 12 months.

We propose to move this language to the section of the proposed rules in which we explain how we decide whether your impairment(s) meets a listing because it is most relevant to that finding. We also propose to explain better what we mean by the statement ''or a specific statement of duration is made'' in our current rules. We mean by this that in some listings we say that we will find that your impairment(s) will meet the listing for a specific period of time. For example, in listings 13.06A and 113.06A, acute leukemia, we state that we will find that your impairment is disabling until at least 24 months from the date of diagnosis or relapse or at least 12 months from the date of the bone marrow or stem cell transplantation, whichever is later. Thereafter, we will evaluate any residual impairment under the criteria for the affected body systems. (For current listings 13.06 and 113.06, see 69 FR 67018, at 67034 and 67037 (November 15, 2004).)

Proposed §§ 404.1525(c)(5) and 416.925(c)(5) are new. They explain that when your impairment(s) does not meet a listing, it can ''medically equal'' the criteria of a listing, and provide a cross-reference to §§ 404.1526 and 416.926, our rules on medical equivalence. They also explain that when your impairment(s) does not meet or medically equal a listing we may find you disabled at a later step in the sequential evaluation process. We do not specify the step in the process at which we may find you disabled or still disabled because there are different sequential evaluation processes for adults and children who file initial claims and for continuing disability reviews of adults and children.

We propose to remove current §§ 404.1525(e) and 416.925(e) because they are redundant, and we have more recent rules. Our policy on how we consider drug addiction and alcoholism is in §§ 404.1535 and 416.935, which we published in 1995. See 60 FR 8140, at 8147 (February 10, 1995).

Because of this deletion, we would redesignate §§ 404.1525(f) and 416.925(f) as §§ 404.1525(e) and 416.925(e). We also propose to simplify these sections and to make our regulations on the evaluation of symptoms more consistent by exchanging the provisions in current §§ 404.1525(f) and 416.925(f) (proposed §§ 404.1525(e) and 416.925(e)) with the

provisions of §§ 404.1529(d)(2) and 416.929(d)(2). In current §§ 404.1529(d) and 416.929(d), we explain how we consider your symptoms (such as pain) at each step of the sequential evaluation process. For example, in paragraph (d)(1) we explain how we consider your symptoms when we determine if your impairment(s) is ''severe,'' and in paragraph (d)(3) we explain how we consider your symptoms when we determine if your impairment(s) medically equals a listing. However, in paragraph (d)(2), instead of explaining how we consider your symptoms when we determine if your impairment meets a listing, we currently provide only a cross-reference to §§ 404.1525(f) and 416.925(f), where we explain our policy on symptoms and meeting listings.

We believe that it would be more consistent to move our explanation of our policy on symptoms and meeting listings now in current §§ 404.1525(f) and 416.925(f) to §§ 404.1529(d)(2) and 416.929(d)(2) so that it is together with our explanations of how we consider symptoms at other steps in the sequential evaluation process. However, instead of removing the sections, we would in their place insert a cross-reference to §§ 404.1529(d)(2) and 416.929(d)(2) to ensure that our adjudicators refer to the policy. As we have already noted, we propose to add similar new §§ 404.1526(b)(4) and 416.926(b)(4) to provide cross-references to §§ 404.1529(d)(3) and 416.929(d)(3) to refer to our rules for considering medical equivalence.

Sections 404.1528 and 416.928 Symptoms, Signs, and Laboratory Findings

We propose to delete the opening statement of these sections, which says that ''[m]edical findings consist of symptoms, signs, and laboratory findings.'' We believe that the statement is unnecessary and that deleting it would help to remove any confusion about the evidence we consider wherever we use ''medical findings'' in our rules.

Sections 404.1529 and 416.929 How We Evaluate Symptoms, Including Pain

As we have already explained, we propose to replace §§ 404.1529(d)(2) and 416.929(d)(2) with the text of current §§ 404.1525(f) and 416.925(f). Except for minor editorial revisions, the language is unchanged.

We propose to add the word ''medically'' to the heading of §§ 404.1529(d)(3) and 416.929(d)(3) so that they read ''Decision whether the Listing of Impairments is medically equaled.'' We also propose to revise the third sentence in those sections, for conformity with the proposed changes in §§ 404.1526 and 416.926, to indicate that we will base a finding of medical equivalence on all evidence in the case record and its effect on the individual.

We propose to make a number of minor editorial changes throughout §§ 404.1529 and 416.929 to update them to match our current rules. For example, throughout these sections we are changing references to ''your treating or examining physician or psychologist'' to ''your treating or nontreating source.'' This change would update the rules to match the terms we now use in §§ 404.1502 and 416.902 and our other rules that refer to medical sources; it does not change the meaning of the sentence. We are also correcting a cross-reference in the second sentence of §§ 404.1529(a) and 416.929(a) to reflect our current rules.

Clarity of These Proposed Rules

Executive Order 12866, as amended by Executive Order 13258, requires each agency to write all rules in plain language. In addition to your substantive comments on these proposed rules, we invite your comments on how to make these proposed rules easier to understand. For example:

- Have we organized the material to suit your needs?
- Are the requirements in the rules clearly stated?
- Do the rules contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rules easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rules easier to understand?

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these proposed rules meet the criteria for a significant regulatory action under Executive Order 12866, as amended by Executive Order 13258. Thus, they were reviewed by OMB.

Regulatory Flexibility Act

We certify that these proposed rules would not have a significant economic impact on a substantial number of small entities because they would affect only individuals. Thus, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

These proposed rules contain reporting requirements as shown in the following table.

Section	Annual number of responses	Frequency of response	Average burden per response (min.)	Estimated annual burden [1] (hrs.)
404.918(d)	1932	1	60	1932
416.1418(d)	7268	1	60	7268
Total	9200	1	60	9200

[1] The annual burden is an estimate. We do not have management information about (1) the number of predecisional notices sent, (2) the number of individuals who actually avail themselves of the opportunity to provide additional information, or (3) the percentage of cases that result in a changed decision because individuals respond.

An Information Collection Request has been submitted to OMB for clearance. We are soliciting comments on the burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize the burden on respondents, including the use of automated collection techniques or other forms of information technology. Comments should be submitted and/or faxed to the Office of Management and Budget at the following address/number: Office of Management and Budget, Attn: Desk Officer for SSA, Fax Number: 202–395–6974.

Comments can be received for up to 60 days after publication of this notice

and will be most useful if received within 30 days of publication. To receive a copy of the OMB clearance package, you may call the SSA Reports Clearance Officer on 410–965–0454.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; 96.002, Social Security-Retirement Insurance; 96.004, Social Security-Survivors Insurance; and 96.006, Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old–Age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

Dated: March 15, 2005.

Jo Anne B. Barnhart,

Commissioner of Social Security.

For the reasons set forth in the preamble, we propose to amend subparts J and P of part 404 and subparts I and N of part 416 of chapter III of title 20 of the Code of Federal Regulations as set forth below:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

Subpart J—[Amended]

1. The authority citation for subpart J of part 404 continues to read as follows:

Authority: Secs. 201(j), 204(f), 205(a), (b), (d)–(h), and (j), 221, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 401(j), 404(f), 405(a), (b), (d)–(h), and (j), 421, 425, and 902(a)(5)); sec. 5, Pub. L. 97–455, 96 Stat. 2500 (42 U.S.C. 405 note); secs. 5, 6(c)–(e), and 15, Pub. L. 98–460, 98 Stat. 1802 (42 U.S.C. 421 note).

2. Section 404.914 is amended by revising the first sentence of paragraph (c)(1) to read as follows:

§ 404.914 Disability hearing—general.

* * * * *

(c) *Time and place*—(1) *General.* Either the State agency or the Associate Commissioner for Disability Determinations or his or her delegate, as appropriate, will set the time and place of your disability hearing. * * *

* * * * *

3. Section 404.915 is amended by revising the second sentence of paragraph (a) and paragraph (c) introductory text to read as follows:

§ 404.915 Disability hearing—disability hearing officers.

(a) *General.* * * * The disability hearing officer will be an experienced disability examiner, regardless of whether he or she is appointed by a State agency or by the Associate Commissioner for Disability Determinations or his or her delegate, as described in paragraphs (b) and (c) of this section.

* * * * *

(c) *Federal hearing officers.* The disability hearing officer who conducts your disability hearing will be appointed by the Associate Commissioner for Disability Determinations or his or her delegate if:

* * * * *

4. Section 404.917 is amended by revising paragraph (d) to read as follows:

§ 404.917 Disability hearing—disability hearing officer's reconsidered determination.

* * * * *

(d) *Effect.* The disability hearing officer's reconsidered determination, or, if it is changed under § 404.918, the reconsidered determination that is issued by the Associate Commissioner for Disability Determinations or his or her delegate, is binding in accordance with § 404.921, subject to the exceptions specified in that section.

5. Section 404.918 is revised to read as follows:

§ 404.918 Disability hearing—review of the disability hearing officer's reconsidered determination before it is issued.

(a) *General.* The Associate Commissioner for Disability Determinations or his or her delegate may select a sample of disability hearing officers' reconsidered determinations, before they are issued, and review any such case to determine its correctness on any grounds he or she deems appropriate. The Associate Commissioner or his or her delegate shall review any case within the sample if:

(1) There appears to be an abuse of discretion by the hearing officer;

(2) There is an error of law; or

(3) The action, findings or conclusions of the disability hearing officer are not supported by substantial evidence.

Note to paragraph (a): If the review indicates that the reconsidered determination prepared by the disability hearing officer is correct, it will be dated and issued immediately upon completion of the review. If the reconsidered determination prepared by the disability hearing officer is found by the Associate Commissioner or his or her delegate to be deficient, it will be changed as described in paragraph (b) of this section.

(b) *Methods of correcting deficiencies in the disability hearing officer's reconsidered determination.* If the reconsidered determination prepared by the disability hearing officer is found by the Associate Commissioner for Disability Determinations or his or her delegate to be deficient, the Associate Commissioner or his or her delegate will take appropriate action to assure that the deficiency is corrected before a reconsidered determination is issued. The action taken by the Associate Commissioner or his or her delegate will take one of two forms:

(1) The Associate Commissioner or his or her delegate may return the case file either to the component responsible for preparing the case for hearing or to the disability hearing officer, for appropriate further action; or

(2) The Associate Commissioner or his or her delegate may issue a written reconsidered determination which corrects the deficiency.

(c) *Further action on your case if it is sent back by the Associate Commissioner for Disability Determinations or his or her delegate either to the component that prepared your case for hearing or to the disability hearing officer.* If the Associate Commissioner for Disability Determinations or his or her delegate sends your case back either to the component responsible for preparing the case for hearing or to the disability hearing officer for appropriate further action, as provided in paragraph (b)(1) of this section, any additional proceedings in your case will be governed by the disability hearing procedures described in § 404.916(f) or if your case is returned to the disability hearing officer and an unfavorable determination is indicated, a supplementary hearing may be scheduled for you before a reconsidered determination is reached in your case.

(d) *Opportunity to comment before the Associate Commissioner for Disability Determinations or his or her delegate issues a reconsidered determination that is unfavorable to you.* If the Associate Commissioner for Disability Determinations or his or her delegate proposes to issue a reconsidered determination as described in paragraph (b)(2) of this section, and that reconsidered determination is unfavorable to you, he or she will send you a copy of the proposed reconsidered determination with an explanation of the reasons for it, and will give you an

opportunity to submit written comments before it is issued. At your request, you will also be given an opportunity to inspect the pertinent materials in your case file, including the reconsidered determination prepared by the disability hearing officer, before submitting your comments. You will be given 10 days from the date you receive the Associate Commissioner's notice of proposed action to submit your written comments, unless additional time is necessary to provide access to the pertinent file materials or there is good cause for providing more time, as illustrated by the examples in § 404.911(b). The Associate Commissioner or his or her delegate will consider your comments before taking any further action on your case.

Subpart P—[Amended]

6. The authority citation for subpart P of part 404 continues to read as follows:

Authority: Secs. 202, 205(a), (b), and (d)–(h), 216(i), 221(a) and (i), 222(c), 223, 225, and 702(a) (5) of the Social Security Act (42 U.S.C. 402, 405(a), (b), and (d)–(h), 416(i), 421(a) and (i), 422(c), 423, 425, and 902(a) (5)); sec. 211(b), Pub. L. 104–193, 110 Stat. 2105, 2189.

7. Section 404.1525 is revised to read as follows:

§ 404.1525 Listing of Impairments in appendix 1.

(a) *What is the purpose of the Listing of Impairments?* The Listing of Impairments (the listings) is in appendix 1 of this subpart. It describes for each of the major body systems impairments that we consider to be severe enough to prevent an individual from doing any gainful activity, regardless of his or her age, education, or work experience.

(b) *How is appendix 1 organized?* There are two parts in appendix 1:

(1) *Part A* contains criteria that apply to individuals age 18 and over. We may also use part A for individuals who are under age 18 if the disease processes have a similar effect on adults and children.

(2) *Part B* contains criteria that apply only to individuals who are under age 18; we never use the listings in part B to evaluate individuals who are age 18 or older. In evaluating disability for a person under age 18, we use part B first. If the criteria in part B do not apply, we may use the criteria in part A when those criteria give appropriate consideration to the effects of the impairment(s) in children. To the extent possible, we number the provisions in part B to maintain a relationship with their counterparts in part A.

(c) *How do we use the listings?* (1) Each body system section in parts A and B of appendix 1 is in two parts: an introduction, followed by the specific listings.

(2) The introduction to each body system contains information relevant to the use of the listings in that body system; for example, examples of common impairments in the body system and definitions used in the listings for that body system. We may also include specific criteria for establishing a diagnosis, confirming the existence of an impairment, or establishing that your impairment(s) satisfies the criteria of a particular listing in the body system. Even if we do not include specific criteria for establishing a diagnosis or confirming the existence of your impairment, you must still show that you have a severe medically determinable impairment(s), as defined in §§ 404.1508 and 404.1520(c).

(3) The specific listings follow the introduction in each body system, after the heading, *Category of Impairments*. Within each listing, we specify the objective medical and other findings needed to satisfy the criteria of that listing. We will find that your impairment(s) *meets* the requirements of a listing when it satisfies all of the criteria of that listing, including any relevant criteria in the introduction, and meets the duration requirement (see § 404.1509).

(4) Most of the listed impairments are permanent or expected to result in death. For some listings, we state a specific period of time for which your impairment(s) will meet the listing. For all others, the evidence must show that your impairment(s) has lasted or can be expected to last for a continuous period of at least 12 months.

(5) If your impairment(s) does not meet the criteria of a listing, it can *medically equal* the criteria of a listing. We explain our rules for medical equivalence in § 404.1526. We use the listings only to find that you are disabled or still disabled. If your impairment(s) does not meet or medically equal the criteria of a listing, we may find that you are disabled or still disabled at a later step in the sequential evaluation process.

(d) *Can your impairment(s) meet a listing based only on a diagnosis?* No. Your impairment(s) cannot meet the criteria of a listing based only on a diagnosis. To meet the requirements of a listing, you must have a medically determinable impairment(s) that satisfies all of the criteria in the listing.

(e) *How do we consider your symptoms when we determine whether your impairment(s) meets a listing?* Some listed impairments include symptoms, such as pain, as criteria. Section 404.1529(d)(2) explains how we consider your symptoms when your symptoms are included as criteria in a listing.

8. Section 404.1526 is amended by revising paragraphs (a) and (b), revising the heading of paragraph (c) and redesignating paragraph (c) as paragraph (d), and adding new paragraphs (c) and (e), to read as follows:

§ 404.1526 Medical equivalence.

(a) *What is medical equivalence?* Your impairment(s) is medically equivalent to a listed impairment in appendix 1 if it is at least equal in severity and duration to the criteria of any listed impairment.

(b) *How do we determine medical equivalence?* We can find medical equivalence in three ways.

(1)(i) If you have an impairment that is described in appendix 1, but—

(A) You do not exhibit one or more of the findings specified in the particular listing, or

(B) You exhibit all of the findings, but one or more of the findings is not as severe as specified in the particular listing,

(ii) We will find that your impairment is medically equivalent to that listing if you have other findings related to your impairment that are at least of equal medical significance to the required criteria.

(2) If you have an impairment(s) that is not described in appendix 1, we will compare your findings with those for closely analogous listed impairments. If the findings related to your impairment(s) are at least of equal medical significance to those of a listed impairment, we will find that your impairment(s) is medically equivalent to the analogous listing.

(3) If you have a combination of impairments, no one of which meets a listing (see § 404.1525(c)(3)), we will compare your findings with those for closely analogous listed impairments. If the findings related to your impairments are at least of equal medical significance to those of a listed impairment, we will find that your combination of impairments is medically equivalent to that listing.

(4) Section 404.1529(d)(3) explains how we consider your symptoms, such as pain, when we make findings about medical equivalence.

(c) *What evidence do we consider when we determine if your impairment(s) medically equals a listing?* When we determine if your impairment medically equals a listing, we consider all evidence in your case

record about your impairment(s) and its effects on you that is relevant to this finding. We do not consider your vocational factors of age, education, and work experience (*see*, for example, § 404.1560(c)(1)). We also consider the opinion given by one or more medical or psychological consultants designated by the Commissioner. (*See* § 404.1616.)

(d) *Who is a designated medical or psychological consultant?* * * *

(e) *Who is responsible for determining medical equivalence?* In cases where the State agency or other designee of the Commissioner makes the initial or reconsideration disability determination, a State agency medical or psychological consultant or other designee of the Commissioner (*see* § 404.1616) has the overall responsibility for determining medical equivalence. For cases in the disability hearing process or otherwise decided by a disability hearing officer, the responsibility for determining medical equivalence rests with either the disability hearing officer or, if the disability hearing officer's reconsideration determination is changed under § 404.918, with the Associate Commissioner for Disability Determinations or his or her delegate. For cases at the Administrative Law Judge or Appeals Council level, the responsibility for deciding medical equivalence rests with the Administrative Law Judge or Appeals Council.

§ 404.1528 [Amended]

9. Section 404.1528 is amended by removing the introductory text before paragraph (a).

10. Section 404.1529 is amended by revising the third, fourth, and fifth sentences in paragraph (a), the fifth sentence in paragraph (b), the second sentence in paragraph (c)(1), the second, third, and fourth sentences in paragraph (c)(3), the third sentence in paragraph (c)(4), paragraph (d)(2), and the heading and the third sentence in paragraph (d)(3), to read as follows:

§ 404.1529 How we evaluate symptoms, including pain.

(a) *General.* * * * By other evidence, we mean the kinds of evidence described in §§ 404.1512(b)(2) through (6) and 404.1513(b)(1), (4), and (5), and (d). These include statements or reports from you, your treating or nontreating source, and others about your medical history, diagnosis, prescribed treatment, daily activities, efforts to work, and any other evidence showing how your impairment(s) and any related symptoms affect your ability to work. We will consider all of your statements about your symptoms, such as pain, and any description you, your treating source or nontreating source, or other persons may provide about how the symptoms affect your activities of daily living and your ability to work. * * *

(b) *Need for medically determinable impairment that could reasonably be expected to produce your symptoms, such as pain.* * * * At the administrative law judge hearing or Appeals Council level, the administrative law judge or the Appeals Council may ask for and consider the opinion of a medical expert concerning whether your impairment(s) could reasonably be expected to produce your alleged symptoms. * * *

(c) *Evaluating the intensity and persistence of your symptoms, such as pain, and determining the extent to which your symptoms limit your capacity for work*—(1) *General.* * * * In evaluating the intensity and persistence of your symptoms, we consider all of the available evidence, including your history, the signs and laboratory findings, and statements from you, your treating or nontreating source, or other persons about how your symptoms affect you. * * *

* * * * *

(3) *Consideration of other evidence.* * * * The information that you, your treating or nontreating source, or other persons provide about your pain or other symptoms (*e.g.*, what may precipitate or aggravate your symptoms, what medications, treatments or other methods you use to alleviate them, and how the symptoms may affect your pattern of daily living) is also an important indicator of the intensity and persistence of your symptoms. Because symptoms, such as pain, are subjective and difficult to quantify, any symptom-related functional limitations and restrictions which you, your treating or nontreating source, or other persons report, which can reasonably be accepted as consistent with the objective medical evidence and other evidence, will be taken into account as explained in paragraph (c)(4) of this section in reaching a conclusion as to whether you are disabled. We will consider all of the evidence presented, including information about your prior work record, your statements about your symptoms, evidence submitted by your treating or nontreating source, and observations by our employees and other persons. * * *

(4) *How we determine the extent to which symptoms, such as pain, affect your capacity to perform basic work activities.* * * * We will consider whether there are any inconsistencies in the evidence and the extent to which there are any conflicts between your statements and the rest of the evidence, including your history, the signs and laboratory findings, and statements by your treating or nontreating source or other persons about how your symptoms affect you. * * *

(d) *Consideration of symptoms in the disability determination process.*

* * * * *

(2) *Decision whether the Listing of Impairments is met.* Some listed impairments include symptoms usually associated with those impairments as criteria. Generally, when a symptom is one of the criteria in a listing, it is only necessary that the symptom be present in combination with the other criteria. It is not necessary, unless the listing specifically states otherwise, to provide information about the intensity, persistence, or limiting effects of the symptom as long as all other findings required by the specific listing are present.

(3) *Decision whether the Listing of Impairments is medically equaled.* * * * Under § 404.1526(b), we will consider medical equivalence based on all evidence in your case record about your impairment(s) and its effects on you that is relevant to this finding. * * *

* * * * *

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart I—[Amended]

11. The authority citation for subpart I of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1611, 1614, 1619, 1631(a), (c), and (d)(1), and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1382, 1382c, 1382h, 1383(a), (c), and (d)(1), and 1383(b); secs. 4(c) and 5, 6(c)–(e), 14(a), and 15, Pub. L. 98–460, 98 Stat. 1794, 1801, 1802, and 1808 (42 U.S.C. 421 note, 423 note, 1382h note).

12. Section 416.925 is revised to read as follows:

§ 416.925 Listing of Impairments in appendix 1 of subpart P of part 404 of this chapter.

(a) *What is the purpose of the Listing of Impairments?* The Listing of Impairments (the listings) is in appendix 1 of subpart P of part 404 of this chapter. For adults, it describes for each of the major body systems impairments that we consider to be severe enough to prevent an individual from doing any gainful activity, regardless of his or her age, education,

or work experience. For children, it describes impairments that cause marked and severe functional limitations.

(b) *How is appendix 1 organized?* There are two parts in appendix 1:

(1) *Part A* contains criteria that apply to individuals age 18 and over. We may also use part A for individuals who are under age 18 if the disease processes have a similar effect on adults and children.

(2)(i) *Part B* contains criteria that apply only to individuals who are under age 18; we never use the listings in part B to evaluate individuals who are age 18 or older. In evaluating disability for a person under age 18, we use part B first. If the criteria in part B do not apply, we may use the criteria in part A when those criteria give appropriate consideration to the effects of the impairment(s) in children. To the extent possible, we number the provisions in part B to maintain a relationship with their counterparts in part A.

(ii) Although the severity criteria in part B of the listings are expressed in different ways for different impairments, ''listing-level severity'' generally means the level of severity described in § 416.926a(a); that is, ''marked'' limitations in two domains of functioning or an ''extreme'' limitation in one domain. (See § 416.926a(e) for the definitions of the terms *marked* and *extreme* as they apply to children.) Therefore, in general, a child's impairment(s) is of ''listing-level severity'' if it causes marked limitations in two domains of functioning or an extreme limitation in one. However, when we decide whether your impairment(s) meets the requirements of a listing, we will decide that your impairment is of ''listing-level severity'' even if it does not result in marked limitations in two domains of functioning, or an extreme limitation in one, if the listing that we apply does not require such limitations to establish that an impairment(s) is disabling.

(c) *How do we use the listings?* (1) Each body system section in parts A and B of appendix 1 of subpart P of part 404 of this chapter is in two parts: an introduction, followed by the specific listings.

(2) The introduction to each body system contains information relevant to the use of the listings in that body system; for example, examples of common impairments in the body system and definitions used in the listings for that body system. We may also include specific criteria for establishing a diagnosis, confirming the existence of an impairment, or establishing that your impairment(s) satisfies the criteria of a particular listing in the body system. Even if we do not include specific criteria for establishing a diagnosis or confirming the existence of your impairment, you must still show that you have a severe medically determinable impairment(s), as defined in §§ 416.908, 416.920(c), and 416.924(c).

(3) The specific listings follow the introduction in each body system, after the heading, *Category of Impairments.* Within each listing, we specify the objective medical and other findings needed to satisfy the criteria of that listing. We will find that your impairment(s) *meets* the requirements of a listing when it satisfies all of the criteria of that listing, including any relevant criteria in the introduction, and meets the duration requirement (see § 416.909).

(4) Most of the listed impairments are permanent or expected to result in death. For some listings, we state a specific period of time for which your impairment(s) will meet the listing. For all others, the evidence must show that your impairment(s) has lasted or can be expected to last for a continuous period of at least 12 months.

(5) If your impairment(s) does not meet the criteria of a listing, it can *medically equal* the criteria of a listing. We explain our rules for medical equivalence in § 416.926. We use the listings only to find that you are disabled or still disabled. If your impairment(s) does not meet or medically equal the criteria of a listing, we may find that you are disabled or still disabled at a later step in the sequential evaluation process.

(d) *Can your impairment(s) meet a listing based only on a diagnosis?* No. Your impairment(s) cannot meet the criteria of a listing based only on a diagnosis. To meet the requirements of a listing, you must have a medically determinable impairment(s) that satisfies all of the criteria of the listing.

(e) *How do we consider your symptoms when we determine whether your impairment(s) meets a listing?* Some listed impairments include symptoms, such as pain, as criteria. Section 416.929(d)(2) explains how we consider your symptoms when your symptoms are included as criteria in a listing.

13. Section 416.926 is amended by revising paragraphs (a) and (b), revising the heading of paragraph (c), revising the heading and the second sentence of paragraph (d), redesignating paragraphs (c) and (d) as paragraphs (d) and (e), and adding a new paragraph (c) to read as follows:

§ 416.926 Medical equivalence for adults and children.

(a) *What is medical equivalence?* Your impairment(s) is medically equivalent to a listed impairment in appendix 1 of subpart P of part 404 of this chapter if it is at least equal in severity and duration to the criteria of any listed impairment.

(b) *How do we determine medical equivalence?* We can find medical equivalence in three ways.

(1)(i) If you have an impairment that is described in the Listing of Impairments in appendix 1 of subpart P of part 404 of this chapter, but—

(A) You do not exhibit one or more of the findings specified in the particular listing, or

(B) You exhibit all of the findings, but one or more of the findings is not as severe as specified in the particular listing,

(ii) We will find that your impairment is medically equivalent to that listing if you have other findings related to your impairment that are at least of equal medical significance to the required criteria.

(2) If you have an impairment(s) that is not described in the Listing of Impairments in appendix 1 of subpart P of part 404 of this chapter, we will compare your findings with those for closely analogous listed impairments. If the findings related to your impairment(s) are at least of equal medical significance to those of a listed impairment, we will find that your impairment(s) is medically equivalent to the analogous listing.

(3) If you have a combination of impairments, no one of which meets a listing described in the Listing of Impairments in appendix 1 of subpart P of part 404 of this chapter (see § 416.925(c)(3)), we will compare your findings with those for closely analogous listed impairments. If the findings related to your impairments are at least of equal medical significance to those of a listed impairment, we will find that your combination of impairments is medically equivalent to that listing.

(4) Section 416.929(d)(3) explains how we consider your symptoms, such as pain, when we make findings about medical equivalence.

(c) *What evidence do we consider when we determine if your impairment(s) medically equals a listing?* When we determine if your impairment medically equals a listing, we consider all evidence in your case record about your impairment(s) and its effects on you that is relevant to this finding. We do not consider your vocational factors of age, education, and

work experience (see, for example, § 416.960(c)(1)). We also consider the opinion given by one or more medical or psychological consultants designated by the Commissioner. (See § 416.1016.)

(d) *Who is a designated medical or psychological consultant?* * * *

(e) *Who is responsible for determining medical equivalence?* * * * For cases in the disability hearing process or otherwise decided by a disability hearing officer, the responsibility for determining medical equivalence rests with either the disability hearing officer or, if the disability hearing officer's reconsideration determination is changed under § 416.1418, with the Associate Commissioner for Disability Determinations or his or her delegate. * * *

§ 416.928 [Amended]

14. Section 416.928 is amended by removing the introductory sentence before paragraph (a).

15. Section 416.929 is amended by revising the third, fourth, and fifth sentences in paragraph (a), the fifth sentence in paragraph (b), the second sentence in paragraph (c)(1), the second, third, and fourth sentences in paragraph (c)(3), the third sentence in paragraph (c)(4), paragraph (d)(2), and the third sentence in paragraph (d)(3), to read as follows:

§ 416.929 How we evaluate symptoms, including pain.

(a) *General.* * * * By other evidence, we mean the kinds of evidence described in §§ 416.912(b)(2) through (6) and 416.913(b)(1), (4), and (5), and (d). These include statements or reports from you, your treating or nontreating source, and others about your medical history, diagnosis, prescribed treatment, daily activities, efforts to work, and any other evidence showing how your impairment(s) and any related symptoms affect your ability to work (or, if you are a child, your functioning). We will consider all of your statements about your symptoms, such as pain, and any description you, your treating source or nontreating source, or other persons may provide about how the symptoms affect your activities of daily living and your ability to work (or, if you are a child, your functioning). * * *

(b) *Need for medically determinable impairment that could reasonably be expected to produce your symptoms, such as pain.* * * * At the administrative law judge hearing or Appeals Council level, the administrative law judge or the Appeals Council may ask for and consider the opinion of a medical expert concerning whether your impairment(s) could reasonably be expected to produce your alleged symptoms. * * *

(c) *Evaluating the intensity and persistence of your symptoms, such as pain, and determining the extent to which your symptoms limit your capacity for work or, if you are a child, your functioning*—(1) *General.* * * * In evaluating the intensity and persistence of your symptoms, we consider all of the available evidence, including your history, the signs and laboratory findings, and statements from you, your treating or nontreating source, or other persons about how your symptoms affect you. * * *

(3) *Consideration of other evidence.* * * * The information that you, your treating or nontreating source, or other persons provide about your pain or other symptoms (*e.g.*, what may precipitate or aggravate your symptoms, what medications, treatments or other methods you use to alleviate them, and how the symptoms may affect your pattern of daily living) is also an important indicator of the intensity and persistence of your symptoms. Because symptoms, such as pain, are subjective and difficult to quantify, any symptom-related functional limitations and restrictions which you, your treating or nontreating source, or other persons report, which can reasonably be accepted as consistent with the objective medical evidence and other evidence, will be taken into account as explained in paragraph (c)(4) of this section in reaching a conclusion as to whether you are disabled. We will consider all of the evidence presented, including information about your prior work record, your statements about your symptoms, evidence submitted by your treating or nontreating source, and observations by our employees and other persons. * * *

(4) *How we determine the extent to which symptoms, such as pain, affect your capacity to perform basic work activities, or if you are a child, your functioning.* * * * We will consider whether there are any inconsistencies in the evidence and the extent to which there are any conflicts between your statements and the rest of the evidence, including your history, the signs and laboratory findings, and statements by your treating or nontreating source or other persons about how your symptoms affect you. * * *

* * * * *

(d) *Consideration of symptoms in the disability determination process.*

* * * * *

(2) *Decision whether the Listing of Impairments is met.* Some listed impairments include symptoms usually associated with those impairments as criteria. Generally, when a symptom is one of the criteria in a listing, it is only necessary that the symptom be present in combination with the other criteria. It is not necessary, unless the listing specifically states otherwise, to provide information about the intensity, persistence, or limiting effects of the symptom as long as all other findings required by the specific listing are present.

(3) *Decision whether the Listing of Impairments is medically equaled.* * * * Under § 416.926(b), we will consider medical equivalence based on all evidence in your case record about your impairment(s) and its effects on you that is relevant to this finding. * * *

* * * * *

Subpart N—[Amended]

16. The authority citation for subpart N of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1383, and 1383b).

17. Section 416.1414 is amended by revising the first sentence of paragraph (c)(1) to read as follows:

§ 416.1414 Disability hearing—general.

* * * * *

(c) *Time and place*—(1) *General.* Either the State agency or the Associate Commissioner for Disability Determinations or his or her delegate, as appropriate, will set the time and place of your disability hearing. * * *

* * * * *

18. Section 416.1415 is amended by revising the second sentence of paragraph (a) and paragraph (c) introductory text to read as follows:

§ 416.1415 Disability hearing—disability hearing officers.

(a) *General.* * * * The disability hearing officer will be an experienced disability examiner, regardless of whether he or she is appointed by a State agency or by the Associate Commissioner for Disability Determinations or his or her delegate, as described in paragraphs (b) and (c) of this section.

* * * * *

(c) *Federal hearing officers.* The disability hearing officer who conducts your disability hearing will be appointed by the Associate Commissioner for Disability Determinations or his or her delegate if:

* * * * *

19. Section 416.1417 is amended by revising paragraph (d) to read as follows:

§ 416.1417 Disability hearing—disability hearing officer's reconsidered determination.

* * * * *

(d) *Effect.* The disability hearing officer's reconsidered determination, or, if it is changed under § 416.1418, the reconsidered determination that is issued by the Associate Commissioner for Disability Determinations or his or her delegate, is binding in accordance with § 416.1421, subject to the exceptions specified in that section.

20. Section 416.1418 is revised to read as follows:

§ 416.1418 Disability hearing—review of the disability hearing officer's reconsidered determination before it is issued.

(a) *General.* The Associate Commissioner for Disability Determinations or his or her delegate may select a sample of disability hearing officers' reconsidered determinations, before they are issued, and review any such case to determine its correctness on any grounds he or she deems appropriate. The Associate Commissioner or his or her delegate shall review any case within the sample if:

(1) There appears to be an abuse of discretion by the hearing officer;

(2) There is an error of law; or

(3) The action, findings or conclusions of the disability hearing officer are not supported by substantial evidence.

Note to paragraph (a): If the review indicates that the reconsidered determination prepared by the disability hearing officer is correct, it will be dated and issued immediately upon completion of the review. If the reconsidered determination prepared by the disability hearing officer is found by the Associate Commissioner or his or her delegate to be deficient, it will be changed as described in paragraph (b) of this section.

(b) *Methods of correcting deficiencies in the disability hearing officer's reconsidered determination.* If the reconsidered determination prepared by the disability hearing officer is found by the Associate Commissioner for Disability Determinations or his or her delegate to be deficient, the Associate Commissioner or his or her delegate will take appropriate action to assure that the deficiency is corrected before a reconsidered determination is issued. The action taken by the Associate Commissioner or his or her delegate will take one of two forms:

(1) The Associate Commissioner or his or her delegate may return the case file either to the component responsible for preparing the case for hearing or to the disability hearing officer, for appropriate further action; or

(2) The Associate Commissioner or his or her delegate may issue a written reconsidered determination which corrects the deficiency.

(c) *Further action on your case if it is sent back by the Associate Commissioner for Disability Determinations or his or her delegate either to the component that prepared your case for hearing or to the disability hearing officer.* If the Associate Commissioner for Disability Determinations or his or her delegate sends your case back either to the component responsible for preparing the case for hearing or to the disability hearing officer for appropriate further action, as provided in paragraph (b)(1) of this section, any additional proceedings in your case will be governed by the disability hearing procedures described in § 416.1416(f) or if your case is returned to the disability hearing officer and an unfavorable determination is indicated, a supplementary hearing may be scheduled for you before a reconsidered determination is reached in your case.

(d) *Opportunity to comment before the Associate Commissioner for Disability Determinations or his or her delegate issues a reconsidered determination that is unfavorable to you.* If the Associate Commissioner for Disability Determinations or his or her delegate proposes to issue a reconsidered determination as described in paragraph (b)(2) of this section, and that reconsidered determination is unfavorable to you, he or she will send you a copy of the proposed reconsidered determination with an explanation of the reasons for it, and will give you an opportunity to submit written comments before it is issued. At your request, you will also be given an opportunity to inspect the pertinent materials in your case file, including the reconsidered determination prepared by the disability hearing officer, before submitting your comments. You will be given 10 days from the date you receive the Associate Commissioner's notice of proposed action to submit your written comments, unless additional time is necessary to provide access to the pertinent file materials or there is good cause for providing more time, as illustrated by the examples in § 416.1411(b). The Associate Commissioner or his or her delegate will consider your comments before taking any further action on your case.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

[VA–122–FOR]

Virginia Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We are announcing receipt of a proposed amendment to the Virginia regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The program amendment revises the Virginia Coal Surface Mining Reclamation Regulations. The amendment reflects changes in renumbering of the Virginia Code section references of the Virginia Administrative Process Act; clarifies the filing of requests for formal hearing and judicial review; revisions of the Virginia rules to be consistent with amendments to the Federal rules; revisions to allow approval of natural stream restoration channel design; regulation changes to implement requirements of Virginia HB 2573 (enacted as emergency legislation); and corrections of typographical errors.

DATES: We will accept written comments on this amendment until 4 p.m. (local time), on July 18, 2005. If requested, we will hold a public hearing on the amendment on July 12, 2005. We will accept requests to speak at the hearing until 4 p.m. (local time), on July 5, 2005.

ADDRESSES: You may submit comments, identified by VA–122–FOR, by any of the following methods:

- E-mail: *rpenn@osmre.gov*. Include VA–122–FOR in the subject line of the message.
- Mail/Hand Delivery: Mr. Robert A. Penn, Director, Big Stone Gap Field Office, Office of Surface Mining Reclamation and Enforcement, 1941 Neeley Road, Suite 201, Compartment 116, Big Stone Gap, Virginia 24219.
- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency docket number for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Comment Procedures'' heading in the **SUPPLEMENTARY INFORMATION** section of

this document. You may also request to speak at a public hearing by any of the methods listed above or by contacting the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Docket: You may review copies of the Virginia program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Big Stone Gap Field Office.

Mr. Robert A. Penn, Director, Big Stone Gap Field Office, Office of Surface Mining Reclamation and Enforcement, 1941 Neeley Road, Suite 201, Compartment 116, Big Stone Gap, Virginia 24219, Telephone: (540) 523–4303. E-mail: *rpenn@osmre.gov*.

Mr. Leslie S. Vincent, Virginia Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, Virginia 24219, Telephone: (540) 523–8100. E-mail: *lsv@mme.state.va.us*.

FOR FURTHER INFORMATION CONTACT: Mr. Robert A. Penn, Director, Big Stone Gap Field Office; Telephone: (540) 523–4303. Internet: *rpenn@osmre.gov*.

SUPPLEMENTARY INFORMATION:

I. Background on the Virginia Program
II. Description of the Proposed Amendment
III. Public Comment Procedures
IV. Procedural Determinations

I. Background on the Virginia Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, ''* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Virginia program on December 15, 1981. You can find background information on the Virginia program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Virginia program in the December 15, 1981, **Federal Register** (46 FR 61088). You can also find later actions concerning Virginia's program and program amendments at 30 CFR 946.12, 946.13, and 946.15.

II. Description of the Proposed Amendment

By letter dated May 9, 2005 (Administrative Record Number VA–1048), the Virginia Department of Mines, Minerals and Energy (DMME) submitted an amendment to the Virginia program. In its letter, the DMME stated that the program amendment revises Virginia Coal Surface Mining Reclamation Regulations to reflect the changes in the renumbering of the Virginia Code section references of the Virginia Administrative Process Act; clarifies the filing of requests for formal hearing and judicial review; revises the Virginia rules to make them consistent with amendments to the Federal rules; revises its rules to allow approval of natural stream restoration channel design; changes its regulation to implement requirements of Virginia HB 2573 (enacted as emergency legislation in Chapter 3 of the 2005 Virginia Acts of Assembly); and corrects typographical errors. Specifically, the following amendments are proposed:

1. 4 VAC 25–130–700.12 Petitions to initiate rulemaking.

The proposed amendment revises subsection (e) by changing the citation of the Virginia Code section from ''9–6.14:1'' to ''2.2–4000A.''

2. 4 VAC 25–130–773.21 Improvidently issued permits; Rescission procedures.

The proposed amendment revises subsection (c), right to appeal, by changing the citation of Virginia Code section from ''9–6.14:1'' to ''2.2–4000A.''

3. 4 VAC 25–130–775.11 Administrative Review.

The proposed amendment revises subsection (b)(1) by changing the citation of the Virginia Code section from ''9–6.14:12'' to ''2.2–4020.'' In addition, new subsection (d) is added to provide as follows:

(d) All requests for hearing or appeals for review and reconsideration made under this section shall be filed with the Director, Department of Mines, Minerals and Energy, Post Office Drawer 900, Big Stone Gap, Virginia 24219.

4. 4 VAC 25–130–775.13 Judicial Review.

New subsection (c) is added to provide as follows:

(c) All notices of appeal for judicial review of a Hearing Officer's final decision, or the final decision on review and reconsideration, shall be filed with the Director, Department of Mines, Minerals and Energy, Post Office Drawer 900, Big Stone Gap, Virginia 24219.

5. 4 VAC 25–130–784.20 Subsidence Control Plan.

Subsection (a)(3) is amended by deleting language concerning presubsidence survey requirements. The DMME stated that the provision was amended to delete those requirements that are counterpart to Federal regulations that were suspended effective December 22, 1999 (64 FR 71652). The following language is being deleted: ''condition of all noncommercial buildings or occupied residential dwellings and structures related thereto, that may be materially damaged or for which the reasonably foreseeable use may be diminished by subsidence, within the area encompassed by the applicable angle of draw; as well as a survey of the.'' In addition, the following language is being deleted: ''premining condition or value of such noncommercial buildings or occupied residential dwellings and structures related thereto and the.'' As revised, Subsection (a)(3) provides as follows:

(3) A survey of the quantity and quality of all drinking, domestic and residential water supplies within the permit area and adjacent area that could be contaminated, diminished, or interrupted by subsidence. If the applicant cannot make this survey because the owner will not allow access to the site, the applicant will notify the owner in writing of the effect that denial of access will have as described in 4VAC25–130–817.121(c)(4). The applicant must pay for any technical assessment or engineering evaluation used to determine the quantity and quality of drinking, domestic, or residential water supplies. The applicant must provide copies of the survey and any technical assessment or engineering evaluation to the property owner and the division.

6. 4 VAC 25–130–800.51 Administrative review of performance bond forfeiture.

Subsection (c)(1) is amended by changing the citation of the Virginia Code sections from ''9–6.14:12'' to ''2.2–4020.''

Subsection (e) is amended by clarifying that the ''Division of Mined Land Reclamation'' is now the ''Department of Mines, Minerals and Energy.'' As amended, Subsection (e) provides as follows:

(e) All requests for hearing, or appeals for review and reconsideration made under this section; and all notices of appeal for judicial review of a Hearing Officer's final decision, or the final decision on review and reconsideration shall be filed with the Director, Department of Mines, Minerals and Energy, Post Office Drawer 900, Big Stone Gap, Virginia 24219.

7. 4 VAC 25–130–816.11 Signs and markers.

New Subsection (a)(4) is added and existing (a)(4) is redesignated as (a)(5).

As amended, Subsection (a) provides as follows:

(a) Specifications. Signs and markers required under this Part shall—

(1) Be posted, maintained, and removed by the person who conducts the surface mining activities;

(2) Be of a uniform design throughout the operation that can be easily seen and read;

(3) Be made of durable material;

(4) For permit boundary markers on areas that are located on steep slopes above private dwellings or other occupied buildings, be made of or marked with fluorescent or reflective paint or material; and

(5) Conform to local ordinances and codes.

8. 4 VAC 25–130–816.43 Diversions.

New Subsection (d) is added, and existing Subsection (d) is redesignated as Subsection (e). New Subsection (d) provides as follows:

(d) In lieu of the requirements of paragraphs (a)(2) through (a)(9), (b)(2) through (b)(6) and (c)(1) through (c)(3) of this section, a natural stream restoration channel design approved by the U.S. Army Corps of Engineers as part of an approved U.S. Army Corps of Engineers permit shall be deemed to meet the requirements of this section.

9. 4 VAC 25–130–816.64 Use of explosives; blasting schedule.

New Subsection (a)(4) concerning seismic monitoring is added and provides as follows:

(4) Seismic monitoring shall be conducted when blasting operations on coal surface mining operations are conducted within 1,000 feet of a private dwelling or other occupied building.

10. 4 VAC 25–130–816.105 Backfilling and grading; thick overburden.

This proposed change is intended to revise Virginia's rule to be consistent with the counterpart Federal rule. Thin overburden is addressed under Virginia rule 4 VAC 25–130–816.104. This provision is amended as follows: The term ''Thin'' is deleted and replaced by the term ''Thick'' in subsection (a); the term ''insufficient'' is deleted and replaced by ''more than sufficient'' in subsection (a); the term ''less'' is deleted and replaced by the term ''more'' in subsection (a); and the term ''thin'' is deleted and replaced by the term ''thick'' in subsection (b). As amended this provision provides as follows:

(a) Thick overburden exists when spoil and other waste materials available from the entire permit area is more than sufficient to restore the disturbed area to its approximate original contour. More than sufficient spoil and other waste materials occur where the overburden thickness times the swell factor, plus the thickness of other available waste materials, is more than the combined thickness of the overburden and coal bed prior to removing the coal, so that after backfill and grading the surface configuration of the reclaimed area would not:

(1) Closely resemble the surface configuration of the land prior to mining; or

(2) Blend into and complement the drainage pattern of the surrounding terrain.

(b) Where thick overburden occurs within the permit area, the permittee at a minimum shall:

(1) Restore the approximate original contour and then use the remaining spoil and other waste materials to attain the lowest practicable grade, but not more than the angle of repose;

(2) Meet the requirements of 4VAC25–130–816.102(a)(2) through (j); and

(3) Dispose of any excess spoil in accordance with 4VAC25–130–816.71 through 4VAC25–130–816.75.

11. 4 VAC 25–130–817.11 Signs and markers.

New Subsection (a)(4) is added and existing subsection (a)(4) is redesignated as (a)(5). New subsection (a)(4) provides as follows:

(a) Specifications. Signs and markers required under this Part shall —

(4) For permit boundary markers on areas that are located on steep slopes above private dwellings or other occupied dwellings, be made of or marked with fluorescent or reflective paint or material; and

12. 4 VAC 25–130–817.43 Diversions.

New Subsection (d) is added and existing Subsection (d) is redesignated as Subsection (e). As amended, new Subsection (d) provides as follows:

(d) In lieu of the requirements of paragraphs (a)(2) through (a)(9), (b)(2) through (b)(6) and (c)(1) through (c)(3) of this section, a natural stream restoration channel design approved by the U.S. Army Corps of Engineers as part of an approved U.S. Army Corps of Engineers permit shall be deemed to meet the requirements of this section.

13. 4 VAC 25–130–817.64 Use of explosives; general performance standards.

New Subsection (d) is added and provides as follows:

(d) Seismic monitoring shall be conducted when blasting operations on coal surface mining operations are conducted within 1,000 feet of a private dwelling or other occupied building.

14. 4 VAC 25–130–817.121 Subsidence control.

This provision is amended by deleting Subsections (c)(4)(i)–(iv) and redesignating Subsection (c)(4)(v) as subsection (c)(4). The DMME stated that this provision was amended to delete those requirements that are counterpart to Federal regulations that were suspended effective December 22, 1999 (64 FR 71652). This provision had created a rebuttable presumption that underground mining caused subsidence, where the subsidence damage occurred within the angle of draw. As amended, Subsection (c)(4) provides as follows:

(4) Information to be considered in determination of causation. In a determination whether damage to protected structures was caused by subsidence from underground mining, all relevant and reasonably available information will be considered by the division.

15. 4 VAC 25–130–842.15 Review of decision not to inspect or enforce.

The proposed amendment revises Subsection (d) by changing the citation of the Virginia Code section from ''9–6.14:1'' to ''2.2–4000A.''

16. 4 VAC 25–130–843.12 Notices of violation.

The proposed amendment revises Subsection (j) by changing the citation of the Virginia Code section from ''9–6.14:1'' to ''2.2–4000A.''

17. 4 VAC 25–130–843.13 Suspension or revocation of permits; pattern of violations.

The proposed amendment revises Subsection (b) by changing the citation of the Virginia Code section from ''9–6.14:12'' to ''2.2–4020.'' Subsection (e) is amended by clarifying that the ''Division of Mined Land Reclamation'' is now the ''Department of Mines, Minerals, and Energy.'' As amended, Subsection (e) provides as follows:

(e) All requests for hearing, or appeals for review and reconsideration made under this section; and all notices of appeal for judicial review of a Hearing Officer's final decision, or the final decision on review and reconsideration shall be filed with the Director, Department of Mines, Minerals and Energy, Post Office Drawer 900, Big Stone Gap, Virginia 24219.

18. 4 VAC 25–130–843.15. Informal public hearing.

The amendment revises Subsection (c) by changing the citation of the Virginia Code section from ''9–6.14:11'' to ''2.2–4019.''

19. 4 VAC 25–130–843.16 Formal review of citations.

Subsection (e) is amended by clarifying that the ''Division of Mined Land Reclamation'' is now the ''Department of Mines, Minerals, and Energy.'' As amended, Subsection (e) provides as follows:

(e) All requests for hearing before a Hearing Officer, or appeals for review and reconsideration, made under this section, and all notices of appeal for judicial review of a Hearing Officer's final decision or a final decision on review and reconsideration, shall be filed with the Director, Department of Mines, Minerals and Energy, Post Office Drawer 900, Big Stone Gap, Virginia 24219.

20. 4 VAC 25–130–845.13 Point System.

Subsections (c)(1) and (d) are amended to correct typographical errors.

At Subsection (c)(1), the phrase ''(a) and'' is added immediately before ''(b),'' and the phrase ''and (c)'' is deleted. As amended, Subsection (c)(1) provides as follows:

(c) Credit for good faith in attempting to achieve compliance.

(1) The division shall deduct from the total points assigned under Subsections (a) and (b) points based on the demonstrated good faith of the permittee in attempting to achieve rapid compliance after notification of the violation. Points shall be deducted as follows.

Subsection (d) is amended by adding ''(a),'' immediately before ''(b);'' adding ''and'' immediately following ''(b),'' and deleting ''and (d)'' immediately following (c). As amended, the language of Subsection (d) provides as follows:

(d) Determination of base penalty. The division shall determine the base amount of any civil penalty by converting the total number of points calculated under Subsections (a), (b), and (c), of this section to a dollar amount, according to the following schedule.

Subsection (e), concerning credit for additional penalties for previous history is amended at (e)(1) by adding the words ''[e]xcept for a violation that resulted in personal injury or fatality to any person.'' As amended, Subsection (e)(1) provides as follows:

(1) Except for a violation that resulted in personal injury or fatality to any person, the division shall reduce the base penalty determined under Subsection (d) by 10% if the permittee has had no violations cited by the division within the preceding 12-month period.

Subsection (f), concerning maximum penalty which the division may assess, is amended by adding the words ''except that if the violation resulted in a personal injury or fatality to any person, then the civil penalty determined under Subsection (d) shall be multiplied by a factor of twenty (20), not to exceed $70,000.'' As amended, Subsection (f) provides as follows:

(f) The maximum penalty which the division may assess under this section for each cessation order or notice of violation shall be $5,000, except that if the violation resulted in a personal injury or fatality to any person, then the civil penalty determined under Subsection (d) shall be multiplied by a factor of twenty (20), not to exceed $70,000. As provided in 4 VAC 25–130–845.15, each day of continuing violation may be deemed a separate violation for the purpose of assessing penalties.

21. 4 VAC 25–130–845.15 Assessment of separate violations for each day.

Subsection (a) is amended in the last sentence by adding the words ''or more'' immediately following the words ''a penalty of $5,000.'' As amended, Subsection (a) provides as follows:

(a) The division may assess separately a civil penalty for each day from the date of issuance of the notice of violation or cessation order to the date set for abatement of the violation. In determining whether to make such an assessment, the division shall consider the factors listed in 4 VAC 25–130–845.13 and may consider the extent to which the person to whom the notice or order was issued gained any economic benefit as a result of a failure to comply. For any violation which continues for two or more days and which has been assigned a penalty of $5,000 or more under 4 VAC 25–130–845.13, the division shall assess a penalty for a minimum of two separate days.

22. 4 VAC 25–130–845.18 Procedures for assessment conference.

The proposed amendment revises subsection (b)(1) by changing the citation of the Virginia Code sections from ''9–6.14:11'' to ''2.2–4019.''

23. 4 VAC 25–130–845.19 Request for hearing.

The proposed amendment revises Subsection (c) by changing the citation of the Virginia Code sections from ''9–6.14:12'' to ''2.2–4020.''

New Subsection (d) is added to provide as follows:

All requests for hearing or appeals for review and reconsideration made under this section shall be filed with the Director, Department of Mines, Minerals and Energy, Post Office Drawer 900, Big Stone Gap, Virginia 24219.

24. 4 VAC 25–130–846.14 Amount of the individual civil penalty.

Subsection (b) is amended by adding new language to the end of the first sentence. As amended, Subsection (b) provides as follows:

(b) The penalty shall not exceed $5,000 for each violation, except that if the violation resulted in a personal injury or fatality to any person, then the civil penalty determined under 4 VAC 25–130–845.13(d) shall be multiplied by a factor of twenty (20), not to exceed $70,000. Each day of a continuing violation may be deemed a separate violation and the division may assess a separate individual civil penalty for each day the violation, failure or refusal continues, from the date of service of the underlying notice of violation, cessation order or other order incorporated in a final decision issued by the Director, until abatement or compliance is achieved.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Virginia program.

Written Comments

Send your written or electronic comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We may not consider or respond to your comments when developing the final rule if they are received after the close of the comment period (see **DATES**). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Big Stone Gap Field Office may not be logged in.

Electronic Comments

Please submit Internet comments as an ASCII Word file avoiding the use of special characters and any form of encryption. Please also include Attn: SATS NO. VA–122–FOR and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Big Stone Gap Field office at (540) 523–4303.

Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m. (local time), on July 5, 2005. If you are disabled and need special accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written

copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES.** We will make a written summary of each meeting a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

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

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects 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. The basis for this determination is that our decision is on a State regulatory program and does not involve a Federal regulation involving Indian lands.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior 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.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the analysis performed under various laws and executive orders for the counterpart Federal regulations.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the analysis performed under various laws and executive orders for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 23, 2005.

James M. Taitt,

Acting Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 05–11979 Filed 6–16–05; 8:45 am]

BILLING CODE 4310–05–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7924–4]

National Oil and Hazardous Substance Pollution Contingency Plan National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Metropolitan Mirror and Glass (MM&G) Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 3 is issuing a notice of intent to delete MM&G Superfund Site (Site) located in Frackville, Schuylkill County, Commonwealth of Pennsylvania, from the National Priorities List (NPL) and requests public comments on this notice of intent. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is found at appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of Pennsylvania, through the Pennsylvania Department of Environmental Protection (PADEP), have determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund.

In the ''Rules and Regulations'' section of today's **Federal Register**, EPA is publishing a direct final notice of deletion of MM&G Superfund Site without prior notice of intent to delete because EPA views this as a noncontroversial revision and anticipate no adverse comment. EPA has explained its reasons for this deletion in the preamble to the direct final notice of deletion. If no adverse comment(s) are received on this notice of intent to delete or the direct final notice of deletion, EPA will not take further action on this notice of intent to delete. If adverse comment(s) are received, EPA will withdraw the direct final notice of deletion and it will not take effect. EPA will, as appropriate, address all public comments in a subsequent final deletion notice based on this notice of intent to delete. EPA will not institute a second comment period on this notice of intent to delete. Any parties interested in commenting must do so at this time. For additional information, see the direct final notice of deletion which is located in the Rules section of this **Federal Register**.

DATES: Comments concerning this Site must be received by July 18, 2005.

ADDRESSES: Written comments should be addressed to: David Polish, Community Involvement Coordinator, U.S. EPA (3HS43), 1650 Arch Street, Philadelphia, PA 19103–2029, *polish.david@epa.gov*, (215) 814–3327 or (800) 553–2509.

FOR FURTHER INFORMATION CONTACT: Eugene Dennis, Remedial Project Manager, U.S. EPA (3HS21), 1650 Arch Street, Philadelphia, PA 19103–2029, (215) 814–3202 or (800) 553–2509.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final Notice of Deletion which is located in the Rules section of this **Federal Register**.

Information Repositories: Repositories have been established to provide detailed information concerning this decision at the following address: U.S. EPA Region 3 Regional Center for Environmental Information, 1650 Arch Street, Philadelphia, Pennsylvania, 19103, (215) 814–5254 or (800) 553–2509, Monday through Friday 8 a.m. to 4:30 p.m.; West Mahanoy Township Building, 190 Pennsylvania Avenue, Shenandoah, Pennsylvania 17976, (570) 462–2958.

List of Subjects in 40 CFR Part 300

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

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., p193.

Dated: May 31, 2005.

Richard J. Kampf,

Acting Regional Administrator, Region 3.

[FR Doc. 05–11828 Filed 6–16–05; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

42 CFR Parts 400 and 421

[CMS–6030–P2]

RIN 0938–AN72

Medicare Program; Medicare Integrity Program, Fiscal Intermediary and Carrier Functions, and Conflict of Interest Requirements

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish the Medicare Integrity Program (MIP) and implement program integrity activities that are funded from the Federal Hospital Insurance Trust Fund. This proposed rule would set forth the definition of eligible entities; services to be procured; competitive requirements based on Federal acquisition regulations and exceptions (guidelines for automatic renewal); procedures for identification, evaluation, and resolution of conflicts of interest; and limitations on contractor liability.

This proposed rule would bring certain sections of the Medicare regulations concerning fiscal intermediaries and carriers into conformity with the Social Security Act (the Act). The rule would distinguish between those functions that the statute requires to be included in agreements with fiscal intermediaries and those that may be included in the agreements. It would also provide that some or all of the functions may be included in carrier contracts. Currently all these functions are mandatory for carrier contracts.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. e.d.t on August 16, 2005.

ADDRESSES: In commenting, please refer to file code CMS–6030–P2. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of three ways (no duplicates, please):

1. *Electronically.* You may submit electronic comments to *http://www.cms.hhs.gov/regulations/ecomments*, (attachments should be in Microsoft Word, WordPerfect, or Excel; however, we prefer Microsoft Word).

2. *By mail.* You may mail written comments (one original and two copies) to the following address ONLY: Centers for Medicare & Medicaid Services,

Department of Health and Human Services, Attention: CMS–6030–P2, P.O. Box 8014, Baltimore, MD 21244–8014.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments (one original and two copies) before the close of the comment period to one of the following addresses. If you intend to deliver your comments to the Baltimore address, please call telephone number 1–800–743–3951 in advance to schedule your arrival with one of our staff members.

Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201; or 7500 Security Boulevard, Baltimore, MD 21244–1850.

(Because access to the interior of the HHH Building is not readily available to persons without Federal Government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Brenda Thew, (410) 786–4889.

SUPPLEMENTARY INFORMATION:

Submitting Comments: We welcome comments from the public on all issues set forth in this rule to assist us in fully considering issues and developing policies. Comments will be most useful if they are organized by the section of the proposed rule to which they apply. You can assist us by referencing the file code [CMS–6030–P2] and the specific ''issue identifier'' that precedes the section on which you choose to comment.

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. After the close of the comment period, CMS posts all electronic comments received before the close of the comment period on its public website. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1–800–743–3951.

I. Background

[If you choose to comment on issues in this section, please include the caption ''Background'' at the beginning of your comments.]

A. Current Medicare Contracting Environment

Since the inception of the Medicare program, the Medicare contracting authorities have been in place and largely unchanged until the last few years. At the inception of the Medicare program, the health insurance and medical communities raised concerns that the enactment of Medicare could result in a large Federal presence in the provision of health care. In response, under sections 1816(a) and 1842(a) of the Social Security Act (the Act), the Congress provided that public agencies or private organizations may participate in the administration of the Medicare program under agreements or contracts entered into with CMS.

These Medicare contractors are known as fiscal intermediaries (section 1816(a) of the Act) and carriers (section 1842(a) of the Act). With certain exceptions, fiscal intermediaries perform bill processing and benefit payment functions for Part A of the program (Hospital Insurance) and carriers perform claims processing and benefit payment functions for Part B of the program (Supplementary Medical Insurance).

(For the following discussion, the terms ''provider'' and ''supplier'' are used as those terms are defined in § 400.202. That is, a provider is a hospital, rural care primary hospital, skilled nursing facility (SNF), home health agency (HHA), a hospice that has in effect an agreement to participate in Medicare, or a clinic, a rehabilitation agency, or a public health agency that has a similar agreement to furnish outpatient physical therapy or speech pathology services. Supplier is defined as a physician or other practitioner or an entity other than a ''provider,'' that furnishes health care services under Medicare.)

Section 1842(a) of the Act authorizes us to contract with private entities (carriers) for the purpose of administering the Medicare Part B program. Medicare carriers determine payment amounts and make payments for services (including items) furnished by physicians and other suppliers such as nonphysician practitioners (NPP), laboratories, and durable medical equipment (DME) suppliers. In addition, carriers perform other functions required for the efficient and effective administration of the Part B program. Section 1842(f) of the Act provides that a carrier must be a ''voluntary association, corporation, partnership, or other nongovernmental organization which is lawfully engaged in providing, paying for, or reimbursing the cost of, health services under group insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts, or similar group arrangements, in consideration of premiums or other periodic charges payable to the carrier, including a health benefits plan duly sponsored or underwritten by an employee organization.'' No entity may be considered for a carrier contract unless it can demonstrate that it meets this definition of carrier.

Section 1842(b) of the Act provides us with the discretion to enter into carrier contracts without regard to any provision of the statute requiring competitive bidding. Many other provisions of generally applicable Federal contract law and regulations, as well as the Department of Health and Human Services (HHS) procurement regulations, remain in effect for carrier contracts.

Section 1816(a) of the Act authorizes us to enter into agreements with public agencies or private organizations (fiscal intermediaries) for the purpose of administering Part A of the Medicare program. These entities are responsible for determining the amount of payment due to providers in consideration of services provided to beneficiaries, and for making these payments. We may enter into an agreement with an entity to serve as a fiscal intermediary if the entity was first ''nominated'' by a group or association of providers to make Medicare payments to it. Effective October 1, 2005, section 911 of the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) (Pub. L. 108–173) eliminates the requirement that fiscal intermediaries be nominated, and establishes the requirement that Medicare contracts awarded to Medicare Administrative Contractors (MACs) be competitively bid.

Section 421.100 requires that the agreement between us and a fiscal intermediary specify the functions the fiscal intermediary must perform. In addition to requiring any items

specified by us in the agreement that are unique to that fiscal intermediary, our regulations require that all fiscal intermediaries perform activities relating to determining and making payments for covered Medicare services, fiscal management, provider audits, utilization patterns, resolution of cost report disputes, and reconsideration of determinations. Finally, our regulations require that all fiscal intermediaries furnish information and reports, perform certain functions for provider-based HHAs and provider-based hospices, and comply with all applicable laws and regulations and with any other terms and conditions included in their agreements.

Similarly, § 421.200 requires that the contract between CMS and a Part B carrier specify the functions the carrier must perform. In addition to requiring any items specified by CMS in the contract that are unique to that carrier, we require that all Part B carriers perform activities relating to determining and making payments (on a cost or charge basis) for covered Medicare services, fiscal management, provider audits, utilization patterns, and Part B beneficiary hearings. In addition, § 421.200 requires that all carriers furnish information and reports, maintain and make available records, and comply with any other terms and conditions included in their contracts. It is within this context that Medicare fiscal intermediary and carrier contracts are significantly different from standard Federal Government contracts.

Specifically, the Medicare fiscal intermediary and carrier contracts are normally renewed automatically from year to year, in contrast to the typical Government contract that is recompeted at the conclusion of the contract term. The Congress, in providing for the nomination process under section 1816 of the Act, and authorizing the automatic renewal of the carrier contracts in section 1842(b)(5) of the Act, contemplated a contracting process that would permit us to noncompetitively renew the Medicare contracts from year to year.

For both fiscal intermediaries and carriers, § 421.5 states that we have the authority not to renew a Part A agreement or a Part B contract when it expires. Section 421.126 provides for termination of the fiscal intermediary agreements in certain circumstances, and, similarly, § 421.205 provides for termination of carrier contracts.

Each year, the Congress appropriates funds to support Medicare contractor activities. These funds are distributed to the contractors based on annual budget and performance negotiations, which allocate funds by program activity to each of the current Medicare contractors. Historically, approximately one-half of the funds were for payment for the processing of claims; an additional one-quarter of the funds were for program integrity activities to fund activities such as conducting medical review of claims to determine whether services are medically necessary and constitute an appropriate level of care, deterring and detecting potential Medicare fraud, auditing provider cost reports, and ensuring that Medicare acts as a secondary payer when a beneficiary has primary coverage through other insurance. The remainder of the funds was allocated for beneficiary and provider or supplier services and for various productivity investments.

B. Discussion About Medicare Administrative Contractors (MACs)

The MMA was enacted on December 8, 2003. Section 911 of the MMA adds new section 1874A to the Act, establishing the Medicare Fee-for-Service (FFS) Contracting Reform (MCR) initiative that will be implemented over the next several years. Under this provision, effective October 1, 2005, we have the authority to replace the current Medicare fiscal intermediary and carrier contracts with new MACs using competitive procedures.

Between 2005 and 2011, we will conduct full and open competitions to replace the current contracts with MACs. These MACs will handle many of the same basic functions that are now performed by fiscal intermediaries and carriers. Additionally, MACs may be charged with performing functions under the Medicare Integrity Program under section 1893 of the Act. The statute does not preclude the current fiscal intermediaries and carriers from competing for the MAC contracts.

Among other provisions, section 1874A of the Act establishes eligibility requirements for the MACs, describes the functions these new contractors may perform (which may include functions of section 1893 of the Act so long as these responsibilities do not duplicate activities that are being carried out under a Medicare Integrity Program contract), and specifies various requirements for the structure, terms and conditions of these new MAC contracts. In particular, section 1874A of the Act specifies that the Federal Acquisition Regulation (FAR) will apply to the MAC contracts, except to the extent inconsistent with a specific requirement of section 1874A of the Act. Unlike the contracting authority of section 1893 of the Act, the new authority of section 1874A of the Act does not mandate that the Secretary publish either a proposed or final regulation prior to entering into MAC contracts. Instead, the Congress when enacting the authority of section 1874A of the Act, placed a clear reliance on the existing well-defined regulatory framework of the FAR.

We considered whether we should propose regulations for the MAC authority in conjunction with this proposed rule to implement the authority of section 1893 of the Act. Since we are still analyzing whether any of the specific requirements of section 1874A of the Act need elaboration in the regulations, we are not prepared to do so at this time. As section 1874A of the Act places reliance on the FAR for MAC contracts and since section 1874A of the Act does not impose any requirement to issue additional rules in order to initiate procurements under the MAC authority, we do not believe such rules are required to initiate the implementation of section 1874A of the Act. We will, however, continue to analyze issues posed by the new contracting authority and the transition to that framework, and will propose rules for the authority of new section 1874A of the Act if and when we identify issues that need to be addressed through rulemaking.

However, because the history and structure of the Medicare program dictate that claims processing, customer service, and program integrity functions are highly interdependent, and since sections 1816, 1842, 1893 and 1874A of the Act are part of the same legislative development relating to Medicare administration, we will from time-to-time discuss the section 1874A of the Act authority and its potential impact on fiscal intermediaries, carriers, and the MIP contractors in this preamble. Further, this proposed rule was modified from our earlier proposal on this topic to make clear that section 1874A of the Act authorizes MAC contractors to perform functions of section 1893 of the Act. We also make clear that we may impose certain MIP requirements (for example, those proposed for § 421.302(a)) on the MACs when we elect to include functions of section 1893 of the Act in their contracts. Finally, it is our intention that the proposed rule changes at § 421.100 and § 421.200 discussed below would remain in effect only until all the Medicare fiscal intermediary and carrier contracts are replaced by MAC contracts in accordance with the MMA.

The MMA establishes a phase-in process for the transition of the current contractors to MACs. We are currently in the process of developing the Statement of Work (SOW) and

performance requirements for MACs, and further regulatory and administrative guidance will be published as these details are developed. More information about our plans to implement Medicare contracting reform, including our Report to the Congress on this subject, can be obtained by accessing the Internet at *http://www.cms.hhs.gov/medicarereform/contractingreform/*.

C. The Medicare Integrity Program

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Pub. L. 104–191) was enacted on August 21, 1996. Section 202 of HIPAA added new section 1893 to the Act establishing the Medicare Integrity Program (MIP). This program is funded from the Medicare Hospital Insurance Trust Fund for program integrity activities. Specifically, section 1893 of the Act expands our contracting authority to allow us to contract with eligible entities to perform Medicare program integrity activities. These activities include: Medical, potential fraud, and utilization review; cost report audits; Medicare secondary payer determinations; overpayment recovery; education of providers, suppliers, beneficiaries, and other persons regarding payment integrity and benefit quality assurance issues; and, developing and updating a list of DME items that, under section 1834(a)(15) of the Act, are subject to prior authorization.

Section 1893(d) of the Act requires us to set forth, through regulations, procedures for entering into contracts for the performance of specific Medicare program integrity activities. These procedures are to include the following:

- Procedures for identifying, evaluating, and resolving organizational conflicts of interest that are consistent with rules generally applicable to Federal acquisition and procurement.
- Competitive procedures for entering into new contracts under section 1893 of the Act and for entering into contracts that may result in the elimination of responsibilities of an individual fiscal intermediary or carrier, and other procedures we deem appropriate.
- A process for renewing contracts entered into under section 1893 of the Act.

Section 1893(d) of the Act also specifies the process for contracting with eligible entities to perform program integrity activities. In addition, section 1893(e) of the Act requires us to set forth, through regulations, the limitation of a contractor's liability for actions taken to carry out a contract.

The Congress established section 1893 of the Act to strengthen our ability to deter potential fraud and abuse in the Medicare program in a number of ways. First, it provides a separate and stable long-term funding mechanism for MIP activities. Historically, Medicare contractor budgets were subject to wide fluctuations in funding levels from year to year. The variations in funding did not have anything to do with the underlying requirements for program integrity activities. This instability made it difficult for us to invest in innovative strategies to control potential fraud and abuse. Our contractors also found it difficult to attract, train, and retain qualified professional staff, including auditors and fraud investigators. A dependable funding source allows us the flexibility to invest in innovative strategies to combat potential fraud and abuse. The funding mechanism will help us shift emphasis from post-payment recoveries on potentially fraudulent claims to prepayment strategies designed to ensure that more claims are paid correctly the first time.

Second, to allow us to more aggressively carry out the MIP functions and to require us to use procedures and technologies that exceed those generally in use in 1996, section 1893 of the Act greatly expands our contracting authority relative to the contracting authority of original sections 1816 and 1842 of the Act. Previously, we had a limited pool of entities with whom to contract. This limited our ability to maximize efforts to effectively carry out the MIP functions. Section 1893 of the Act allows us to attract a variety of offerors with potentially new and different skill sets and permits those offerors to propose innovative approaches to implement MIP to deter potential fraud and abuse. By using competitive procedures, as established in the FAR and supplemented by the Department of Health and Human Services Acquisition Regulation (HHSAR), our ability to manage the MIP activities is greatly enhanced, and we can seek to obtain the best value for our contracted services.

Third, section 1893 of the Act requires us to address potential conflicts of interest among prospective MIP contractors before entering into any contracting arrangements with them. Section 1893 of the Act instructs the Secretary to establish procedures for identifying, evaluating, and resolving organizational conflicts of interest that are generally applicable to FAR contracts.

D. Experience With MIP Contractors

The MIP authority, established by HIPAA, gave CMS specific contracting authority, consistent with the FAR, to enter into contracts with entities to promote the integrity of the Medicare program.

On March 20, 1998, we issued a proposed rule to implement provisions of section 1893 of the Act to which we received comments (63 FR 13590). We reviewed and considered all the comments received concerning the MIP regulation. Comments received addressed a variety of issues, such as conflict of interest issues, coordination among Medicare contractors, contractor functions, and eligibility requirements. Overall, we found that few changes were needed to the regulatory text. Due to time constraints, however, a final rule was never published. Notwithstanding, section 1893 of the Act granted us the authority to contract with eligible entities to perform program integrity activities prior to publication of the final rule.

Section 902 of the MMA mandated that final rules relating to the Medicare program based on a previous publication of a proposed regulation or an interim final regulation be published within three years except under exceptional circumstances. Given that it has been greater than three years since the publication of the initial proposed MIP regulations, we are reissuing these regulations in proposed form at this time.

The publication of the 1998 proposed rule (63 FR 13590) enabled us to contract with entities to perform Medicare program integrity functions to promote the integrity of the Medicare program prior to the publication of a final rule.

Since the publication of the 1998 proposed rule and in accordance with this MIP authority, we currently maintain the following MIP contracts: 12 Indefinite Delivery-Indefinite Quantity (IDIQ) contracts for the Program Safeguard Contractor (PSC) effort; one Coordination of Benefits (COB) contract, and 8 IDIQ contracts for the Medicare Managed Care (MMC) Program Integrity Contractors effort. (IDIQ contracts are explained in detail in FAR 48 CFR subpart 16.5.) After being awarded an IDIQ contract, organizations can competitively bid on task orders released by CMS to specifically address program integrity issues within the scope of the IDIQ contract. These MIP contractors are discussed below.

1. Program Safeguard Contractors (PSCs)

Since 1999, we have awarded more than 40 individual task orders under the PSC IDIQ contract, including 17 Benefit Integrity (BI) Model PSCs. These BI PSCs are tasked with performing fraud and abuse detection and prevention activities for their respective jurisdictions. Specific activities include fraud case development, local and national data analysis to identify potentially fraudulent billing schemes or patterns, law enforcement support, medical review for a BI purpose, and identification and development of appropriate administrative actions. Four of the 17 BI PSCs have additional medical review functions. The remaining task orders issued under the PSC IDIQ contract have focused on specific program vulnerabilities and problem areas (for example, Comprehensive Error Rate Testing (CERT), Correct Coding Initiative (CCI), and Data Assessment & Verification (DAVe)). More information on PSCs can be accessed on the Internet at *http://www.cms.hhs.gov/PROVIDERS/PSC/pscwebp2.asp.*

Overall, we have seen success in the implementation of the PSC program. Since 2002, 12 of the 17 BI Model PSCs were awarded and transitioned. Typically, a 3 to 6 month period was allowed for the PSCs to transition the BI workload from the Fiscal Intermediary and Carrier that had previously been performing this workload.

2. Coordination of Benefits Contractor (COB)

In November 1999, we awarded one COB contract to consolidate activities that support the collection, management, and reporting of other health insurance coverage for Medicare beneficiaries. The purposes of the COB program are to identify the health benefits available to a Medicare beneficiary and to coordinate the payment process to prevent mistaken payment of Medicare benefits. In January 2001, the COB contractor assumed all Medicare Secondary Payer (MSP) claims investigations. Implementing this single-source development approach greatly reduced the amount of duplicate MSP investigations. It also offered a centralized, one-stop customer service approach for all MSP-related inquiries, including those seeking general MSP information, except for those related to specific claims or recoveries that serve to protect the Medicare Trust Funds.

3. Medicare Managed Care Program Integrity Contractors (MMC–PICs)

MMC–PICs supplement our regional office integrity responsibilities related to Medicare Advantage (MA), formerly known as Medicare+Choice (M+C). Similar to the PSC, MMC–PIC was designed specifically to identify, stop, and prevent fraud, waste, and abuse.

Services performed under MMC–PIC include—

- Complete monthly analysis of plan discrepancies and report to MA Organizations;
- Review and analyze State regulatory practices;
- Evaluate marketing operations;
- Audit financial and medical records including claims, payments, and benefit packages;
- Evaluate enrollment and encounter data;
- Collect information and review matters that may contain evidence of fraud, waste, and abuse and make referrals to the appropriate government authority;
- Compliance testing of internal controls of Health Care Prepayment Plan (HCPP) contracting organizations;
- Complete all Retroactive Payment Adjustments and Retroactive Enrollments or Disenrollments submitted by MA Organizations;
- Complete final reconciliation of payment for non-renewals of MA contracts; and,
- Make reconsideration determinations with plans that request decisions regarding payments.

II. Provisions of the Proposed Rule

[If you choose to comment on issues in this section, please include the caption ''Provisions of the Proposed Rule'' at the beginning of your comments.]

This regulation is part of our overall contracting strategy, which is designed to build on the strengths of the marketplace. We are committed to conducting procurements using full and open competition that will provide opportunities for a wide range of contractors to participate in the program. We will continue to encourage new and innovative approaches in the marketplace to protect the Medicare Trust Funds.

As discussed earlier in the background section, the implementation of section 1874A of the Act is also a major element of our contracting strategy. We are not including extensive rules relating to that authority in this proposal, for the reasons discussed earlier, but interested parties can gain information about our plans for implementing section 1874A of the Act by accessing the Internet at *http://www.cms.hhs.gov/medicarereform/contractingreform*. In addition, the public can also send us informal questions about the Medicare administrative contractor (MAC) implementation through this site; any official comments on this proposed rule should be submitted in accordance with the instructions contained in the ''Addresses'' section of this preamble.

A. The Medicare Integrity Program

1. Basis, Scope, and Applicability

In accordance with section 1893 of the Act, this proposed rule would amend part 421 by adding a new subpart D entitled, ''Medicare Integrity Program Contractors.'' This subpart will:

- Define the types of entities eligible to become MIP contractors. We also clarify that, in accordance with section 1874A of the Act, a MAC may perform MIP functions under certain conditions;
- Identify program integrity functions a MIP contractor may perform;
- Describe procedures for awarding and renewing contracts;
- Establish procedures for identifying, evaluating, and resolving organizational conflicts of interest consistent with the FAR;
- Prescribe responsibilities; and,
- Set forth limitations on MIP contractor liability.

Subpart D will apply to entities that seek to compete for, or receive award of, a contract under section 1893 of the Act including entities that perform functions under this subpart emanating from the processing of claims for individuals entitled to benefits as qualified railroad retirement beneficiaries. We would set forth the basis, scope, and applicability of subpart D in § 421.300.

2. Definition of Eligible Entities (§ 421.302)

In accordance with section 1893(c) of the Act, proposed § 421.302(a) would provide that an entity is eligible to enter into a MIP contract if it:

- Demonstrates the capability to perform MIP contractor functions;
- Agrees to cooperate with the Office of Inspector General (OIG), the Department of Justice (DOJ), and other law enforcement agencies in the investigation and deterrence of potential fraud and abuse in the Medicare program, including making referrals;
- Complies with the conflict of interest standards in 48 CFR Chapters 1 and 3 and is not excluded under the conflict of interest provisions established by this rule;
- Maintains an appropriate written code of conduct and compliance

policies that include, without limitation, an enforced policy on employee conflicts of interest;

- Meets financial and business integrity requirements to reflect adequate solvency and satisfactory legal history; and,
- Meets other requirements that we may impose.

Also, in accordance with the undesignated paragraph following section 1893(c)(4) of the Act, we would specify that Medicare carriers are deemed to be eligible to perform the activity of developing and periodically updating a list of DME items that are subject to prior authorization.

It is not possible to identify in this rule each and every possible contractor eligibility requirement that may appear in a future solicitation. In order to permit us maximum flexibility to tailor our contractor eligibility requirements to specific solicitations while satisfying the intent of section 1893 of the Act, any contractor eligibility requirements in addition to those specified in proposed § 421.302(a)(1) through (a)(4) will be contained in the applicable solicitation.

At § 421.302(b)(1), we propose to make clear that a MAC under section 1874A of the Act may perform any or all of the MIP functions as are listed and described in § 421.304. However, in performing such functions, the MAC may not duplicate work being performed under a MIP contract. We believe this proposed provision is consistent with sections 1874A(a)(4)(G) and 1874A(a)(5) of the Act, as added by the MMA.

At § 421.302(b)(2), we also make clear our discretion to require a MAC performing any of the MIP functions under § 421.304 to abide by the eligibility requirements applicable to MIP contracts, that is, the four elements listed at § 421.302(a). The first requirement at § 421.302(a) relating to demonstrated capability and the third requirement relating to addressing conflicts of interest are consistent with provisions in the authorizing statute for MAC contracts (section 1874A(a)(2)of the Act). While the second requirement, which pertains to cooperation with the OIG and other forms of law enforcement, is not reiterated in section 1874A of the Act, we believe this requirement is not inconsistent with section 1874A of the Act or the FAR. This requirement is, in fact, compatible with our general practices, multiple statutes and regulations governing HHS operations and contracts, and finally also with provisions within title XI of the Act. Once again, the fourth requirement makes clear our authority to impose additional reasonable requirements through contract and it makes sense to apply this element to MAC contractors. Our specific approach to all these issues, of course, will be made clear in any solicitation for MAC contracts.

Note that, in accordance with section 1893(d) of the Act, we may continue to contract, for the performance of MIP activities, with fiscal intermediaries and carriers that had a contract with us on August 21, 1996 (the effective date of enactment of Pub. L. 104–191). However, in accordance with sections 1816(l) or 1842(c)(6) of the Act (both added by Pub. L. 104–191), and section 1874A(a)(5)(A) of the Act (added by the MMA), these contractors as well as MACs may not duplicate activities under a fiscal intermediary agreement or carrier contract and a MIP contract, with one excepted activity. The exception permits a carrier or a MAC to develop and update a list of items of DME that are subject to prior authorization both under the MIP contract and its contract under section 1842 of the Act. This discretion to continue the performance of MIP activities through the fiscal intermediary and carrier contracts until they are phased out in accordance to section 911(d) of the MMA, is provided for in proposed changes to § 421.100 and § 421.200 discussed later in this preamble.

3. Definition of MIP Contractor (§ 400.202)

We propose to define ''Medicare integrity program contractor,'' at § 400.202 (Definitions specific to Medicare), as an entity that has a contract with us under section 1893 of the Act to perform exclusively one or more of the program integrity activities specified in that section. The inclusion of the word ''exclusively'' in this definition is intended to conform with section 1874A(a)(5)(B) of the Act as added by the MMA.

4. Services to be Procured (§ 421.304)

A MIP contractor may perform some or all of the MIP activities listed in § 421.304. Section 421.304 would state that the contract between CMS and a MIP contractor specifies the functions the contractor performs. In accordance with section 1893(b) of the Act, proposed § 421.304 identifies the following as MIP activities.

(a) *Medical, utilization, and potential fraud review.* Medical and utilization review includes the processes necessary to ensure both the appropriate utilization of services and that services meet the professionally recognized standards of care. These processes include review of claims, medical records, and medical necessity documentation and analysis of patterns of utilization to identify inappropriate utilization of services. This would include reviewing the activities of providers or suppliers and other individuals and entities (including health maintenance organizations, competitive medical plans, health care prepayment plans, and MA plans). This function results in the identification of overpayments, prepayment denials, recommendations for changes in national coverage policy, changes in local coverage determinations (LCD) policies and payment screens, referrals for potential fraud and abuse, and the identification of the education needs of beneficiaries, providers, and suppliers.

Potential fraud review includes fraud prevention initiatives, responding to external customer complaints of alleged fraud, the development of strategies to detect potentially fraudulent activities that may result in improper Medicare payment, and the identification and development of potential fraud cases for referral to law enforcement. Each solicitation will specify when cases should be referred to the OIG or other law enforcement agency. In general, however, identified overpayments, recurring acts of improper billing, and substantiated allegations of potentially fraudulent activity will be promptly referred to a Regional OIG.

(b) Cost report audits. Providers and managed care plans receiving Medicare payments are subject to audits for all payments applicable to services furnished to beneficiaries. The audit ensures that proper payments are made for covered services, provides verified financial information for making a final determination of allowable costs, identifies potential instances of fraud and abuse, and ensures the completion of special projects. This functional area includes the receipt, processing, and recommended settlement terms for cost reports based on reasonable costs, prospective payment, or any other basis, and the establishment or adjustment of the interim payment rate using cost report or other information.

(c) Medicare secondary payer activities. The Medicare secondary payer function is a process developed as a payment safeguard to protect the Medicare program against making mistaken primary payments. The focus of this process is to ensure that the Medicare program pays only to the extent required by statute. Entities under a MIP contract that includes Medicare secondary payer functions would be responsible for identifying Medicare secondary payer situations and pursuing recovery of mistaken

payments from the appropriate entity or individual, depending on the specifics of the contract. This functional area includes the processes performed to identify beneficiaries for whom there is coverage which is primary to Medicare. Through these processes, information may be acquired for subsequent use in beneficiary claims adjudication, recovery, and litigation.

(d) Education. This functional area includes educating beneficiaries, providers, suppliers, and other individuals regarding payment integrity and benefit quality assurance issues.

(e) Developing prior authorization lists. This functional area includes developing and periodically updating a list of DME items that, in accordance with section 1834(a)(15) of the Act, are subject to prior authorization. Prior authorization is a determination that an item of DME is covered prior to when the equipment is delivered to the Medicare beneficiary. Section 1834(a)(15) of the Act requires prior authorization to be performed on the following items of DME:

- Items identified as subject to unnecessary utilization;
- Items supplied by suppliers that have had a substantial number of claims denied under section 1862(a)(1) of the Act as not reasonable or necessary or for whom a pattern of overutilization has been identified; or
- A customized item if the beneficiary or supplier has requested an advance determination.

We note that the MIP functions are not limited to services furnished under fee-for-service payment methodologies. MIP functions apply to all types of claims. They also apply to all types of payment systems including, but not limited to, managed care and demonstration projects. MIP functions will also apply to payments made under the Medicare Part D prescription drug benefit that will be implemented on January 1, 2006.

5. Competitive Requirements (§ 421.306)

We would specify, in § 421.306(a), that MIP contracts will be awarded in accordance with 48 CFR chapters 1 and 3, 42 CFR part 421 subpart D, and all other applicable laws and regulations. Furthermore, in accordance with section 1893(d)(2) of the Act, we would specify that the procedures set forth in these authorities will be used: (a) When entering into new contracts; (b) when entering into contracts that may result in the elimination of responsibilities of an individual fiscal intermediary or carrier; and (c) at any other time we consider appropriate.

In proposed § 421.306(b), we will establish an exception to competition that allows a successor in interest to a fiscal intermediary agreement or carrier contract to be awarded a contract for MIP functions without competition if its predecessor performed program integrity functions under the transferred agreement or contract and the resources, including personnel, which were involved in performing those functions, were transferred to the successor. This provision will remain in effect until all fiscal intermediary agreements and carrier contracts are transitioned to MACs in accordance with section 911(d) of the MMA.

This proposal is made in anticipation that some fiscal intermediaries and carriers, prior to the competition of their contracts in accordance with the MMA, may engage in transactions under which the recognition of a successor in interest by means of a novation agreement may be appropriate, and the resources involved in the fiscal intermediary's or carrier's MIP activities are transferred along with its other Medicare-related resources to the successor in interest. For example, the fiscal intermediary or carrier may undergo a corporate reorganization under which the corporation's Medicare business is transferred entirely to a new subsidiary corporation. When all of a contractor's resources or the entire portion of the resources involved in performing a contract are transferred to a third party, we may recognize the third party as the successor in interest to the contract through approval of a novation agreement. (See 48 CFR 42.12.)

If the fiscal intermediary or carrier was performing program integrity activities under its contract on August 21, 1996, the date of the enactment of the MIP legislation, the statute permits us to continue to contract with the fiscal intermediary or carrier for the performance of those activities without using competitive procedures (but only through and, no later than, September 30, 2011). In the context of a corporate reorganization under which all of the resources involved in performing the contract, including those involved in performing MIP activities, are transferred to a successor in interest, we may determine that breaking out the MIP activities and competing them separately (prior to the MAC contract competitions) would not be in the best interest of the Government.

Inherent in the requirement of section 1893(d) of the Act that the Secretary establish competitive procedures to be used when entering into contracts for MIP functions is the authority to establish exceptions to those procedures. (See 48 CFR 6.3) Moreover, the statute states that fiscal intermediary agreements and carrier contracts will be noncompetitively awarded under sections 1816(a) and 1842(b)(1) of the Act. Furthermore, those agreements and contracts have, in recent years prior and subsequent to the enactment of the MIP legislation, included program integrity activities, a fact that the Congress acknowledged in section 1893(d)(2) of the Act. Creating an exception to the use of competition for cases in which the same resources, including the same personnel, continue to be used by a third party as successor in interest to a fiscal intermediary agreement or carrier contract is consistent with the Congress' authorization to forego competition when the contracting entity was carrying out the MIP functions on the date of enactment of the MIP legislation. Section 421.306(b) permits continuity in the performance of the MIP functions until such time as we determine a need to procure MIP functions on the basis of full and open competition.

The exception to competition will operate only where a fiscal intermediary or carrier that performed program integrity functions under an agreement or a contract in place on August 21, 1996, transfers its functions by means of a valid novation agreement in accordance with the requirements of the FAR. This exception is intended to be applied only until we are prepared to award MIP contracts on the basis of FAR competitive procedures, or until we compete the full fiscal intermediary and carrier workloads (both MIP and non-MIP functions) in accordance with the MMA. The exception is not intended, and will not be used, to circumvent the competitive process when we make competitive awards of MIP and MAC contracts. This provision is intended to provide us with flexibility in handling Medicare functions in the face of *bona fide* changes in corporate structure that often have little, if anything, to do with the Medicare program.

We further specify, in § 421.306(c), that an entity must meet the eligibility requirements established in proposed § 421.302 to be eligible to be awarded a MIP contract.

6. Renewal of MIP Contracts (§ 421.308)

Proposed § 421.308(a) specifies that an initial contract term will be defined in the MIP contract and that contracts may contain renewal clauses. Contract renewal provides a mutual benefit to both parties. Renewing a contract, when appropriate, results in continuity both for us and the contractor and is in the best interest of the Medicare program. The benefits are realized through early

communication of our intention whether to renew a contract, which permits both parties to plan for any necessary changes in the event of nonrenewal. Furthermore, as a prudent administrator of the Medicare program, we must ensure that we have sufficient time to transfer the MIP functions if a reassignment of the functions becomes necessary (either because the contractor has given notice of its intent to non-renew or because we have determined that reassignment is in the best interest of the Medicare program). Therefore, in § 421.308(a), we would specify that we may renew a MIP contract, as we determine appropriate, by giving the contractor notice, within timeframes specified in the contract, of our intention to do so. (The solicitation document that results in the contract will contain further details regarding this provision.)

The renewal clause referred to in this section is not an ''option'' as defined in the FAR at 48 CFR 2.101. Section 1893 of the Act allows for the renewal of MIP contracts without regard to any provision of the law requiring competition if the contractor has met or exceeded performance requirements. As stated in FAR 48 CFR 2.101, '' 'Option' means a unilateral right in a contract by which, for a specified time, the Government may elect to purchase additional supplies or services called for by the contract, or may elect to extend the term of the contract.''

As described in the FAR, 48 CFR subpart 17.2, an option is different than a renewal clause in several respects. The length of time of an option is established in a contract. In contrast, the length of a renewal period in a MIP contract may not be defined. Furthermore, an option must be exercised during the life of the contract. A MIP renewal clause can be invoked only after the exhaustion of the initial contract period of performance, including any option provisions. Finally, an option allows us to extend the term of a contract only up to 60 months, the maximum term allowed by the FAR (excluding GSA awards). A MIP contract renewal clause allows the term of a MIP contract to surpass that limit, as long as the contractor meets the conditions in the regulation and the contract (including performance standards established in its contract) and we have a continuing need for the supplies or services under contract.

Based on section 1893(d)(3) of the Act, we would specify, in § 421.308(b), that we may renew a MIP contract without competition if the contractor continues to meet all the requirements of proposed subpart D of part 421, the contractor meets or exceeds the performance standards and requirements in the contract, and it is in the best interest of the Government.

We would provide, at § 421.308(c), that, if we do not renew the contract, the contract will end in accordance with its terms, and the contractor does not have a right to a hearing or judicial review regarding the non-renewal. This is consistent with our longstanding policy for fiscal intermediary and carrier contracts.

7. Conflict of Interest Rules

This proposed rule would establish the process for identifying, evaluating, and resolving conflicts of interest as required by section 1893(d)(1) of the Act. The process was designed to ensure that the more diversified business arrangements of potential contractors do not inhibit competition between providers, suppliers, or other types of businesses related to the insurance industry, or have the potential for harming Government interests.

When soliciting for MIP contracts, we will adhere to the requirements of the FAR organizational conflict of interest guidance, found at 48 CFR subpart 9.5. Given the sensitive nature of the work to be performed under the contract, the need to preserve the public trust, and the history of fraud and abuse in the Medicare Program, we will maintain the rebuttable presumption that each prospective contract involves a significant potential organizational conflict of interest. In light of this presumption, we will apply the general rules in FAR 905.5 and such requirements as may be applicable to an individual procurement.

Prior to awarding a MIP contract, our contracting officer will fashion an organizational conflict of interest clause specific to the contractor for inclusion in the contract. In general, we will not enter into a MIP contract with an offeror or contractor that we have determined has, or has the potential for, an unresolved organizational conflict of interest.

In § 421.310(a), we will specify that an offeror for MIP contracts is, and MIP contractors are, subject to the conflict of interest standards and requirements of the FAR organizational conflict of interest guidance, found at 48 CFR subpart 9.5, and the requirements and standards as are contained in each individual contract awarded to perform functions found at section 1893 of the Act.

In § 421.310(b), we state that we consider that a conflict of interest has occurred if, during the term of the contract, the contractor or its employee, agent or subcontractor has received, solicited, or arranged to receive any fee, compensation, gift, payment of expenses, offer of employment, or any other thing of value from any entity that is reviewed, audited, investigated, or contacted during the normal course of performing activities under the MIP contract. We incorporate the definition of ''gift'' from 5 CFR 2635.203(b) of the Standards of Ethical Conduct for Employees of the Executive Branch, which excludes from the definition items such as greeting cards, soft drinks, and coffee.

We also specify in § 421.310(b), if we determine that the contractor's activities are creating a conflict, then a conflict of interest has occurred during the term of the contract. In addition, we would specify that, if we determine that a conflict of interest exists, among other actions, we may, as we deem appropriate:

- Not renew the contract for an additional term;
- Modify the contract; or
- Terminate the contract for default.

We would also specify that the solicitation may require more detailed information than identified above. Our proposed provisions do not describe all of the information that may be required, or the level of detail that would be required, because we wish to have the flexibility to tailor the disclosure requirements to each specific procurement.

We intend to reduce the reporting and recordkeeping requirements as much as is feasible, while taking into consideration our need to have assurance that a conflict of interest does not exist in the MIP contractors.

Because potential offerors may have questions about whether information submitted in response to a solicitation, including information regarding potential conflicts of interest, may be redisclosed under the Freedom of Information Act (FOIA), we provide the following information.

To the extent that a proposal containing information is submitted to us as a requirement of a competitive solicitation under 41 U.S.C. Chapter 4, Subchapter IV, we will withhold the proposal when requested under the FOIA. This withholding is based upon 41 U.S.C. 253b(m). However, there is one exception to this policy. It involves any proposal that is set forth or incorporated by reference in the contract awarded to the proposing bidder. Such a proposal may not receive categorical protection. Rather, we will withhold, under 5 U.S.C. 552(b)(4), information within the proposal that is required to be submitted that constitutes

trade secrets or commercial or financial information that is privileged or confidential provided the criteria established by *National Parks & Conservation Association* v. *Morton*, 498 F.2d 765 (D.C. Cir 1974), as applicable, are met. For any such proposal, we will follow pre-disclosure notification procedures set forth at 45 CFR 5.65(d).

Any proposal containing the information submitted to us under an authority other than 41 U.S.C. Chapter 4, Subchapter IV, and any information submitted independent of a proposal will be evaluated solely on the criteria established by *National Parks & Conservation Association* v. *Morton* and other appropriate authorities to determine if the proposal in whole or in part contains trade secrets or commercial or financial information that is privileged or confidential and protected from disclosure under 5 U.S.C. 552(b)(4). Again, for any such proposal, we will follow pre-disclosure notification procedures set forth at 45 CFR 5.65(d) and will also invoke 5 U.S.C. 552(b)(6) to protect information that is of a highly sensitive personal nature. It should be noted that the protection of proposals under FOIA does not preclude CMS from releasing contractor proposals when necessitated by law, such as in the case of a lawful subpoena.

We already protect information we receive in the contracting process. However, to allay any fears potential offerors might have about disclosure, at § 421.312(d) we propose to provide, that we protect disclosed proprietary information as allowed under the FOIA and that we require signed statements from our personnel with access to proprietary information that prohibit personal use during the procurement process and term of the contract.

In proposed § 421.312, we describe how conflicts of interest are resolved. We specify that we may establish a Conflicts of Interest Review Board to assist the contracting officer in resolving conflicts of interest and we determine when or if the Board is convened. We would define resolution of an organizational conflict of interest as a determination that:

- The conflict has been mitigated;
- The conflict precludes award of a contract to the offeror;
- The conflict requires that we modify an existing contract;
- The conflict requires that we terminate an existing contract for default; or,
- It is in the best interest of the Government to contract with the offeror or contractor even though the conflict exists.

The following are examples of methods an offeror or contractor may use to mitigate organizational conflicts of interest, including those created as a result of the financial relationships of individuals within the organization. These examples are not intended to be an exhaustive list of all the possible methods to mitigate conflicts of interest nor are we obligated to approve a mitigation method that uses one or more of these examples. (An offeror's or contractor's method of mitigating conflicts of interest would be evaluated on a case-by-case basis.)

- Divestiture of, or reduction in the amount of, the financial relationship the organization has in another organization to a level acceptable to us and appropriate for the situation.
- If shared responsibilities create the conflict, a plan, subject to our approval, to separate lines of business and management or critical staff from work on the MIP contract.
- If the conflict exists because of the amount of financial dependence upon the Federal Government, negotiating a phasing out of other contracts or grants that continue in effect at the start of the MIP contract.
- If the conflict exists because of the financial relationships of individuals within the organization, divestiture of the relationships by the individual involved.
- If the conflict exists because of an individual's indirect interest, divestiture of the interest to levels acceptable to us or removal of the individual from the work under the MIP contract.

In the procurement process, we determine which proposals are in a ''competitive range.'' The competitive range is based on cost or price and other factors that are stated in the solicitation and includes the most highly rated proposals that have a reasonable chance for contract award unless the range is further reduced for purposes of efficiency in accordance with FAR 15.306. Using the process proposed in this regulation, offerors will not be excluded from the competitive range based solely on conflicts of interest. If we determine that an offeror in the competitive range has a conflict of interest that is not adequately mitigated, we would inform the offeror of the deficiency and give it an opportunity to submit a revised mitigation plan. At any time during the procurement process, we may convene the Conflict of Interest Review Board to evaluate and assist the contracting officer in resolving conflicts of interest.

By providing a better process for the identification, evaluation, and resolution of conflicts of interest, we not only protect Government interests but help ensure that contractors will not hinder competition in their service areas by misusing their position as a MIP contractor.

8. Limitation on MIP Contractor Liability and Payment of Legal Expenses

Contractors which perform activities under the MIP contract will be reviewing activities of providers and suppliers that provide services to Medicare beneficiaries. Their contracts will authorize them to evaluate the performance of providers, suppliers, individuals, and other entities that may subsequently challenge their decisions. To reduce or eliminate a MIP contractor's exposure to possible legal action from those it reviews, section 1893(e) of the Act requires that we, by regulation, limit a MIP contractor's liability for actions taken in carrying out its contract. We must establish, to the extent we find appropriate, standards and other substantive and procedural provisions that are the same as, or comparable to, those contained in section 1157 of the Act.

Section 1157 of the Act limits liability and provides for the payment of legal expenses of a Quality Improvement Organization (QIO) (formerly Peer Review Organization (PRO)) that contracts to carry out functions under section 1154(e) of the Act. Specifically, section 1157 of the Act provides that QIOs, their employees, fiduciaries, and anyone who furnishes professional services to a QIO, are protected from civil and criminal liability in performing their duties under the Act or their contract, provided these duties are performed with due care. Following the mandate of section 1893(e) of the Act, this proposed rule, at § 421.316(a), would protect MIP contractors from liability in the performance of their contracts provided they carry out their contractual duties with care.

In accordance with section 1893(e) of the Act, we propose to employ the same standards for the payment of legal expenses as are contained in section 1157(d) of the Act. Therefore, § 421.316(b) will provide that we will make payment to MIP contractors, their members, employees, and anyone who provides them legal counsel or services for expenses incurred in the defense of any legal action related to the performance of a MIP contract. We propose that the payment be limited to the reasonable amount of expenses incurred, as determined by us, provided funds are available and that the payment is otherwise allowable under the terms of the contract.

In drafting § 421.316(a), we considered employing a standard for the limitation of liability other than the due care standard. For example, we considered whether it would be appropriate to provide that a contractor would not be criminally or civilly liable by reason of the performance of any duty, function, or activity under its contract provided the contractor was not grossly negligent in that performance. However, section 1893(e) of the Act requires that we employ the same or comparable standards and provisions as are contained in section 1157 of the Act. We do not believe that it would be appropriate to expand the scope of immunity to a standard of gross negligence, as it would not be a comparable standard to that set forth in section 1157(b) of the Act.

We also considered indemnifying MIP contractors employing provisions similar to those contained in the current Medicare fiscal intermediary agreements and carrier contracts. Generally, fiscal intermediaries and carriers are indemnified for any liability arising from the performance of contract functions provided the fiscal intermediary's or carrier's conduct was not grossly negligent, fraudulent, or criminal. However, we may indemnify a MIP contractor only to the extent we have specific statutory authority to do so. Section 1893(e) of the Act does not provide that authority. Note however, that section 1874A of the Act as added by the MMA would provide us with some discretion to indemnify MAC contractors. In addition, proposed § 421.316(a) provides for immunity from liability in connection with the performance of a MIP contract provided the contractor exercised due care. Indemnification is not necessary since the MIP contractors will have immunity from liability under § 421.316(a).

B. Intermediary and Carrier Functions

Section 1816(a) of the Act, which provides that providers may nominate a fiscal intermediary, requires only that nominated fiscal intermediaries perform the functions of determining payment amounts and making payment, and section 1842(a) of the Act requires only that carriers perform some or all of the functions cited in that section. Section 911 of the MMA eliminates the requirement that fiscal intermediaries be nominated, and effective October 1, 2005, establishes the requirement that Medicare contracts awarded to MACs be competitively bid by September 30, 2011.

Our existing requirements at § 421.100 and § 421.200 concerning functions to be included in fiscal intermediary agreements and carrier contracts far exceed those of the statute. Therefore, on February 22, 1994, we published a proposed rule (59 FR 8446) that would distinguish between those functions that the statute requires be included in agreements with fiscal intermediaries and those functions, which although not required to be performed by fiscal intermediaries, may be included in fiscal intermediary agreements at our discretion. We also proposed that any functions included in carrier contracts would be included at our discretion. In addition, we proposed to add payment on a fee schedule basis as a new function that may be performed by carriers.

The February 1994 proposed rule was never finalized, but its content was re-proposed in our initial 1998 proposed rule for the MIP program (63 FR 13590). This second proposed rule sets forth a new proposal to bring those sections of the regulations that concern the functions Medicare fiscal intermediaries and carriers perform into conformity with the provisions of sections 1816(a), 1842(a), and 1893(b) of the Act, for so long as the fiscal intermediary and carrier contracts exist until they are all replaced by MAC contracts.

As noted in section I.A. of this preamble, our current regulations at § 421.100 specify a list of functions that must, at a minimum, be included in all fiscal intermediary agreements. Similarly, § 421.200 specifies a list of functions that must, at a minimum, be included in all carrier contracts. These requirements far exceed those of the statute.

Until October 1, 2005, section 1816(a) of the Act, in its present form, requires only that a fiscal intermediary agreement provide for determination of the amount of payments to be made to providers and for the making of the payments. Pending the effective date of changes made by the MMA, section 1816(a) permits, but does not require, a fiscal intermediary agreement to include provisions for the fiscal intermediary to provide consultative services to providers to enable them to establish and maintain fiscal records or to otherwise qualify as providers. It also provides that, for those providers to which the fiscal intermediary makes payments, the fiscal intermediary may serve as a channel of communications between us and the providers, may make audits of the records of the providers, and may perform other functions as are necessary.

Section 1816(a) of the Act, in its present form until October 1, 2005, mandates only that a fiscal intermediary make payment determinations and make payments and, because of the nomination provision of section 1816(a) of the Act, these functions must remain with fiscal intermediaries. We believe that, pending the effective date of changes made by the MMA, section 1816(a) of the Act does not require that the other functions set forth at § 421.100(c) through (i) be included in all fiscal intermediary agreements. Furthermore, section 1893 of the Act permits the performance of functions related to Medicare program integrity by other entities. Thus, § 421.100 would be revised to be consistent with section 1893 of the Act and the implementing regulation. The mandatory inclusion of all functions in all agreements limits our ability to efficiently and effectively administer the Medicare program. For example, if an otherwise competent fiscal intermediary performs a single function poorly, it would be efficient and effective to have that function transferred to another contractor that could carry it out in a satisfactory manner. The alternative is to not renew or to terminate the agreement of that fiscal intermediary and to transfer all functions to a new contractor, which may not have had an ongoing relationship with the local provider community.

Therefore, we will revise § 421.100 to state that an agreement between CMS and a fiscal intermediary specifies the functions to be performed by the fiscal intermediary and that these must include determining the amount of payments to be made to providers for covered services furnished to Medicare beneficiaries and making the payments and may include any or all of the following functions:

- Any or all of the MIP functions identified in proposed § 421.304, provided that they are continuing to be performed under an agreement entered into under section 1816 of the Act that was in effect on August 21, 1996, and they do not duplicate work being performed under a MIP contract.
- Undertaking to adjust overpayments and underpayments and to recover overpayments when it is determined that an overpayment has been made.
- Furnishing to us timely information and reports that we request in order to carry out our responsibilities in the administration of the Medicare program.
- Establishing and maintaining procedures that we approve for the review and reconsideration of payment determinations.
- Maintaining records and making available to us the records necessary for verification of payments and with other related purposes.

• Upon inquiry, assisting individuals with matters pertaining to a fiscal intermediary contract.

• Serving as a channel of communication to and from us of information, instructions, and other material as necessary for the effective and efficient performance of a fiscal intermediary contract.

• Undertaking other functions as mutually agreed to by us and the fiscal intermediary.

In § 421.100(c), we specify that, for the responsibility for services to a provider-based HHA or a provider-based hospice, when different fiscal intermediaries serve the HHA or hospice and its parent provider under § 421.117, the designated regional fiscal intermediary determines the amount of payment and makes payments to the HHA or hospice. The fiscal intermediary or MIP contractor serving the parent provider performs fiscal functions, including audits and settlement of the Medicare cost reports and the HHA and hospice supplement worksheets.

Pending the effective date of changes made by the MMA, section 1842(a) of the Act, which pertains to carrier contracts, requires that the contracts provide for some or all of the functions listed in that paragraph, but does not specify any functions that must be included in a carrier contract. As in the case of fiscal intermediary agreements, our experience has been that mandatory inclusion of a long list of functions in all contracts restricts our ability to administer the carrier contracts with optimum efficiency and effectiveness. We believe that the requirements of the regulations for both fiscal intermediaries and carriers should be brought into conformity with the statutory requirements. Therefore, we would revise existing § 421.200, ''Carrier functions,'' to make it consistent with section 1893 of the Act and the implementing regulations. We state that a contract between CMS and a carrier specifies the functions to be performed by the carrier, which may include the following:

• Any or all of the MIP functions described in § 421.304 if the following conditions are met: (1) The carrier is continuing those functions under a contract entered into under section 1842 of the Act that was in effect on August 21, 1996; and (2) they do not duplicate work being performed under a MIP contract, except that the function related to developing and maintaining a list of DME may be performed under both a carrier contract and a MIP contract.

• Receiving, disbursing, and accounting for funds in making payments for services furnished to eligible individuals within the jurisdiction of the carrier.

• Determining the amount of payment for services furnished to an eligible individual.

• Undertaking to adjust incorrect payments and recover overpayments when it has been determined that an overpayment has been made.

• Furnishing to us timely information and reports that we request in order to carry out our responsibilities in the administration of the Medicare program.

• Maintaining records and making available to us the records necessary for verification of payments and for other related purposes.

• Establishing and maintaining procedures under which an individual enrolled under Part B will be granted an opportunity for a fair hearing.

• Upon inquiry, assisting individuals with matters pertaining to a carrier contract.

• Serving as a channel of communication to and from us of information, instructions, and other material as necessary for the effective and efficient performance of a carrier contract.

• Undertaking other functions as mutually agreed to by us and the carrier.

C. Technical and Editorial Changes

Because we propose to add a new subpart D to part 421 that would apply to MIP contractors, and because we may eventually propose regulations pertaining to MAC contracts, we propose to change the title of part 421 from ''Intermediaries and Carriers'' to ''Medicare Contracting.'' We also propose to revise § 421.1, which sets forth the basis, scope, and applicability of part 421. We would revise this section to add section 1893 of the Act to the list of provisions upon which the part is based. We would also make editorial and other changes (such as reorganizing the contents of the section and providing headings) that improve the readability of the section without affecting its substance.

In addition, numerous sections of our regulations specifically refer to an action being taken by a fiscal intermediary or a carrier. If the action being described may now be performed by a MIP contractor that is not a fiscal intermediary or a carrier, we would revise those sections to indicate that this is the case. For example, § 424.11, which sets forth the responsibilities of a provider, specifies, in paragraph (a)(2), that the provider must keep certification and recertification statements on file for verification by the fiscal intermediary. A MIP contractor now may also perform the verification. Therefore, we will revise § 424.11(a)(2) to specify that the provider must keep certification and recertification statements on file for verification by the fiscal intermediary or MIP contractor. Because our regulations are continuously being revised and sections redesignated, we have not identified all sections that will have technical changes in this proposed rule, but we may do so in the final rule. If we determine that substantive changes to our regulations are necessary, we will make those changes through separate rulemaking.

III. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, if we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

IV. Collection of Information Requirements

This document does not impose new information collection and recordkeeping requirements subject to the Paperwork Reduction Act of 1995 (PRA). Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the PRA of 1995.

V. Regulatory Impact Statement

A. Introduction

[If you chose to comment on issues in this section, please include the caption ''Regulatory Impact Statement'' at the beginning of your comments.]

We have examined the impacts of this proposed rule as required by Executive Order 12866 and the Regulatory Flexibility Act (RFA) (Pub. L. 96–354). 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). The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, non-profit organizations, and governmental agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $5 million or less annually. Fiscal

intermediaries and carriers are not considered to be small entities.

Section 1102(b) of the Act requires us to prepare a regulatory impact analysis for any proposed rule that may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside a Metropolitan Statistical Area and has fewer than 50 beds.

B. Summary of the Proposed Rule

This rule implements section 1893 of the Act, which encourages proactive measures to combat waste, fraud, and abuse, and to protect the integrity of the Medicare program. On March 20, 1998, we issued a proposed rule to implement provisions of section 1893 of the Act (63 FR 13590). Section 1893 of the Act grants us the authority to contract with eligible entities to perform program integrity activities prior to a final rule being published. Since the publication of the 1998 proposed rule, this authority has allowed us to enter into contracts, consistent with FAR, with new specialty contractors to promote the integrity of the Medicare program, despite a final rule never being published.

Section 902 of the MMA mandates that final rules based on a previous publication of a proposed regulation or an interim final regulation must be published within three years except under exceptional circumstances. Given that it has been greater than three years since the publication of the initial proposed Medicare Integrity Program regulations, we are publishing this new proposed rule in order to maintain our authority to enter into contracts with contractors to promote the integrity of the Medicare program. However, our experience in contracting with entities to perform MIP functions allows us to discuss some of the successes we have had with MIP.

The objective of this proposed regulation is to maintain our authority to contract with entities to perform program integrity functions, and to provide a procurement procedure to supplement the requirements of the FAR and specifically address contracts to perform MIP functions identified in the law.

According to the previously published proposed rule and mirrored in this current proposed rule, the following functions, as specified below, may be performed under MIP contracts:

- Review of provider activities such as medical review, utilization review, and potential fraud review.
- Audit of cost reports.
- Medicare secondary payer review and payment recovery.
- Provider and beneficiary education on payment integrity and benefit quality assurance issues.
- Developing and updating lists of DME items that are to be subject to prior approval provisions.

C. Discussion of Impact

Our MIP experience since 1999 suggests that this rule will continue to have a positive impact on the Medicare program, Medicare beneficiaries, providers, suppliers, and entities that have not previously contracted with us. Existing MIP contractors that seek renewal of MIP contracts should not expect any additional costs in complying with the requirements set forth in the rule, as these requirements are similar yet more streamlined than those set forth in the 1998 proposed rule and are currently applied by MIP contractors. To the extent that small entities could be affected by the rule, and because the rule raises certain policy issues for conflict of interest standards, we provide an impact analysis for those entities that we believe will be most heavily affected by the rule.

We believe that this rule will have an impact, although not a significant one, in five general areas: (1) The Medicare program and Health Insurance Trust Fund; (2) Medicare beneficiaries and taxpayers; (3) current fiscal intermediaries and carriers; (4) entities that have not previously contracted with us; and (5) Medicare providers and suppliers.

1. The Medicare Program and Health Insurance Trust Fund

HIPAA provides for a direct apportionment from the Health Insurance Trust Fund for program integrity activities to thwart improper billing practices. Appropriations totaled $700 million for 2002, and $720 million for FY 2003 and all subsequent years.

A separate and dependable long-term funding source for MIP allows us the flexibility to invest in innovative strategies to combat the fraud and abuse drain of the Medicare Trust Funds. By shifting emphasis from post-payment recoveries on incorrectly paid claims to pre-payment strategies, most claims will be paid correctly the first time.

Improper billing and health care fraud are difficult to quantify because of their hidden nature. However, estimates suggest that the percentage of improper Medicare fee for service payments as compared to total fee for service payments have declined since the implementation of MIP contractors:

Year	Improper payment (in billions)	Percentage of FFS total (percent)	Total FFS payments (in billions)
1998	$12.6	7.1	$176.1
1999	13.5	7.97	169.5
2000	11.9	6.8	173.6
2001	12.1	6.3	191.8
2002	13.3	6.3	212.7
2003	11.6	5.8	200
2004	19.9	9.3	[1] 213.5

[1] Since 1996, HHS has annually determined the rate of improper payments for fee-for-service claims paid by Medicare contractors. The survey measures claims found to be medically unnecessary, inadequately documented, or improperly coded. From 1996 until 2002, the survey was conducted by the OIG based on a survey of some 6,000 claims. In 2003, CMS launched an expanded effort, reviewing approximately 128,000 Medicare claims to learn more precisely where errors are being made. The 2003 figures used in the above table reflect the adjusted error rate figures. The unadjusted figures, calculated using CMS' expanded effort, were $19.6 billion for improper payment and an error rate of 9.8. The numbers reported for 2004 are unadjusted and reflect CMS'' findings since employing its expanded effort.

We should note that the positive error rate trend also relates to other initiatives including fiscal intermediary and carrier education efforts, partnering with the American Medical Association (AMA), and anti-fraud and abuse efforts such as Operation Restore Trust.

In 2004, we announced new steps to measure error rates in Medicare payments more accurately and comprehensively at the contractor level,

and to further reduce improper payments through targeted error improvement initiatives. Under the new measurement process for the Medicare error rate, the net national rate for fiscal year 2004 was 9.3 percent. This error rate is not comparable to the rates determined by the previous method used by CMS. We hope to reduce the error rate by more than half to 4.7 percent in four years, by building on recent reforms in payment oversight and new authorities in the Medicare law.

In addition to economic advantages, MIP funding and contracting improvements will allow us to better serve Medicare beneficiaries in a qualitative way. MIP gives us a tool to better administer the Medicare program and accomplish our mission of providing access to quality health care for Medicare beneficiaries. We will continue to use competitive procedures to contract separately for the performance of integrity functions. In general, economic theory postulates that competition results in a better price for the consumer which, in this instance, is CMS on behalf of Medicare beneficiaries and taxpayers. Competition should also encourage the use of innovative techniques to perform integrity functions that will, in turn, result in more efficient and effective safeguards for the Trust Funds.

2. Medicare Beneficiaries and Taxpayers

MIP contracts have had, and we expect will continue to have, an overall positive effect on Medicare beneficiaries and taxpayers. Beneficiaries pay deductibles and Part B Medicare premiums. Taxpayers, including those who are not yet eligible for Medicare, contribute part of their earnings to the Part A Trust Fund. Taxpayers and beneficiaries contribute indirectly to the Part B Trust Fund because it is funded, in part, from general tax revenues. Consistent performance of program integrity activities will ensure that less money is wasted on inappropriate treatment or unnecessary services. As evidence, MIP funds have contributed to a reduction in the total percentage of improper payments made for fee-for-service (FFS) claims paid in 2003 to 5.8 [2] percent of all FFS claims, down from 7.1 percent of FFS claims in 1998.[3] As a result, current and future beneficiaries will obtain more value for every Medicare dollar spent.

3. Current Fiscal Intermediaries and Carriers

Although fiscal intermediaries and carriers are not considered small entities for purposes of the RFA, and effective October 1, 2005, we have the authority to replace the current Medicare fiscal intermediary and carrier contracts with new MAC contracts, we are providing the following analysis.

There are currently 25 Medicare fiscal intermediaries and 18 Medicare carriers plus 4 DME regional contractors which are also carriers. Presently, all these contractors perform general program integrity activities addressed in this proposed rule apart from, but not duplicative of, MIP contractors. In FY 2004, approximately 29 percent of the total contractor budget was dedicated to program integrity.

Current fiscal intermediaries and carriers are not prohibited from entering into MIP contracts when we compete contracts for section 1893 of the Act activities. Medical directors continue to play an important role in medical review activities, and locally-based medical directors improve our relationship with local physicians by using groups like Carrier Advisory Committees. Locally-based fraud investigators and auditors are being used as necessary. Upon the publication of this proposed regulation, we anticipate that review policies will continue to be coordinated across contractors to ensure consistency, while local practice will continue to be incorporated where appropriate.

This rule may have had a negative impact on current fiscal intermediaries and carriers in some respects. Many current fiscal intermediaries and carriers may have lost a portion of their Medicare business since 1998 as fraud review functions were transferred to MIP contractors. These contractors may have some additional functions transferred to MIP contractors in the next few years. Nevertheless, the effects of section 911 of the MMA will be more significant on the current fiscal intermediary and carrier.

However, current contractors have benefited from the MIP program and will benefit from this proposed rule. Under the provisions of this proposal, they are eligible to compete for MIP contracts as long as they comply with all conflict of interest and other requirements. (Current contractors may not receive payment for performing the same program integrity activities under both a MIP contract and their existing contract.) We considered proposing rules that identified specific conflict of interest situations that would prohibit the award of a MIP contract. We also considered prohibiting a MIP contractor whose contract was completed but not renewed or terminated from competing for another MIP contract for a certain period. Instead, the proposed rule would establish a process for evaluating, on a case-by-case basis at the time of contracting, situations that may constitute conflicts of interest in accordance with the FAR, subpart 9.5. It permits current contractors to position themselves to be eligible for a MIP contract by mitigating any conflicts of interest they may have in order to compete. The economic impact on fiscal intermediaries and carriers is lessened by the proposed approach when compared to the alternatives we considered.

The current contractors that are awarded MIP contracts, or that continue to perform MIP functions under their fiscal intermediary or carrier contracts, will also benefit from more consistent funding provided by the law for program integrity activities. This more stable, long-term funding mechanism enables Medicare contractors to attract, train, and retain qualified professional staff to assist these contractors to fulfill their program integrity functions.

There will be an economic impact on current contractors that propose to perform MIP contracts using subcontractors. A MIP contractor would apply to its subcontractors the same conflict of interest standard to which it must adhere. It is impossible to assess the precise economic impact of this portion of the proposed rule because a MIP contractor is free to contract with any subcontractor. A MIP contractor may seek out subcontractors that are conflict free, which would reduce or eliminate the time expended monitoring conflict of interest situations. However, our requirements rely heavily on FAR subpart 9.5, which normally apply to both prime contractors and subcontractors. Thus, we do not believe this provision imposes any additional negative burden on current fiscal intermediaries or carriers.

4. New Contracting Entities

Entities that have not previously performed Medicare program integrity activities will experience a positive

[2] This 2003 figure reflects the adjusted error rate figures. The unadjusted figures, calculated using CMS' expanded effort, were $19.6 billion for improper payment and an error rate of 9.8%. See note 1 for more detail.

[3] From 1996 until 2002, the HHS OIG used a sample size of about 6,000 claims to conduct the process used to measure Medicare payment error rates. The measured error rate declined from 13.8 percent in 1996 to 6.3 percent in 2002. In fiscal year 2003, and as part of the agency's enhanced efforts to improve payment accuracy, CMS began calculating the Medicare FFS error rate and estimate of improper claim payments using a new methodology approved by the OIG. Under the new measurement process for the Medicare error rate, the net national rate for fiscal year 2004 was 9.3 percent.

effect from this rule. Integrity functions such as audit, medical review, and potential fraud investigation may be consolidated in a MIP contract to allow suspect claims to be identified and investigated from all angles. Contractors may subcontract for these specific integrity functions, thus creating new markets and opportunities for small, small disadvantaged, and woman-owned businesses.

Since the publication of the 1998 proposed rule and in accordance to this MIP authority, we have awarded 12 Indefinite Delivery-Indefinite Quantity (IDIQ) contracts for the Program Safeguard Contractor (PSC) effort, one Coordination of Benefits (COB) contract, and 8 IDIQ contracts for the Medicare Managed Care Program Integrity Contractors (MMC–PICs) effort. With the forthcoming implementation of the Part D prescription drug benefit included in the MMA, there will be further opportunities for new entities to compete for MIP contracts to perform program oversight activities for this new benefit.

Use of full and open competition to award MIP contracts may encourage innovation and the creation of new technology. Historically, cutting edge technologies and analytical methodologies created for the Medicare program have benefited the private insurance arena.

5. Providers and Suppliers

Because MIP contractors have been in place since 1998, we anticipate no additional burden imposed on providers and suppliers that are small businesses or not-for-profit organizations by the need to deal with a new set of contractors. There are approximately 1.1 million health care providers and suppliers (depending on how group practices and multiple locations are counted) that bill independently. The proposed rule does not necessarily impose any action on the part of these providers and suppliers.

Overall, we expect that providers and suppliers will benefit qualitatively from this proposed rule. Many providers and suppliers perceive that their reputations are tarnished by the few dishonest providers and suppliers that take advantage of the Medicare program. The media often focus on the most egregious cases of Medicare fraud and abuse, leaving the public with the perception that physicians and other health care practitioners routinely make improper claims. This rule would allow us to take a more effective and wider ranging approach to identifying, stopping, and recovering from unscrupulous providers and suppliers. As the number of dishonest providers and suppliers and improper claims diminishes, ethical providers and suppliers will benefit.

D. Conclusion

Since the publication of the 1998 proposed rule, we have awarded MIP contracts to contractors in order to perform program integrity activities and there has been a decrease in the percentage of improper claims paid. In anticipation of our continued authority to award contracts to entities to continue these activities, we have announced initiatives to measure error rates in Medicare payments more accurately and comprehensively, and to further reduce improper payments.

We conclude that our continued authority would save the Medicare program additional money and extend the solvency of the Trust Funds as a result of this proposed rule. The dynamic nature of fraud and abuse is illustrated by the fact that wrongdoers continue to find ways to evade safeguards. This supports the need for constant vigilance and increasingly sophisticated ways to protect against ''gaming'' of the system. We solicit public comments as well as data on the extent to which any of the affected entities would be significantly economically affected by this proposed rule. However, based on the above analysis, we have determined, and certify, that this proposed rule would not have a significant economic impact on a substantial number of small entities. We also have determined, and certify, that this proposed rule would not have a significant impact on the operations of a substantial number of small rural hospitals. In accordance with the provisions of Executive Order 12866, this proposed rule was reviewed by the Office of Management and Budget.

List of Subjects

42 CFR Part 400

Grant programs—health, Health facilities, Health maintenance organizations (HMO), Medicaid, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 421

Administrative practice and procedure, Health facilities, Health professions, Medicare, Reporting and recordkeeping requirements.

For reasons set forth in the preamble in this proposed regulation, the Centers for Medicare & Medicaid Services propose to amend 42 CFR chapter IV as follows:

PART 400—INTRODUCTION; DEFINITIONS

1. The authority citation for part 400 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh) and 44 U.S.C. Chapter 35.

2. Section 400.202 is amended by adding the following definition in alphabetical order, to read as follows:

§ 400.202 Definitions specific to Medicare.

* * * * *

Medicare integrity program contractor means an entity that has a contract with CMS under section 1893 of the Act to perform exclusively one or more of the program integrity activities specified in that section.

* * * * *

PART 421—MEDICARE CONTRACTING

3. The part heading is revised to read as set forth above.

4. The authority citation for part 421 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

5. Section 421.1 is revised to read as follows:

§ 421.1 Basis, applicability, and scope.

(a) *Basis.* This part is based on the provisions of the following sections of the Act:

Section 1124—Requirements for disclosure of certain information.

Sections 1816 and 1842—Use of organizations and agencies in making Medicare payments to providers and suppliers of services.

Section 1893—Requirements for protecting the integrity of the Medicare program.

(b) *Additional basis.* Section 421.118 is also based on 42 U.S.C. 1395(b)–1(a)(1)(F), which authorizes demonstration projects involving fiscal intermediary agreements and carrier contracts.

(c) *Applicability.* The provisions of this part apply to agreements with Part A (Hospital Insurance) fiscal intermediaries, contracts with Part B (Supplementary Medical Insurance) carriers, and contracts with Medicare integrity program contractors that perform program integrity functions.

(d) *Scope.* The scope of this part is as follows:

(1) Specifies that CMS may perform certain functions directly or by contract.

(2) Specifies criteria and standards CMS uses in selecting fiscal intermediaries and evaluating their performance, in assigning or reassigning

a provider or providers to particular fiscal intermediaries, and in designating regional or national fiscal intermediaries for certain classes of providers.

(3) Provides the opportunity for a hearing for fiscal intermediaries and carriers affected by certain adverse actions.

(4) Provides adversely affected fiscal intermediaries an opportunity for judicial review of certain hearing decisions.

(5) Sets forth requirements related to contracts with Medicare integrity program contractors.

6. Section 421.100 is revised to read as follows:

§ 421.100 Intermediary functions.

An agreement between CMS and an intermediary specifies the functions to be performed by the intermediary.

(a) *Mandatory functions.* The contract must include the following functions:

(1) Determining the amount of payments to be made to providers for covered services furnished to Medicare beneficiaries.

(2) Making the payments.

(b) *Additional functions.* The contract may include any or all of the following functions:

(1) Any or all of the program integrity functions described in § 421.304, provided the intermediary is continuing those functions under an agreement entered into under section 1816 of the Act that was in effect on August 21, 1996, and they do not duplicate work being performed under a Medicare integrity program contract.

(2) Undertaking to adjust incorrect payments and recover overpayments when it is determined that an overpayment was made.

(3) Furnishing to CMS timely information and reports that CMS requests in order to carry out its responsibilities in the administration of the Medicare program.

(4) Establishing and maintaining procedures as approved by CMS for the review and reconsideration of payment determinations.

(5) Maintaining records and making available to CMS the records necessary for verification of payments and for other related purposes.

(6) Upon inquiry, assisting individuals for matters pertaining to an intermediary agreement.

(7) Serving as a channel of communication to and from CMS of information, instructions, and other material as necessary for the effective and efficient performance of an intermediary agreement.

(8) Undertaking other functions as mutually agreed to by CMS and the intermediary.

(c) *Dual intermediary responsibilities.* For the responsibility for services to a provider-based HHA or a provider-based hospice, when different intermediaries serve the HHA or hospice and its parent provider under § 421.117, the designated regional intermediary determines the amount of payment and makes payments to the HHA or hospice. The intermediary or Medicare integrity program contractor serving the parent provider performs fiscal functions, including audits and settlement of the Medicare cost reports and the HHA and hospice supplement worksheets.

7. Section 421.200 is revised to read as follows:

§ 421.200 Carrier functions.

A contract between CMS and a carrier specifies the functions to be performed by the carrier. The contract may include any or all of the following functions:

(a) Any or all of the program integrity functions described in § 421.304 provided the following conditions are met:

(1) The carrier is continuing those functions under a contract entered into under section 1842 of the Act that was in effect on August 21, 1996.

(2) The functions do not duplicate work being performed under a Medicare integrity program contract, except that the function related to developing and maintaining a list of DME may be performed under both a carrier contract and a Medicare integrity program contract.

(b) Receiving, disbursing, and accounting for funds in making payments for services furnished to eligible individuals within the jurisdiction of the carrier.

(c) Determining the amount of payment for services furnished to an eligible individual.

(d) Undertaking to adjust incorrect payments and recover overpayments when it is determined that an overpayment was made.

(e) Furnishing to CMS timely information and reports that CMS requests in order to carry out its responsibilities in the administration of the Medicare program.

(f) Maintaining records and making available to CMS the records necessary for verification of payments and for other related purposes.

(g) Establishing and maintaining procedures under which an individual enrolled under Part B is granted an opportunity for a fair hearing so long as these functions are not being performed by a Qualified Independent Contractor under section 1869 of the Act.

(h) Upon inquiry, assisting individuals with matters pertaining to a carrier contract.

(i) Serving as a channel of communication to and from CMS of information, instructions, and other material as necessary for the effective and efficient performance of a carrier contract.

(j) Undertaking other functions as mutually agreed to by CMS and the carrier.

8. A new subpart D is added to part 421 to read as follows:

Subpart D—Medicare Integrity Program Contractors

Sec.

421.300 Basis, applicability, and scope.
421.302 Eligibility requirements for Medicare integrity program contractors.
421.304 Medicare integrity program contractor functions.
421.306 Awarding of a contract.
421.308 Renewal of a contract.
421.310 Conflict of interest requirements.
421.312 Conflict of interest resolution.
421.316 Limitation on Medicare integrity program contractor liability.

Subpart D—Medicare Integrity Program Contractors

§ 421.300 Basis, applicability, and scope.

(a) *Basis.* This subpart implements section 1893 of the Act, which requires CMS to protect the integrity of the Medicare program by entering into contracts with eligible entities to carry out Medicare integrity program functions. The provisions of this subpart are based on section 1893 of the Act (and, where applicable, section 1874A of the Act) and the acquisition regulations set forth at 48 CFR Chapters 1 and 3.

(b) *Applicability.* This subpart applies to entities that seek to compete or receive award of a contract under section 1893 of the Act, including entities that perform functions under this subpart emanating from the processing of claims for individuals entitled to benefits as qualified railroad retirement beneficiaries.

(c) *Scope.* The scope of this subpart follows:

(1) Defines the types of entities eligible to become Medicare integrity program contractors.

(2) Identifies the program integrity functions a Medicare integrity program contractor performs.

(3) Describes procedures for awarding and renewing contracts.

(4) Establishes procedures for identifying, evaluating, and resolving organizational conflicts of interest.

(5) Prescribes responsibilities.

(6) Sets forth limitations on contractor liability.

§ 421.302 Eligibility requirements for Medicare integrity program contractors.

(a) CMS may enter into a contract with an entity to perform the functions described in § 421.304 if the entity meets the following conditions:

(1) Demonstrates the ability to perform the Medicare integrity program contractor functions described in § 421.304. For purposes of developing and periodically updating a list of DME under § 421.304(e), an entity is deemed to be eligible to enter into a contract under the Medicare integrity program to perform the function if the entity is a carrier with a contract in effect under section 1842 of the Act.

(2) Agrees to cooperate with the OIG, the DOJ, and other law enforcement agencies, as appropriate, including making referrals, in the investigation and deterrence of potential fraud and abuse of the Medicare program.

(3) Complies with conflict of interest provisions in 48 CFR Chapters 1 and 3 and is not excluded under the conflict of interest provision at § 421.310.

(4) Maintains an appropriate written code of conduct and compliance policies that include, without limitation, an enforced policy on employee conflicts of interest.

(5) Meets financial and business integrity requirements to reflect adequate solvency and satisfactory legal history.

(6) Meets other requirements that CMS establishes.

(b) A MAC as described in section 1874A of the Act may perform any or all of the functions described in § 421.304, except that the functions may not duplicate work being performed under a Medicare integrity program contract.

(c) If a MAC performs any or all functions described in § 421.304, CMS may require the MAC to comply with any or all of the requirements of paragraph (a) of this section as a condition of its contract.

§ 421.304 Medicare integrity program contractor functions.

The contract between CMS and a Medicare integrity program contractor specifies the functions the contractor performs. The contract may include any or all of the following functions:

(a) Conducting medical reviews, utilization reviews, and reviews of potential fraud related to the activities of providers of services and other individuals and entities (including entities contracting with CMS under parts 417 and 422 of this chapter) furnishing services for which Medicare payment may be made either directly or indirectly.

(b) Auditing cost reports of providers of services, or other individuals or entities (including entities contracting with CMS under parts 417 and 422 of this chapter), as necessary to ensure proper Medicare payment.

(c) Determining appropriate Medicare payment to be made for services, as specified in section 1862(b) of the Act, and taking action to recover inappropriate payments.

(d) Educating providers, suppliers, beneficiaries, and other persons regarding payment integrity and benefit quality assurance issues.

(e) Developing, and periodically updating, a list of items of DME that are frequently subject to unnecessary utilization throughout the contractor's entire service area or a portion of the area, in accordance with section 1834(a)(15)(A) of the Act.

§ 421.306 Awarding of a contract.

(a) CMS awards and administers Medicare integrity program contracts in accordance with acquisition regulations set forth at 48 CFR chapters 1 and 3, this subpart, all other applicable laws, and all applicable regulations. These requirements for awarding Medicare integrity program contracts are used as follows:

(1) When entering into new contracts.

(2) When entering into contracts that may result in the elimination of responsibilities of an individual fiscal intermediary or carrier under section 1816(l) or section 1842(c) of the Act, respectively.

(3) At any other time CMS considers appropriate.

(b) CMS may award an entity a Medicare integrity program contract without competition if all of the following conditions apply:

(1) Through approval of a novation agreement in accordance with the requirements of the Federal Acquisition Regulation (FAR), CMS recognizes the entity as the successor in interest to a fiscal intermediary agreement or carrier contract under which the fiscal intermediary or carrier was performing activities described in section 1893(b) of the Act on August 21, 1996.

(2) The fiscal intermediary or carrier continued to perform Medicare integrity program activities until transferring the resources to the entity.

(c) An entity is eligible to be awarded a Medicare integrity program contract only if it meets the eligibility requirements established in § 421.302, 48 CFR chapters 1 and 3, and other applicable laws and regulations.

§ 421.308 Renewal of a contract.

(a) CMS specifies an initial contract term in the Medicare integrity program contract. Contracts under this subpart may contain renewal clauses. CMS may, but is not required to, renew the Medicare integrity program contract, without regard to any provision of law requiring competition, as it determines to be appropriate, by giving the contractor notice, within timeframes specified in the contract, of its intent to do so.

(b) CMS may renew a Medicare integrity program contract without competition if all of the following conditions are met:

(1) The Medicare integrity program contractor continues to meet the requirements established in this subpart.

(2) The Medicare integrity program contractor meets or exceeds the performance requirements established in its current contract.

(3) It is in the best interest of the government.

(c) If CMS does not renew a contract, the contract ends in accordance with its terms.

§ 421.310 Conflict of interest requirements.

(a) Offerors for MIP contracts and MIP contractors are subject to the following:

(1) The conflict of interest standards and requirements of the Federal Acquisition Regulation (FAR) organizational conflict of interest guidance, found under 48 CFR subpart 9.5.

(2) The standards and requirements as are contained in each individual contract awarded to perform section 1893 of the Act functions.

(b) *Post-award conflicts of interest.* (1) CMS considers that a conflict of interest has developed if, during the term of the contract, if either of the following occurs:

(i) The contractor or its employee, agent, or subcontractor receives, solicits, or arranges to receive any fee, compensation, gift (as defined at 5 CFR 2635.203(b)), payment of expenses, offer of employment, or any other thing of value from any entity that is reviewed, audited, investigated, or contacted during the normal course of performing activities under the Medicare integrity program contract.

(ii) CMS determines that the contractor's activities are creating a conflict of interest.

(2) In the event CMS determines that a conflict of interest exists during the term of the contract, among other actions, it may, as it deems appropriate:

(i) Not renew the contract for an additional term.

(ii) Modify the contract.

(iii) Terminate the contract for default.

§ 421.312 Conflict of interest resolution.

(a) *Review Board*. CMS may establish a Conflicts of Interest Review Board to assist the contracting officer in resolving organizational conflicts of interest and determine when the Board is convened.

(b) *Resolution*. Resolution of an organizational conflict of interest is a determination by the contracting officer that:

(1) The conflict is mitigated.

(2) The conflict precludes award of a contract to the offeror.

(3) The conflict requires that CMS modify an existing contract.

(4) The conflict requires that CMS terminate an existing contract for default.

(5) It is in the best interest of the Government to contract with the offeror or contractor even though the conflict exists.

§ 421.316 Limitation on Medicare integrity program contractor liability.

(a) A MIP contractor, a person or an entity employed by, or having a fiduciary relationship with, or who furnishes professional services to a MIP contractor is not in violation of any criminal law or civilly liable under any law of the United States or of any State (or political subdivision thereof) by reason of the performance of any duty, function, or activity required or authorized under this subpart or under a valid contract entered into under this subpart, provided due care was exercised in that performance and the contractor has a contract with CMS under this subpart.

(b) CMS will pay a contractor, a person or an entity described in paragraph (a) of this section, or anyone who furnishes legal counsel or services to a contractor or person, a sum equal to the reasonable amount of the expenses, as determined by CMS, incurred in connection with the defense of a suit, action, or proceeding, if:

(1) The suit, action, or proceeding was brought against the contractor, such person or entity by a third party and relates to the contractor's, person's or entity's performance of any duty, function, or activity under a contract entered into with CMS under this subpart;

(2) The funds are available; and

(3) The expenses are otherwise allowable under the terms of the contract.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare-Hospital Insurance; and Program No. 93.774, Medicare-Supplementary Medical Insurance Program)

Dated: March 20, 2005.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

Approved: May 20, 2005.

Michael O. Leavitt,

Secretary.

[FR Doc. 05–11775 Filed 6–10–05; 4:00 pm]

BILLING CODE 4120–01–P

Notices

Federal Register
Vol. 70, No. 116
Friday, June 17, 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

Office of the Secretary

Request for Public Comments To Be Used in Developing USDA Recommendations for the 2007 Farm Bill

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of meetings and request for comments.

SUMMARY: This notice announces a series of public forums that senior officials of the United States Department of Agriculture (USDA) will hold to obtain public input for the development of the 2007 Farm Bill. The 2002 Farm Bill, officially entitled the Farm Security and Rural Investment Act of 2002 (the 2002 Act; Publ. L. 107–171), authorizes many of the programs operated by USDA such as the farm price and income support programs and expires with the 2007 crop year. Many other key programs specified in the 2002 Act expire at the end of fiscal year 2007. New legislation will need to be enacted prior to the expiration of the 2002 Act.

USDA intends to develop recommendations for the new farm bill and believes that public input is essential to the process by which these recommendations will be developed. This process requires an assessment of the performance of current programs operated under the 2002 Act as well as of possible alternative programs for the next farm bill.

The public forums will be held at various locations in the United States during 2005. The dates, locations, and times of the forums will be announced by USDA press release (available at *http://www.usda.gov*). The public will be invited to attend the forums and to present oral comments.

The primary topics addressed at the forums will reflect various concerns affecting rural America such as commodity, conservation, and rural economic development issues. However, some forums will be dedicated to other important programs authorized by the farm bill such as food assistance, research, and education programs. Topics for these discussions will be announced via USDA press release.

In addition, this notice provides the public the opportunity to comment in writing on key issues that USDA expects to address in the development of its recommendations. USDA will review the public comments received, including any analyses, reports, studies, and other material submitted with the comments, that address the questions specified below.

DATES: Comments must be received by December 30, 2005.

ADDRESSES: We invite interested persons to submit comments on this notice. Comments will be accepted at public forums and may also be submitted electronically (preferred) or by postal mail. Comments may be submitted electronically via the Internet at the USDA home page (*http://www.usda.gov*) by selected ''Farm Bill Forums.'' Comments may also be submitted by any of the following methods:

- E-mail: Send comments to: *FarmBill@usda.gov*
- Mail: Send comments to: Secretary of Agriculture Mike Johanns, Farm Bill, 1400 Independence Avenue, SW., Washington, DC 20250–3355.
- Hand delivery or courier: Deliver comments to Room 116A at the above address.

All comments, including names and addresses, provided by respondents are a matter of public record. Comments may be inspected at the Department of Agriculture. To arrange for inspection, please contact the Office of the Executive Secretariat, Room 116A, Jamie L. Whitten Federal Building, 1400 Independence Avenue, SW., Washington, DC 20250–3355.

FOR FURTHER INFORMATION CONTACT: By mail: USDA/OES, 1400 Independence Avenue, SW., Washington, DC 20250–3355. By telephone: USDA's Office of Communications at (202) 720–9002. By e-mail: *FarmBill@usda.gov.*

SUPPLEMENTARY INFORMATION:

Key Issues for Comment

USDA is seeking public comments on the following farm policy considerations:

1. The competitiveness of U.S. agriculture in global and domestic markets.

As bilateral, regional, and multilateral trade negotiations continue to result in reduced barriers to international trade, exports and imports of agricultural products are expected to become increasingly important factors in U.S. and global agriculture. Obtaining ever-greater access to growing foreign markets and being increasingly competitive in these and in domestic markets is essential for farm economic growth. One key factor in our ability to be competitive depends on the types of products demanded around the world in the next 10 to 20 years and our ability to produce products that meet this world demand.

How should farm policy be designed to maximize U.S. competitiveness and our country's ability to compete effectively in global markets?

2. The challenges facing new farmers and ranchers as they enter agriculture.

Some observers note that while farm policy has served agriculture and the country well in the past there are ''unintended consequences'' that should be addressed, such as the capitalization of program benefits into land prices. These higher land prices are cited as a barrier to entry into agriculture for new farmers; a factor in reduced profit for existing farmers; and a cause of weakened competitive position on the part of U.S. farmers compared with farmers in countries with lower-priced land.

How should farm policy address any unintended consequences and ensure that such consequences do not discourage new farmers and the next generation of farmers from entering production agriculture?

3. The appropriateness and effectiveness of the distribution of farm program benefits.

A longstanding goal of farm policy has been to enhance and stabilize farm prices and incomes. Current farm programs, including crop insurance, distribute assistance based on past and current production levels. Some argue that the current farm support system encourages increases in farm size and results in the disproportionate

distribution of program benefits to large farms. It has also been suggested that program incentives lead to increased production and lower market prices.

How should farm policy be designed to effectively and fairly distribute assistance to producers?

4. The achievement of conservation and environmental goals.

While producing food and fiber are essential functions, agriculture also plays a major role in natural resource stewardship. Some have suggested that future farm policy might be anchored around the provision of tangible benefits such as cleaner water and air. Such an approach may be consistent with future World Trade Organization obligations on domestic support to agriculture, while also expanding farm programs to extend more broadly across agriculture, including private forest lands.

How can farm policy best achieve conservation and environmental goals?

5. The enhancement of rural economic growth.

Farming and rural America once were almost synonomous. Over the years, the demographic and economic characteristics of rural areas have changed, as has farming's role in the rural economy. This raises the issue of whether more Government attention should be focused on investing in the infrastructure in rural America (for example, investing in new technologies).

How can Federal rural and farm programs provide effective assistance in rural areas?

6. Opportunities to expand agricultural products, markets, and research.

Changes in farm and market structure over past decades have led to suggestions that farm policy could be more flexible by enabling greater support for a broader range of activities helpful to agriculture market expansion. Examples are: Attention to product quality and new attributes; organic and specialty crops; value-added products, including renewable energy and bioproducts and new uses for farm products generally; expanded basic and applied research; domestic and foreign market development; and similar activities.

How should these agricultural product, marketing, and research-related issues be addressed in the next farm bill?

This notice is being issued to obtain public comment regarding the next farm bill. There are no regulatory findings associated with this notice.

Signed in Washington, DC, on June 8, 2005.

Mike Johanns,

Secretary, U.S. Department of Agriculture.

[FR Doc. 05–11787 Filed 6–16–05; 8:45 am]

BILLING CODE 3410–01–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from Procurement List.

SUMMARY: This action adds to the Procurement List a product and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List products previously furnished by such agencies.

DATES: *Effective Date*: July 17, 2005.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FUTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Sheryl D. Kennerly, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *SKennerly@jwod.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On April 1 and April 22, 2005, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (70 FR 16797 and 20859) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the product and services and impact of the additions on the current or most recent contractors, the Committee has determined that the product and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the product and services to the Government.

2. The action will result in authorizing small entities to furnish the product and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the product and services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following product and services are added to the Procurement List:

Product

Bottle, Oil Sample.
NSN: 8125–01–193–3440—Bottle, Oil Sample.
NPA: East Texas Lighthouse for the Blind, Tyler, TX.
Contracting Activity: Defense Supply Center Philadelphia, Philadelphia, PA.

Services

Service Type/Location: Custodial Services, Postwide, Fort Knox, KY.
NPA: Lakeview Center, Inc., Pensacola, FL.
Contracting Activity: Directorate of Contracting, Fort Knox, KY.

Service Type/Location: Custodial Services, West Point Elementary School, West Point Academy, West Point, NY.
NPA: Occupations, Inc., Middletown, NY.
Contracting Activity: Directorate of Contracting, West Point, NY.

Service Type/Location: Food Service Attendant, U.S. Coast Guard Marine Safety Office/Group Portland, 6767 North Basin Avenue, Portland, OR.
NPA: DePaul Industries, Portland, OR.
Contracting Activity: U.S. Coast Guard-Alameda, Alameda, CA.

Deletions

On April 22, 2005, the Committee for Purchase From People Who are Blind or Severely Disabled published notice (70 FR 20858) of proposed deletions to the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the products listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may result in additional reporting, recordkeeping or other

compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products deleted from the Procurement List.

End of Certification

Accordingly, the following products are deleted from the Procurement List:

Products

Cup, Disposable.
NSN: 7350–00–914–5089—Cup, Disposable.
NSN: 7350–00–761–7467—Cup, Disposable.
NSN: 7350–00–914–5088—Cup, Disposable.
NPA: The Oklahoma League for the Blind, Oklahoma City, OK.
Contracting Activity: GSA, Southwest Supply Center, Fort Worth, TX.

Cup, Disposable (Foam Plastic).
NSN: 7350–00–721–9003—Cup, Disposable (Foam Plastic), 6 oz.
NSN: 7350–00–145–6126—Cup, Disposable (Foam Plastic), 16 oz.
NSN: 7350–00–926–1661—Cup, Disposable (Foam Plastic), 10 oz.
NSN: 7350–00–082–5741—Cup, Disposable (Foam Plastic), 8 oz.
NPA: The Oklahoma League for the Blind, Oklahoma City, OK.
Contracting Activity: GSA, Southwest Supply Center, Fort Worth, TX.

Lid, Plastic (Foam Cup).
NSN: 7350–01–485–7092—Lid, Plastic (Foam Cup), 6 oz.
NSN: 7350–01–485–7094—Lid, Plastic (Foam Cup), 8 oz.
NSN: 7350–01–485–7093—Lid, Plastic (Foam Cup), 10 oz.
NSN: 7350–01–485–7889—Lid, Plastic (Foam Cup), 16 oz.
NPA: The Oklahoma League for the Blind, Oklahoma City, OK.
Contracting Activity: GSA, Southwest Supply Center, Fort Worth, TX.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. E5–3139 Filed 6–16–05; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List products and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

Comments Must be Received on or Before: July 17, 2005.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Sheryl D. Kennerly, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *SKennerly@jwod.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

If the Committee approves the proposed additions, the entities of the Federal Government identified in the notice for each product or service will be required to procure the products and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. If approved, the action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services proposed for addition to the Procurement List. Comments on this certification are invited.

Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following products and services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Products

Case, Belt Weather Kit.
NSN: 8465–00–521–3057F—Case, Belt Weather Kit (used as kit components).
NSN: 8465–00–521–3057—Case, Belt Weather Kit.
NPA: The Shangri-La Corporation.
Contracting Activity: GSA, Southwest Supply Center, Fort Worth, TX.

Oxo Good Grip Spoon Spatula.
NSN: M.R. 868—Oxo Good Grip Spoon Spatula.

Oxo Good Grip Silicone Spatula.
NSN: M.R. 869—Oxo Good Grip Silicone Spatula.
NPA: Cincinnati Association for the Blind, Cincinnati, OH.
Contracting Activity: Defense Commissary Agency (DeCA), Fort Lee, VA.

Spice, Black Pepper.
NSN: 8950–01–E60–8236—Cracked, 16 oz metal container.
NSN: 8950–01–E60–7768—Ground, Gourmet, 18 oz metal container.
NSN: 8950–01–E60–7766—Ground, Gourmet, 16 oz metal can.
NSN: 8950–01–E60–8234—Cracked, 18 oz metal container.
NSN: 8950–01–E60–7765—Ground, Gourmet, 1.5 oz plastic container.
NSN: 8950–01–E60–8235—Cracked, 18 oz plastic container.
NSN: 8950–01–E60–7770—Ground, Gourmet, 5 lb plastic container.
NSN: 8950–01–E60–8237—Cracked, 16 oz plastic container.
NSN: 8950–01–E60–8238—Whole, 16 oz metal container.
NSN: 8950–01–E60–8239—Whole, 16 oz plastic container.
NSN: 8950–01–E60–8241—Whole, 18 oz plastic container.
NSN: 8950–01–E60–8240—Whole, 18 oz metal container.
NSN: 8950–01–E60–7769—Ground, Gourmet, 18 oz plastic container.
NPA: Continuing Developmental Services, Inc., Fairport, NY.
Contracting Activity: Defense Supply Center Philadelphia, Philadelphia, PA.

Services

Service Type/Location: Custodial Services, GSA—Central Heating & Refrigeration Plant, 13th & C Streets, SW., Washington, DC., GSA-Parking Lot, 12th & C Streets, SW., Washington, DC.
NPA: Anchor Mental Health Association (Anchor Services Workshop), Washington, DC.
Contracting Activity: GSA-Heating, Operation & Transmission Department, Washington, DC.

Service Type/Location: Custodial Services, Philadelphia Naval Business Center, Philadelphia, PA.
NPA: Elwyn, Inc., Aston, PA.
Contracting Activity: Naval Facilities Engineering Command/Northern Div, Philadelphia, PA.

Service Type/Location: Custodial Services, U.S. Coast Guard Marine Safety Office, 9640 Clinton Drive, Houston, TX.
NPA: On Our Own Services, Inc., Houston, TX.

Contracting Activity: U.S. Coast Guard Integrated Support Command, New Orleans, LA.

Service Type/Location: Custodial Services, USDA, Animal and Plant Health Inspection Service, Otis Methods Dev. Center, Building 1398, Otis ANGB, MA.

NPA: Nauset, Inc., Hyannis, MA.

Contracting Activity: USDA, Animal & Plant Health Inspection Service, Minneapolis, MN.

Service Type/Location: Document Destruction, VA Administration #2, 2455 W. Cheyenne, Suite 102, Las Vegas, NV, VA Administration, 1841 E. Craig Road, Suite B Warehouse, Las Vegas, NV; VA Central Clinic, 901 Rancho Lane, Las Vegas, NV; VA North Clinic, 916 W. Owens Avenue, Las Vegas, NV; VA West Clinic, 630 S. Rancho Road, Las Vegas, NV.

NPA: Opportunity Village Association for Retarded Citizens, Las Vegas, NV.

Contracting Activity: Department of Veteran's Affairs, VISN 22, Long Beach, Long Beach, CA.

Service Type/Location: Document Destruction, VA Colorado Springs Clinic, 25 Spruce Street, Colorado Springs, CO, VA Eastern Colorado Health Care System (ECHCS), 1055 Clermont Street, Denver, CO.

NPA: Bayaud Industries, Inc., Denver, CO.

Contracting Activity: Department of Veteran's Affairs, VISN 19 Consolidated Contracting Activity, Glendale, CO.

Service Type/Location: Document Destruction, VA Loma Linda Healthcare System, 11201 Benton Street, Loma Linda, CA.

NPA: Goodwill Industries of Southern California, Los Angeles, CA.

Contracting Activity: Department of Veteran's Affairs, VISN 22, Long Beach, Long Beach, CA.

Service Type/Location: Document Destruction, VA Salt Lake City Health Care System, 500 Foothill Blvd, Salt Lake City, UT.

NPA: Community Foundation for the Disabled, Inc., Salt Lake City, UT.

Contracting Activity: Department of Veteran's Affairs, VISN 19 Consolidated Contracting Activity, Glendale, CO.

Service Type/Location: Food Service Attendant, 115th Fighter Wing, Building 510, Truax Field, Wisconsin Air National Guard, Madison, WI.

NPA: Madison Area Rehabilitation Centers, Inc., Madison, WI.

Contracting Activity: Wisconsin Air National Guard, 115th MSG/MSC, Madison, WI.

Service Type/Location: Grounds Maintenance, U.S. Coast Guard Marine Safety Office, 9640 Clinton Drive, Houston, TX.

NPA: On Our Own Services, Inc., Houston, TX.

Contracting Activity: U.S. Coast Guard Integrated Support Command, New Orleans, LA.

Service Type/Location: Janitorial/Custodial, Altmeyer Federal Building, 6401 Security Blvd., Woodlawn, MD.

NPA: Sinai Hospital of Baltimore (Vocational Services Program), Baltimore, MD.

Contracting Activity: Social Security Administration, Baltimore, MD.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. E5–3140 Filed 6–16–05; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Solicitation of Applications for Allocation of a Tariff Rate Quota on the Import of Certain Worsted Wool Fabrics

June 14, 2005.

AGENCY: Department of Commerce, International Trade Administration.

ACTION: The Department of Commerce (Department) is soliciting applications for an allocation of the 2005 tariff rate quota on certain worsted wool fabric.

SUMMARY: The Department hereby solicits applications from persons (including firms, corporations, or other legal entities) who weave worsted wool fabrics in the United States for an allocation of the 2005 tariff rate quotas on certain worsted wool fabric. Interested persons must submit an application on the form provided to the address listed below by July 18, 2005. The Department will cause to be published in the **Federal Register** its determination to allocate the 2005 tariff rate quotas and will notify applicants of their respective allocation as soon as possible after that date. Promptly thereafter, the Department will issue licenses to eligible applicants.

DATES: To be considered, applications must be received or postmarked by 5 p.m. on July 18, 2005.

ADDRESSES: Applications must be submitted to the Industry Assessment Division, Office of Textiles, Apparel and Consumer Goods Industries, Room 3001, United States Department of Commerce, Washington, D.C. 20230 (telephone: (202) 482–4058). Application forms may be obtained from that office (via facsimile or mail) or from the following Internet address: **http://web.ita.doc.gov/tacgi/wooltrq.nsf/TRQApp/fabric**.

FOR FURTHER INFORMATION CONTACT: Sergio Botero, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4058.

SUPPLEMENTARY INFORMATION:

Background

Title V of the Trade and Development Act of 2000 (the Act) created two tariff rate quotas (TRQs), providing for temporary reductions in the import duties on limited quantities of two categories of worsted wool fabrics suitable for use in making suits, suit-type jackets, or trousers: (1) for worsted wool fabric with average fiber diameters greater than 18.5 microns (Harmonized Tariff Schedule of the United States (HTS) heading 9902.51.11); and (2) for worsted wool fabric with average fiber diameters of 18.5 microns or less (HTS heading 9902.51.12). On August 6, 2002, President Bush signed into law the Trade Act of 2002, which includes several amendments to Title V of the Act. On December 3, 2004, the Act was further amended pursuant to the Miscellaneous Trade Act of 2004, Public Law 108–429. The 2004 amendment includes authority for the Department to allocate a TRQ for new HTS category, HTS 9902.51.16. This HTS category refers to worsted wool fabric with average fiber diameter of 18.5 microns or less. The amendment further provides that HTS 9902.51.16 is for the benefit of persons (including firms, corporations, or other legal entities) who weave such worsted wool fabric in the United States that is suitable for making men's and boys' suits. The TRQ for HTS 9902.51.16 will provide for temporary reductions in the import duties on 2,000,000 square meters annually for 2005 and 2006.

The amendment requires that the TRQ be allocated to persons who weave worsted wool fabric with average fiber diameter of 18.5 microns or less, which is suitable for use in making men's and boys' suits, in the United States. On May 16, 2005, the Department published regulations establishing procedures for allocating the TRQ. 70 FR 25774, 15 CFR part 335. In order to be eligible for an allocation, an applicant must submit an application on the form provided at *http://web.ita.doc.gov/tacgi/wooltrq.nsf/TRQApp/fabric* to the address listed above by 5 p.m. on July 18, 2005, in compliance with the requirements of 15 CFR 335. Any business confidential information that is marked business confidential will be kept confidential and protected from disclosure to the full extent permitted by law.

Dated: June 14, 2005.

James C. Leonard III,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. E5–3141 Filed 6–16–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No.: 040609175–5128–02]

Availability of Applications for the Laboratory Accreditation Program for Voting System Testing Under the National Voluntary Laboratory Accreditation Program

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: Under the National Voluntary Laboratory Accreditation Program (NVLAP), the National Institute of Standards and Technology (NIST) publishes this notice of availability of applications for the NVLAP accreditation program for laboratories that perform testing of voting systems and components using the Voting System Standards of 2002 as augmented from time to time by the Election Assistance Commission (EAC). NIST has established this program at the request of the EAC to fulfill requirements of the Help America Vote Act of 2002 (Pub. L. 107–252).

DATES: Application information and forms are now available. Laboratories wishing to be considered for accreditation in the first group must submit an application to NVLAP and pay required fees by August 16, 2005. The evaluation of the initial group of applicant laboratories for accreditation will commence on or about September 15, 2005. Laboratories whose applications are received after that date will be considered on an as-received basis.

ADDRESSES: Laboratories may obtain requirements documents and an application for accreditation for this program by calling 301–975–4016, by writing to: Voting System Testing Program Manager, NIST/NVLAP, 100 Bureau Drive, Mail Stop 2140, Gaithersburg, Maryland, 20899–2140, or sending an e-mail to *nvlap@nist.gov.*

FOR FURTHER INFORMATION CONTACT: Jeffrey Horlick, National Voluntary Laboratory Accreditation Program (NVLAP), NIST, 100 Bureau Drive, Stop 2140, Gaithersburg, Maryland, 20899–2140, telephone: 301–975–4016, e-mail: *jeffrey.horlick@nist.gov.*

SUPPLEMENTARY INFORMATION:

Background

The National Voluntary Laboratory Accreditation Program (NVLAP), established at the National Institute of Standards and Technology (then called the National Bureau of Standards) in 1976, is codified in the U.S. Code of Federal Regulations, title 15, part 285 (15 CFR part 285).

The National Institute of Standards and Technology (NIST) publishes this notice to announce the availability of applications for the NVLAP accreditation program for laboratories that perform testing of voting systems and components using the Voting System Standards of 2002 as augmented from time to time by the Election Assistance Commission (EAC). NIST has established this program at the request of the EAC to fulfill requirements of Section 231(b)(1) of the Help America Vote Act of 2002 (Pub. L. 107–252). This program is not intended for laboratories conducting tests for non-voting requirements of the Voting System Standards.

On June 23, 2004, in accordance with 15 CFR part 285, NIST published a **Federal Register** notice (69 FR 34993) announcing the intent to establish a NVLAP program for laboratories testing voting systems. A public workshop was held on August 17, 2004, for the purpose of exchange of information among NVLAP, laboratories interested in seeking accreditation for the testing of voting systems under the Help America Vote Act, and other interested parties. The results of the workshop discussions were used in the development of the NVLAP Voting Systems Laboratory Accreditation Program (Voting LAP).

Technical Requirements for the Accreditation Process

General requirements for accreditation are given in NIST Handbook 150 NVLAP Procedures and General Requirements. The specific technical and administrative requirements for this program are given in NIST Handbook 150–22 Voting System Testing. Laboratories must meet all NVLAP criteria and requirements in order to become accredited. To be considered for accreditation, the applicant laboratory must provide a completed application to NVLAP, pay all required fees, agree to conditions for accreditation, and provide a quality manual to NVLAP (or a designated NVLAP assessor) prior to the beginning of the assessment process.

Application Requirements

(1) Legal name and full address of the laboratory;

(2) Ownership of the laboratory;

(3) Authorized Representative's name and contact information;

(4) Names, titles and contact information for laboratory staff nominated to serve as Approved Signatories of test or calibration reports that reference NVLAP accreditation;

(5) Organization chart defining relationships that are relevant to performing testing and calibrations covered in the accreditation request;

(6) General description of the laboratory, including its facilities and scope of operation; and

(7) Requested scope of accreditation.

In addition, the laboratory shall provide a copy of its quality manual and related documentation, where appropriate, prior to the on-site assessment. NVLAP will review the quality system documentation and discuss any noted nonconformities with the Authorized Representative before the on-site visit. Laboratories that apply for accreditation will be required to pay NVLAP fees and undergo on-site assessment and shall meet proficiency testing requirements before initial accreditation can be granted. Information on the fee structure and a description of the on-site assessment are found in sections 3.1.3 and 3.2 respectively of NIST Handbook 150.

NVLAP accreditation is a pre-requisite for a laboratory to be submitted by the Director of the National Institute of Standards and Technology to the Election Assistance Commission for consideration pursuant to section 231(b)(1) of the Help America Vote Act. Under section 231(b)(2)(A), the EAC accredits bodies that test, certify, decertify and recertify voting systems.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. The NVLAP application is approved by the Office of Management and Budget under OMB Control No. 0693–0003.

Dated: June 9, 2005.

Hratch G. Semerjian,

Acting Director.

[FR Doc. 05–11999 Filed 6–16–05; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

Marine Protected Areas Federal Advisory Committee Request for Nominations

AGENCY: National Ocean Service, NOAA, Department of Commerce.

ACTION: Notice requesting nominations for the Marine Protected Areas Federal Advisory Committee.

SUMMARY: The Department of Commerce is seeking nominations for membership on the Marine Protected Areas Federal Advisory Committee. The Marine Protected Areas Federal Advisory Committee was established to advise the Secretary of Commerce and the Secretary of the Interior in implementing Section 4 of Executive Order 13158, and specifically on strategies and priorities for developing the national system of marine protected areas (MPAs) and on practical approaches to further enhance and expand protection of new and existing MPAs.

Nominations are sought for highly qualified non-federal scientists, resource managers, and persons representing other interests or organizations involved with or affected by marine conservation. Individuals seeking membership on the Advisory Committee should possess demonstrable expertise in a related field or represent a stakeholder interest affected by MPAs. Nominees will also be evaluated based on the following factors: marine policy experience, leadership and organization skills, region of country represented, and diversity characteristics. The membership reflects the Department's commitment to attaining balance and diversity. The full text of the Committee charter and its current membership can be viewed on the Agency's Web page at *http://mpa.gov/fac.html*. Vacancies on the Committee occur from time to time and additional information on specific qualifications being sought will be posted on the Web site.

DATES: This notice of recruitment will be open for one year from its date of publication in the **Federal Register**.

ADDRESSES: Nominations should be sent to: Lauren Wenzel, Marine Protected Areas Center, NOAA, N/ORM, 1305 East West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Lauren Wenzel, Designated Federal Officer, MPAFAC, National Marine Protected Areas Center, N/ORM, 1305 East-West Highway, Silver Spring, Maryland 20910. (Phone: (301)–713–3100 x136, Fax: (301)–713–3110); e-mail: *lauren.wenzel@noaa.gov*; or visit the national MPA Center Web site at *https://www.mpa.gov*).

SUPPLEMENTARY INFORMATION: In Executive Order 13158, the Department of Commerce and the Department of the Interior were directed to seek the expert advice and recommendations of non-federal scientists, resource managers, and other interested persons and organizations through a Marine Protected Areas Federal Advisory Committee. The Committee was established in June 2003 and includes 30 members.

The Committee meets at least twice a year. Committee members serve for a term of two or four years.

Each nomination submission should include the proposed committee member's name and organizational affiliation, a cover letter describing the nominee's qualifications and interest in serving on the Committee, a curriculum vitae or resume of nominee, and no more than three supporting letters describing the nominee's qualifications and interest in serving on the Committee. Self-nominations are acceptable. The following contact information should accompany each submission: the nominee's name, address, phone number, fax number, and e-mail address if available.

Dated: June 7, 2005.

Eldon Hout,

Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 05–11937 Filed 6–16–05; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Office of Ocean.US Director Solicitation

AGENCY: National Ocean Service, NOAA, Department of Commerce

ACTION: Notice of opportunity to apply.

SUMMARY: Applications for the position of Director, Ocean.US are invited. Ocean.US was created by the National Oceanographic Partnership Program (NOPP) to coordinate the development of an operational integrated and sustained ocean observing system (IOOS). Information from the IOOS system will serve national needs for detecting and forecasting oceanic components of climate variability, facilitating safe and efficient marine operations, ensuring national security, managing resources for sustainable use, preserving and restoring healthy marine ecosystems, mitigating natural hazards, and ensuring public health.

The Director will coordinate with vested interest groups on collaborative activities that accomplish Ocean.US goals to integrate ocean observing activities. These groups include Federal agencies, universities, private industry, state and local governments, and non-governmental organizations. The Director will develop and oversee broad-scale cooperative efforts and strategies of a national scope associated with coastal and ocean stewardship.

The successful candidate will have high-level management experience and the ability to work with a wide range of people and interests to further the goals of Ocean.US and the IOOS. He or she should have demonstrated experience in administration, legislative and public processes, policy development, and constituent affairs. The Director is expected to lead a nation-wide, interagency effort to build coalitions, and should have experience managing staff and negotiating across organizational levels and boundaries. He or she should also have some familiarity with elements of the IOOS, such as Data Management and Communication, Modeling and Analysis, Research, and Education and Outreach.

The successful candidate ideally will have a science background, familiarity with the Global Earth Observing System of Systems (GEOSS), the NOPP process, and the Federal spending process, including spending in a legislated, but unappropriated enterprise. He or she must also be able to obtain a security clearance.

Applications, which should include a letter of interest, a curriculum vitae, and the names, addresses, and e-mail addresses of at least three references, should be sent to: Ocean.US, 2300 Claredon Blvd Suite 1350, Arlington, VA 22201–3667, Attn: Ms. Nicole Larrain.

Review of the applications will begin on June 30, 2005, with a start date of October 1, 2005. The mode of employment will be negotiated, depending on the current employment status of the applicant. The search will remain open until the position is filled. Salary is commensurate with experience.

FOR FURTHER INFORMATION CONTACT: Ms. Nicole Larrain by phone (703) 588–0853 or e-mail *n.larrain@ocean.us*.

Dated: June 8, 2005.

Mitchell Luxenberg,

Acting Director, Management and Budget, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 05–11980 Filed 6–16–05; 8:45 am]

BILLING CODE 3510–JE–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 060805D]

Taking and Importing of Marine Mammals

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

ACTION: Notice; affirmative finding.

SUMMARY: The Assistant Administrator for Fisheries, NMFS, (Assistant Administrator) has renewed the affirmative finding for the Government of Mexico under the Marine Mammal Protection Act (MMPA). This affirmative finding will allow yellowfin tuna harvested in the Eastern Tropical Pacific (ETP) in compliance with the International Dolphin Conservation Program (IDCP) by Mexican-flag purse seine vessels or purse seine vessels operating under Mexican jurisdiction to be imported into the United States. The affirmative finding was based on review of documentary evidence submitted by the Government of Mexico and obtained from the Inter-American Tropical Tuna Commission (IATTC) and the U.S. Department of State.

DATES: Effective April 1, 2005, through March 31, 2006.

FOR FURTHER INFORMATION CONTACT: Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213; phone 562–980–4000; fax 562–980–4018.

SUPPLEMENTARY INFORMATION: The MMPA, 16 U.S.C. 1361 *et seq.*, allows the entry into the United States of yellowfin tuna harvested by purse seine vessels in the ETP under certain conditions. If requested by the harvesting nation, the Assistant Administrator will determine whether to make an affirmative finding based upon documentary evidence provided by the government of the harvesting nation, the IATTC, or the Department of State.

The affirmative finding process requires that the harvesting nation meet its obligations under the IDCP and obligations of membership in the IATTC. Every 5 years, the government of the harvesting nation must request an affirmative finding and submit the required documentary evidence directly to the Assistant Administrator. On an annual basis NMFS will review the affirmative finding and determine whether the harvesting nation continues to meet the requirements. A nation may provide information related to compliance with IDCP and IATTC measures directly to NMFS on an annual basis or may authorize the IATTC to release the information to NMFS to annually renew an affirmative finding determination without an application from the harvesting nation.

An affirmative finding will be terminated, in consultation with the Secretary of State, if the Assistant Administrator determines that the requirements of 50 CFR 216.24(f) are no longer being met or that a nation is consistently failing to take enforcement actions on violations, thereby diminishing the effectiveness of the IDCP.

As a part of the affirmative finding process set forth in 50 CFR 216.24(f), the Assistant Administrator considered documentary evidence submitted by the Government of Mexico or obtained from the IATTC and the Department of State and determined that Mexico has met the MMPA's requirements to receive an affirmative finding.

After consultation with the Department of State, the Assistant Administrator issued the Government of Mexico's affirmative finding allowing the continued importation into the United States of yellowfin tuna and products derived from yellowfin tuna harvested in the ETP by Mexican-flag purse seine vessels or purse seine vessels operating under Mexican jurisdiction. The affirmative finding will remain valid through March 31, 2010, subject to subsequent annual reviews by NMFS.

Dated: June 10, 2005.

William T. Hogarth

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 05–12022 Filed 6–16–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

Marine Protected Areas Center New England Region Public Dialogue Meeting

AGENCY: National Ocean Service, NOAA, Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: Notice is hereby given of a public meeting concerning the development of a national system of marine protected areas (MPAs) pursuant to Executive Order 13158 (May 26, 2000). The Gulf of Mexico Region Public Dialogue will be held July 18, 2005, 6:30–9 p.m. in New Orleans, Louisiana. This is the third in a series of regional dialogues to be held around the United States to solicit input from the public concerning their views on a national system of MPAs. Additional meetings will be announced and scheduled pending available resources. Refer to the Web page listed below for background information concerning the development of the national system of MPAs. Meeting room capacity is limited to 75 people, and as such interested participants are required to RSVP via the e-mail address (preferable), fax number, or phone number listed below, by no later than 5 p.m. e.d.t. on July 8, 2005. Attendance will be available to the first 75 people who respond.

Those who wish to attend but cannot due to space or schedule limitations can find background materials at the Web page listed below and may submit written statements to the e-mail, fax, or mailing address below. A written summary of the meeting will be posted on the Web site within one month of its occurrence.

DATES: The meeting will be held Monday, July 18, 2005 from 6:30 p.m. to 9 p.m. e.d.t.

ADDRESSES: The meeting will be held at the New Orleans Marriott, 555 Canal Street, New Orleans, Louisiana 70130.

FOR FURTHER INFORMATION CONTACT: Jonathan Kelsey, National System Development Coordinator, National Marine Protected Areas Center, 1305 East-West Highway, Silver Spring, Maryland 20910. (Phone: (301)– 713–3155 ext. 230, Fax: (301) –713–3110); e-mail: *mpa.comments@noaa.gov*; or visit the National MPA Center Web site at *http://mpa.gov/national_system/*).

SUPPLEMENTARY INFORMATION: These forums are intended to solicit the public's views regarding the development of a national system of MPAs. All input received via these

dialogues, e-mail, or fax will be for the public record and considered in developing a draft proposal for a national system of MPAs. At this preliminary stage in the effort to develop the national system, NOAA does not intend to respond to any comments received via these dialogues, e-mail, fax, or mail. Once a draft proposal is developed for the national system of MPAs, NOAA will publish it in the **Federal Register** for formal public comment and will subsequently provide a formal response to comments received.

Matters To Be Considered: Executive Order 13158 (May 26, 2000) calls for the development of a national system of MPAs. These forums are intended to solicit the public's views concerning the development of a national system of MPAs. Refer to the web page listed above for background information concerning these dialogues and the development of the national system of MPAs.

Dated: June 9, 2005.

Eldon Hout,

Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 05–11936 Filed 6–16–05; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 040227075–5140–02; I.D. 060205A]

National Marine Fisheries Service National Gravel Extraction Guidance

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

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of NMFS' final National Gravel Extraction Guidance (Gravel Guidance). In March 2004, NMFS released the draft Gravel Guidance for public comment. Nine comment letters were received from industry groups, state agencies, and unaffiliated citizens. Final revisions to the Gravel Guidance included consideration of these public comments.

ADDRESSES: The final NMFS National Gravel Extraction Guidance may be obtained on the Internet at *http://www.nmfs.noaa.gov/habitat/* or by sending a request to 1315 East West Highway, Room 14200, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Katie McGlynn at 301–713–4300.

SUPPLEMENTARY INFORMATION: The purpose of the Gravel Guidance is to provide updated information to NMFS staff participating in consultation activities where proposed gravel mining operations in or near rivers and streams may affect anadromous fish under NMFS jurisdiction and their habitats. The final Gravel Guidance is a revision and replacement of the 1996 National Gravel Extraction Policy. Changes to the 1996 Policy, based on input from NMFS staff, interagency, industry, and public comments, include: (1) updating references, information, and recommendations to reflect the current state of the science; (2) broadening the geographic scope of the guidance to apply to all NMFS regions, rather than just those on the west coast; and (3) revising the document from a NMFS policy document to internal guidance for NMFS staff.

NOAA Fisheries is responsible for protecting, managing and conserving marine, estuarine, and anadromous fish resources and their habitats. The watersheds of the United States where sand and gravel mining takes place provide essential spawning and rearing habitat for anadromous fish including salmon, shad, sturgeon, and striped bass. A national guidance document on gravel extraction will assist NMFS staff in determining whether proposed gravel extraction operations will be conducted in a manner that is consistent with Federal law, and that eliminates or minimizes any adverse impacts to anadromous fish and their habitats.

The recommendations incorporated into the guidance document are suggestions, and are not intended to be binding in any way. The Gravel Guidance does not specify the measures, if any, that would need to be implemented by parties engaged in gravel extraction activities in any given case to comply with applicable statutory requirements. In formulating its recommendations or prescriptions, NMFS will determine the acceptable means of demonstrating compliance with statutory requirements based on information available to the agency, as appropriate under the circumstances presented. As such, the language of the guidance document should not be read to establish any binding requirements on agency staff or the regulated community. Nor should the recommendations be regarded as static or inflexible. The recommendations are meant to be revised as the science upon which they are based improves and areas of uncertainty are resolved. The recommendations are also meant to be adapted for regional or local use, so a degree of flexibility in their interpretation and application is necessary.

The notice of availability of the draft National Gravel Extraction Guidelines was published in the **Federal Register** on March 18, 2004 (69 FR 12837).

Dated: June 10, 2005.

Rebecca Lent

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

[FR Doc. 05–12021 Filed 6–16–05; 8:45 am]

BILLING CODE 3510–22–S

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings Notice

TIME AND DATE: 11 a.m., Friday, July 1, 2005.

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

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 05–12050 Filed 6–15–05; 11:12 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings Notice

TIME AND DATE: 11 a.m., Friday, July 8, 2005.

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

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 05–12051 Filed 6–15–05; 11:12 am]

BILLING CODE 6351–01–M

DEPARTMENT OF COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

Sunshine Act Meetings

TIME AND DATE: 11:00 a.m., Friday, July 15, 2005.

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

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 05–12052 Filed 6–15–05; 11:12 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

Sunshine Act Meetings

TIME AND DATE: 11 a.m., Friday, July 22, 2005.

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

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 05–12053 Filed 6–15–05; 11:12 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings Notice

TIME AND DATE: 11 a.m., Friday, July 29, 2005.

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

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 05–12054 Filed 6–15–05; 8:45 am]

BILLING CODE 6351–01–M

DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

Notice of the Defense Base Closure and Realignment Commission—Change to the Agenda and Time of a Previously Announced Open Meeting (Rapid City, SD); Correction

AGENCY: Defense Base Closure and Realignment Commission.

ACTION: Notice of the Defense Base Closure and Realignment Commission—change to the agenda and time of a previously announced open meeting (Rapid City, SD); correction.

SUMMARY: The Defense Base Closure and Realignment Commission published a document in the **Federal Register** of June 7, 2005, concerning an open meeting to receive comments from Federal, state and local government representatives and the general public on base realignment and closure actions in South Dakota that have been recommended by the Department of Defense (DoD). The agenda for this meeting has changed.

The delay of this change notice resulted from recent requests from representatives of communities in Wyoming to accommodate delegations from those communities and the short time-frame established by statute for the operations of the Defense Base Closure and Realignment Commission. The Commission requests that the public consult the 2005 Defense Base Closure and Realignment Commission Web site, *http://www.brac.gov,* for updates.

FOR FURTHER INFORMATION CONTACT: Please see the 2005 Defense Base Closure and Realignment Commission Web site, *http://www.brac.gov.* The Commission invites the public to provide direct comment by sending an electronic message through the portal provided on the Commission's Web site or by mailing comments and supporting documents to the 2005 Defense Base Closure and Realignment Commission, 2521 South Clark Street Suite 600, Arlington, Virginia 22202–3920. The Commission requests that public comments be directed toward matters bearing on the decision criteria described in *The Defense Base Closure and Realignment Act of 1990*, as amended, available on the Commission Web site. Sections 2912 through 2914 of that Act describe the criteria and many of the essential elements of the 2005 BRAC process. For questions regarding this announcement, contact Mr. Dan Cowhig, Deputy General Counsel and Designated Federal Officer, at the Commission's mailing address or by telephone at 703–699–2950 or 2708.

Correction

In the **Federal Register** of June 7, 2005, in FR Doc. 05–11238, on page 33128 and 33129, in the third and first columns, respectively, correct the **SUMMARY** caption to read:

SUMMARY: A delegation of Commissioners of the Defense Base Closure and Realignment Commission will meet on June 21, 2005 from 1 p.m. to 4 p.m. at the Rushmore Plaza Civic Center, 444 Mount Rushmore Road North, Rapid City, South Dakota 57701 to receive comment from Federal, state and local government representatives and the general public on base realignment and closure actions in South Dakota and Wyoming that have been recommended by the Department of Defense (DoD).

The purpose of this regional meeting is to allow communities experiencing a base closure or major realignment action (defined as loss of 300 civilian positions or 400 military and civilian positions) an opportunity to voice their concerns, counter-arguments, and opinions in a live public forum. This meeting will be open to the public, subject to the availability of space. The delegation will not render decisions regarding the DoD recommendations at this meeting, but will gather information for later deliberations by the Commission as a whole.

Dated: June 14, 2005.

Jeannette Owings-Ballard,

Administrative Support Officer.

[FR Doc. 05–12074 Filed 6–15–05; 11:53 am]

BILLING CODE 5001–06–P

DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

Notice of the Defense Base Closure and Realignment Commission—Announcement of the Location of a Previously Announced Open Meeting (St. Louis, MO); Correction

AGENCY: Defense Base Closure and Realignment Commission.

ACTION: Notice of the Defense Base Closure and Realignment Commission—announcement of location of a previously announced open meeting (St. Louis, MO); correction.

SUMMARY: The Defense Base Closure and Realignment Commission published a document in the **Federal Register** of June 13, 2005, concerning an open meeting to receive comments from Federal, state and local government

representatives and the general public on base realignment and closure actions in Kentucky, Illinois, Indiana, Iowa, Michigan, Missouri and Wisconsin that have been recommended by the Department of Defense (DoD). The location of this meeting, which was previously undetermined, has now been determined.

The delay of this change notice resulted from the need to acquire a new venue following the recent rescheduling of this open meeting and the short time-frame established by statute for the operations of the Defense Base Closure and Realignment Commission. The Commission requests that the public consult the 2005 Defense Base Closure and Realignment Commission Web site, *http://www/brac.gov, for updates.*

FOR FURTHER INFORMATION CONTACT: Please see the 2005 Defense Base Closure and Realignment Commission Web site, *http://www.brac.gov.* The Commission invites the public to provide direct comment by sending an electronic message through the portal provided on the Commission's website or by mailing comments and supporting documents to the 2005 Defense Base Closure and Realignment Commission, 2521 South Clark Street Suite 600, Arlington, Virginia 22202–3920. The Commission requests that public comments be directed toward matters bearing on the decision criteria described in *The Defense Base Closure and Realignment Act of 1990*, as amended, available on the Commission Web site. Sections 2912 through 2914 of that Act describe the criteria and many of the essential elements of the 2005 BRAC process. For questions regarding this announcement, contact Mr. Dan Cowhig, Deputy General Counsel and Designated Federal Officer, at the Commission's mailing address or by telephone at 703–699–2950 or 2708.

Correction

In the **Federal Register** of June 13, 2005, in FR Doc. 05–11626, on page 34093, in the first and second columns, correct the **SUMMARY** caption to read:

SUMMARY: A delegation of Commissioners of the Defense Base Closure and Realignment Commission will meet on June 20, 2005 from 8:30 a.m. to 6 p.m. at the St. Louis University Busch Student Center Multipurpose Room, 20 North Grand Boulevard, St. Louis Missouri 63103 to receive comment from Federal, state and local government representatives and the general public on base realignment and closure actions in Kentucky, Illinois, Indiana, Iowa, Michigan, Missouri and Wisconsin that have been recommended by the Department of Defense (DoD). The purpose of this regional meeting is to allow communities in the listed states experiencing a base closure or major realignment action (defined as loss of 300 civilian positions or 400 military and civilian positions) an opportunity to voice their concerns, counter-arguments, and opinions in a live public forum. This meeting will be open to the public, subject to the availability of space. Sign language interpretation will be provided. The delegation will not render decisions regarding the DoD recommendations at this meeting, but will gather information for later deliberations by the Commission as a whole.

Dated: June 14, 2005.

Jeannette Owings-Ballard,

Administrative Support Officer.

[FR Doc. 05–12075 Filed 6–15–05; 11:53 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of Navy

Notice of Availability of Government-Owned Inventions; Available for Licensing

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy and are available for licensing by the Department of the Navy. U.S Patent Number 6,233,740 entitled ''Aircrew Integrated Recovery Survival Vest'', Navy Case Number 79737, Inventors Meyers et al., Issue date May 22, 2001/U.S. Patent Number 6,485,142 entitled ''Artificial Human Eye and Test Apparatus'', Navy Case Number 75094, Inventors Sheehy et al., Issued date November 26, 2002/ U.S. Patent Number 6,598,802 entitled ''Effervescent Liquid Fine Mist Apparatus and Method'', Navy Case Number 83122, Inventor Wolfe, Issue date July 29, 2003/ U.S. Patent Number 6,240,742 entitled ''Modular Portable Air Conditioning System'', Navy Case Number 79780, Inventor Kaufman, Issue date June 05, 2001/ U.S. Patent Number 6,241,164 entitled ''Effervescent Liquid Fine Mist Apparatus and Method'', Navy Case Number 82406, Inventor Wolfe, Issue date June 05, 2001/ U.S. Patent Number 6,669,764 entitled ''Pretreatment for Aluminum and Aluminum Alloys'', Navy Case 84378, Inventors Matzdorf et al., Issue date December 30, 2003/ U.S. Patent Number 6,663,700 entitled ''Post-treatment for Metal Coated Substrates'', Navy Case Number 84379, Inventors Matzdorf et al., Issue date December 16, 2003/ Navy Case Number 95892 entitled ''Improved Corrosion Resistant Seal for Phosphoric Acid Anodize Coatings on Aluminum and its Alloys'', Inventors Matzdorf et al., Dated September 20, 2003/ Navy Case Number 96346 entitled ''Trivalent Chromium Conversion Coatings for Ferrous Alloys'', Inventors Matzdorf et al., Dated April 15, 2004/ Navy Case Number 96347 entitled ''Trivalent Chromium Conversion Coatings for Magnesium Alloys'', Inventor Matzdorf et al., Date April 15, 2004/ Navy Case Number 96343 entitled ''Trivalent Chromium/Zirconium Coatings for use on Metal Substrates, Masking Agents, Buffers, Solution Stabilizers, Inventors Matzdorf et al., Dated April 15, 2004/ Navy Case Number 97039 entitled ''High-Performance, Thin-Film Protective Coatings for Aluminum'', Inventors Matzdorf et al., Dated December 14, 2004.

ADDRESSES: Request for data, samples, and inventor interviews should be directed to Mr. David Weston, 406–994–7477, *dweston@montana.edu*, or Mr. Dan Swanson, 406–994–7736, *dds@montana.edu*, TechLink, 900 Technology Blvd, Suite A, Bozeman, MT 59718. TechLink is an authorized DOD Partnership Intermediary.

DATES: Request for data, samples, and inventor interviews should be made prior to 1 July 2005.

FOR FURTHER INFORMATION CONTACT: Mr. Hans Kohler, Office of Research and Technology Applications, Building 150/2, Naval Air Warfare Center Aircraft Div, Lakehurst, NJ 08733–5060, 732–323–2948, *Hans.Kohler@navy.mil* or Mr. Paul Fritz, Office of Research and Technology Applications, Building 304, Room 107, Naval Air Warfare Center Aircraft Div, 22541 Millstone Rd, Patuxent River, MD 20670, 301–342–5586, *Paul.Fritz@navy.mil*.

SUPPLEMENTARY INFORMATION: The U.S. Navy intends to move expeditiously to license these inventions. Licensing application packages are available from TechLink and all applications and commercialization plans must be returned to TechLink by 15 August 2005. TechLink will turn over all complete applications to the U.S. Navy for evaluation, final negotiations, and award during the month of September 2005.

The U.S. Navy, in its decisions concerning the granting of licenses, will give special consideration to existing licensee's, small business firms, and consortia involving small business firms. The U.S. Navy intends to ensure that its licensed inventions are broadly commercialized throughout the United States.

PCT applications may be filed for each of the patents as noted above. The U.S. Navy intends that licensees interested in a license in territories

outside of the United States will assume foreign prosecution and pay the cost of such prosecution.

Authority: (35 U.S.C. 207, 37 CFR Part 404.)

Dated: June 8, 2005.

I. C. Le Moyne Jr.,

Lieutenant, Judge Advocate General's Corps, U. S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 05–11932 Filed 6–16–05; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records—Evaluation of the Impact of Teacher Induction Programs

AGENCY: Institute of Education Sciences, Department of Education.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (Privacy Act), the Department of Education (Department) publishes this notice of a new system of records entitled Evaluation of the Impact of Teacher Induction Programs (18–13–11). Mathematica Policy Research, Inc., in collaboration with the Center for Educational Leadership, is conducting the Evaluation of the Impact of Teacher Induction Programs. The evaluation has been commissioned by the National Center for Education Evaluation and Regional Assistance at the Department's Institute of Education Sciences (IES).

The study will address the following questions:

(1) Do elementary school teachers who participate in a high-intensity program of induction have increased retention rates as compared to teachers who participate in the induction program that the school district normally offers?

(2) If the high-intensity program of induction support is more effective in retaining elementary school teachers, is the increase in teacher retention large enough to warrant the added cost of the program?

(3) For teachers who participate in the high-intensity program or the induction program that the school district normally offers, what are the characteristics of those who are retained versus those who leave the school, district, or profession?

(4) Does participation in a high-intensity induction program affect teacher practices, as compared to the practices of teachers who participate in the induction program that the district normally offers?

(5) Does participation in a high-intensity induction program result in increased student achievement?

The system of records will contain information about teachers participating in the evaluation. It will include, but is not limited to the following data: Names; social security numbers; home addresses; home phone numbers; cell phone numbers; e-mail addresses; race/ethnicity; age; income; marital status; household composition; home ownership; educational background and credentials; and ACT or SAT college examination scores.

DATES: The Department seeks comment on the new system of records described in this notice, in accordance with the requirements of the Privacy Act. We must receive your comments on the proposed routine uses for the system of records referenced in this notice on or before July 18, 2005. The Department filed a report describing the new system of records covered by this notice with the Chair of the Senate Committee on Homeland Security and Governmental Affairs, the Chair of the House Committee on Government Reform, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on June 14, 2005. This system of records will become effective at the later date of— (1) the expiration of the 40 day period for OMB review on July 25, 2005 or (2) July 18, 2005, unless the system of records needs to be changed as a result of public comment or OMB review.

ADDRESSES: Address all comments about the proposed routine uses to Dr. Ricky Takai, Associate Commissioner, Evaluation Division, National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences, U.S. Department of Education, 555 New Jersey Avenue, NW., Room 500, Washington, DC 20208–0001. Telephone: (202) 208–7083. If you prefer to send comments through the Internet, use the following address: *comments@ed.gov.*

You must include the term ''Teacher Induction'' in the subject line of the electronic message.

During and after the comment period, you may inspect all comments about this notice in room 500, 555 New Jersey Avenue, NW., Washington, DC, between the hours of 8 a.m. and 4:30 p.m., eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Dr. Ricky Takai. Telephone: (202) 208–7083. If you use a telecommunications devise for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed under this section.

SUPPLEMENTARY INFORMATION:

Introduction

The Privacy Act (5 U.S.C. 552a) requires the Department to publish in the **Federal Register** this notice of a new system of records maintained by the Department. The Department's regulations implementing the Privacy Act are contained in part 5b of title 34 of the Code of Federal Regulations (CFR).

The Privacy Act applies to information about individuals that contain individually identifiable information that are retrieved by a unique identifier associated with each individual, such as a name or social security number. The information about each individual is called a ''record,'' and the system, whether manual or computer-based, is called a ''system of records.'' The Privacy Act requires each agency to publish notices of systems of records in the **Federal Register** and to prepare reports to OMB whenever the agency publishes a new system of records. Each agency is also required to send copies of the report to the Chair of the Senate Committee on Homeland Security and Governmental Affairs and the Chair of the House Committee on Government Reform. These reports are intended to permit an evaluation of the probable or potential effect of the proposal on the privacy rights of individuals.

Electronic Access to This Document

You may view this document, as well as all other documents of this Department published in the **Federal**

Register, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498, or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the CFR is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: June 14, 2005.

Grover Whitehurst,

Director, Institute of Education Sciences.

For the reasons discussed in the preamble, the Director of the Institute of Education Sciences, U.S. Department of Education, publishes a notice of a new system of records to read as follows:

18–13–11

SYSTEM NAME:

Evaluation of the Impact of Teacher Induction Programs.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

(1) Evaluation Division, National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences, U.S. Department of Education, 555 New Jersey Avenue, NW., Room 500, Washington, DC 20208–0001.

(2) Mathematica Policy Research, Inc., 600 Alexander Park, Princeton, NJ 08540.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on teachers participating in the Evaluation of the Impact of Teacher Induction Programs. The goal of this evaluation is to evaluate the impact of a high intensity model of teacher induction on novice elementary school teachers' retention rates and classroom performance. Twenty high-poverty school districts will participate in the evaluation. Selected districts will be those that do not already offer a high intensity induction program and that agree to assign 20 elementary schools within the district by lottery to either the high intensity model of teacher induction or the teacher induction program that the district normally provides. Teachers' participation in the evaluation will be voluntary.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a baseline teacher survey (which will cover the teacher's professional credentials, the teacher's perceptions of the teaching profession, and the teacher's personal background characteristics, many of which may affect retention), the teacher's college SAT or ACT examination results, a classroom observation protocol, a teacher induction activities survey (which will ask questions about the kinds of induction activities in which the novice teacher participated, as well as the intensity and duration of those activities), a teacher retention survey (items will include the teacher's place of employment, pursuit of continuing education, the timing of any change in the teacher's employment, the teacher's job satisfaction, and, if applicable, the reasons that the teacher left an original school or the teaching profession), and aggregated student test score data which will be linked to the teacher.

Information on study participants in this system will include, but not be limited to the following data: Names; home addresses; home phone numbers; cell phone numbers; e-mail addresses; social security numbers; race/ethnicity; age; income; marital status; household composition; home ownership; educational background and credentials; and ACT or SAT college examination results.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The evaluation being conducted is authorized under: (1) sections 171(b) and 173 of the Education Sciences Reform Act of 2002 (ESRA) (20 U.S.C. 9561(b) and 9563); and (2) section 9601 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLB) (20 U.S.C. 7941). The authority for the underlying teacher induction programs, the impact of which the Department of Education (Department) is evaluating, is sections 2121 through 2123 of the ESEA, as amended by NCLB (20 U.S.C. 6621–6623).

PURPOSE(S):

The information in this system is used for the following purposes: (1) To fulfill the requirements of the ESEA, as amended by the NCLB, for evaluation and research of teacher quality; and (2) to provide information on the effectiveness of teacher induction programs in increasing teacher retention and improving teacher performance.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement. Any disclosure of individually identifiable information from a record in this system must also comply with the requirements of section 183 of the ESRA (20 U.S.C. 9573) providing for confidentiality standards that apply to all collections, reporting and publication of data by IES.

(1) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(2) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

(3) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the U.S. Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable to this system notice.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The Department maintains records on CD–ROM and the contractor maintains data for this system on computers and in hard copy.

RETRIEVABILITY:

Records in this system are indexed by a number assigned to each individual that is cross referenced by the individual's name on a separate list.

SAFEGUARDS:

All physical access to the Department's site and to the site of the Department's contractor, where this system of records is maintained, is controlled and monitored by security personnel. The computer system employed by the Department offers a high degree of resistance to tampering and circumvention. This security system limits data access to Department and contract staff on a ''need to know'' basis, and controls individual users' ability to access and alter records within the system.

The contractor, Mathematica Policy Research, Inc. (MPR), has established a set of procedures to ensure confidentiality of data. The system ensures that information identifying individuals is in files physically separated from other research data. MPR will maintain security of the complete set of all master data files and documentation. Access to individually identifiable data will be strictly controlled. All data will be kept in locked file cabinets during nonworking hours, and work on hardcopy data will take place in a single room, except for data entry. Physical security of electronic data will also be maintained. Security features that protect project data include password-protected accounts that authorize users to use the MPR system but to access only specific network directories and network software; user rights and directory and file attributes that limit those who can use particular directories and files and determine how they can use them; e-mail passwords that authorize the user to access mail services; and additional security features that the network administrator establishes for projects as needed. MPR shall comply with the requirements of the confidentiality standards in section 183 of the ESRA (20 U.S.C. 9573).

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with the Department's Records Disposition Schedules (ED/RDS). In particular, the Department will follow the schedules outlined in Part 3 (Research Projects and Management Study Records) and Part 14 (Electronic Records) of ED/RDS.

SYSTEM MANAGER AND ADDRESS:

Associate Commissioner, Evaluation Division, National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences, U.S. Department of Education, 555 New Jersey Avenue, NW., Room 500, Washington, DC 20208–0001.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, contact the systems manager. Your request must meet the requirements of regulations in 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURE:

If you wish to gain access to your record in the system of records, contact the system manager. Your request must meet the requirements of regulations in 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURE:

If you wish to contest the content of a record regarding you in the system of records, contact the system manager. Your request must meet the requirements of regulations in 34 CFR 5b.7, including proof of identity.

RECORD SOURCE CATEGORIES:

Information is obtained from surveys of teachers from schools participating in the Evaluation of the Impact of Teacher Induction Programs study. Information is also obtained from the teacher's college entrance exams, pursuant to the teacher's written consent, the workshop observation protocol, and the classroom observation protocol. Additionally, the study involves the collection of data from student records aggregated by classrooms and the collection of program documents, such as training agenda and materials, curriculum guides, and assessment tools, that will be supplied by two high-intensity induction program providers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 05–12019 Filed 6–16–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP05–364–000]

ANR Pipeline Company; Notice of Application

June 10, 2005.

Take notice that on May 31, 2005, ANR Pipeline Company (ANR), 1001 Louisiana Street, Houston, Texas, 77002 filed an application in Docket No. CP05–364–000 pursuant to section 7(c) of the Natural Gas Act (NGA) and part 157 of the Commission's regulations, for authorization to construct the Wisconsin 2006 Expansion Project. ANR requests authorization to construct, install, and operate the proposed facilities which include a 3.78-mile extension of the Madison Lateral Loop in Rock County; 3.08 miles new pipeline looping on the Little Chute Lateral in Outagamie County; a new 20,620 horsepower compressor station in Marinette County; a new 2,370 HP compressor unit at the Janesville Compressor Station in Rock County; and upgrades to five existing meter stations in various counties in Wisconsin. Construction of the project is intended to provide 168,241 Dth/d of new incremental capacity to meet increased demand for firm transportation services from local distribution companies and other customers in the state of Wisconsin, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502–8659 or TTY, (202) 208–3676.

Any questions concerning this application should be directed to Senior Counsel, Jay Allen, ANR Pipeline Company, 1001 Louisiana Street, Houston, Texas, at (713) 420–5589 or fax (713) 420–1601 or *j.allan@elpaso.com*.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). ANR

also states that a person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. Unless filing electronically, a party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding.

Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: July 1, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3100 Filed 6–16–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Draft General Conformity Determination; Golden Pass LNG Terminal and Pipeline Project; Jefferson, Newton, and Orange Counties, TX, and Calcacieu Parish, LA

June 10, 2005.

In Reply Refer to: OEP/DG2E/Gas Branch 2, Golden Pass LNG Terminal LP, Docket No. CP04–386–000, Golden Pass Pipeline LP, Docket Nos. CP04–400–000, CP04–401–000, and CP04–402–000.

To the Party Addressed

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a draft General Conformity Determination to assess the potential air quality impacts associated with the construction and operation of a liquefied natural gas (LNG) import terminal and natural gas pipeline proposed by Golden Pass LNG Terminal LP and Golden Pass Pipeline LP, referred to as the Golden Pass LNG Terminal and Pipeline Project, in the above referenced dockets.

This Draft General Conformity Determination was prepared to satisfy the requirements of the Clean Air Act.

Comment Procedures

Any person wishing to comment on the Draft General Conformity Determination may do so. To ensure consideration of your comments in the Final General Conformity Determination, it is important that we receive your comments before the date specified below. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your comments to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426.
- Reference Docket Nos. CP04–386–000 and CP04–400–000 *et al.*;
- Label one copy of the comments for the attention of Gas Branch 2, PJ11.2; and
- Mail your comments so that they will be received in Washington, DC on or before July 12, 2005.

Please note that we are continuing to experience delays in mail deliveries from the U.S. Postal Service. As a result, we will include all comments that we receive within a reasonable time frame in our environmental analysis of this Project. However, the Commission strongly encourages electronic filing of any comments or interventions to this proceeding. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can file comments you will need to create a free account, which can be created by clicking on ''Login to File'' and then ''New User Account.''

After all comments are reviewed, the staff will publish and distribute a Final General Conformity Determination for the Project.

Magalie R. Salas,

Secretary.

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1 September 24, 2004, Conditional Conformity Certification From the Texas Council of Environmental Quality

Introduction to Proposed Action

On July 29, 2004, Golden Pass LNG Terminal LP filed an application with the Federal Energy Regulatory Commission (FERC or Commission) in Docket No. CP04–386–000 for authorization under Section 3(a) of the Natural Gas Act (NGA) to site, construct, and operate a liquefied natural gas (LNG) terminal on the Port Arthur Channel of the Sabine-Neches Waterway (SNWW) in Jefferson County, Texas. In related applications filed on August 20, 2004, Golden Pass Pipeline LP seeks a Certificate of Public Convenience and Necessity (Certificate) to site, construct, and operate a new natural gas pipeline system and ancillary facilities to connect the LNG terminal to existing intrastate and interstate gas transmission facilities in Texas and Louisiana (Docket No. CP04–400–000); a blanket certificate to perform routine activities in connection with the future construction, operation, and maintenance of the proposed natural gas pipelines (Docket No. CP04–401–000); and authority to provide open-access

transportation of natural gas to others (Docket No. CP04–402–000). Golden Pass LNG Terminal LP and Golden Pass Pipeline LP hereafter are referred to collectively as Golden Pass.

Golden Pass' proposed facilities would import, store, and vaporize an average of approximately 2 billion cubic feet per day (Bcfd) of natural gas (with a peak capacity of 2.7 Bcfd) for delivery into the existing intrastate and interstate pipeline systems. The LNG import terminal would be constructed in two phases, each lasting approximately 48 months. Phase 2 construction would begin approximately 12 months after the start of Phase 1 construction and would increase the average capacity from 1.0 to 2.0 Bcfd. The import terminal would be designed to accept LNG cargoes, temporarily store and vaporize LNG, and would contain the following facilities:

- A protected LNG unloading slip, LNG ship and support vessel maneuvering area that would be capable of receiving up to 200 LNG ships per year;
- Ship unloading facilities consisting of two berths, each capable of accommodating LNG ships ranging from 125,000 cubic meters (m^3) to 250,000 m^3, and associated facilities (the first berth would be constructed during Phase 1 and the second during Phase 2);
- A total of five full-containment LNG storage tanks each with a working capacity of 155,000 m^3 (three tanks would be constructed during Phase 1 and two during Phase 2);
- A total of ten shell-and-tube heat transfer fluid (HTF) LNG heat exchangers to vaporize the LNG (five exchangers would be installed during Phase 1 and five during Phase 2); and
- Associated support facilities, including administrative buildings, storage and maintenance areas, electric power systems, access roads, and other facilities related to the LNG import terminal.

Golden Pass also proposes to construct a pipeline system, capable of transporting up to 2.5 Bcfd of natural gas and consisting of three pipelines and associated pipeline support facilities, including pig launchers and receivers, and meter stations. The pipeline system would be installed in overlapping phases across three counties in Texas and one parish in Louisiana, and would consist of the:

- Mainline—A 77.8-mile-long, 36-inch-diameter pipeline extending from the LNG import terminal in Jefferson County through Orange, and Newton Counties, Texas (66.5 miles) and Calcacieu Parish, Louisiana (11.3 miles) to an interconnection with an existing Transcontinental Gas Pipe Line Corporation (Transco) interstate pipeline near Starks, Louisiana (to be installed over an estimated 14-month period);
- Loop—A 42.8-mile-long, 36-inch-diameter pipeline that would be installed adjacent to (*e.g.*,) loop [1] the Mainline and would extend from the LNG import terminal in Jefferson County to an interconnection with the existing American Electric Power (AEP) intrastate Texoma Pipeline in Orange County, Texas (to be installed over an estimated 9-month period beginning with and concurrently with the Mainline);
- Beaumont Lateral—A 1.8-mile-long, 24-inch-diameter pipeline extending from the Mainline in Jefferson County, Texas to industrial customers in Beaumont-Port Arthur, including the Exxon Mobil Corporation (ExxonMobil) Beaumont Refinery Complex (to be installed over an estimated 1-month period after installation of the Loop is complete);
- Meter stations and interconnection facilities to interconnect with up to 11 existing intrastate and interstate pipelines; [2] and
- Associated pipeline facilities, including pig launchers and receivers, and block valves.

All of these facilities are referred to as the Golden Pass LNG Terminal and Pipeline Project. The LNG terminal facilities (or Project) would be located in Jefferson County, Texas, in the Beaumont-Port Arthur area, which is currently designated nonattainment for the l-hour ozone standard. Therefore, oxides of nitrogen (NO_X) and volatile organic compounds (VOCs) are regulated as nonattainment pollutants for this project and may trigger the general conformity requirements established by the U.S. Environmental Protection Agency (EPA).

Regulatory Background—General Conformity

The EPA promulgated the General Conformity Rule on November 30, 1993 in Volume 58 of the **Federal Register** (FR) Page 63214 (58 FR 63214) to implement the conformity provision of title I, section 176(c)(1) of the Federal Clean Air Act (CAA). Section 176(c)(1) requires that the Federal Government not engage, support, or provide financial assistance for licensing or permitting, or approving any activity not conforming to an approved CAA implementation plan The applicable plan for this Project is the Beaumont-Port Arthur ozone attainment State Implementation Plan (SIP).

The General Conformity Rule is codified in Title 40 of the Code of Federal Regulations (CFR) part 51, subpart W, ''Determining Conformity of General Federal Actions to State or Federal Implementation Plans'' and the conformity analysis criteria are specified in 40 CFR part 93. General conformity provisions are also incorporated in Texas regulations at 30 TAC § 114.260. The General Conformity Rule applies to all Federal actions except programs and projects requiring funding or approval from the U.S. Department of Transportation (DOT), the Federal Highway Administration, the Federal Transit Administration, or the Metropolitan Planning Organization. In lieu of a conformity analysis, these latter types of programs and projects must comply with the Transportation Conformity Rule promulgated originally by the EPA on November 24, 1993 (58 FR 62188) and revised several times thereafter, most recently on July 1, 2004.

Title 1, Section 176(c)(1), of the CAA defines conformity as the upholding of ''an implementation plan's purpose of eliminating or reducing the severity and number of violations of the National Ambient Air Quality Standards (NAAQS) and achieving attainment of such standards.'' Conforming activities or actions should not, through additional air pollutant emissions:

- Cause or contribute to new violations of any NAAQS in any area;
- Increase the frequency or severity of any existing violation of any NAAQS; or
- Delay timely attainment of any NAAQS or interim emission reductions.

The General Conformity Rule establishes conformity in coordination with and as part of the National Environmental Policy Act process. The rule takes into account air pollution emissions associated with actions that are federally funded, licensed, permitted, or approved, and ensures emissions do not contribute to air quality degradation, thus preventing the achievement of State and Federal air quality goals. In short, General Conformity refers to the process of evaluating plans, programs, and projects to determine and demonstrate that they meet the requirements of the CAA and the SIP. The purpose of this General Conformity requirement is to ensure that Federal agencies consult with State and local air quality districts so that these regulatory entities know about the expected impacts of the Federal action

[1] A loop is a segment of pipeline that isusually installed adjacent to an existing pipeline and connected to it at both ends).

[2] Currently, there are no formal agreements in place for interconnects between the Golden Pass pipeline system and other existing pipelines.

and can include expected emissions in their SIP emissions budget.

Pursuant to the General Conformity Rule, a Federal agency must make a General Conformity Determination for all Federal actions in nonattainment or maintenance areas where the total of direct and indirect emissions of a nonattainment pollutant or its precursors exceeds levels established by the regulations.

The Beaumont-Port Arthur area currently does not have an approved ozone SIP. On March 30, 2004, EPA published a final rule in the **Federal Register** withdrawing its approval of the Beaumont-Port Arthur attainment demonstration and the associated 2007 attainment date, and finding that the Beaumont-Port Arthur area had failed to come into attainment by applicable deadlines. The Beaumont-Port Arthur area was reclassified as a serious one-hour nonattainment area for ozone effective April 29, 2004 with an attainment deadline of November 15, 2005. Even though the Beaumont-Port Arthur area does not currently have an approved ozone SIP, a General Conformity Determination is still needed to ensure that the Project would not interfere with efforts to achieve attainment of the NAAQS.

This draft General Conformity Determination has been prepared pursuant to the CAA section 176(c)(1) to assess whether the emissions that would result from the FERC's action in authorizing the Golden Pass LNG Project would be in conformity with the Beaumont-Port Arthur SIP for ozone. The FERC has worked with Golden Pass to quantify and present the emissions associated with the Project described herein. Should the FERC act favorably on Golden Pass' application, any final authorization for construction would be withheld by the FERC until any appropriate mitigation measures required to ensure the Project's conformity with the SIP are finalized and agreed to by Texas Council on Environmental Quality (TXCEQ) and Golden Pass.

General Conformity Applicability

The General Conformity Rule applies to all nonattainment and maintenance areas. The LNG terminal would be located in the Beaumont-Port Arthur Ozone Nonattainment Area, which has been designated as a serious ozone nonattainment area with respect to the 1-hour NAAQS for ozone. The Project area is in attainment with NAAQS for all other criteria pollutants.

A General Conformity Determination in a serious ozone nonattainment area is required for any project that would result in combined direct and indirect emissions of either NO_X or VOCs equal to or greater than 50 tons per year (tpy). A General Conformity Determination is not required for actions where the total of direct and indirect emissions is below these emissions levels. In addition, even if the total of direct and indirect emissions of NO_X or VOCs is below 50 tpy, when the total of direct and indirect emissions of any pollutant from the Federal action represents 10 percent or more of a nonattainment or maintenance area's total emissions of those pollutants, then the action is defined as a regionally significant action and a General Conformity Determination would be required.

Consistent with section 176(c)(1) of the CAA, a Federal action is generally defined as any activity engaged in or supported in any way by any department, agency, or instrumentality of the Federal Government (40 CFR 51.852). Federal actions include providing Federal financial assistance or issuing a Federal license, permit, or approval. Where the Federal action is a permit, license, or other approval for some aspect of a non-Federal undertaking, the relevant activity is the part, portion, or phase of the non-federal undertaking that requires the Federal license, permit, or approval. Because the FERC would authorize the construction and operation of the proposed Golden Pass LNG Terminal and Pipeline Project pursuant to Section 3 of the Natural Gas Act, it is considered a Federal action, and the resulting emissions of NO_X and VOCs must be assessed to determine if they would conform to the Beaumont-Port Arthur SIP.

Air Emissions Inventory

The air emissions inventory for the Project was prepared using widely-accepted methods. Emissions were estimated for both construction and operation of the proposed project. Onshore construction emissions estimates include exhaust resulting from combustion of fuels to operate equipment, fugitive dust emissions from operation of construction equipment at the construction site, offsite vehicle exhaust, and fugitive dust from vehicle travel to the site. Marine construction emissions estimates include vehicle exhaust from deliveries made by off-site vehicles, exhaust from marine construction equipment, exhaust from operation of the dredge, dredged material maintenance activities, and fugitive dust generated from these activities. Estimated construction emissions are listed in Table 4–1 for onshore and marine construction activities.

Emission estimates for terminal operations include emissions from the HTF heaters, diesel fuel storage tanks, diesel firewater pumps, the emergency diesel electric generator, and from fugitive emissions from the terminal. Emissions from the eight natural gas-fired HTF heaters are based on an operating heat duty of 227 MMBtu/hr per heater. Emission estimates from diesel fuel storage include a nominal 33,600-gallon primary storage tank, a 3,800-gallon day tank to supply diesel fuel for the emergency electric generator, and two 500-gallon day tanks to supply diesel fuel for each of the two firewater pumps. Emissions from the diesel generator are based on a 2,500 kW unit using diesel fuel containing 0.3 percent sulfur, and an assumed 100 hours of operation per year. Fugitive emissions as based on the number of valves, pumps, compressors, relief valves, flanges/connections, open-ended lines, and sampling connections incorporated into the terminal facility design.

TABLE 4–1.—ESTIMATED ONSHORE AND MARINE CONSTRUCTION EMISSIONS

Description	Emission estimates (lb/hr)					Total emission estimates (tons/yr)				
	NO_X	CO	VOC	SO_2	PM_{10}	NO_X	CO	VOC	SO_2	PM_{10}
Estimated Onshore Emissions:										
Onsite Construction—Exhaust	145.8	45.5	8.1	26.0	9.4	150.5	48.1	8.6	26.9	10.0
Offsite Vehicle—Exhaust	36.6	66.1	5.2	4.9	2.8	60.9	75.1	6.1	9.1	4.1
Construction—Fugitive Dust Emissions	.....	.....	.....	.....	269.6	.....	.....	.....	.....	245.1

TABLE 4–1.—ESTIMATED ONSHORE AND MARINE CONSTRUCTION EMISSIONS—Continued

Description	Emission estimates (lb/hr)					Total emission estimates (tons/yr)				
	NO_X	CO	VOC	SO_2	PM_{10}	NO_X	CO	VOC	SO_2	PM_{10}
Offsite Vehicle Travel—Fugitive Dust	.....	.....	.....	.....	107.4	.....	.....	.....	.....	103.8
Total	182.4	111.6	13.3	30.9	389.3	211.4	123.2	14.7	35.9	363.0
Estimated Marine Emissions:										
Dredge Spoils Management—Exhaust	7.9	1.8	0.5	1.5	0.6	[a] 34.6	[a] 7.8	[a] 2.1	[a] 6.4	[a] 2.4
Marine Deliveries—Exhaust	34.9	3.4	0.3	26.2	0.9	[a] 4.8	[a] 0.5	[a] 0.04	[a] 3.6	[a] 0.1
Dredging Exhaust	143.1	29.7	7.4	23.8	6.9	[a] 479.2	[a] 99.5	[a] 24.8	[a] 79.7	[a] 23.2
Slip Construction Activities—Exhaust	87.4	80.3	8.6	31.9	6.0	[a] 143.6	[a] 138.0	[a] 14.5	[a] 54.0	[a] 9.9
Total	273.3	115.2	16.8	83.3	14.4	[a] 662.2	[a] 245.8	[a] 41.4	[a] 143.7	[a] 35.9

[a] Emissions are presented in total tons instead of tpy because most of the individual marine construction activities will be completed in less than a year.

Estimated LNG terminal operating emissions are listed in Table 4–2. The listed values represent emissions with the application of add-on emission controls for the HTF heaters, which consist of low-NO_X burners and a Selective Catalytic Reduction (SCR) control system for NO_X control. The SCR system will also incorporate an oxidation catalyst for reduction of CO emissions.

The total estimated direct long-term emissions from the Golden Pass LNG terminal equipment are a maximum of 47.7 tpy NO_X and 33.4 tpy of VOCs.

TABLE 4–2.—CONTROLLED AIR EMISSION ESTIMATES FOR THE PROPOSED LNG TERMINAL

Description	Emission estimates (lb/hr)							Emission estimates (tons/yr)						
	NO_X	CO	VOC	SO_2	PM_{10}	HAPs	NH_3	NO_X	CO	VOC	SO_2	PM_{10}	HAPs	NH_3
HTF Heaters	12.7	27.3	9.8	24.9	13.5	0.7	11.4	41.8	89.5	32.2	5.0	44.5	2.2	37.5
Diesel Fuel Storage Tanks	.....	.....	1.2	.....	.....	.....	.....	.....	.....	0.0	.....	.....	.....	.....
Diesel Firewater Pumps	37.2	8.0	3.0	2.5	2.6	0.1	.....	1.9	0.4	0.2	0.1	0.1	0.0	.....
Emergency Generator	80.4	18.4	2.1	8.1	2.3	0.2	.....	4.0	0.9	0.1	0.4	0.1	0.0	.....
Fugitives—VOC from Piping	.....	.....	0.2	.....	.....	.....	.....	.....	.....	1.0	.....	.....	.....	.....
Ammonia Piping Fugitives	.....	.....	.....	.....	.....	.....	0.2	.....	.....	.....	.....	.....	.....	0.8
Total	130.3	53.7	16.4	35.5	18.5	1.0	11.6	47.7	90.9	33.4	5.5	44.7	2.2	38.4

The indirect long-term emissions associated with operation of the LNG terminal include emissions from LNG ships, tug assists, and from commuting and delivery vehicles. Estimated indirect emissions associated with operation of the LNG terminal are summarized in Table 4–3. The estimated emissions are based on an assumption of 200 calls per year by LNG carriers and correspond to the estimated emissions submitted by Golden Pass to the TXCEQ on August 9, 2004.

TABLE 4–3.—ESTIMATED INDIRECT EMISSIONS DURING LNG TERMINAL OPERATION

Source	Description	NO_X	Total estimated emissions (tons/yr)			
			CO	VOC	SO_2	PM_{10}
LNG Carriers	Main Propulsion Engines	332.8	32.6	11.1	414.3	5.8
LNG Carriers	On-board Electric Generators—Vessels Transiting	84.2	4.7	9.7	58.0	1.9
LNG Carriers	On-board Electric Generators—Vessels at the Slip	252.4	14.7	28.2	178.5	5.9
Tug Assists	Initial Tug Escort	24.3	1.9	0.2	18.0	0.6
Tug Assists	Tug Assist—Midpoint Channel	48.7	3.9	0.3	36.0	1.2
Tug Assists	Maneuvering/Docking	16.4	5.8	1.0	13.6	0.4
Motor Vehicles	Commuting and Deliveries	0.8	12.2	1.1	0.01	0.04
Total		759.6	75.8	51.6	718.4	15.8

The combined (direct plus indirect) emissions of NO_X would exceed 50 tpy during the construction and operational phases of the project. Therefore, a General Conformity Determination is required for NO_X emissions. Similarly, the combined emissions of VOCs exceed 50 tpy during the operational phases of the project, and a General Conformity Determination is also required for VOC emissions.

Preliminary General Conformity Determination

A General Conformity Determination must be completed for projects requiring Federal authorization that are undertaken in areas designated as ''nonattainment'' or ''maintenance'' for certain criteria air pollutants and for which the combined direct and indirect emissions of those air pollutants will equal or exceed certain thresholds. The EPA has designated the Beaumont-Port Arthur area as a serious nonattainment area for the 1-hour ozone standard. Consequently, a General Conformity Determination is required for certain projects undertaken in the Beaumont-Port Arthur area for which the combined direct and indirect emissions of either NO_X or VOCs, as ozone precursors, will equal or exceed 50 tpy. See 40 CFR 93.153(b) and 30 TAC § 101.30. The Project requires a General Conformity Determination for NO_X because the combined direct and indirect emissions of NO_X would equal or exceed 50 tpy. In addition, the Project requires a General Conformity Determination for VOC because the combined direct and indirect emissions of VOC would equal or exceed 50 tpy.

On September 24, 2004, the TXCEQ issued a conditional general conformity certification for the Project based on a review of project emissions estimates, modeling of the emissions from the Project, and a number of commitments proposed by Golden Pass (see Attachment A). These commitments include: (1) NO_X emission offsetting of terminal emissions, and (2) other impact mitigation practices. Each is described in the sections to follow.

NO_X Emission Offsetting

The Project may potentially result in NO_X emission reductions that are far greater then the NO_X emissions generated by the LNG terminal and associated sources (LNG trucks and ships). This emission reduction would occur when power plants and residential customers convert boilers and furnaces to higher-efficiency natural gas fired units. However, these NO_X emission reductions would not be enforceable reductions; therefore their impact on the Beaumont-Port Arthur SIP cannot be quantified or credited for purposes of the general conformity determination.

Golden Pass has committed to purchasing and retiring 48 tons of NO_X emission reduction credits prior to commencement of operations. The 48 tons of NO_X credits offset the maximum projected long-term emissions of NO_X from terminal operations (47.7 tpy). This commitment by Golden Pass is documented in the September 24, 2004 letter from TXCEQ.

Other Impact Mitigation Practices

TXCEQ's conditional conformity certification put forth additional conditions as requirements for a determination of acceptability of the project relative to the Beaumont-Port Arthur SIP. These additional conditions, which are also stated in the September 24, 2004 letter from TCEQ (see Attachment 1), are as follows:

- Golden Pass will encourage construction contractors to participate in the Texas Emission Reduction Plan (TERP) grant program and to apply for TERP grant funds;
- Golden Pass will establish bidding conditions to give preference to ''Clean Contractors'';
- Golden Pass will direct, through provisions included in its construction contracts, construction contractors to exercise Best Management Practices relating to air quality; and
- Golden Pass will encourage construction contractors to use appropriate low emission fuels.

Conditions for Granting a Final Conformity Determination

The commitments by Golden Pass as described in sections 5.1 and 5.2 above constitute conditions for granting a final conformity determination. Documentation of fulfillment of each condition is required prior to issuance of the final conformity determination and authorization of project construction. Golden Pass may not begin construction of the LNG terminal until the Commission has issued its final General Conformity Determination and Golden Pass has received written approval by the Director of Office of Energy Projects of its filing stating that it would comply with all requirements of the General Conformity Determination.

[FR Doc. E5–3124 Filed 6–16–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–368–000]

Gulfstream Natural Gas System, L.L.C.; Notice of Filing

June 10, 2005.

Take notice that on June 6, 2005, Gulfstream Natural Gas System, L.L.C. (Gulfstream) tendered for filing a service agreement with Tampa Electric Company (TECO).

Gulfstream states that it is requesting approval of the service agreement with TECO as part of the Bayside Lateral project, in which TECO will construct a pipeline from its Bayside, Florida generation facility to Gulfstream's mainline in Manatee County, Florida.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call

(866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3113 Filed 6–16–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–371–000]

Nautilus Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

June 10, 2005.

Take notice that on June 7, 2005, Nautilus Pipeline Company (Nautilus) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, to become effective June 8, 2005:

Second Revised Sheet No. 23
Third Revised Sheet No. 204
First Revised Sheet No. 204A
First Revised Sheet No. 248
Original Sheet No. 255A
Original Sheet No. 255B
First Revised Sheet No. 259
Original Sheet No. 266A
Original Sheet No. 266B
First Revised Sheet No. 270
Original Sheet No. 278A
Original Sheet No. 278B
First Revised Sheet No. 282
Original Sheet No. 289A
Original Sheet No. 289B
First Revised Sheet No. 292
Original Sheet No. 299
Original Sheet No. 300
Sheet Nos. 301–319
First Revised Sheet No. 340
First Revised Sheet No. 345
Original Sheet No. 345A
Original Sheet No. 345B

Nautilus states that it is filing these tariff sheets to amend its general terms and donditions to provide for specific types of discounts in its tariff, consistent with Commission's policy. Nautilus states that this will give it the flexibility it needs to respond to the marketplace and the needs of its shippers. Nautilus also submits revised tariff sheets to reflect the commission's order in Williston Basin Interstate Pipeline Co., 110 FERC ¶ 61,210 (2005), which allows pipelines to delete current tariff provisions that permits shippers to retain selective discounts at secondary points.

Nautilus states that copies of its filing have been mailed to all affected customers of Nautilus and interested State Commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3122 Filed 6–16–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–382–015]

Northern Natural Gas Company; Notice of Filing of Reimbursement Report

June 10, 2005.

Take notice that on June 7, 2005, Northern Natural Gas Company (Northern) tendered for filing various schedules detailing the Carlton buyout and surcharge dollars reimbursed to the appropriate parties.

Northern further states that copies of the filing have been mailed to each of its customers and interested state commissions.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Protest Date: 5 p.m. Eastern Time on June 17, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3111 Filed 6–16–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–370–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

June 10, 2005.

Take notice that on June 3, 2005, Northern Natural Gas Company (Northern) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, with an effective date of July 5, 2005:

Second Revised Sheet No. 212

Third Revised Sheet No. 309

Northern states that the purpose of the filing is to add a provision to the general terms and conditions of its tariff stating that, upon request, Northern will negotiate with a delivery point operator regarding how Northern will manage the quality of gas delivered to the delivery point operator.

Northern states that the copies of the filing have been mailed to each of its customers and interested state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3115 Filed 6–16–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER05–1061–000]

PJM Interconnection, L.L.C.; Notice of Filing

June 10, 2005.

Take notice that on June 1, 2005, PJM Interconnection, L.L.C. (PJM) submitted revisions to the PJM amended and restated operating agreement (operating agreement) concerning the confidentiality and scheduling and dispatch provisions of the Operating Agreement. PJM states that the proposed revisions expand the scope of sections 18.17.1(b) and 1.76(a) of the PJM OA, respectively, to enable the office of the interconnection to provide member confidential documents, data or other information to reliability coordinators that are responsible for overseeing electric system reliability operations of regions outside of the PJM service territory, and enable the office of the interconnection to recognize transmission constraints on all coordinated flowgates external to the PJM region. PJM requests an effective date of August 1, 2005.

PJM states that copies of this filing have been served on all PJM members and the utility regulatory commissions in the PJM region.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filing in the above proceeding is accessible in the Commission's eLibrary system. It is also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed 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. on June 22, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3108 Filed 6–16–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–348–001]

Sea Robin Pipeline Company, LLC; Notice of Compliance Filing

June 10, 2005.

Take notice that on June 3, 2005, Sea Robin Pipeline Company, LLC (Sea Robin) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 2, the following revised tariff sheet to become effective February 6, 1991:

Sub First Revised Sheet No. 661.

Sea Robin states that the purpose of this filing is to reflect the correct abandonment date for Rate Schedule X–33 on Sub First Revised Sheet No. 661.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3112 Filed 6–16–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–205–008]

Southern Natural Gas Company; Notice of Negotiated Rate Tariff Filing

June 10, 2005.

Take notice that on June 3, 2005, Southern Natural Gas Company (Southern) tendered for filing the tariff sheets set forth below to reflect new negotiated rate arrangements resulting from the addition of new consenting parties to Southern's settlement dated April 29, 2005 in Docket No. RP04–523, new negotiated rate arrangements with existing parties or new shippers on Southern's system, corrections to negotiated rate arrangements shown in Southern's previous filings and name changes for existing negotiated rate arrangements.

Sixth Revised Sheet No. 23 April 1, 2005
Seventh Revised Sheet No. 23 May 1, 2005
First Revised Original Sheet No. 23A March 1, 2005
Substitute First Revised Sheet No. 23A April 1, 2005
Second Revised Sheet No. 23A May 1, 2005
First Revised Sheet No. 23B March 1, 2005
Second Revised Sheet No. 23B April 1, 2005
First Revised Sheet No. 23D April 1, 2005
First Revised Sheet No. 23E April 1, 2005
First Revised Sheet No. 23F March 1, 2005
Second Revised Sheet No. 23G March 1, 2005
Second Revised Sheet No. 23H March 1, 2005
First Revised Sheet No. 23J April 1, 2005
Second Revised Sheet No. 23J May 1, 2005
First Revised Sheet No. 23K March 1, 2005
Second Revised Sheet No. 23K May 1, 2005
First Revised Sheet No. 23L March 1, 2005
Second Revised Sheet No. 23L April 1, 2005
First Revised Sheet No. 23M March 1, 2005

Southern requests that the Commission grant such approval of the tariff sheets effective March 1, 2005, April 1, 2005 or May 1, 2005, as set forth above.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3110 Filed 6–16–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP05–371–000]

Southern Star Central Gas Pipeline, Inc.; Notice of Application

June 10, 2005.

On June 9, 2005, Southern Star Central Gas Pipeline, Inc. (Southern Star), pursuant to section 3 of the Natural Gas Act (NGA), and part 157 of the regulations of the Federal Energy Regulatory Commission (Commission) filed an abbreviated application for abandonment by sale to Keystone Gas Corporation (Keystone) of Southern Star's Mulhall-Drumright line consisting of approximately 46.4 miles of 12 and 16-inch diameter steel pipe and appurtenances located in Creek, Payne, and Logan Counties of Oklahoma. Southern Star also requested a jurisdictional determination exempting the facilities operation from NGA jurisdiction following the sale.

Southern Star states that the facilities were originally constructed in 1947 to support Southern Star's former merchant function and provide mainline transmission, but in more recent years has only served to gather gas from local producers and provide limited gas service to various parties along the system, which will continue upon the transfer of facilities to Keystone, as more fully described in the application. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, by using the eLibrary (FERRIS) link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, please contact FERC Online Support at FERC *OnlineSupport@ferc.gov* or call toll-free at (866) 206–3676, or for TTY, contact (202) 502–8659.

Questions concerning the application may be directed to: David N. Roberts, Manager, Regulatory Affairs, Southern Star Central Gas Pipeline, Inc., 4700 Highway 56, Owensboro, KY 42301 or call (270) 852–4654; and, Beverly H. Griffith, Senior Vice President, General Counsel and Corporate Secretary, Southern Star Central Gas Pipeline, Inc., 4700 Highway 56, Owensboro, KY 42301 or call 270 852–4940.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date, file with the Federal Energy Regulatory

Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding. However, a person does not have to intervene in order to have comments considered.

The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages intervenors to file electronically.

Comment Date: July 1, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3101 Filed 6–16–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–372–000]

Tennessee Gas Pipeline Company and Dartmouth Power Associates Limited Partnership; Notice of Joint Petition for Expedited Grant of Limited Waivers

June 10, 2005.

Take notice that on June 7, 2005, Tennessee Gas Pipeline Company (Tennessee) and Dartmouth Power Associates Limited Partnership (Dartmouth Power) tendered for filing a joint petition for expedited grant of limited waivers.

Tennessee and Dartmouth Power petition the Commission for a grant of a limited waiver, to the extent required, of (i) certain of Tennessee's capacity release tariff provisions, and (ii) the Commission's Order No. 636–A policy regarding the ''tying'' of gas delivery contracts to released transportation capacity. Tennessee states that the requested waivers will enable Dartmouth Power to effectuate the permanent transfer of its portfolio of transportation capacity and dependent gas delivery contracts to Dartmouth Power's prearranged replacement shipper or to some other third-party replacement shipper who may prevail in the capacity release bidding process. Petitioners further request expedited action on the requested waivers no later than June 30, 2005, so that the transportation releases may be made effective as rapidly thereafter as possible.

Tennessee and Dartmouth Power states that copies of the filing has been served on Tennessee's jurisdictional customers and upon affected state regulatory commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Intervention and Protest Date: 5 p.m. Eastern Time June 17, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3123 Filed 6–16–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–359–024]

Transcontinental Gas Pipe Line Corporation; Notice of Negotiated Rate

June 10, 2005.

Take notice that on June 6, 2005, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing with the Commission a copy of the executed amendment to the May 4, 2001 negotiated rate service agreement, under Rate Schedule FT, between Transco and Carolina Power & Light Company.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission,

888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3098 Filed 6–16–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–369–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

June 10, 2005.

Take notice that on June 7, 2005 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing pro forma Tariff Sheet No. 33B to its FERC Gas Tariff, Third Revised Volume No. 1 to reflect, on a pro forma basis, the removal of the South Timbalier Block 300/301 and the South Timbalier Block 301 points from the list of gathering points included in Transco's FERC Gas Tariff.

Transco states that the instant filing originates from an agreement between Transco and Shell Offshore, Inc. (SOI), under which Transco will sell to SOI the South Timbalier Block 300 ''A'' dehydration facility, a facility which constitutes the basis for Transco's imposition of a gathering rate applicable to volumes traversing the South Timbalier Block 300/301 and the South Timbalier Block 301 points.

Transco states that the pro forma tariff sheet is proposed to be effective on the date of the sale of the facilities to SOI, which is the day following the date that a FERC order accepting and approving the instant filing becomes no longer subject to rehearing or judicial review under Section 19 of the Natural Gas Act.

Transco states that it is serving copies of the instant filing to its affected customers, interested State Commissions and other interested parties.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3114 Filed 6–16–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

June 10, 2005.

Take notice that the Commission received the following electric rate filings

Docket Numbers: ER00–3767–004.

Applicants: Praxair, Inc.

Description: Praxair, Inc. submits an amendment to its 5/2/05 filing, consisting of Substitute Original Sheet No. 1 to its FERC Electric Tariff, Revised Volume No.1.

Filed Date: 06/02/2005.

Accession Number: 20050609–0108.

Comment Date: 5 p.m. eastern time on Thursday, June 17, 2005.

Docket Numbers: ER05–17–004.

Applicants: Trans-Elect NTD Path 15, LLC.

Description: Trans-Elect NTD Path 15, LLC submits affidavits of EIF Path 15 Funding LLC, et al., to satisfy the compliance conditions of the Commission's rehearing order issued May 4, 2005 in Docket No. ER05–17–001.

Filed Date: 06/02/2005.

Accession Number: 20050609–0104.

Comment Date: 5 p.m. eastern time on Thursday, June 23, 2005.

Docket Numbers: ER05–841–001.

Applicants: Praxair Plainfield, Inc.

Description: Praxair Plainfield, Inc. submits an amendment to the 4/19/05 filing of an amended market-based rate tariff under ER05–841.

Filed Date: 06/02/2005.

Accession Number: 20050609–0097.

Comment Date: 5 p.m. eastern time on Thursday, June 17, 2005.

Docket Numbers: ER05–887–001, ER05–889–001, ER05–893–001, ER05–894–001, ER05–895–001, ER05–896–001, ER05–897–001, ER05–898–001, ER05–899–001.

Applicants: Armstrong Energy Limited Partnership, LLLP, Dominion Energy Kewaunee, Inc., Dominion Retail, Inc., Dresden Energy, LLC, Elwood Energy, LLC, Fairless Energy, LLC Pleasants Energy, LLC State Line Energy, L.L.C., Troy Energy, LLC.

Description: Armstrong Energy Limited Partnership, LLLP et al submits an amendment to their 4/28/05 filings—revised tariff sheets for each applicant.

Filed Date: 06/02/2005.

Accession Number: 20050609–0106

Comment Date: 5 p.m. eastern time on Thursday, June 23, 2005.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference

to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other and the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlinSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–3129 Filed 6–16–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

June 10, 2005.

Take notice that the Commission received the following electric rate filings

Docket Numbers: ER02–1398–002, ER02–1470–002, ER02–1573–002.

Applicants: KeySpan-Ravenswood, LLC, KeySpan-Glenwood Energy Center, LLC, KeySpan-Port Jefferson Energy Center, LLC.

Description: KeySpan-Ravenswood, LLC, KeySpan-Glenwood Energy Center, LLC, KeySpan-Port Jefferson Energy Center, LLC submitted a Triennial Market Power Update.

Filed Date: 06/01/2005.

Accession Number: 20050603–0089.

Comment Date: 5 pm Eastern Time on Wednesday, June 22, 2005.

Docket Numbers: ER04–699–000.

Applicants: Entergy Services, Inc.

Description: Entergy Services, Inc. on behalf of the Entergy Operating Companies submits letter withdrawing the proposed revisions to Entergy's OATT filed on April 1, 2004 under ER04–699.

Filed Date: 06/03/2005.

Accession Number: 20050603–5046.

Comment Date: 5 pm Eastern Time on Friday, June 24, 2005.

Docket Numbers: ER05–721–002.

Applicants: Judith Gap Energy LLC.

Description: Judith Gap Energy, LLC submits Substitute Original Tariff Sheet No. 3 its FERC Electric Tariff, Original Volume No. 1 in compliance with the May 25, 2005 order under ER05–721.

Filed Date: 06/01/2005.

Accession Number: 20050603–0087.

Comment Date: 5 pm Eastern Time on Wednesday, June 22, 2005.

Docket Numbers: ER05–842–001.

Applicants: Cleco Power LLC.

Description: Cleco Power, LLC submits a Substitute Second Revised Sheet No. 7, to its FERC Electric Tariff, Second Revised Volume 1.

Filed Date: 06/01/2005.

Accession Number: 20050603–0088.

Comment Date: 5 pm Eastern Time on Wednesday, June 22, 2005.

Docket Numbers: ER05–1070–000.

Applicants: San Diego Gas & Electric Company.

Description: San Diego & Electric Company submits Amendment 1 to the Interconnection Agreement between SDG&E & Termoelectrica de Mexicali, S de R L de C V under ER05–1070.

Filed Date: 06/03/2005.

Accession Number: 20050606–0159.

Comment Date: 5 pm Eastern Time on Friday, June 24, 2005.

Docket Numbers: ER05–1071–000.

Applicants: San Diego Gas & Electric Company.

Description: San Diego Gas & Electric Company submits Amendment 1 to the Interconnection Agreement with Baja California Power, Inc, under ER05–1071.

Filed Date: 06/03/2005.

Accession Number: 20050606–0160.

Comment Date: 5 pm Eastern Time on Friday, June 24, 2005.

Docket Numbers: ER05–1072–000.

Applicants: American Electric Power Service Corporation.

Description: American Electric Power Service Corporation as agent for Public Service Company of Oklahoma submits a notice of cancellation of an amended interchange agreement among Associated Electric Cooperative, Inc., Kansas Gas and Electric Company, Public Service Company of Oklahoma, Union Electric Company for Missouri-Kansas-Oklahoma 345k Interconnection Agreement.

Filed Date: 06/03/2005.

Accession Number: 20050606–0161.

Comment Date: 5 pm Eastern Time on Friday, June 24, 2005.

Docket Numbers: ER05–1073–000.

Applicants: Florida Power & Light Company.

Description: Florida Power & Light Company submits Second Revised Service Agreement 162, a Service Agreement for Network Integration Transmission Service with Seminole Electric Cooperative, Inc.

Filed Date: 06/03/2005.

Accession Number: 20050606–0156.

Comment Date: 5 pm Eastern Time on Friday, June 24, 2005.

Docket Numbers: ER05–1074–000.

Applicants: Sierra Pacific Power Company.

Description: Sierra Pacific submits an executed Large Generator Interconnection Agreement with FPL Energy Boulder Valley LLC under ER05–1074.

Filed Date: 06/03/2005.

Accession Number: 20050606–0164.

Comment Date: 5 pm Eastern Time on Friday, June 24, 2005.

Docket Numbers: ER05–1075–000.

Applicants: Pacific Gas and Electric Company.

Description: Pacific Gas & Electric Company submits revised FERC Rate Schedules with the City & County of San Francisco under ER05–1075.

Filed Date: 06/03/2005.

Accession Number: 20050607–0142.

Comment Date: 5 pm Eastern Time on Friday, June 24, 2005.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need

not be served on persons other and the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the web site that enables subscribers to receive email notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please email *FERCOnlinSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–3130 Filed 6–16–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC05–92–000, et al.]

Cottonwood Energy Company LP, et al.; Electric Rate and Corporate Filings

June 10, 2005.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Cottonwood Energy Company LP, Magnolia Energy LP, Redbud Energy LP, Baja California Power, Inc., La Rosita Energy B.V., InterGen Aztec Energy III B.V.

[Docket No. EC05–92–000]

Take notice that on June 3, 2005, Cottonwood Energy Company LP, Magnolia Energy LP, Redbud Energy LP, Baja California Power, Inc., La Rosita Energy, B.V. and InterGen Aztec Energy III B.V. (the Applicants) submitted an application pursuant to section 203 of the Federal Power Act for authorization of a disposition of jurisdictional facilities related to the corporate reorganization of Royal Dutch Petroleum Company (N.V. Koninklijke Nederlandsche Petroleum Maatschappij), a Netherlands company, and The Shell Transport & Trading Company, p.l.c., a United Kingdom company (together, the Shell Parents), which hold indirect upstream ownership interests in Applicants. The Applicants state that as a result of the proposed reorganization, the Shell Parents will become wholly-owned direct subsidiaries of a new parent company, which, in turn, will be owned by the existing shareholders of the Shell Parents.

Comment Date: 5 p.m. on June 24, 2005.

2. Reliant Energy Power Generation, Inc., Sempra Energy Power I

[Docket No. EC05–93–000]

Take notice that on June 3, 2005, Reliant Energy Power Generation, Inc. (REPG) and Sempra Energy Power I (SEP I) (collectively, Applicants) filed with the Commission a joint application pursuant to section 203 of the Federal Power Act for Commission approval of the transfer of indirect interests in jurisdictional facilities. Applicants state that the disposition involves the sale by REPG to SEP I of REPG's 50 percent membership interest in El Dorado Energy, LLC (El Dorado). Applicants further state that El Dorado owns and operates the El Dorado generating station, a nominally rated 480 MW electric generating facility located near Boulder City, Nevada, which is interconnected with the transmission system operated by the Nevada Power Company. Applicants request privileged treatment of Exhibit I, the Purchase and Sale Agreement between REPG and SEP I.

Comment Date: 5 p.m. on June 24, 2005.

3. PJM Interconnection, L.L.C.

[Docket No. ER05–1061–000]

Take notice that on June 1, 2005, PJM Interconnection, L.L.C. (PJM) submitted revisions to the PJM amended and restated operating agreement (operating agreement) concerning the confidentiality and scheduling and dispatch provisions of the Operating Agreement. PJM states that the proposed revisions expand the scope of sections 18.17.1(b) and 1.76(a) of the PJM OA, respectively, to enable the office of the interconnection to provide member confidential documents, data or other information to reliability coordinators that are responsible for overseeing electric system reliability operations of regions outside of the PJM service territory, and enable the office of the interconnection to recognize transmission constraints on all coordinated flowgates external to the PJM region. PJM requests an effective date of August 1, 2005.

PJM states that copies of this filing have been served on all PJM members and the utility regulatory commissions in the PJM region.

Comment Date: 5 p.m. on June 22, 2005.

4. California Independent System Operator Corporation

[Docket No. ER05–1081–000]

Take notice that on June 6, 2005, California Independent System Operator Corporation (CAISO) submitted Amendment No. 71 to its FERC Electric Tariff. CAISO states that Amendment No. 71 would modify the ISO Tariff in the following respects: (1) Adding a provision to allow the CAISO to disclose to the Commission confidential or commercially sensitive information when requested by the Commission during the course of an investigation or otherwise, without providing notice of the request to affected market participants in advance of the disclosure; and (2) adding a provision to allow the ISO to share critical operating information, system models and planning data to other Western Electricity Coordinating restrictions.

Comment Date: 5 p.m. on June 20, 2005.

Standard Paragraph

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (19 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to long on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protests to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available to review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TYY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–3131 Filed 6–16–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP05–13–000; CP05–11–000; CP05–12–000; CP05–14–000]

Ingleside Energy Center, LLC San Patricio Pipeline, LLC; Notice of Availability of the Final Environmental Impact Statement For The Proposed Ingleside Energy Center Lng Terminal And Pipeline Project

June 10, 2005.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared this final environmental impact statement (EIS) on the liquefied natural gas (LNG) import terminal and natural gas pipeline facilities proposed by Ingleside Energy Center, LLC and San Patricio Pipeline, LLC (collectively referred to as Ingleside San Patricio) in the above-referenced dockets.

The final EIS was prepared to satisfy the requirements of the National Environmental Policy Act (NEPA). The staff concludes that approval of the proposed project with appropriate mitigating measures, as recommended, would have limited adverse environmental impact. The final EIS also evaluates alternatives to the proposal, including system alternatives, alternative sites for the LNG import terminal, and pipeline alternatives.

Ingleside San Patricio's proposed facilities would have a nominal output of about 1.0 billion cubic feet of imported natural gas per day to the U.S. market. In order to provide LNG import, storage, and pipeline transportation services, Ingleside San Patricio requests Commission authorization to construct, install, and operate an LNG terminal and natural gas pipeline facilities.

The final EIS addresses the potential environmental effects of the construction and operation of the following LNG terminal and natural gas pipeline facilities in San Patricio and Nueces Counties, Texas:

- A new marine terminal basin connected to the La Quinta Channel that would include a ship maneuvering area and one protected berth to unload up to 140 LNG ships per year;
- Two double containment LNG storage tanks with a nominal working volume of approximately 160,000 cubic meters (1,006,000 barrels equivalent);
- LNG vaporization and processing equipment;
- 26.4 miles of 26-inch-diameter natural gas pipeline; and
- nine interconnects with existing intrastate and interstate pipelines, and related meter stations.

As proposed, the project would be integrated with the adjacent Occidental Chemical Company manufacturing complex in order for the two facilities to offset the other's respective heating and cooling needs. The use of the chemical manufacturing complex's cooling water would serve as a source of vaporization heat.

The final EIS has been placed in the public files of the FERC and is available for public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 502–8371.

A limited number of copies of the final EIS are available from the Public Reference Room identified above. In addition, copies of the final EIS have been mailed to federal, state, and local agencies; public interest groups; individuals and affected landowners who requested a copy of the final EIS; libraries; newspapers; and parties to this proceeding.

In accordance with the Council on Environmental Quality's (CEQ) regulations implementing NEPA, no agency decision on a proposed action may be made until 30 days after the U.S. Environmental Protection Agency publishes a notice of availability of a final EIS. However, the CEQ regulations provide an exception to this rule when an agency decision is subject to a formal internal appeal process which allows other agencies or the public to make their views known. In such cases, the agency decision may be made at the same time the notice of the final EIS is published, allowing both periods to run concurrently. The Commission decision for this proposed action is subject to a 30-day rehearing period.

Additional information about the project is available from the Commission's Office of External Affairs at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the ''eLibrary'' link. Click on the ''eLibrary'' link, click on ''General Search'' and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected the appropriate date range. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676 or for TTY, contact 202–502–8659. The ''eLibrary'' link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to the ''eSubscription'' link on the FERC Internet Web site.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3099 Filed 6–16–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the Record Communications; Public Notice

June 10, 2005.

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received in the Office of the Secretary. The communications listed are grouped by docket numbers in ascending order. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary (FERRIS) link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC, Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Exempt:

Docket No.	Date filed	Presenter or requester
1. CP04–36–000	5–23–05	Hon. Edward M. Kennedy.
CP04–41–000		Hon. John F. Kerry.
CP04–42–000		Hon. Barney Frank.
CP04–43–000		Hon. James P. McGovern.
2. CP05–49–000	6–3–05	Magdalene Manco.
3. CP05–130–000	6–3–05	Michael Oritt (2 documents) *et al.*
4. PF05–2–000	5–19–05	Frank M. Fly.
5. Project No. 620–009	6–3–05	Susan Lavin.
6. Project No. 2100–000	5–17–05	Sue Larsen.
7. Project No. 2150–033	5–19–05	Steve Hocking, Linda Lehman, Mike Henry[1].
8. Project Nos. 12536–000, 12537–000, 12539–000 and 12550–000	6–9–05	Dianne Rodman.

[1] Summary of telephone conversation.

Magalie R. Salas,
Secretary.

[FR Doc. E5–3109 Filed 6–16–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PL05–1–000]

Policy Statement on Market Monitoring Units

Issued May 27, 2005.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Policy statement.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing this policy statement is to provide guidance on the coordinated roles and responsibilities of the Commission and market monitoring units (MMUs) associated with Independent System Operators (ISOs) and Regional Transmission Organizations (RTOs).

DATES: May 27, 2005.

FOR FURTHER INFORMATION CONTACT: Ted Gerarden (Technical Information), Office of Market Oversight and Investigations, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. (202) 502–6187. *Ted.Gerarden@ferc.gov.* Lodie White (Legal Information), Office of General Counsel—Markets, Tariffs & Rates, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. (202) 502–6193. *Lodie.White@ferc.gov.*

SUPPLEMENTARY INFORMATION

Before Commissioners: Pat Wood, III, Chairman; Nora Mead Brownell, Joseph T. Kelliher, and Suedeen G. Kelly.

Market Monitoring Units in Regional Transmission Organizations and Independent System Operators; Policy Statement on Market Monitoring Units

1. The purpose of this policy statement is to provide guidance on the role of market monitoring units (MMUs) associated with Independent System Operators (ISOs) and Regional Transmission Organizations (RTOs). MMUs perform an important role in assisting the Commission in enhancing the competitiveness of ISO/RTO markets. Competitive markets benefit customers by assuring that prices properly reflect supply and demand conditions. MMUs monitor organized wholesale markets to identify ineffective market rules and tariff provisions, identify potential anticompetitive behavior by market participants, and provide the comprehensive market analysis critical for informed policy decision making. This policy statement provides guidance on the coordinated

roles and responsibilities of the Commission and the MMUs.

2. In order to achieve the stated purpose of enhancing the competitive structure of the ISO/RTO markets, MMUs perform several valuable tasks:

- To identify ineffective market rules and tariff provisions and recommend proposed rule and tariff changes to the ISO/RTO that promote wholesale competition and efficient market behavior.
- To review and report on the performance of wholesale markets in achieving customer benefits.
- To provide support to the ISO/RTO in the administration of Commission-approved tariff provisions related to markets administered by the ISO/RTO (*e.g.*, day-ahead and real-time markets).
- To identify instances in which a market participant's behavior may require investigation and evaluation to determine whether a tariff violation has occurred, or may be a potential Market Behavior Rule [1] violation, and immediately notify appropriate Commission staff for possible investigation.

3. Good market rules are essential to efficient wholesale markets in which competing suppliers have incentives to meet the customers' needs for reliable service at the least cost. ISO/RTO markets are operationally complex. MMUs should have access to data and other resources to evaluate participant behavior and responses in these markets. As such, MMUs should evaluate the market-specific responses of individual market participants to existing or proposed market rules and tariff provisions. It is therefore critical that the MMU consistently and impartially evaluate the existing ISO/RTO rules and tariff provisions, including mitigation and their effects on the economic signals sent to market participants. However, it is the responsibility of the ISO/RTO to make section 205 filings, rather than the MMU.

4. Wholesale market design flaws can present perverse incentives that may result in unintended inefficient or unreliable operations, but which may not be manifested for many months or years. It is critical that the MMU provide the ISO/RTO and the Commission with its perspective and expertise in the development of market rules and tariff provisions. It is also essential that the MMU work proactively in identifying market design flaws, and provide assistance to the ISO/RTO in developing appropriate rule changes that will promote reliable and efficient operation of the wholesale markets. While the Commission is responsible for ensuring just and reasonable rates, the Commission does benefit from the expertise of the ISO/RTO to provide the tariff filings to the Commission that help ensure that the market rules in place work effectively and to ensure that customers receive the full benefits of competitive wholesale markets. In response, the Commission makes every effort to act in a timely manner on such filings, and has recently announced procedures to assure expeditious Commission action when necessary to ensure smooth functioning of wholesale markets.[2]

5. Organized markets work best to benefit customers when the market rules and tariff provisions governing ISO/RTO-administered markets and contained in the ISO/RTO tariff are clearly understood by and followed by market participants. MMUs should therefore vigilantly monitor participant behavior. For this reason, the Commission has determined that ISOs/RTOs may administer compliance with tariff provisions only if they are expressly set forth in the tariff; involve objectively identifiable behavior; and do not subject the seller to sanctions or consequences other than those expressly approved by the Commission and set forth in the tariff, with the right of appeal to the Commission.[3] Such penalties, however, must be designed to be a clear deterrent to unwanted behavior, without being so high as to be unnecessarily punitive.[4]

6. Beyond the objectively identifiable, Commission-approved tariff provisions that are administered by the ISO/RTO, there may be situations in which actions of a market participant require investigation and evaluation to determine whether a violation occurred, or in which the provisions of the tariff do not specifically address undesirable market behavior. If, in the course of monitoring participant behavior, the MMU finds that an action by a market participant may require investigation and evaluation, or may be a potential violation of a market rule contained in an ISO/RTO-filed tariff, or may be a violation of the Market Behavior Rules, the MMU should notify the Commission staff.[5] In this way the Commission will act in cases where market participants' behavior falls outside of the limited area of objectively identifiable, specific penalty rule violations the ISO/RTO may administer.[6]

7. The MMU should monitor and regularly report on performance and structure of the electricity market within the ISO/RTO region. Since these markets ultimately exist for the benefit of customers, the MMU should focus on how efficiently the markets are responding to customers' needs for reliable electricity supply at the lowest long run cost to customers. An in-depth review should include an evaluation of market prices of ISO/RTO-administered products (*e.g.*, real-time and day ahead energy markets, locational marginal prices, and ancillary services) and specifically determine the extent to which the prices reflect competitive outcomes, not market power abuses. The MMU should also be responsible for providing an analysis of the structural competitiveness of the wholesale markets and a determination of effectiveness of bid mitigation rules to remedy potential exercise of market power. In addition, the MMU should evaluate the effectiveness of the markets in signaling needed investment in generation, transmission, and demand response infrastructure. Market signals for additional investment are only valuable to customers to the extent that the signals can reasonably result in the needed market investment response. Thus, it is imperative that the MMU also identify any potential barriers that may impede the market's ability to provide needed investments. In all instances, the MMU should be proactive in recommending changes to the ISO/RTO.

[1] *Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations*, 105 FERC ¶ 61,218 (2003), *order on reh'g*,107 FERC ¶ 61,175 (2004).

[2] *See Guidance Order on Expedited Tariff Revisions for Regional Transmission Organizations and Independent System Operators,* 111 FERC ¶ 61,009 (2005).

[3] In *California Indep. Sys. Operator Corp.,* 106 FERC ¶ 61,179 (2004), the Commission stated that as long as there are appeal rights to the Commission, MMUs may administer certain objective behavior-related tariff provisions and to charge specified, Commission-approved penalties for such tariff violations. However, where policy issues are implicated or the question of whether a tariff violation has occurred cannot be determined objectively pursuant to Commission-approved tariff provisions, it is the Commission's statutory responsibility to address the question.

[4] *See California Indep. Sys. Operator Corp.,* 106 FERC ¶ 61,179 (2004), *order on reh'g*, 107 FERC ¶ 61,118 (2004); *see also California Indep. Sys. Operator Corp.,* 109 FERC ¶ 61,087 (2004), *order denying reh'g*, 109 FERC ¶ 61,089 (2004).

[5] *See* Appendix A for protocols MMUs should follow in bringing referrals to the Commission.

[6] Where the Commission undertakes the enforcement of matters referred to it by the MMU, the Commission will exercise its discretion to determine the appropriate remedy for violations, applying the policies and principles set forth in *Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations*, 105 FERC ¶ 61,218 (2003) (Market Behavior Rules Order), *order on reh'g,* 107 FERC ¶ 61,175 (2004).

By the Commission.

Linda Mitry,

Deputy Secretary.

Appendix A—Protocols on MMU; Referrals to the Commission for Enforcement

1. In the Market Behavior Rules Order, the Commission concluded that it is appropriate for ISOs/RTOs to administer certain matters that concern market behavior (with appeal rights to the Commission) if the behavior is objectively identifiable and set forth in the ISO/RTO tariff and for which the violations have clear Commission-approved sanctions that are set forth in the tariff.[7] All other aspects of tariff related enforcement, as well as enforcement of the Market Behavior Rules,[8] are the responsibility of the Commission.[9] The Commission also stated that it is the obligation of the MMU to inform the Commission of potential Market Behavior Rule violations and any violations of the ISO/RTO tariff that the Commission has not allowed the ISO/RTO to resolve in the first instance.[10] In that regard, the Commission further noted that the Commission Staff would develop ''appropriate triggers for referring compliance issues to the Commission.'' [11]

2. In addition to providing that the Commission will enforce the Market Behavior Rules, the Market Behavior Rules Order placed a 90-day time limit on responding to allegations of violations of the Market Behavior Rules.[12] The Commission must act, by initiating an investigation, within 90 days ''from the date it knew of an alleged violation of its Market Behavior Rules or knew of the potentially manipulative character of an action or transaction.'' [13] Knowledge on the part of the Commission is defined as including a call to the Commission's Hotline alleging inappropriate behavior or communication with the Commission's Enforcement Staff.

3. The following protocols are for the purpose of implementing and effectuating referrals by the MMUs to the Commission of: (1) Alleged tariff violations that the Commission has not allowed the ISOs/RTOs to administer and resolve in the first instance; and (2) alleged violations of Market Behavior Rules.[14] It is important to understand that the referral protocols set forth below are not intended to affect, and should not affect in any manner, the regular and ongoing communications and dialogue that the MMUs have with Commission Staff about a variety of market-related matters and issues, including the status of the markets and activities of the market participants.[15] In addition, ongoing communications between the ISO/RTO staff and Commission Staff who are on-site at the various ISOs/RTOs, as in the case for California ISO, Midwest ISO and Southwest Power Pool, should not be affected. These protocols are solely addressed to referrals to the Commission of Market Violations. As is the case with any matter that may be the subject of an investigation, the Commission will determine whether and to what extent to conduct an investigation.

Protocols:

4. *Protocol No. 1.* An MMU should make a referral to the Commission in all instances where the MMU has reason to believe that a Market Violation may have occurred. While the MMU need not be able to prove that a Market Violation has occurred, the MMU should provide sufficient credible information to warrant further investigation by the Commission. Once the MMU has obtained sufficient credible information to warrant referral to the Commission, the MMU should immediately refer the matter to the Commission and desist from independent action related to the alleged Market Violation[s].[16]

5. *Protocol No. 2.* All referrals to the Commission of alleged Market Violations should be in writing, whether transmitted electronically, by fax, mail, or courier. The MMU may alert the Commission orally in advance of the written referral, but the Commission will not act without a written referral.

6. *Protocol No. 3.* The referral should be addressed to the Commission's Director of the Enforcement Division of the Office of Market Oversight and Investigation, with a copy also directed to both the Director of the Office of Market, Tariffs and Rates and the Commission's General Counsel.

7. *Protocol No. 4.* The referral should include, but is not limited to, the following information:

(a) The name[s] of and, if possible, the contact information for, the market participants that allegedly took the action[s] that constituted the alleged Market Violation[s];

(b) The date[s] or time period during which the alleged Market Violation[s] occurred and whether the alleged wrongful conduct is ongoing;

(c) The specific Market Behavior Rule[s] and/or tariff provision[s] that were allegedly violated;

(d) The specific act[s] or conduct that allegedly violated the Market Behavior Rule or tariff;

(e) The consequences in the market resulting from the act[s] or conduct, including, if known, an estimate of economic impact on the market;

(f) If the MMU believes that the act[s] or conduct constituted manipulative behavior in violation of Market Behavior Rule 2, a description of the alleged manipulative effect on market prices, market conditions, or market rules;

(g) Any other information that the MMU believes is relevant and may be helpful to the Commission.

8. *Protocol No. 5.* Following a referral to the Commission, the MMU should continue to notify and inform the Commission of any information that the MMU learns of that may be related to the referral, but the MMU should not undertake any investigative steps regarding the referral except at the express direction of the Commission Staff. However, this does not mean the MMU cannot continue its monitoring functions and make recommendations to the ISO/RTO, stakeholders, and the Commission on tariff changes that may be necessary.

[FR Doc. 05–11935 Filed 6–16–05; 8:45 am]

BILLING CODE 6717–01–P

[7] Market Behavior Rules Order at P 182.

[8] *See id.* at Appendix A. The six Market Behavior Rules adopted in the Market Behavior Rules Order address: (1) Unit operations; (2) market manipulation; (3) communications; (4) reporting; (5) record retention; and (6) tariff-related matters.

[9] *Id.* at P 185. If, however, the Market Behavior Rules overlap with clearly stated tariff provisions for behavior which is objectively identifiable and for which the violations have Commission-approved sanctions, then the Commission will defer to the MMU in the first instance, subject to possible review.

[10] *Id.* at P 184.

[11] *Id.* See also California Indep. Sys. Operator Corp., 106 FERC ¶ 61,179 at PP 44, 101 (2004).

[12] *Id.* at P 148.

[13] *Id.*

[14] We will, hereinafter, refer to both these alleged tariff violations and alleged Market Behavior Rules violations as ''Market Violations.''

[15] *Id.* at P 184.

[16] It is noteworthy that the Commission's 90-day time period in which to open an investigation regarding a Market Behavior Rule violation may begin with a communication other than a referral from the MMU since, as noted earlier, a call to the Hotline or any communication with the Commission's Enforcement Staff alleging a Market Behavior Rule violation will start the 90-day time period. (*See* Market Behavior Rules Order at P 148). If, however, the triggering communication was from the MMU, the MMU should make a referral, to the extent it determines one is warranted, as soon as practicable so that Enforcement has the benefit of the referral prior to the time it must take action—*i.e.*, within the 90 days of the initial communication.

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6664–5]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act, as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202–564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in the **Federal Register** dated April 1, 2005 (70 FR 16815).

Draft EISs

EIS No. 20050142, ERP No. D–NOA–K39092–CA, Programmatic—Montrose Settlements Restoration Program (MSRP) Draft Restoration Plan, To Restore Injured Natural Resources, Channel Islands, Southern California Bight including Baja California Pacific Islands, Orange County, CA

Summary: EPA expressed concerns about direct and indirect impacts, the feasibility of the artificial reef projects, and their inclusion in the alternatives,

and requested additional information regarding the selection of evaluation criteria, cumulative impacts to injured resources, and impacts to endangered species. Rating EC2.

EIS No. 20050143, ERP No. D–FHW–G40184–00, I–69 Corridor—Section of Independent Utility (SIU) No. 14, Construction from Junction 1–20 near Haughton, LA to U.S. 82 near EL Dorado, AR, Bossier, Claiborne and Webster Parishes, LA and Columbia and Union Counties, AR.

Summary: EPA has no objections to the project as proposed. Rating LO.

EIS No. 20050158, ERP No. D–AFS–L65482–ID, Aspen Range Timber Sale and Vegetation Treatment Project, Proposal to Treat Forested and Nonforested Vegetation, Caribou-Targhee National Forest, Soda Springs Ranger District, Caribou County, ID.

Summary: EPA expressed environmental concerns about potential adverse impacts to surface water quality and habitat from sediment produced from roads, and silviculture activities, and recommends conducting timber harvest during winter months and applying BMPs immediately after harvest. Rating EC2.

Final EISs

EIS No. 20050125, ERP No. F–NPS–E61074–00, Big South Fork National River and Recreation Area, General Management Plan, Implementation, Resources, Roads and Trails, McCreary, Ky and Fentress, Morgan, Pickett and Scott Counties, TN.

Summary: EPA has no objections to the project as proposed.

EIS No. 20050171, ERP No. F–AFS–K65256–NV, Jarbidge Canyon Project, Road Management Plan, Implementation, Water Projects Construction along Charleston-Jarbidge Road and South Canyon Road Reconstruction, Humbolt-Toiyabe National Forest, Jarbidge Ranger District, Elko County, NV.

Summary: The Final EIS was responsive to the primary objections raised on the Draft EIS on CWA Section 404-issues and water quality mitigation. EPA continues to have concerns about the Selected Alternative due to its presence within the flood plain and low-water crossings. EPA recommended additional water quality mitigation measures and strong enforcement of both seasonal use and the forest closure order.

EIS No. 20050172, ERP No. F–NRC–G06013–AR, Generic—License Renewal of Nuclear Plants, Arkansas Nuclear One, Unit 2 (Tac. Nos. MB 8405) Supplement 19 to NUREG–1437, Operating License Renewal, Pope County, AR.

Summary: No formal comment letter was sent to the preparing agency.

EIS No. 20050183, ERP No. F–NOA–K91013–HI, Seabird Interaction Mitigation Methods, To Reduce Interaction with Seabird in Hawaii-Based Longline Fishery and Pelagic Squid Fishery Management, to Establish an Effective Management Framework for Pelagic Squid Fisheries, Fishery Management Plan, Pelagic Fisheries of the Western Pacific Region, Exclusive Economic Zone of the U.S. and High Sea, HI.

Summary: EPA's concerns have been addressed with the creation of a new seabird action preferred alternative in the FEIS; therefore, EPA has no objections to the proposed action.

EIS No. 20050184, ERP No. F–NOA–L91021–AK, Essential Fish Habitat Identification and Conservation, Implementation, North Pacific Fishery Management Council, Magnuson-Stevens Fishery Conservation and Management Act, AK.

Summary: EPA continues to express concerns about rescinding HAPC status without appropriate evaluation.

Dated: June 14, 2005.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 05–12013 Filed 6–16–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6664–4]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed 06/06/2005 Through 06/10/2005

Pursuant to 40 CFR 1506.9.

EIS No. 20050231, Draft EIS, AFS, MT, Gallatin National Forest, Proposed Travel Management Plan, Implementation, Forest Land and Resource Management, Madison, Gallatin, Park, Meagher, Sweetgrass and Carbon Counties, MT, Comment Period Ends: 08/01/2005, Contact: Steve Christiansen 406–587–6750.

EIS No. 20050232, Final EIS, FHW, OR, Newberg-Dundee Transportation Improvement Project, (TEA 21 Prog. #37), Proposal to Relieve Congestion on OR–9W through the Cities of Newberg and Dundee, Bypass Element Location (Tier 1), Yamhill County, OR, Wait Period Ends: 07/18/2005, Contact: Alan J. Fox 503–986–2681.

EIS No. 20050233, Final EIS, FHW, MI, I–75 from M–102 to M–59 Proposed Widening and Reconstruction, Transportation Improvements, Funding, NPDES Permit and U.S. Army COE Section 404 Permit, Oakland County, MI, Wait Period Ends: 08/05/2005, Contact: Abdelmoez Abdalla 517–702–1820.

EIS No. 20050234, Draft EIS, FHW, LA, Interstate 69, Section of Independent Utility (SIU) 15 Project, Construct between U.S. Highway 171 near the Town of Stonewall in DeSoto Parish, and Interstate Highway 20 (I–20) near the Town of Haughton in Bossier Parish, LA, Comment Period Ends: 08/01/2005, Contact: William C. Farr 225–757–7615.

EIS No. 20050235, Draft EIS, NPS, IN, Lincoln Boyhood National Memorial General Management Plan, Implementation, Lincoln City, Spencer County, IN, Comment Period Ends: 08/16/2005, Contact: Nick Chevance 402–661–1844.

EIS No. 20050236, Draft EIS, AFS, MT, Rocky Mountain Ranger District Travel Management Plan, Proposes to Change the Management of Motorized and Non-Motorized Travel, Lewis and Clark National Forest, Glacier, Pondera, Teton and Lewis and Clark Counties, MT, Comment Period Ends: 08/16/2005, Contact: Dick Schwecke 406–791–7700.

EIS No. 20050237, Final EIS, NOA, 00, Bottomfish and Seamount Groundfish Fisheries Conservation and Management Plan, Implementation, U.S. Economic Zone (EEZ) around the State of Hawaii, Territories of Samoa and Guam, Commonwealth of the Northern Mariana and various Islands and Atolls known as the U.S. Pacific remove Island areas, HI, GU and AS, Wait Period Ends: 07/18/2005, Contact: William Robinson 808–973–2937.

EIS No. 20050238, Final EIS, AFS, UT, Monticello and Blanding Municipal Watershed Improvement Projects, Implementation, Manti-La Sal National Forest, Monticello Ranger District, San Juan County, UT, Wait Period Ends: 07/18/2005, Contact: Greg Montgomery 435–636–3348.

EIS No. 20050239, Draft EIS, CGD, 00, Main Pass Energy HUB Deepwater Port License Application, Proposes to Construct a Deepwater Port and Associated Anchorages, U.S. Army

COE Section 10 and 404 Permit, Gulf of Mexico (GOM), southeast of the coast of Louisiana in Main Pass Lease Block (MP) 299 and from the Mississippi coast in MP 164, Comment Period Ends: 08/01/2005, Contact: Mark Prescott 202–267–0225.

EIS No. 20050240, Draft Supplement, FTA, MA, Silver Line Phase III (previously known as South Boston Pier) Project, Updated Information to Physically Integrate Silver Line Phase I and II, Massachusetts Bay Transportation Authority's, Funding, MA, Comment Period Ends: 08/08/2005, Contact: Andrew Brennan 617–222–3126.

EIS No. 20050241, Final EIS, BLM, 00, Programmatic EIS—Proposed Revision to Grazing Regulations for the Public Lands, 42 CFR Part 4100, in the Western Portion of the United States, Wait Period Ends: 07/18/2005, Contact: Bud Cribley 202–785–6569.

EIS No. 20050242, Final EIS, FRC, TX, Ingleside Energy Center Liquefied Natural Gas (LNG) Import Terminal and San Patricio Pipeline Natural Gas Pipeline, Authorization to Construct, Install and Operate, San Patricio and Nueces Counties, TX, Wait Period Ends: 07/18/2005, Contact: Thomas Russo 1–866–208–3372.

EIS No. 20050243, Final EIS, AFS, OR, West Maurys Fuels and Vegetation Management Project, Prescribed Fire, Commercial and Noncommercial Thinning, Grapple Piling and Hand Piling, Implementation, Lookout Mountain Range District, Ochoco National Forest, Crook County, OR, Wait Period Ends: 07/18/2005, Contact: Larry Timchak 541–416–6500.

Dated: June 14, 2005.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 05–12014 Filed 6–16–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OEI–2004–0005; FRL–7698–1]

Lead-Based Paint System of Records (LPSOR)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), EPA's Office of Pollution Prevention and Toxics (OPPT) is giving notice that it intends to establish a new System of Records (SOR) under the Federal Lead-Based Paint Program. This system of records (LPSOR), comprising information stored in both electronic and hard paper formats, contains information on individuals who have applied for certification to conduct lead-based paint activities, who are students taking classes in lead-based paint activities, or who have been identified on behalf of firms which conduct or which receive accreditation to provide training in lead-based paint activities. EPA administers lead-based paint certification and accreditation programs in states, Indian tribal areas, and territories that do not have EPA authorization to administer such programs. Applicants interested in certification and accreditation must submit a complete application package and necessary fees for EPA approval.

DATES: EPA intends to implement the new System of Records on July 27, 2005.

FOR FURTHER INFORMATION CONTACT: Robert Wright,National Program Chemicals Division (7404T), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 566–1975; e-mail address:*wright.robert@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me

This action is directed to the public in general. This action may, however, be of interest to persons and firms making application for certification to perform lead-based paint activities and training organizations applying for accreditation to perform lead-based paint activitytraining. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information

1. *Docket*. EPA has established an official public docket for this action under docket identification number OEI–2004–0005. The official public docket is the collection of materials that is available for public viewing at the OEI Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

2. *Electronic access*. An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets (*http://www.epa.gov/edocket/*). EPA Dockets can be used to view public comments, to access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified above.

II. LPSOR

The EPA Federal Lead-Based Paint Program system of records does not duplicate any existing system of records. The new system is a system of information on individuals who have applied for certification and accreditation to perform lead-based paint activities. The system handles Privacy Act protected information in the same manner regardless of whether the information is contained in electronic or hard copy form. Access to the system is restricted to authorized users and will be maintained in a secure, password protected computer system, in secure areas and buildings with physical access controls and environmental controls. The system is maintained by EPA's Office of Pollution Prevention and Toxics (OPPT).

List of Subjects

Environmental protection, Lead-based paint.

Dated: May 31, 2005.

Kimberly T. Nelson,

Assistant Administrator and Chief Information Officer, Office of Environmental Information.

EPA–54

System Name:

Lead-Based Paint Program System of Records (LPSOR).

Security Classification:

None.

System Location:

Records maintained under the LPSOR are stored in different formats and in several locations as follows:

(1) The main digital electronic system at EPA's central server at the National Computer Center (NCC) in Research

Triangle Park (RTP), North Carolina. This database contains information entered on the system from some of the primary sources listed below under ''Records in the System'' (submitted forms and notifications).

(2) Hard copy files at both the EPA Regional offices and the facility operated by EPA's contractor in Silver Spring, Maryland. These records include the original or photocopied paper submissions (including supplementary submissions) to the Agency. Though similar in file content, the paper collections held by the EPA contractor in Silver Spring may differ from those maintained by the applicable Regional office.

(3) Records on various isolated electronic systems developed and operated by individual EPA Regional offices under their own initiative for local use. These electronic records are maintained separate from the main central server at RTP, and have been created solely by and for the use of the applicable Regional office.

Categories of Individuals Covered by the System:

Individuals covered by the System include those who have either applied for certification to perform lead-based paint activities, those who take classes on how to perform lead-based paint activities, or those who are identified on behalf of firms which conduct or which receive accreditation to provide training in lead-based paint activities.

Categories of Records in the System:

The LPSOR may contain such information about individuals as their name, social security number, home address, telephone number, date of birth,work-related information, signature, course test scores, submitted fees, and certifications.

Authority for Maintenance of the System:

40 CFR Part 745 Lead--Requirements for Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities.

Purpose:

The purpose of LPSOR is to maintain (either in electronic or paper copy formats, or both) the information submitted to the Agency on various documents under the Federal Lead-Based Paint Program. These records include application forms, notification forms, and various support documents. By performing this function, LPSOR supports activities central to the program including issuing certificates and badges, analyzing information, generating letters and reports, and executing various enforcement actions.

Routine Uses of Records Maintained in the System and Their Purpose; Categories of Users:

The general routine uses for LPSOR are as follows: A, B, C, E, F, G, H, I, and K. (A detailed description of these routine uses can be found in the Agency's Systems of Records website at*www.epa.gov/privacy/notice/general.htm*.)

In addition, the following routine uses may also apply:

Program Disclosures/User Categories:

Consistent with applicable provisions of the Privacy Act and the Freedom of Information Act, the Agency may disclose information from LPSOR to Federal, State, or local agencies, private parties such as relatives, present and former employers and business and personal associates, and hearing officials, as a given situation might require, for purposes including the following:

(1) To verify the identity of the individual;

(2) To enforce the conditions or terms of Agency Lead-Based Paint Program regulations;

(3) To investigate possible fraud by (for example) applicants and users, and verify compliance with Agency Lead-Based Paint Program regulations;

(4) To prepare for litigation or to litigate fee collection and reporting enforcement matters;

(5) To initiate a limitation, suspension, and termination (LS&T) or debarment action;

(6) To investigate complaints, update files, and correct errors;

(7) To prepare for alternative dispute resolution (ADR) in any of the cases described in paragraphs (2), (3), and (4);

(8) To engage in audits or other internal matters within EPA;

(9) To contact certified individuals and applicants in the event of a system modification; or

(10) To respond to a change to the LPSOR, as in the case of a modification, revocation, or termination of a user's access privileges.

Polices and Practices for Storing, Retrieving, Safeguarding Access, Retaining, and Disposing of Records in the System:

• *Records in the System*

The LPSOR maintains records on individuals derived from a variety of sources relating to the undertaking of lead-based paint activities and training. These record sources include the following forms submitted to EPA: EPA Forms 8500–27 (''Application for Firms to ConductLead-Based Paint Activities''), 8500–25 (''Accreditation Application for Training Programs'') and 8500–28 (''Application for Individuals to Conduct Lead-Based Paint Activities''). The information derived from these forms concerns individuals who have either applied for certification or who have identified themselves as representatives on behalf of firms which conduct or which receive accreditation to provide training in lead-based paint activities. Other record sources include information derived from three required notifications submitted to EPA pursuant to 40 CFR part 745 (see the**Federal Register** of April 8, 2004, 69 FR 18489, ''Lead; Notification Requirements for Lead-Based Paint Abatement Activities and Training''). The first requires firms certified under 40 CFR 745.226 to provide notification to the Agency prior to conducting lead-based paint abatement activities. The other two require training programs accredited under 40 CFR 745.225 to provide notification to the Agency prior to and then following conducting lead-based paint activities training courses. The data derived from these notifications include information on individuals who supervise lead-abatement projects and prepare the notification to EPA prior to doing so, or serve as instructors for, manage other instructors or attend training as students of these accredited programs. Finally, other record sources of information stored in the system may include supplementary documents obtained by Regional offices in the application approval process.

• *Storage*

Records maintained under the LPSOR are stored in different formats and in several locations. Each of these record collections, which together comprise the LPSOR, must adhere to the requirements of the Privacy Act, and are subject to the rules and restrictions for disclosure of information specified under the Freedom of Information Act (FOIA). These records are stored as follows:

(1) The main digital electronic system at EPA's central server at the National Computer Center (NCC) in Research Triangle Park (RTP), North Carolina. This database contains information entered in the system from the primary sources listed above (submitted forms and notifications).

(2) Hard copy files at both the EPA Regional offices and the facility operated by EPA's contractor in Silver Spring, Maryland. These records include the original or photocopied paper submissions (including

supplementary submissions) to the Agency, as outlined above. Though similar in file content, the paper collections held by the EPA contractor in Silver Spring may differ from those maintained by the applicable Regional office.

(3) Records on various isolated electronic systems developed and operated by individual EPA Regional offices under their own initiative for local use. These electronic records are maintained separately from the main central server at RTP, and have been created solely by and for the use of the applicable Regional office.

• *Retrieving*

Records may be retrieved by referencing an individual's name, application ID number, applicant ID number, or program activity.

• *Safeguarding Access*

Physical access to the electronic data system housed within the facility at RTP is controlled by a computerized badge reading system, with the complex patrolled by security during non-business hours. All users are provided a unique user identification (ID) with personal identifiers. All interactions between the system and the authorized individual users are recorded through use of a card reader and tracking database. Paper records stored at the EPA contractor facility in Silver Spring are protected by computerized badge-reading security systems, with files maintained in locked file drawers. Records stored at EPA Regional offices are secured through building security with computerized badge-reading systems.

• *Retaining and Disposing*

EPA will retain and dispose of these records in accordance with the EPA Records Schedule 089 and the National Archives and Records Administration General Records Schedule 23/8. Application records maintained in the system are deleted/destroyed 2 years after the date of the last entry.

System Manager's Address and Telephone Number:

LPSOR System Manager, USEPA, Office of Pollution Prevention and Toxics, (7404T), 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attn: Maria J. Doa, Ph.D., Director, National Program Chemicals Division, (202) 566–0500.

Notification Procedure:

Requests to determine whether this system of records contains a record pertaining to you must be sent to the LPSOR System Manager, USEPA, Office of Pollution Prevention and Toxics, (7404T), 1200 Pennsylvania Ave., NW., Washington, DC 20460. At a minimum, requestors will be required to provide adequate identification (e.g., driver's license, military identification card, employee badge or identification card) and, if necessary, proof of authority. Additional identity verification procedures may be required as warranted. Requests must meet the requirements of EPA regulations at 40 CFR part 16.

Record Access Procedures:

Requesters seeking access to this system shall follow the directions described under Notification Procedure and will be sent to the system manager at the address listed above.

Contesting Records Procedures:

If you wish to contest a record in the system of records, contact the system manager with the information described under Notification Procedure, identify the specific items you are contesting, and provide a written justification for each item.

Record Source Categories:

Information is obtained from individuals, firms, and training provider forms submitted for certification and/or accreditation to perform lead-based paint activities.

System Exempted from Certain Provisions of the Act:

None.

[FR Doc. 05–11913 Filed 6–16–05; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[RFA IP05–097]

Feasibility and Impact of Influenza Vaccination by Pediatricians of Household Contacts of Children Less Than Two Years; Notice of Availability of Funds—Amendment

A notice announcing the availability of fiscal year (FY) 2005 funds for a cooperative agreement for Feasibility and Impact of Influenza Vaccination by Pediatricians of Household Contacts of Children Less Than Two Years was published in the **Federal Register**, Thursday, May 12, 2005, Volume 70, Number 91, pages 25063–25067.

This notice has been withdrawn and applications are not being accepted for funding.

Dated: June 31, 2005.

William P. Nichols,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 05–11976 Filed 6–16–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–10157]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Center for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS), 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.

We are, however, requesting an emergency review of the information collection referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR part 1320. This is necessary to ensure compliance with an initiative of the Administration. We cannot reasonably comply with the normal clearance procedures, because of a possible public harm that will ensue from delay or denial of access to the new Eligibility verification process described in this notice.

The Centers for Medicare and Medicaid Services (CMS) is requesting that a paperwork Reduction Act (PRA) package for a new CMS Real-Time Eligibility Agreement and Access Request form be processed under the emergency clearance process. The approval of this data collection process is essential in order to support the necessary national database and infrastructure to process Health Insurance Portability and Accountability Act of 1996 (HIPAA) compliant health care eligibility inquiries (270) and responses (271) in a real-time basis.

CMS is requiring that trading partners who wish to conduct the eligibility transaction on a real-time basis to access Medicare beneficiary information provide certain assurances as a condition of receiving access to the Medicare database for the purpose of conducting eligibility verification. Health care providers, clearinghouses, and health plans that wish to access the Medicare database are required to complete the access request form. The information will be used to assure that those entities that access the Medicare database are aware of applicable provisions and penalties.

CMS is requesting OMB review and approval of this collection by July 1, 2005, with a 180-day approval period. Written comments and recommendation will be accepted from the public if received by the individuals designated below by June 28, 2005.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site address at *http://www.cms.hhs.gov/regulations/pra* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection and recordkeeping requirements must be mailed and/or faxed to the designees referenced below by June 28, 2005:

Centers for Medicare and Medicaid Services, Office of Strategic Operations and Regulatory Affairs, Room C5–13–27, 7500 Security Boulevard, Baltimore, MD 21244–1850. *Fax Number:* (410) 786–0262, Attn: William N. Parham, III, CMS–10157; and

OMB Human Resources and Housing Branch, Attention: Christopher Martin, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: June 3, 2005.

Jim L. Wickliffe,

CMS Reports Clearance Officer, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 05–11721 Filed 6–16–05; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–250–254]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Center for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS), 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.

We are, however, requesting an emergency review of the information collection referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR part 1320. This is necessary to ensure compliance with an initiative of the Administration. We cannot reasonably comply with the normal clearance procedures the use of normal clearance procedures is reasonably likely to cause a statutory deadline to be missed.

The Centers for Medicare & Medicaid Services (CMS) is seeking approval to collect information from beneficiaries, providers, physicians, or suppliers on health insurance coverage that is primary to Medicare. Collecting this information allows CMS to identify those Medicare beneficiaries who have other group health insurance that would pay before Medicare, safeguarding the Medicare Trust Fund. The annual savings from the Medicare Secondary Payer (MSP) program for Parts A and B are more than $4.5 billion per year. With the impending implementation of Medicare Part D under the Medicare Prescription Drug, Modernization and Improvement Act of 2003 (MMA), a new approval is needed in order to include prescription drug-related questions on the already-approved MSP collections and increase the savings to the Medicare Trust Fund.

CMS is requesting OMB review and approval of this collection by July 15, 2005, with a 180-day approval period. Written comments and recommendation will be accepted from the public if received by the individuals designated below by June 11, 2005.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site address at *http://www.cms.hhs.gov/regulations/pra* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection and recordkeeping requirements must be mailed and/or faxed to the designees referenced below by July 11, 2005:

Centers for Medicare and Medicaid Services, Office of Strategic Operations and Regulatory Affairs, Room C5–13–27, 7500 Security Boulevard, Baltimore, MD 21244–1850. *Fax Number:* (410) 786–0262. Attn: William N. Parham, III, CMS–250–254; and

OMB Human Resources and Housing Branch, Attention: Christopher Martin, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: June 3, 2005.

Jim L. Wickliffe,

CMS Paperwork Reduction Act Reports Clearance Officer, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 05–11722 Filed 6–16–05; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10143, CMS–10140, CMS–460, CMS–R–65]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), 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 function; (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:* New collection; *Title of Information Collection:* Monthly State File of Medicaid/Medicare Dual Eligible Enrollees and Supporting Regulations in 42 CFR 423.900 through 423.910; *Use:* The monthly file of dual eligible enrollees will be used to determine those duals with drug benefits for the phased-down State contribution process required by the Medicare Modernization Act of 2003 (MMA). Section 103(a)(2) of the MMA addresses the phased-down state contribution (PDSC) process for the Medicare program. The reporting of the Medicare/Medicaid dual eligibles on a monthly basis is necessary to implement those provisions, and to Support Part D subsidy determinations and auto-assignment of individuals to Part D plans. The PDSC is a partial recoupment from the States of ongoing Medicaid drug costs for dual eligibles assumed by Medicare under MMA, which absent the MMA would have been paid for by the States; *Form Number:* CMS–10143 (OMB# 0938–NEW); *Frequency:* Recordkeeping and Monthly reporting; *Affected Public:* State, local or tribal government; *Number of Respondents:* 51; *Total Annual Responses:* 612; *Total Annual hours:* 10,710.

2. *Type of Information Collection Request:* New Collection; *Title of Information Collection:* Claims Error Rate Testing (CERT)/Electronic Medical Records Exploratory Survey; *Form No.:* CMS–10140 (OMB# 0938–NEW); *Use:* The Centers for Medicare and Medicaid Services (CMS) is using a private vendor to conduct market research to assess the value of electronic patient medical records relative to the Claims Error Rate Testing (CERT) program and determine what actions CMS can take to encourage the use of electronic records for the purpose of lowering the CERT error rate. The proposed effort will test the hypothesis that increased functionality of electronic records (meaning, greater connectivity and features), is associated with lower CERT error rates related to coding, non-response and incomplete documentation. The project is expected to assist CMS in identifying a strategy to improve the CERT claims error rate by developing an approach that would both facilitate and encourage the use of electronic patient medical records in the health care setting. This research focuses on physician practices, outpatient hospitals, durable medical equipment (DME) providers and skilled nursing facilities (SNFs) that have been randomly sampled as part of the CERT process.; *Frequency:* On occasion; *Affected Public:* Business or other for-profit; *Number of Respondents:* 1600; *Total Annual Responses:* 1600; *Total Annual Hours:* 454.

3. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicare Participating Physician or Supplier Agreement; *Form No.:* CMS–460 (OMB# 0938–0373); *Use:* Form number CMS–460 is completed by nonparticipating physicians and suppliers if they choose to participate in Medicare Part B. By signing the agreement, the physician or supplier agrees to take assignment on all Medicare claims. To take assignment means to accept the Medicare allowed amount as payment in full for the services they furnish and to charge the beneficiary no more than the deductible and coinsurance for the covered service. In exchange for signing the agreement, the physician or supplier receives a significant number of program benefits not available to nonparticipating suppliers. The information associated with this collection is needed to identify the recipients of the program benefits; *Frequency:* Other—when starting a new business; *Affected Public:* Business or other for-profit; *Number of Respondents:* 6000; *Total Annual Responses:* 6000; *Total Annual Hours:* 1500.

4. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Information Collection Requirements in Final Peer Review Organization Regulations, 42 CFR sections 1004.40, 1004.50, 1004.60, 1004.70; *Form No.:* CMS–R–65 (OMB# 0938–0444); *Use:* This final rule updates the procedures governing the imposition and adjudication of program sanctions predicated on the recommendations of Peer Review Organizations (PROs). These changes are being made as a result of statutory revisions designed to address health care fraud and abuse issues in the OIG sanction process. The Peer Review Improvement Act of 1982 amended Title XI of the Social Security Act, creating the Utilization and Quality Control Peer Review Organization program. Section 1156 of the Social Security Act imposes obligations on health care practitioners and other persons who furnish or order services or items under Medicare. This section also provides for sanction actions, if the Secretary determines that the obligations as stated by this section are not met. Quality Improvement Organizations (QIOs) are responsible for identifying violations. QIOs may allow practitioners or other persons, opportunities to submit relevant information before determining that a violation has occurred. These requirements are used by the QIOs to collect the information necessary to make their determinations; *Frequency:* On occasion; *Affected Public:* Not-for-profit institutions; *Number of Respondents:* 53; *Total Annual Responses:* 1060; *Total Annual Hours:* 22,684.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web site address at *http://www.cms.hhs.gov/regulations/pra/*, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

Written comments and recommendations for the proposed information collections must be mailed

within 30 days of this notice directly to the OMB desk officer:

OMB Human Resources and Housing Branch, Attention: Christopher Martin, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: June 10, 2005.

Jim L. Wickliffe,

CMS Reports Clearance Officer, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 05–11929 Filed 6–16–05; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–R–262, CMS–R–254, CMS–1450, CMS–10146, CMS–10147, CMS–10154, and CMS–10160]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) 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.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Plan Benefit Package (PBP) and Formulary Submission for Medicare Advantage (MA) Plans and Prescription Drug Plans (PDPs); *Form No.:* CMS–R–262 (OMB # 0938–0763); *Use:* Under the Medicare Modernization Act (MMA), Medicare Advantage (MA) and Prescription Drug Plan (PDP) organizations are required to submit plan benefit package information to CMS for approval. Organizations will provide this information through the submission of the formulary and the PBP software; *Frequency:* On occasion, annually and other (as required by new legislation); *Affected Public:* Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 470; *Total Annual Responses:* 2,092; *Total Annual Hours:* 5,546.

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* National Medicare Education Program (NMEP); *Form No.:* CMS–R–254 (OMB # 0938–0738); *Use:* The NMEP was developed to inform people with Medicare, their family members, and other interested parties about their Medicare options. The Medicare Modernization Act of 2003 expanded the program to include among other things, a new Prescription Drug Benefit; therefore, this package has been revised to include this information. The NMEP employs numerous communication channels to educate people with Medicare and help them make more informed decisions concerning the Medicare program benefits; health plan choices; supplemental health insurance; rights, responsibilities, and protections; and preventive health services. As part of the NMEP, CMS must provide information to this population about the Medicare program and their Health Plan options, as well as information about the new prescription drug coverage to help them choose the option that is right for them. This survey seeks to assess the awareness, knowledge, understanding and experiences of people with Medicare regarding the Medicare program overall and these new initiatives; *Frequency:* On occasion; *Affected Public:* Individuals or Households; *Number of Respondents:* 5,700; *Total Annual Responses:* 5,700; Total Annual Hours: 1,425.

3. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicare Uniform Institutional Provider Bill and Supporting Regulations in 42 CFR 424.5; *Form No.:* CMS–1450 (OMB # 0938–0279); *Use:* Section 42 CFR 424.5(a)(5) requires providers of services to submit claims prior to Medicare reimbursement. Charges are coded by revenue codes. The bill specifies diagnoses according to the International Classification of Diseases, Ninth Edition (ICD–9–CM) code. Inpatient procedures are identified by ICD–9–CM codes, and outpatient procedures are described using the Healthcare Common Procedure Coding System (HCPCS). These are standard systems of identification for all major health insurance claims payers. Submission of information on the CMS–1450 permits Medicare intermediaries to receive consistent data for proper payment; *Frequency:* On occasion; *Affected Public:* Not-for-profit institutions, Business or other for profit; *Number of Respondents:* 51,629; *Total Annual Responses:* 174,461,278; *Total Annual Hours:* 1,997,581.

4. *Type of Information Collection Request:* New Collection; *Title of Information Collection:* Notice of Denial of Medicare Prescription Drug Coverage; *Form No.:* CMS–10146 (OMB # 0938–NEW); *Use:* Pursuant to 42 CFR 423.568(c), if a Part D plan denies drug coverage, in whole or in part, the Part D plan must give the enrollee written notice of the coverage determination; *Frequency:* Other: Distribution; *Affected Public:* Business or other for profit, Not-for-profit institutions; Individuals or Households and Federal Government; *Number of Respondents:* 450; *Total Annual Responses:* 1,056,000; *Total Annual Hours:* 528,000.

5. *Type of Information Collection Request:* New Collection; *Title of Information Collection:* Medicare Prescription Drug Coverage and Your Rights; *Form No.:* CMS–10147 (OMB # 0938–NEW); *Use:* Pursuant to 42 CFR 423.562(a)(3), a Part D plan sponsor must arrange with its network pharmacies to post or distribute notices informing enrollees to contact their plan to request a coverage determination or an exception if the enrollee disagrees with the information provided by the pharmacy; *Frequency:* Other: Distribution; *Affected Public:* Business or other for profit, Not-for-profit institutions; Individuals or Households and Federal Government; *Number of Respondents:* 41,000; *Total Annual Responses:* 35,000,000; *Total Annual Hours:* 583,333.

6. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Physician Assessment of Hospital Quality Reports; *Form No.:* CMS–10154 (OMB # 0938–NEW); *Use:* This assessment will monitor the attitudes and behaviors of physicians as they relate to the concerns of their patients who have been exposed to hospital quality-of-care reports at CMS's Web site; *Affected Public:* Individuals or Households; *Number of Respondents:* 1730; *Total Annual Responses:* 1730; *Total Annual Hours:* 345.75.

7. *Type of Information Collection Request:* New collection; *Title of Information Collection:* The Personal Responsibility Survey; *Form No.:* CMS–10160 (OMB # 0938–NEW); *Use:* New focus on personalizing messages by

relating health care choices with individual beliefs may help guide these educational efforts. The intent of this survey is to understand the role personal responsibility plays when people with Medicare make health care decisions; *Affected Public:* Individuals or Households; *Number of Respondents:* 1580; *Total Annual Responses:* 1580; *Total Annual Hours:* 300.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site address at *http://www.cms.hhs.gov/regulations/pra/,* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice to the address below: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Melissa Musotto, PRA Analyst, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: June 10, 2005.

Jimmy Wickliffe,

Reports Clearance Officer, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 05–11931 Filed 6–16–05; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Follow-up to the National Survey of Child and Adolescent Well-Being.

OMB No.: 0970–0202.

Description: The Department of Health and Human Services intends to collect data on a subset of children and families who have participated in the National Survey of Child and Adolescent Well-Being (NSCAW). The NSCAW was authorized under Section 429 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The survey began in November 1999 with a national sample of 5,501 children ages 0–14 who had been the subject of investigation by Child Protective Services (CPS) during the baseline data collection period, which extended from November 1999 through April 2000. Direct assessments and interviews were conducted with the children themselves, their primary caregivers, their caseworkers, and, for school-aged children, their teachers.

Follow-up data collections were conducted 12 months, 18 months and 36 months post-baseline. The current data collection plan involves only a subset of 1,497 children from the original sample, that is, children who were ages 0–12 months during the baseline period. The original sample design for NSCAW was stratified to include an over-sample of infants; thus, the subset that is the subject of this data collection is a representative sample of infants who were the targets of CPS investigations during the survey's baseline data collection period. This group will be at the beginning of their formal schooling as the next data collection begins, and will allow for the identification of early risk and protective factors, as well as the influence of services and service systems, on their functioning as they enter this critical transition period.

The NSCAW is unique in that it is the only source of nationally representative, firsthand information about the functioning and well-being, service needs and service utilization of children and families who come to the attention of the child welfare system. Information is collected about children's cognitive, social, emotional, behavioral and adaptive functioning, as well as family and community factors that are likely to influence their functioning. Family service needs and service utilization also are addressed in the data collection. The data collection for the follow-up will follow the same format as that used in previous rounds of data collection, and will employ the same instruments that have been used with 5- to 7-year-olds in previous rounds. Data from NSCAW are made available to the research community through licensing arrangements from the National Data Archive on Child Abuse and Neglect, housed at Cornell University.

Respondents: Children, who are clients of the child welfare system, their primary caregivers, caseworkers, and teachers.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Child Interview	1,017	1	1.10	1,119
Caregiver Interview	1,017	1	1.40	1,424
Caseworker Interview	299	1	.75	224
Teacher Questionnaire	790	1	.75	592
Salivary cortisol collection	299	1	1.25	374

Estimated Total Annual Burden Hours: 3,733.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promnade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *grjohnson@acf.hhs.gov*.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Attn: Desk Officer for ACF, E-mail address: *Katherine_T._Astrich@omb.eo.gov*.

Dated: June 13, 2005.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 05–11969 Filed 6–16–05; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2005N–0231]

Draft Report of the Threshold Working Group, Center for Food Safety and Applied Nutrition: Approaches to Establish Thresholds for Major Food Allergens and for Gluten in Food; Availability; Request for Comments and for Scientific Data and Information

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for comments and for scientific data and information.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft report entitled ''Approaches to Establish Thresholds for Major Food Allergens and for Gluten in Food.'' The draft report was prepared by an interdisciplinary group of scientists from FDA's Center for Food Safety and Applied Nutrition (CFSAN). This report was prepared to facilitate the further development of CFSAN's policy for food allergens, including the center's implementation of the Food Allergen Labeling and Consumer Protection Act of 2004 (FALCPA).

DATES: Submit comments and scientific data and information by August 16, 2005.

ADDRESSES: Submit written comments and scientific data and information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments and scientific data and information to *http://www.fda.gov/dockets/ecomments*.

Submit written requests for single copies of the draft report to Sherri Dennis, Center for Food Safety and Applied Nutrition (see **FOR FURTHER INFORMATION CONTACT**). Send one self-adhesive label with your address to assist that office in processing your request. You also may request a copy of the draft report by faxing your name and mailing address with the name of the document you are requesting to the CFSAN Outreach and Information Center at 1–877–366–3322. See the **SUPPLEMENTARY INFORMATION** section for electronic access to this document.

FOR FURTHER INFORMATION CONTACT: Sherri B. Dennis, Center for Food Safety and Applied Nutrition (HFS–06), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–1903.

SUPPLEMENTARY INFORMATION:

I. Background

Food allergies are estimated to affect approximately six percent of infants and children and four percent of adults in the United States. A food allergy is an idiosyncratic response of the immune system to naturally occurring proteins in a food. The most severe and immediately life-threatening food allergic responses are associated with immunoglobulin E (IgE) mediated hypersensitivity. In this country, eight foods or food groups—peanuts, soybeans, cow's milk, eggs, fish, crustacean shellfish, tree nuts, and wheat—account for 90 percent of food allergies.

Food allergic reactions vary in severity, ranging from mild symptoms (such as skin or eye irritation) to severe, life-threatening responses (such as anaphylaxis or systemic shock.) The amount of protein needed to provoke an allergic response varies. Factors that affect the severity of an allergic response include the food from which the protein is derived, the nature of the processing of the food, the food matrix containing the allergenic protein, and the sensitivity of the individual. There is a general consensus that, for most food allergic individuals, exposure to protein below a certain level is unlikely to elicit an allergic response. Although it has not been clearly defined, the term ''threshold'' has frequently been used to describe the lowest level of protein from an allergenic food that will elicit a response in a sensitive individual.

There is currently no known cure for food allergies. Accordingly, strict avoidance of the offending food or foods at levels that will elicit an adverse effect is the only means to prevent potentially serious reactions. Thus, food allergic consumers need accurate, complete, and informative labels on food to protect themselves.

In August 2004, Congress enacted the FALCPA (Public Law 108–282), which amends the Federal Food, Drug, and Cosmetic Act (the act), and requires that the label of a food product that is or contains an ingredient that bears or contains a ''major food allergen'' declare the presence of the allergen as specified by FALCPA. FALCPA defines ''major food allergen'' as one of eight foods or a food ingredient that contains protein derived from one of those foods. FALCPA provides two processes by which an ingredient may be exempted from the FALCPA labeling requirements—a petition process (section 403 of the act (21 U.S.C. 343(w)(6)) and a notification process (21 U.S.C. 343(w)(7)). Under the petition process, an ingredient may be exempt if the petitioner demonstrates that the ingredient ''does not cause an allergic reaction that poses a risk to human health.'' Under the notification process, an ingredient may be exempt if the notification contains scientific evidence that demonstrates that the ingredient ''does not contain allergenic protein,'' or if FDA previously has determined, under section 409 of the act (21 U.S.C. 348), that the food ingredient does not cause an allergic response that poses a risk to human health. Understanding food allergen thresholds and developing a sound analytical framework for such thresholds are likely to be centrally important to FDA's analysis of, and response to, FALCPA petitions and notifications.

FALCPA also requires FDA to define and permit the use of the term ''gluten free.'' Such labeling is important to patients suffering from celiac disease, an immune-mediated illness. Strict avoidance of gluten at levels that will elicit an adverse effect is the only means to prevent potentially serious reactions. Thus, consumers susceptible to celiac disease need accurate, complete, and informative labels on food to protect themselves. Understanding thresholds for gluten will help FDA develop a definition of ''gluten free'' and identify appropriate use of the term.

Section 204 of FALCPA directs FDA to prepare and submit a report to Congress. The report will focus principally on the issue of cross-contact of foods with food allergens, and will describe the types, current use of, and consumer preferences with respect to advisory labeling. Cross-contact may occur as part of the food production process where residues of an allergenic food are present in the manufacturing environment and are unintentionally incorporated into a food that is not intended to contain the food allergen, and thus, the allergen is not declared as an ingredient on the food's label. In some cases, the possible presence of the food allergen is declared by a voluntary advisory statement. Understanding food allergen thresholds and developing a sound analytical framework for such thresholds is also likely to be useful in addressing food allergen cross-contact and the use of advisory labeling.

Both as part of its ongoing risk management of food allergens and in response to FALCPA, CFSAN established an internal, interdisciplinary group (the Threshold Working Group). The Threshold Working Group was established to evaluate the current state of scientific knowledge regarding food allergies and celiac disease, to consider various approaches to establishing thresholds

for food allergens and for gluten, and to identify the biological concepts and data needed to evaluate the scientific soundness of each approach. The draft report entitled ''Approaches to Establish Thresholds for Major Food Allergens and for Gluten in Food'' is the result of the working group's deliberations.

In the **Federal Register** of May 23, 2005 (70 FR 29528), FDA announced a meeting of the agency's Food Advisory Committee (FAC) on July 13, 14, and 15, 2005. At this meeting, the FAC will be asked to evaluate the draft report entitled ''Approaches to Establish Thresholds for Major Food Allergens and for Gluten in Food.'' In particular, the FAC will advise FDA whether, in the committee's view, the draft report is scientifically sound in its analyses and approaches and adequately considers available relevant data on food allergens and on gluten. In seeking the committee's advice, FDA plans to pose a series of scientific questions. These questions will be posted on CFSAN's Web site at *http://www.cfsan.fda.gov/~lrd/vidtel.html* on July 12, 2005. Members of the public who may wish to participate in the FAC meeting, by written submission or an oral presentation, should consult the meeting notice for information regarding such participation.

In addition to the FAC proceedings, the agency believes it would be useful to receive public comments on the Threshold Working Group's draft report. The draft report describes a number of areas in which the working group concluded that the body of scientific data relating to food allergen thresholds is incomplete. Accordingly, FDA requests that members of the public submit comments and any relevant scientific data and information, particularly data and information that can fill the data gaps identified in the draft report.

II. Request for Comments and for Scientific Data and Information

Interested persons should submit comments and scientific data and information to the Division of Dockets Management (see **ADDRESSES**). Three copies of all comments and scientific data and information are to be submitted. Individuals submitting written information or anyone submitting electronic comments may submit one copy. Submissions are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by supporting information. Received submissions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday. Information submitted after the closing date will not be considered except by petition under 21 CFR 10.30.

III. Electronic Access

The draft report is available electronically at *http://www.cfsan.fda.gov/~dms/wh-alrgy.html*.

Dated: June 14, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–12041 Filed 6–15–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Empahsis Panel; Emerging Technologies for Cancer Research.

Date: July 14–15, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Contact Person: Joyce C. Pegues, PhD; Scientific Review Administrator; Special Review Administrator; Special Review and Logistics Branch; Division of Extramural Activities; National Cancer Institute; 6116 Executive Blvd. 7149; Bethesda, MD 20892. 301/594–1286. *peguesj@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: June 10, 2005.

LaVerne Y. Springfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–11987 Filed 6–16–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel Review of Training Applications (T32s).

Date: July 11, 2005.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Columbia Hotel, 10207 Wincopin Circle, Columbia, MD 21004.

Contact Person: Charles Joyce, PhD, Review Branch, NHLBI, National Institutes of Health, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892, (301) 435–0288.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Myelodysplastic Syndrome (MDS): Seeking cure through discovery on pathogenesis and disease progression.

Date: July 12–13, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Columbia Hotel, 10207 Wincopin Circle, Columbia, MD 21004.

Contact Person: Katherine M. Malinda, PhD, Scientific Review Administrator, Review Branch, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7198, Bethesda, MD 20892, (301) 435–0297

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel Cellular and Genetic Discovery Toward Curative Therapy in Myeloproliferative Disorders (MPD)

Date: July 13, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Columbia Hotel, 10207 Wincopin Circle, Columbia, MD 21004.

Contact Person: Katherine M. Malinda, PhD, Scientific Review Administrator, Review Branch, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7198, Bethesda, MD 20892, (301) 435–0297.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, NIH Grant Review: HIV and Lung.

Date: July 21, 2005.

Time: 7:30 a.m. to 4:30 PM

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Zoe Huang, MD, Health, Scientist Administrator, Review Branch, Room 7190, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7190, Bethesda, MD 20892–7924, 301–435–0314, *huangz@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Disease Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: June 10, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–11992 Filed 6–16–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Anorexia Review.

Date: July 12, 2005.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852. (Telephone Conference Call).

Contact Person: Christopher S. Sarampote, PhD, Scientific Reviewer Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6148, MSC 9608, Bethesda, MD 20892–9608. 301–443–1959. *csarampo@mail.nih.gov.*

(Catalogue of Federal Domestic Assitance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: June 10, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–11985 Filed 6–16–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Board of Scientific Counselors, National Institute of Mental Health, June 12, 2005, 7 p.m. to June 14, 2005, 4:30 p.m., Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC, 20015 which was published in the **Federal Register** on May 12, 2005, 70 FR 25096.

The location for this meeting has changed. The meeting will be held at the Hyatt Regency Bethesda Hotel, One Bethesda Metro Center, Bethesda, Maryland, from 7 p.m. on June 12, 2005, to 4:30 p.m. on June 14, 2005. The meeting is closed to the public.

Dated: June 10, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–11986 Filed 6–14–05; 2:29 pm]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the MARC Review Subcommittee A, June 16, 2005, 8 a.m. to June 17, 2005, 6 p.m., Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814 which was published in the **Federal Register** on May 31, 2005, 70FR10330958.

The meeting will be held on June 16, 2005. The meeting is closed to the public.

Dated: June 10, 2005

LaVerne Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–11988 Filed 6–16–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel; ZAA1DD (42) SEP review of R21 Grant Application.

Date: July 11, 2005.

Time: 1:30 p.m. to 1:45 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Fishers Building, 5635 Fishers Lane, 3045, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Sathasiva B. Kandasamy, PhD, Scientific Review Administrator, Extramural Project Review Branch, Office of Scientific Affairs, National Institute on Alcohol, Abuse and Alcoholism, Bethesda,

MD 20892–9304. (301) 443–2926. *skandasa@mail.nih.gov.*

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel; ZAA1 DD (45) Special Emphasis Panel K01 Application Review.

Date: July 11, 2005.

Time: 2:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Fisher's Building, 5635 Fishers Lane, 3045, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Sathasiva B. Kandasamy, PhD, Scientific Review Administrator, Extramural Project Review Branch, Office of Scientific Affairs, National Institute on Alcohol, Abuse and Alcoholism, Bethesda, MD 20892–9304. (301) 443–2926. *skandasa@mail.nih.gov.*

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel R21 Grant Application Review.

Date: July 11, 2005.

Time: 4:30 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Fishers Building, 5635 Fishers Lane, 3045, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Sathasiva B. Kandasamy, PhD, Scientific Review Administrator, Extramural Project Review Branch, Office of Scientific Affairs, National Institute on Alcohol, Abuse and Alcoholism, Bethesda, MD 20892–9304. (301) 443–2926. *skandasa@mail.nih.gov.*

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel; ZAA1 DD (44) SEP Review of R21 Grant Applications.

Date: July 11, 2005.

Time: 12 p.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health; Fisher's Building, 5635 Fishers Lane, 3045, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Sathasiva B. Kandasamy, PhD, Scientific Review Administrator, Extramural Project Review Branch, Office of Scientific Affairs, National Institute on Alcohol, Abuse and Alcoholism, Bethesda, MD 20892–2926. *skandasa@mail.nih.gov.*

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel; ZAA1 DD (43) R24 Grant Application.

Date: July 12, 2005.

Time: 11 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications;

Place: National Institutes of Health, Fisher's Building, 5635 Fishers Lane, 3045, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Sathasiva B. Kandasamy, PhD, Scientific Review Administrator, Extramural Project Review Branch, Office of Scientific Affairs, National Institute on Alcohol Abuse and Alcoholism, Bethesda, MD 20892–9304. (301) 443–2926.*skandasa@mail.nih.gov.*

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel; ZAA1 DD (46) SEP Review of R21 Grant Application.

Date: July 12, 2005.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Fisher's Building, 5635 Fishers Lane, 3045, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Sathasiva B. Kandasamy, PhD, Scientific Review Administrator, Extramural Project Review Branch, Office of Scientific Affairs, National Institute on Alcohol Abuse and Alcoholism, Bethesda, MD 20892–9304. (301) 443–2926. *skandasa@mail.nih.gov.*

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel; ZAA1 DD (48) SEP Review of R21 Grant Application.

Date: July 12, 2005.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Fisher's Building, 5635 Fishers Lane, 3045, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Sathasiva B. Kandasamy, PhD, Scientific Review Administrator, Extramural Project Review Branch, Office of Scientific Affairs, National Institute on Alcohol Abuse and Alcoholism, Bethesda, MD 20892–9304. (301) 443–2926. *skandasa@mail.nih.gov.*

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel; ZAA1 HH (42) SEP Review of R21 Grant Application.

Date: July 14, 2005.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Lorraine Gunzerath, PhD, MBA, Scientific Review Administrator, National Institute on Alcohol Abuse and Alcoholism, Office of Extramural Activities, Extramural Project Review Branch, 5635 Fishers Lane, Room 3043, Bethesda, MD 20892–9304. (301) 443–2369. *lgunzera@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: June 10, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy

[FR Doc. 05–11989 Filed 6–16–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Microbiology, Infectious Diseases and AIDS Initial Review Group; Acquired Immunodeficiency Syndrome Research Review Committee; AIDS Research Review Committee.

Date: June 29, 2005.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Roberta Binder, PHD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, Room 3130, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616. (301) 496–7966. *rb169n@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: June 10, 2005

LaVerne Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–11990 Filed 6–16–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Neurobiology of Behavioral Treatment: Recovery of Brain Structure and Function.

Date: July 12, 2005.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Mark Swieter, PhD, Chief, Training and Special Projects Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6101 Executive Boulevard, Suite 220, Bethesda, MD 20892–8401. (301) 435–1389. *ms80x@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: June 10, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–11991 Filed 6–16–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel EARDA Review Meeting.

Date: July 7–8, 2005.

Time: 8:30 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Carla T. Walls, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, (301) 435–6898, *wallsc@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: June 10, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–11994 Filed 6–16–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development, Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel Inflammation: Effect on Insulin Resistance in PCOS.

Date: July 8, 2005.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Jon M. Ranhand, PhD, Scientist Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20892, (301) 435–6884, *ranhandj@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

June 10, 2005.

LaVerne Y. Springfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–11995 Filed 6–16–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 562b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel An In Vivo Model to Study Blood-Testis Barrier Dynamics.

Date: July 7, 2005.

Time: 10 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Jon M. Ranhand, PhD, Scientist Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20892, (301) 435–6884, *ranhandj@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: June 10, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–11996 Filed 6–16–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel Mentored Career Award in Pelvic Floor Disorders/A New Tool to Diagnose Female Uninary Incontinence.

Date: July 6, 2005.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH/NICHD, 6100 Executive Blvd., 5B01, Rockville, MD 20892, (Telephone Conference Call).

Contact Person: Jon M. Ranhand, PhD, Scientist Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20892, (301) 435–6884, *ranhandj@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: June 10, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–11997 Filed 6–16–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel Fertility and Molecular Evaluation of Cryptorchid Males.

Date: June 23, 2005.

Time: 3 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Jon M. Ranhand, PhD, Scientist Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20892, (301)435–6884, *ranhandj@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: June 10, 2005

LaVerne Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–11998 Filed 6–16–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1 IDM–F Bacterial Mutagenesis Member Conflict.

Date: June 21, 2005.

Time: 1:30 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Beacon Hotel and Corporate Quarters, 1615 Rhode Island Avenue, NW., Washington, DC 20036.

Contact Person: Diane L. Stassi, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3202, MSC 7808, Bethesda, MD 20892, (301) 435–2514, *stassid@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1 BDCN B02S: Clinical Neuroplasticity and Neurotransmitters Subcommittee.

Date: June 24, 2005.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Ave., NW., Washington, DC 20037

Contact Person: William C. Benzing, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5206, MSC 7846, Bethesda, MD 20892, (301) 435–1254, *benzingw@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing

limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel Retinal Diseases.
Date: July 1, 2005.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.
Contact Person: Raya Mandler, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217, MSC 7840, Bethesda, MD 20892, (301) 402–8228, *rayam@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Cancer.
Date: July 5, 2005.
Time: 1 p.m. to 2:15 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Dennis Leszcznyski, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170, MSC 7892, Bethesda, MD 20892, (301) 435–1044, *leszczyd@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Melanoma Biology.
Date: July 5, 2005.
Time: 3 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Manzoor Zarger, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7804, Bethesda, MD 20892, (301) 435–2477, *zargerma@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflict: Hearing: Infectious Diseases.
Date: July 6, 2005.
Time: 1 p.m. to 2:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: John Bishop, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892, (301) 435–1250, *bishopj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflict: Drugs of Abuse and Neurotoxicity.
Date: July 6, 2005.
Time: 1 p.m. to 2:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Michael Selmanoff, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3134, MSC 7844, Bethesda, MD 20892, 301–435–1119, *mselmanoff@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Chemoprevention of Colon Cancer.
Date: July 6, 2005.
Time: 1 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, Md 20892, (Telephone Conference Call).
Contact Person: Eun Ah Cho, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledged Drive, Room 6202, MSC 7804, Bethesda, MD 20892, (301) 451–4467, *choe@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Small Business: Electrical Imaging.
Date: July 6, 2005.
Time: 1 p.m. to 3:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Scientific Review Administrator, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Lee Rosen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171, *rosenl@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflict: Surgery, Anesthesiology and Trauma.
Date: July 6, 2005.
Time: 2 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Roberto J. Matus, MD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7854, Bethesda, MD 20892, (301) 435–2204, *matusr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Hemophilia B. Therapy.
Date: July 6, 2005.
Time: 2 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Robert T. Su, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4134, MSC 7802, Bethesda, MD 20892, (301) 435–1195, *sur@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Autoimmune Diabetes and SLE.
Date: July 6, 2005.
Time: 2 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Peak-Gyu Lee, PhD, Scientific Review Administrator Intern, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4095D, MSC 7812, Bethesda, MD 20892, (301) 402–7391, *leepg@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Melanoma Biomarkers.
Date: July 6, 2005.
Time: 3 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Manzoor Zarger, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, (301) 435–2477, *zargerma@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1 GTIE (01): Gene Therapy and Inborn Errors.
Date: July 6–7, 2005.
Time: 6 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.
Contact Person: Richard Panniers, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2212, MSC 7890, Bethesda, MD 20892, (301) 435–1741, *pannierr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Vector Biology-Quorum
Date: July 7–8, 2005.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 2007.
Contact Person: John C. Pugh, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7808, Bethesda, MD 20892, (301) 435–2398, *pughjohn@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Bacterial Pathogenesis.
Date: July 7–8, 2005.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.
Contact Person: Rolf Menzel, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3196, MSC 7808, Bethesda, MD 20892, (301) 435–0952, *menzelro@csr.nih.gov.*

Name of Committee: Immunology Integrated Review Group Transplantation, Tolerance, and Tumor Immunology.
Date: July 7–8, 2005.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: One Washington Circle Hotel, One Washington Circle, Washington, DC 20037.
Contact Person: Cathleen L. Cooper, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4208, MSC 7812, Bethesda, MD 20892, (301) 435–3566, *cooperc@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group, AIDS Discovery and Development of Therapeutics Study Section.
Date: July 7–8, 2005.
Time: 8 a.m. to 3:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Hilton Washington Embassy Row, 2015 Massachusetts Ave., NW., Washington, DC 20036.
Contact Person: Eduardo A. Montalvo, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5212, MSC 7852, Bethesda, MD 20892, (301) 435–1168, *montalve@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Quiescence/G0 in Yeast Program Project.
Date: July 7, 2005.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Gerhard Ehrenspeck, PhD, Scientific Review Administrator, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 5138, MSC 7840, Bethesda, MD 20892, (301) 435–1022, *ehrenspg@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Molecular, Cellular, Neuro Tech SBIR.
Date: July 7, 2005.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Jurys Washington Hotel, 1500 New Hampshire Avenue, NW., Washington, DC 20036
Contact Person: Michael A. Lang, PhD, Scientific Review Administrator, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 4140, MSC 7850, Bethesda, MD 20892, (301) 435–1265, *langm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflict Panel.
Date: July 7–8, 2005.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The Fairmont Washington, DC, 2401 M Street, NW., Washington, DC 20037.
Contact Person: David M. Armstrong, PhD, Scientific Review Administrator, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 5194, MSC 7846, Bethesda, MD 20892, (301) 435–1253, *armstrda@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group AIDS Molecular and Cellular Biology Study Section.
Date: July 7–8, 2005.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Marriott Bethesda North Hotel & Conference Center, 5701 Marinelli Road North, Bethesda, MD 20814.
Contact Person: Kenneth A Roebuck, PhD, Scientific Review Administrator, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 5124, MSC 7852, Bethesda, MD 20892, (301) 435–1166, *roebuckk@csr.nih.gov.*

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group Biomedical Computing and Health Informatics Study Section.
Date: July 7–8, 2005.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Bill Bunnag, PhD, Scientific Review Administrator, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 5124, MSC 7854, Bethesda, MD 20892, (301) 435–1177, *bunnagb@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Innate Immunity and Inflammation
Date: July 7–8, 2005.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.
Contact Person: Tina McIntyre, PhD, Scientific Review Administrator Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4202, MSC 7812, Bethesda, MD 20892, 301–594–6375, *mcintyrt@csr.nih.gov.*

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group Microscopic Imaging Study Section.
Date: July 7–8, 2005.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Sally Ann Amero, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4190, MSC 7826, Bethesda, MD 20892, 301-435-1159, *ameros@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.33, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 10, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–11993 Filed 6–16–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Notice for FY 2005 Formula Allocation for Targeted Assistance Grants to States for Services to Refugees

AGENCY: Office of Refugee Resettlement (ORR), ACF, HHS.

ACTION: Proposed notice of availability of allocations for FY 2005 targeted assistance grants to States for services to refugees [1] in local areas of high need.

[CFDA No. 93.584, Refugee and Entrant Assistance—Targeted Assistance Grants]

SUMMARY: This proposed notice announces the availability of funds and award procedures for FY 2005 Targeted Assistance Program (TAP) grants to States for services to refugees under the Refugee Resettlement Program (RRP). These grants are for service provision in localities with large refugee populations, high refugee concentrations, and where specific needs exist for supplementation of currently available resources.

Qualification of counties for eligibility for targeted assistance program grants is determined once every three years as stated in the FY 1999 Notice of Proposed Availability of Targeted Assistance Allocations to States which was published in the **Federal Register** on March 10, 1999 (64 FR 11927). The FY 2002–FY 2004 three-year project cycle has expired. FY 2005 is the year for the re-qualification of counties for

[1] In addition to persons who meet all requirements of 45 CFR 400.43, ''Requirements for documentation of refugee status,'' eligibility for targeted assistance includes refugees, asylees, Cuban and Haitian entrants, certain Amerasians from Viet Nam who are admitted to the U.S. as immigrants, certain Amerasians from Viet Nam who are U.S. citizens and victims of a severe form of trafficking who receive certification or eligibility letters from ORR, and certain other specified family members of trafficking victims. See Section II of this notice on ''Authorization,'' and refer to 45 CFR 400.43 and the ORR State Letter #01–13 on the Trafficking Victims Protection Act dated May 3, 2001, as modified by ORR State Letter #02–01, January 4, 2002, and ORR State Letter #04–12, June 18, 2004. The term ''refugee,'' used in this notice for convenience, is intended to encompass such additional persons who are eligible to participate in refugee program services, including the targeted assistance program.

the three-year project cycle, FY 2005, FY 2006, and FY 2007 for TAP funds. This notice proposes that the qualification of counties be based on the arrivals of refugees (see Footnote 1, eligible population) during the 5-year period from FY 2000 through FY 2004, and on the concentration of the arrivals population as a percentage of the general population. Counties that could potentially qualify for TAP FY 2005 funds on the basis of the most current 5-year population are listed in this proposed notice in Table 1, Table 2, Table 4, and Table 6.

Under this qualification proposal, a total of 47 counties (Table 1) would qualify for targeted assistance grants. Of these, 6 new counties (Table 2) would qualify for targeted assistance grants, and 11 counties (Table 3) which previously received targeted assistance grants would no longer qualify for targeted assistance program funding.

DATES: Comments on this notice must be received by July 18, 2005.

ADDRESSES: Address written comments, in duplicate, to: Kathy Do, Administration for Children and Families, 370 L'Enfant Promenade, SW., Washington, DC 20447. Due to potential delays in mail delivery to Federal offices, a copy of comments should also be faxed to Kathy Do at: (202) 401–4719.

Application Deadline: The deadline for applications will be established by the final notice. Applications should not be sent in response to this notice of proposed allocations.

FOR FURTHER INFORMATION CONTACT: Kathy Do, Division of Budget, Policy and Data Analysis (DBPDA), (202) 401–4579; e-mail: *kdo@acf.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Purpose and Scope

This notice announces the proposed availability of Fiscal Year 2005 funds for targeted assistance grants for services to refugees (see Footnote 1 for eligible population) in counties where, because of factors such as unusually large refugee populations and high refugee concentrations, there exists and can be demonstrated a specific need for supplementation of resources for services to this population.

The Office of Refugee Resettlement (ORR) has available $49,081,000 in FY 2005 funds for the targeted assistance program (TAP) as part of the FY 2005 appropriation under the Consolidated Appropriations Act, 2005, (Pub. L. 108–447).

The Director of the Office of Refugee Resettlement (ORR) proposes to use the $49,081,000 in targeted assistance funds as follows:

- $44,172,900 will be allocated to States under the 5-year population formula, as set forth in this proposed notice.
- $4,908,100 (10% of the total) will be used to award discretionary grants to States under continuation grant awards.

The purpose of targeted assistance grants is to provide, through a process of local planning and implementation, direct services intended to result in the economic self-sufficiency and reduced welfare dependency of refugees through job placements.

The targeted assistance program reflects the requirements of section 412(c)(2)(B) of the Immigration and Nationality Act (INA), which provides that targeted assistance grants shall be made available ''(i) primarily for the purpose of facilitating refugee employment and achievement of self-sufficiency, (ii) in a manner that does not supplant other refugee program funds and that assures that not less than 95 percent of the amount of the grant award is made available to the county or other local entity.''

II. Authorization

Targeted assistance projects are funded under the authority of section 412(c)(2) of the Immigration and Nationality Act (INA), as amended by the Refugee Assistance Extension Act of 1986 (Pub. L. 99–605), 8 U.S.C. 1522(c)(2); section 501(a) of the Refugee Education Assistance Act of 1980 (Pub. L. 96–422), 8 U.S.C. 1522 note, insofar as it incorporates by reference with respect to Cuban and Haitian entrants the authorities pertaining to assistance for refugees established by section 412(c)(2) of the INA, as cited above; section 584(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as included in the FY 1988 Continuing Resolution (Pub. L. 100–202), insofar as it incorporates by reference with respect to certain Amerasians from Viet Nam the authorities pertaining to assistance for refugees established by section 412(c)(2) of the INA, as cited above, including certain Amerasians from Viet Nam who are U.S. citizens, as provided under title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Pub. L. 100–461), 1990 (Pub. L. 101–167), and 1991 (Pub. L. 101–513); section 107(b)(1)(A) of the Trafficking Victims Protection Act of 2000 (Pub. L. 106–386), and as amended by the Trafficking Victims Protection Reauthorization Act of 2003 (Pub. L. 108–193), insofar as it states that a victim of a severe form of trafficking and certain other specified family members shall be eligible for federally funded or administered benefits and services to the same extent as a refugee.

III. Client and Service Priorities

Targeted assistance funding must be used to assist refugee families to achieve economic independence. To this end, States and counties are required to ensure that a coherent family self-sufficiency plan (FSSP), employment development plan (EDP), or individual employability plan (IEP) is developed for each eligible family that addresses the family's needs from time of arrival until attainment of economic independence. (See 45 CFR 400.79, 400.156(g), and 400.317). Each family self-sufficiency plan or employment development plan should address a family's needs for both employment-related services and other needed social services. The plan must include: (1) A determination of the income level a family would have to earn to exceed its cash grant and move into self-support without suffering a monetary penalty; (2) a strategy and timetable for obtaining that level of family income through the placement in employment of sufficient numbers of employable family members at sufficient wage levels; (3) employability plans for every employable member of the family; and (4) a plan to address the family's social services needs that may be barriers to self-sufficiency. In local jurisdictions that have targeted assistance and refugee social services programs, one family self-sufficiency plan may be developed for a family that incorporates *both* targeted assistance and refugee social services.

Services funded through the targeted assistance program are required to focus primarily on those refugees who, either because of their protracted use of public assistance or difficulty in securing employment, continue to need services beyond the initial years of resettlement. States may *not* provide services funded under this notice, except for referral and interpreter services, to refugees who have been in the United States for more than 60 months (5 years). (See 45 CFR 400.315).

In accordance with 45 CFR 400.314, States are required to provide targeted assistance services to refugees in the following order of priority, except in certain individual extreme circumstances: (a) Refugees who are cash assistance recipients, particularly long-term recipients; (b) unemployed refugees who are not receiving cash assistance; and (c) employed refugees in need of services to retain employment or to attain economic independence.

In addition to the statutory requirement that TAP funds be used ''primarily for the purpose of facilitating refugee employment'' (section 412(c)(2)(B)(i) of the INA), funds awarded under this program are intended to help fulfill the congressional intent that ''employable refugees should be placed on jobs as soon as possible after their arrival in the United States'' (section 412(a)(1)(B)(i) of the INA). Therefore, in accordance with 45 CFR 400.313, targeted assistance funds must be used primarily for employability services designed to enable refugees to obtain jobs with less than one year's participation in the targeted assistance program in order to achieve economic self-sufficiency as soon as possible. Targeted assistance services may continue to be provided after a refugee has entered a job to help the refugee retain employment or move to a better job. Targeted assistance funds may not be used for long-term training programs such as vocational training that last for more than a year or educational programs that are not intended to lead to employment within a year.

In accordance with 45 CFR 400.317, if targeted assistance funds are used for the provision of English language training, such training must be provided in a *concurrent*, rather than sequential, time period with employment or with other employment-related activities.

A portion of a local area's allocation may be used for services that are not directed toward the achievement of a specific employment objective in less than one year but that are essential to the adjustment of refugees in the community, provided such needs are clearly demonstrated and such use is approved by the State. (See 45 CFR 400.316).

Reflecting section 412(a)(1)(A)(iv) of the INA, States must ''ensure that women have the same opportunities as men to participate in training and instruction.'' Additionally, in accordance with 45 CFR 400.317, services must be provided to the maximum extent feasible in a manner that includes the use of bilingual/bicultural women on service agency staff to ensure adequate service access by refugee women. The Director, ORR, also strongly encourages the inclusion of refugee women in management and board positions in agencies that serve refugees. In order to facilitate refugee self-support, the Director also expects States to implement strategies which address simultaneously the employment potential of both male and female wage earners in a family unit. States and counties are expected to make every effort to obtain child care services, preferably subsidized child care, for children in order to allow women with children the opportunity to participate in employment services or to accept or retain employment. To accomplish this, child care may be treated as an employment-related service under the targeted assistance program. Refugees who are participating in targeted assistance-funded or social services-funded employment services or have accepted employment are eligible for child care services for children. States and counties are expected to use child care funding from other publicly-administered programs such as child care services funded under the Temporary Assistance for Needy Families (TANF) or under the Child Care and Development Block Grant (CCDBG) as a primary resource. States and counties are encouraged to work with service providers to ensure mainstream access for refugees to other publicly funded resources for child care. For an employed refugee, targeted assistance-funded child care should be limited to situations in which *no* other publicly funded child care funding is available. In these cases, child care services funded by targeted assistance should be limited to one year after the refugee becomes employed.

In accordance with 45 CFR 400.317, targeted assistance services must be provided in a manner that is culturally and linguistically compatible with a refugee's language and cultural background, to the maximum extent feasible. In light of the increasingly diverse population of refugees who are resettling in this country, refugee service agencies will need to develop practical ways of providing culturally and linguistically appropriate services to a changing ethnic population. Services funded under this notice must be refugee-specific services that are designed specifically to meet refugee needs and are in keeping with the rules and objectives of the refugee program. Short-term vocational or job-skills training, on-the-job training (OJT), or English language training (ELT), however, need not be refugee-specific.

ORR strongly encourages States and counties when contracting for targeted assistance services, including employment services, to give consideration to the special strengths of mutual assistance associations (MAAs), whenever contract bidders are otherwise equally qualified, provided that the MAA has the capability to deliver services in a manner that is culturally and linguistically compatible with the background of the target population to be served. ORR also strongly encourages MAAs to ensure that their management and board composition reflect the major target populations to be served.

ORR defines MAAs as organizations with the following qualifications:

a. The organization is legally incorporated as a nonprofit organization; and

b. Not less than 51% of the composition of the Board of Directors or governing board of the mutual assistance association is comprised of refugees or former refugees, including both refugee men and women.

Finally, in order to provide culturally and linguistically compatible services in as cost-efficient a manner as possible in time of limited resources, ORR strongly encourages States and counties to promote and give special consideration to the provision of services through coalitions of refugee service organizations, such as coalitions of MAAs, voluntary resettlement agencies, or a variety of service providers. ORR believes it is essential for refugee-serving organizations to form close partnerships in the provision of services to refugees in order to be able to respond adequately to a changing refugee environment. States and counties are encouraged to consider as eligible for TAP funds entities that are public or private non-profit agencies which may include faith-based, refugee or community-based organizations. Additionally, coalition-building and consolidation of providers is particularly important in communities with multiple service providers in order to ensure better coordination of services and maximum use of funding for services by minimizing the funds used for multiple administrative overhead costs.

The award of funds to States under this proposed notice will be contingent upon the completeness of a State's application as described in section IX, below.

IV. {Reserved for Discussion of Comments in the Final Notice}

V. Eligible Grantees

Eligible grantees are: 1. Agencies of State governments that are responsible for the refugee program under 45 CFR 400.5 in States containing counties which qualify for FY 2005 targeted assistance awards; and 2. non-State agencies funded under the Wilson-Fish program which administer, in lieu of a State, a statewide refugee assistance program containing counties which qualify for FY 2005 targeted assistance formula funds. All such grantees will hereinafter be referred to as ''the State''.

The Director of ORR proposes to determine the eligibility of counties for

inclusion in the FY 2005 targeted assistance program on the basis of the method described in section VI of this notice.

The use of targeted assistance funds for services to Cuban and Haitian entrants is limited to States which have an approved State plan under the Cuban/Haitian Entrant Program (CHEP).

The State agency will submit a single application to ORR on behalf of all county governments of the qualified counties in that State. Subsequent to the approval of the State's agency application by ORR, local targeted assistance plans will be developed by the county government or other designated entity and submitted to the State agency.

A State with more than one qualified county is permitted, but not required, to determine the allocation amount for each qualified county within the State. However, if a State chooses to determine county allocations differently from those set forth in the final notice, in accordance with 45 CFR 400.319, the FY 2005 allocations proposed by the State must be based on the State's population of refugees who arrived in the U.S. during the most recent 5-year period. A State may use welfare data as an additional factor in the allocation of its targeted assistance funds if it so chooses; however, a State may not assign a greater weight to welfare data than it has assigned to population data in its allocation formula. In addition, if a State chooses to allocate its FY 2005 targeted assistance funds in a manner different from the formula set forth in the final notice, the FY 2005 allocations and methodology proposed by the State must be included in the State's application for ORR review and approval.

Applications submitted in response to the final notice are not subject to review by State and area wide clearinghouses under Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

VI. Qualification and Allocation

For FY 2005, ORR proposes to continue using the formula which bases allocation of targeted assistance funds on the most current 5-year arrivals data on refugees (See Footnote 1, eligible population). Targeted assistance services are limited to the arrival population residing in qualified counties who have been in the U.S. five years or less. As stated in the FY 1999 notice of proposed availability of targeted assistance allocations to States which was published on March 10, 1999 (64 FR 11927), the Director of ORR proposes to determine the qualification of counties for targeted assistance once every three years. The FY 2002–FY 2004 three-year project cycle has expired. ORR is currently re-qualifying counties for the FY 2005–FY 2007 three-year project cycle for TAP funds. Counties that could potentially qualify for TAP FY 2005 funds on the basis of the most current 5-year (10/1/99–9/30/04) population are listed in Tables 1, 2, 4, and 6 in this proposed notice.

A. Qualifying Counties

In order to qualify for application for FY 2005 targeted assistance funds, a county (or group of adjacent counties with the same Standard Metropolitan Statistical Area, or SMSA) or Independent city, would be required to: rank above a selected cut-off point of jurisdictions for which data were reviewed, based on two criteria: (a) the number of refugee arrivals placed in the county during the most recent 5-year period (FY 2000–FY 2004); and (b) the 5-year refugee arrival population as a percent of the county overall population.

With regards to the first qualification criteria, each county would be ranked on the basis of its 5-year refugee arrival population and its concentration of refugees, with a relative weighting of 2 to 1 respectively, because we believe that large numbers of arrivals (see Footnote 1, eligible population) into a county create a significant impact, regardless of the ratio of refugees to the county general population.

Each county would then be ranked in terms of the sum of a county's rank on refugee arrivals and its rank on concentration. To qualify for targeted assistance based on rank, a county would have to rank within the top 47 counties. ORR has decided to limit the number of qualified counties based on ranking order to the top 47 counties (Table 1) in order to target a sufficient level of funding to the most impacted counties.

ORR has screened data on all counties that have received awards for targeted assistance since FY 1983, and on all other counties that could potentially qualify for TAP funds based on the criteria proposed in this notice. Analysis of these data indicates that: (a) Forty-seven (47) counties qualify for targeted assistance funds, Table 1; (b) eleven (11) counties which have previously received targeted assistance would no longer qualify, Table 3; and (c) six (6) new counties qualify for FY 2005 targeted assistance funds, Table 2.

The proposed counties listed in this notice as qualified to apply for FY 2005 TAP funding would remain qualified for TAP funding through FY 2007. ORR does not plan to consider the eligibility of additional counties for TAP funding until FY 2008, when ORR will again review data on all counties that could potentially qualify for TAP funds based on the criteria contained in this proposed notice. It is believed that a more frequent re-determination of county qualification for targeted assistance would not provide qualifying counties a sufficient period of time within a stable funding climate to adequately address the refugee impact in their counties, while a less frequent re-determination of county qualification would pose the risk of not considering new population impacts in a timely manner.

B. Allocation Formula

Of the funds available for FY 2005 for targeted assistance, $44,172,900 would be allocated by formula to States for qualified counties based on the initial placements in these counties during the 5-year period from FYs 2000 through 2004 (October 1, 1999–September 30, 2004). Data from the ORR Refugee Arrivals Data System (RADS) is used for the proposed allocation of funds for targeted assistance. This includes the total number of refugees, Cuban/Haitian entrants, parolees, and Amerasians from Viet Nam. Data on victims of severe forms of trafficking is from the certification and eligibility letters issued by ORR. Trafficking victims have been eligible for services since October 2000 and their family members since December 2003. Data on the number of asylees who have been served in FYS 2000 through 2004 through the refugee resettlement program or social service system are provided by States. For FYs 2000 through 2004, Havana parolees were derived from actual data.

Consistent with States' request, in FY 2005 ORR implemented a new voluntary process for data submission by States on the number of asylees, entrants, or trafficking victims prior to issuance of the proposed allocations notice—in an effort to minimize adjustments of final allocations. Prior to the publication of this proposed notice, the request for voluntary data submission was sent to States via e-mail on December 20, 2004 with a due date of February 8, 2005. States were requested to follow the standardized EXCEL format suggested by ORR to submit the data on asylees, entrants, and/or victims of a severe form of trafficking served during the 5-year period from FYs 2000 through 2004 (October 1, 1999–September 30, 2004). Data for each population group was to be submitted separately on an EXCEL spreadsheet. The spreadsheet(s) was due

at ORR on February 8, 2005, as an attachment to an e-mail to: *lbussert@acf.hhs.gov.* States that did not respond to the December 20, 2004 request are hereby notified that ORR will accept data from States in response to this proposed notice for targeted assistance program funds. Data submitted will be verified by ORR against the ORR arrivals database (RADS), and as a result of this process, adjustments may be included in the final notice for FY 2005 allocations for targeted assistance funds. The deadline for submission of data to ORR is 30 days from the date of publication of this proposed notice. This is the final opportunity for States to submit data on the number of asylees and entrants served in FYs 2000 through 2004, victims of a severe form of trafficking served in FYs 2001 through 2004 and certain other specified family members of trafficking victims served in FY 2004. The EXCEL format for data submission is available from Kathy Do by email at *kdo@acf.hhs.gov.*

A county that does not agree with the ORR refugee population estimate for the 2005 proposed targeted assistance eligible population (see Footnote 1, eligible population), and believes that its 5-year population for FYs 2000–2004 was undercounted, must submit to ORR a letter from each local voluntary agency that resettled refugees in the county that attests to the fact that the targeted assistance eligible population listed in an attachment to the letter were resettled as initial placements during the 5-year period from FYs 2000–2004 in the county making the claim.

Documentation must include the name of state, name of county, name of refugee (see Footnote 1, eligible population), alien number, date of birth and date of arrival in the U.S. for each of the eligible population claimed for targeted assistance funding. Listings of refugees who are not identified by their alien numbers will not be considered. Counties should submit such evidence *separately* from comments they may have in response to this proposed notice. Evidence must be submitted no later than 30 days from the date of publication of this proposed notice by e-mail as an attachment in a separate Excel spreadsheet for each group of population to: *lbussert@acf.hhs.gov* or via overnight mail to: Loren Bussert, Division of Budget, Policy and Data Analysis, 370 L'Enfant Promenade, SW., Sixth Floor East, Washington, DC 20447, telephone: (202) 401–4732. Failure to submit the required documentation in the specified format within the required time period will result in forfeiture of consideration.

As indicated above, counties which have served asylees should submit the data according to the data format sent to States from ORR on December 20, 2004. At a minimum, counties need to submit the following information in order to have their population estimate adjusted to include those asylees whose asylum was granted within the 60 month period ending September 30, 2004: 1. Alien number (do not include hyphens within the A#); 2. date of birth; 3. asylum grant date; 4. asylee full name; 5. name of state; and 6. name of county.

With regards to the data on trafficking victims, any State that disagrees with the number of trafficking victims shown in Table 4 is requested to contact Loren Bussert at (202) 401–4732 or by e-mail to: *LBussert@acf.hhs.gov.*

VII. Allocations

Table 1 lists the 47 proposed qualifying counties, the State, the number of refugee arrivals (see Footnote 1, eligible population) in those counties during the 5-year period from October 1, 1999–September 30, 2004, the concentration percent to the county overall population, the sum of ranks population, and each county's rank, based on the qualification formula described above.

Table 2 lists the 6 proposed new eligible counties that qualify under the targeted assistance criteria.

Table 3 lists the 11 counties which would no longer qualify for TAP funds based upon the qualification formula.

Table 4 lists the proposed allocations by county for FY 2005.

Table 5 lists the proposed allocations by State for FY 2005.

Table 6 lists the targeted assistance areas.

VIII. Application and Implementation Process

Under the FY 2005 targeted assistance program, States may apply for and receive grant awards on behalf of qualified counties in the State. A single allocation will be made to each State by ORR on the basis of an approved State application. The State agency will, in turn, receive, review, and determine the acceptability of individual county targeted assistance plans.

Pursuant to 45 CFR 400.210(b), FY 2005 targeted assistance funds must be obligated by the State agency no later than one year after the end of the Federal fiscal year in which the Department awarded the grant. Funds must be liquidated within two years after the end of the Federal fiscal year in which the Department awarded the grant. A State's final financial report on targeted assistance expenditures must be received no later than ninety days after the end of the two-year expenditure period. If final reports are not received on time, the Department will de-obligate any unexpended funds, including any un-liquidated obligations, on the basis of the State's last filed report.

The requirements regarding the discretionary portion of the targeted assistance program will be addressed under separate continuation grant awards. Continuation applications for these funds are therefore not subject to provisions contained in this notice but to other requirements which will be conveyed separately.

IX. Application Requirements

In applying for targeted assistance funds, a State agency is required to provide the following:

A. Assurance that the targeted assistance funds will be used in accordance with the requirements for grants in 45 CFR Part 400.

B. Assurance that the targeted assistance funds will be used in compliance with the administrative requirements for grants in 45 CFR Part 92.

C. Assurance that targeted assistance funds will be used primarily for the provision of services which are designed to enable refugees to obtain jobs with less than one year's participation in the targeted assistance program. States must indicate what percentage of FY 2005 targeted assistance formula allocation funds that are used for services will be allocated for employment services.

D. Assurance that targeted assistance funds will not be used to offset funding otherwise available to counties or local jurisdictions from the State agency in its administration of other refugee programs, such as social services, cash and medical assistance.

E. The name of the local agency administering the funds, the name and telephone number of the responsible person, if administered locally.

F. The amount of funds to be awarded to the targeted county or counties. In instances where a State receives targeted assistance funding for impacted counties contained in a standard metropolitan statistical area (SMSA) that includes a county or counties located in a neighboring State, the State receiving those funds must provide a description of coordination and planning activities undertaken with the State Refugee Coordinator of the neighboring State in which the impacted county or counties are located. These planning and coordination activities should result in a proposed

allocation plan for the equitable distribution of targeted assistance funds by county based on the distribution of the eligible population by county within the SMSA. The proposed allocation plan must be included in the State's application to ORR.

G. Assurance that county targeted assistance plans will include:

1. A description of the local planning process for determining targeted assistance priorities and services, taking into consideration all other ORR-funded services available to the refugee population, including formula social services.

2. Identification of refugee/entrant populations to be served by targeted assistance projects, including approximate numbers of clients to be served, and a description of characteristics and needs of targeted populations. (As per 45 CFR 400.314).

3. Description of specific strategies and services to meet the needs of targeted populations.

4. The relationship of targeted assistance services to other services available to refugees/entrants in the county including formula allocated ORR social services to States/Wilson-Fish agencies.

5. Analysis of available employment opportunities in the local community. Examples of acceptable analysis of employment opportunities might include surveys of employers or potential employers of refugee clients, surveys of presently effective employment service providers, review of studies on employment opportunities/forecasts which would be appropriate to the refugee populations.

6. Description of the monitoring and oversight responsibilities to be carried out by the county or qualifying local jurisdiction.

H. Assurance that the local administrative budget will not exceed 15% of the local allocation. Targeted assistance grants are cost-based awards. Neither a State nor a county is entitled to a certain amount for administrative costs. Rather, administrative cost requests should be based on projections of actual needs. All TAP counties will be allowed to spend up to 15% of their allocation on TAP administrative costs, as need requires. However, States and counties are strongly encouraged to limit administrative costs to the extent possible to maximize available funding for services to refugees.

I. For any State that administers the program directly or otherwise provides direct services to the refugee/entrant/asylee population in a qualified county (with the concurrence of the county), the State must have the same information contained in a county plan prior to issuing a Request for Proposals (RFP) for services. States that administer the TAG program directly may spend no more than 5% of the total allocation, and up to 10% of the county's allocation, on administrative costs that are reasonable, allocable, and necessary.

J. A description of the State's plan for conducting fiscal and programmatic monitoring and evaluations of the targeted assistance program, including frequency of on-site monitoring.

K. A line item budget and justification for State administrative costs limited to a maximum of 5% of the total award to the State. Assurance that the State will make available to the county or designated local entity not less than 95% of the amount of its formula allocation for purposes of implementing the activities proposed in its plan. As stated previously, States that administer the program directly in lieu of the county (through a mutual agreement with the qualifying county), may spend no more than 5% of the total award, and up to 10% of the county's TAG allocation on administrative costs. The administrative costs must be reasonable, allocable, and necessary. Allocable costs for State contracting and monitoring for targeted assistance, if charged, must be charged to the targeted assistance grant and not to general State administration.

X. Results or Benefits Expected

All applicants must establish proposed targeted assistance performance goals for each of the six ORR performance outcome measures for each impacted county's proposed service contract(s) or sub-grants for the next contracting cycle. Proposed performance goals must be included in the application for each performance measure. The six ORR performance measures are: Entered employments, cash assistance reductions due to employment, cash assistance terminations due to employment, 90-day employment retentions, average wage at placement, and job placements with available health benefits. Targeted assistance program activity and progress achieved toward meeting performance outcome goals are to be reported quarterly on the ORR–6, the ''Quarterly Performance Report.''

States that are currently grantees for targeted assistance funds should base projected annual outcome goals on past performance. Current grantees should have adequate baseline data for all of the six ORR performance outcome measures based on a history of targeted assistance program experience.

States identified as new eligible targeted assistance grantees are also required to set proposed outcome goals for each of the six ORR performance outcome measures. New grantees may use baseline data, as available, and current data as reported on the ORR–6 for social services program activity to assist them in the goal-setting process.

New qualifying counties within States that are current grantees are also required to set proposed outcome goals for each of the six ORR performance outcome measures. New counties may use baseline data, as available, and current data as reported on the ORR–6 for social services program activity to assist them in the goal-setting process.

Proposed targeted assistance outcome goals should reflect improvement over past performance and strive for continuous improvement during the project period from one year to another.

Final targeted assistance outcome goals are due on November 15, 2005, in conjunction with the ORR Government Performance and Results Act (GPRA) cycle.

XI. Budget and Budget Justification

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form (424A). Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must 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. The Office of Refugee Resettlement is particularly interested in the following:

A line item budget and justification for State administrative costs limited to a maximum of 5% of the total award to the State. Each total budget period funding amount requested must be necessary, reasonable, and allocable to the project. States that administer the program locally in lieu of the county, through a mutual agreement with the qualifying county, may request administrative costs that add up to, but may not exceed, 10% of the county's TAP allocation to the State's administrative budget.

XII. Reporting Requirements

States are required to submit quarterly reports on the outcomes of the targeted assistance program, using Schedule A and Schedule C of the ORR–6 Quarterly Performance Report (0970–0036).

XIII. The Paperwork Reduction Act of 1995 (Pub. L. 104–13)

All information collections within this program notice are approved under the following valid OMB control numbers: 424 (0348–0043); 424A (0348–0044); 424B (0348–0040); Disclosure of Lobbying Activities (0348–0046); Financial Status Report (SF–269) (0348–0039) and ORR Quarterly Performance Report (0970–0036).

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.

Public reporting burden for this collection of information is estimated to average 10 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information.

Dated: June 10, 2005.

Nguyen Van Hanh,

Director, Office of Refugee Resettlement.

BILLING CODE 4184–01–P

Table 1--Top 47 Proposed Eligible Counties

	County	State	5-Year Arrival Total	Concentration Percent	Sum of Ranks
1	Dade County	FL	72,813	3.23%	3
2	Ramsey/Hennepin	MN	12,160	0.75%	20
3	Sacramento County	CA	9,342	0.76%	25
4	City of St. Louis	MO	5,061	1.45%	33
5	Dekalb County	GA	6,068	0.91%	34
6	Multnomah County	OR	8,411	0.47%	45
7	King/Snohomish County	WA	9,445	0.37%	52
8	Jefferson County	KY	4,110	0.59%	60
9	Hillsborough County	FL	4,732	0.47%	61
10	Broward County	FL	6,304	0.39%	63
11	Palm Beach County	FL	4,552	0.40%	71
12	Suffolk County	MA	3,244	0.47%	72
13	Maricopa County	AZ	7,522	0.24%	72
14	Onondaga County	NY	2,844	0.62%	76
15	Ingham County	MI	2,330	0.83%	78
16	Oneida County	NY	2,181	0.93%	79
17	Duval County	FL	3,142	0.40%	84
18	Polk County	IA	2,337	0.62%	87
19	Harris County	TX	6,675	0.20%	94
20	Orange County	FL	3,092	0.34%	95
21	Kent County	MI	2,502	0.44%	97
22	Fairfax County	VA	3,242	0.25%	99
23	Davis/Salt Lake	UT	3,566	0.24%	101
24	Erie County	NY	2,708	0.28%	105
25	Montgomery/Prince George's	MD	3,574	0.21%	105
26	Los Angeles County	CA	12,232	0.13%	105
27	New York	NY	11,560	0.14%	106
28	San Diego County	CA	5,337	0.19%	107
29	Denver	CO	2,202	0.40%	109
30	Dallas/Tarrant Counties	TX	6,098	0.17%	113
31	Franklin County	OH	2,595	0.24%	118
32	Richmond	VA	1,525	0.77%	119
33	Baltimore County	MD	2,145	0.33%	120
34	Guilford County	NC	1,902	0.45%	121
35	Ada County	ID	1,691	0.56%	123
36	Collier County	FL	1,617	0.64%	124
37	Spokane County	WA	1,842	0.44%	124
38	Santa Clara County	CA	3,195	0.19%	124
39	Cook/Kane Counties	IL	6,537	0.11%	126
40	Minnehaha County	SD	1,262	0.85%	129
41	Philadelphia	PA	2,895	0.19%	129
42	Cass County	ND	1,222	0.99%	130
43	Hamden County	MA	1,803	0.40%	132
44	Fulton County	GA	2,084	0.26%	132
45	Monroe County	NY	1,956	0.27%	133
46	Clark County	NV	2,707	0.20%	133
47	Mecklenberg County	NC	1,924	0.28%	134

Table 2 -- Six New Counties That Qualify

	County	State	5-Year Arrival Total	Concentration Percent	Sum of Ranks
1	Orange County	FL	3,092	0.34%	95
2	Montgomery/Prince George's	MD	3,574	0.21%	105
3	Franklin County	OH	2,595	0.24%	118
4	Baltimore	MD	2,145	0.33%	120
5	Collier County	FL	1,617	0.64%	124
6	Mecklenberg County	NC	1,924	0.28%	134

Table 3-- Eleven Counties That No Longer Qualify

	County	State	5-Year Arrival Total	Concentration Percent	Sum of Ranks
1	Pinellas County	FL	2,064	0.22%	144
2	Warren County	KY	989	1.07%	149
3	Erie County	PA	1,285	0.46%	150
4	Lancaster County	NE	1,193	0.48%	158
5	District of Columbia	DC	1,360	0.24%	172
6	Kansas City	MO	1,624	0.20%	178
7	Orange County	CA	2,361	0.08%	181
8	Cuyahoga County	OH	1,761	0.13%	200
9	San Francisco	CA	1,674	0.10%	210
10	Wayne County	MI	1,302	0.06%	246
11	Blackhawk County	IA	515	0.40%	258

Table 4— Proposed Targeted Assistance Allocations By County: FY 2005

County	State	Refugees 1/	Entrants	Havana Parolees 2/	Asylees Traffickees	Total Arrivals FY00–FY04	$44,172,900 Total FY 2005 Allocation
1 Maricopa County	Arizona	6,623	757	9	133	7,522	$1,238,477
2 Los Angeles County	California	9,701	35	92	2404	12,232	2,013,966
3 Sacramento County	California	9,260	0	3	79	9,342	1,538,135
4 San Diego County 3/	California	4,142	3	14	1178	5,337	878,723
5 Santa Clara County	California	2,696	2	2	495	3,195	526,048
6 Denver County 3/	Colorado	2,048	0	0	154	2,202	362,553
7 Broward County	Florida	307	1,577	1,449	2971	6,304	1,037,937
8 Collier County	Florida	104	349	990	174	1,617	266,235
9 Dade County	Florida	5,216	21,019	41,468	5110	72,813	11,988,465
10 Duval County	Florida	2,703	65	161	213	3,142	517,322
11 Hillsborough County	Florida	1,201	987	2,069	475	4,732	779,111
12 Orange County	Florida	750	422	677	1243	3,092	509,090
13 Palm Beach County	Florida	322	1,669	1,551	1010	4,552	749,475
14 DeKalb County	Georgia	5,890	7	23	148	6,068	999,080
15 Fulton County	Georgia	1,989	10	23	62	2,084	343,125
16 Ada County 3/	Idaho	1,690	0	1		1,691	278,419
17 Cook/Kane	Illinois	6,414	23	100		6,537	1,076,300
18 Polk County	Iowa	2,324	0	0	13	2,337	384,781
19 Jefferson County 3/	Kentucky	2,091	1,957	31	31	4,110	676,700
20 Baltimore County	Maryland	1,768	0	3	374	2,145	353,168
21 Montgomery/Prince George's	Maryland	1,950	5	21	1598	3,574	588,450
22 Hampden County 3/	Massachusetts	1,777	0	0	26	1,803	296,859
23 Suffolk County 3/	Massachusetts	2,544	87	7	606	3,244	534,116
24 Ingham County	Michigan	1,359	955	16		2,330	383,628
25 Kent County	Michigan	2,211	260	31		2,502	411,948
26 Hennepin/Ramsey	Minnesota	11,964	5	5	186	12,160	2,002,111
27 City of St. Louis	Missouri	5,005	0	2	54	5,061	833,280
28 Clark County 3/	Nevada	1,458	1,160	89		2,707	445,700
29 Erie County	New York	2,266	439	3		2,708	445,865
30 Monroe County	New York	1,588	356	12		1,956	322,050
31 New York	New York	11,190	223	147		11,560	1,903,323
32 Oneida County	New York	2,181	0	0		2,181	359,096
33 Onodaga County	New York	2,023	817	4		2,844	468,257
34 Guilford County	North Carolina	1,799	2	23	78	1,902	313,159
35 Mecklenberg County	North Carolina	1,722	13	22	167	1,924	316,781
36 Cass 3/	North Dakota	1,222	0	0		1,222	201,199
37 Franklin County	Ohio	2,282	3	4	306	2,595	427,260
38 Multnomah	Oregon	7,603	712	5	91	8,411	1,384,849
39 Philadelphia County	Pennsylvania	2,854	13	23	5	2,895	476,654
40 Minnehaha County 3/	South Dakota	1,251	0	4	7	1,262	207,785
41 Dallas/Tarrant	Texas	5,941	8	76	73	6,098	1,004,019
42 Harris County	Texas	5,175	1,402	34	64	6,675	1,099,021
43 Davis/Salt Lake	Utah	3,454	5	1	106	3,566	587,132
44 Fairfax County	Virginia	2,981	1	17	243	3,242	533,787
45 City of Richmond	Virginia	1,497	13	7	8	1,525	251,087
46 King/Snohomish	Washington	9,434	0	11		9,445	1,555,094
47 Spokane County	Washington	1,842	0	0		1,842	303,280
Total		163,812	35,361	49,230	19,885	268,288	$ 44,172,900

1/ Includes Amerasian immigrants from Vietnam.

2/ For all years, Havana parolees from actual data.

3/ Allocation to be awarded to a Wilson/Fish grantee, if approved by the Director.

Table 5 - Proposed Targeted Assistance Allocations By State
FY 2005

State	$44,172,900 Total FY 2005 Allocation
Arizona	$1,238,477
California	4,956,872
Colorado	362,553
Florida	15,847,635
Georgia	1,342,205
Idaho	278,419
Illinois	1,076,300
Iowa	384,781
Kentucky	676,700
Maryland	941,618
Massachusetts	830,975
Michigan	795,576
Minnesota	2,002,111
Missouri	833,280
Nevada	445,700
New York	3,498,591
North Carolina	629,940
North Dakota	201,199
Ohio	427,260
Oregon	1,384,849
Pennsylvania	476,654
South Dakota	207,785
Texas	2,103,040
Utah	587,132
Virginia	784,874
Washington	1,858,374
Total	$44,172,900

Table 6 - Targeted Assistance Areas

State	Targeted Assistance Area	Definition
Arizona	Maricopa County	
California	Los Angeles County	
	Sacramento County	
	San Diego	
	Santa Clara County	
Colorado	Denver	
Florida	Broward County	
	Collier County	
	Dade County	
	Duval County	
	Hillsborough County	
	Orange County	
	Palm Beach County	
Georgia	DeKalb County	
	Fulton County	
Idaho	Ada County	
Illinois	Cook and Kane Counties	
Iowa	Polk County	
Kentucky	Jefferson County	
Maryland	Baltimore County	
	Montogomery/Prince George's County	
Massachusetts	Hampden County	
	Suffolk County	
Michigan	Ingham County	
	Kent County	
Minnesota	Hennepin/Ramsey	
Missouri	City of St. Louis	
Nevada	Clark County	
New York	Erie County	
	Monroe County	
	New York	Bronx, Kings, Queens, New York, and Richmond Counties
	Oneida County	
	Onondaga County	
North Carolina	Guilford County	
	Mecklenberg County	
North Dakota	Cass County	
Ohio	Franklin County	
Oregon	Multnomah	Clackamas, Multnomah, and Washington Counties, Oregon, and Clark County, Washington
Pennsylvania	Philadelphia County	
South Dakota	Minnehaha County	
Texas	Dallas/Tarrant	
	Harris County	
Utah	Davis/Salt Lake	Davis, Salt Lake, and Utah Counties
Virginia	Fairfax	Arlington and Fairfax Counties and the cities of Falls Church, Fairfax, and Alexandria
	City of Richmond	
Washington	King/Snohomish	
	Spokane County	

[FR Doc. 05–11919 Filed 6–16–05; 8:45 am]
BILLING CODE 4184–01–C

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[USCG–2004–17696]

Freeport-McMoRan Energy LLC Main Pass Energy Hub Liquefied Natural Gas Deepwater Port License Application; Draft Environmental Impact Statement

AGENCY: Coast Guard, DHS; Maritime Administration, DOT.

ACTION: Notice of availability; notice of public meeting; request for comments.

SUMMARY: The Coast Guard and the Maritime Administration (MARAD) announce the availability of the draft environmental impact statement (DEIS) on the Main Pass Energy Hub (MPEH) Deepwater Port License Application. The application describes a project that would be located in the Gulf of Mexico in Main Pass Lease Block 299 (MP 299), approximately 16 miles southeast of Venice, Louisiana. The Coast Guard and MARAD request public comments on the DEIS.

DATES: Three public meetings will be held. The public meeting in Grand Bay, Alabama will be held on July 18, 2005, from 6 p.m. to 8 p.m., and will be preceded by an informational open house from 4:30 p.m. to 6 p.m. The public meeting in Pascagoula, Mississippi will be held on July 19, 2005, from 6 p.m.to 8 p.m., and will be preceded by an informational open house from 4:30 p.m. to 6 p.m. The public meeting in New Orleans, Louisiana, will be held on July 20, 2005, from 6 p.m. to 8 p.m., and will be preceded by an informational open house from 4:30 p.m. to 6 p.m. The public meeting may end later than the stated time, depending on the number of persons wishing to speak. Material submitted in response to the request for comments must reach the Docket Management Facility on or before August 1, 2005.

ADDRESSES: The first public meeting and informational open house will be held at the Grand Bay St. Elmo Community Center, 11610 Highway 90 West, Grand Bay, Alabama, phone: 251–865–4010. The second public meeting and informational open house will be held at the Jackson County Civic Center, 2902 Shortcut Road, Pascagoula, Mississippi, phone: 228–762–6043. The third public meeting and informational open house will be held at the Hyatt Regency New Orleans Hotel at Louisiana Superdome, Poydras at Loyola Avenue, New Orleans, Louisiana, phone: 504–587–4104.

A copy of the DEIS is available for viewing at the DOT's docket management Web site: *http://dms.dot.gov* under docket number 17696. Copies are also available for review at Pascagoula Public Library, MS, 228–769–3060; Bayou La Batre City Public Library, AL, 251–824–4213; Mobile Public Main Library, AL, 251–208–7106; Terrebonne Parish Library Main Branch, LA, 985–76–5861; Plaquemines Parish Public Library, LA, 985–657–7121; New Orleans Public Main Library, LA, 504–529–7989; Morgan City Public Library (St. Mary Parish), LA, 504–380–4646; and Ingleside Public Library, TX, 361–776–5355.

Address docket submissions for USCG–2004–17696 to: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590–0001.

The Docket Management Facility accepts hand-delivered submissions, and makes docket contents available for public inspection and copying, at this address, in room PL–401, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Facility's telephone is 202–366–9329, its fax is 202–493–2251, and its Web site for electronic submissions or for electronic access to docket contents is *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Roddy Bachman, U.S. Coast Guard, telephone: 202–267–1752, e-mail: *rbachman@comdt.uscg.mil*. If you have questions on viewing the docket, call Andrea M. Jenkins, Program Manager, Docket Operations, telephone: 202–366–0271.

SUPPLEMENTARY INFORMATION:

Public Meeting and Open House

We invite you to learn about the proposed deepwater port at the informational open house, and to comment at the public meeting on the proposed action and the evaluation contained in the DEIS.

Please notify the Coast Guard (*see* **FOR FURTHER INFORMATION CONTACT**) if you wish to speak at the public meeting. In order to allow everyone a chance to speak, we may limit speaker time, or extend the meeting hours, or both. You must identify yourself, and any organization you represent, by name. Your remarks will be recorded or transcribed for inclusion in the public docket.

You may submit written material at the public meeting, either in place of or in addition to speaking. Written material must include your name and address, and will be included in the public docket.

Public docket materials will be made available to the public on the Docket Management Facility's Docket Management System (DMS). See ''Request for Comments'' for information about DMS and your rights under the Privacy Act.

If you plan to attend either the open house or the public meeting, and need special assistance such as sign language interpretation or other reasonable accommodation, please notify the Coast Guard (see **FOR FURTHER INFORMATION CONTACT**) at least 3 business days in advance. Include your contact information as well as information about your specific needs.

Request for Comments

We request public comments or other relevant information on the DEIS. The public meeting is not the only opportunity you have to comment on the DEIS. In addition to or in place of attending the meeting, you can submit material to the Docket Management Facility during the public comment period (*see* **DATES**). The Coast Guard will consider all comments submitted during the public comment period, and then will prepare the final EIS. We will announce the availability of the final EIS and once again give you an opportunity for review and comment. (If you want that notice to be sent to you, please contact the Coast Guard officer identified in **FOR FURTHER INFORMATION CONTACT**.)

Submissions should include:

- Docket number USCG–2004–17696.
- Your name and address.
- Your reasons for making each comment or for bringing information to our attention.

Submit comments or material using only one of the following methods:

- Electronic submission to DMS, *http://dms.dot.gov*.
- Fax, mail, or hand delivery to the Docket Management Facility (*see* **ADDRESSES**). Faxed or hand delivered submissions must be unbound, no larger than 8½ by 11 inches, and suitable for copying and electronic scanning. If you mail your submission and want to know when it reaches the Facility, include a stamped, self-addressed postcard or envelope.

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the DMS Web site (*http://dms.dot.gov*), and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available on the DMS Web site, or the Department of Transportation Privacy Act Statement that appeared in the **Federal Register** on April 11, 2000 (65 FR 19477).

You may view docket submissions at the Docket Management Facility (*see* **ADDRESSES**), or electronically on the DMS Web site.

Proposed Action

We published a notice of intent to prepare an EIS for the proposed Main Pass Energy Hub LNG Terminal LLC deepwater port in the **Federal Register** (69 FR 45337, July 29, 2004). The proposed action requiring environmental review is the Federal licensing of the proposed deepwater port described in ''Summary of the Application'' below, which is reprinted from previous **Federal Register** notices in this docket.

Alternatives to the Proposed Action

The alternatives to licensing are: (1) licensing with conditions (including conditions designed to mitigate environmental impact), and (2) denying the application, which for purposes of environmental review is the ''no-action'' alternative. These alternatives are more fully discussed in the DEIS.

Summary of the Application

The application calls for the proposed deepwater port to be located in the Gulf of Mexico on the Outer Continental Shelf (OCS), approximately 16 miles offshore southeast Louisiana in Main Pass Block 299. It would be located in a water depth of approximately 210 feet (64 meters). The proposed location is a former sulphur mining facility. The project would utilize four existing platforms, along with associated bridges and support structures, with appropriate modifications and additions as part of the deepwater port. Two new platforms would be constructed to support liquefied natural gas (LNG) storage tanks, and a patent-pending berthing system to berth the LNG carriers would be installed.

FME proposes the installation of approximately 192 miles of natural gas and natural gas liquid (NGL) transmission pipelines on the OCS, varying in size ranging from 12 to 36 inches in diameter. Five proposed pipelines would connect the deepwater port with several existing gas distribution pipelines, one of which would connect with a gas distribution pipeline near Coden, Alabama. NGL derived from natural gas conditioning (*i.e.* ethane, propane, and butanes) would be delivered via a 12-inch pipeline to an existing NGL facility near Venice, Louisiana. A proposed metering platform would be installed at Main Pass 164 and would also provide a tie-in location for two lateral transmission lines.

The proposed project would sit atop a salt dome, approximately 2 miles in diameter. An on-site total gas storage capacity of approximately 28 billion cubic feet would be provided in three salt caverns to be constructed under the deepwater port.

The deepwater port facility would consist of LNG storage tanks, LNG carrier berthing provisions, LNG unloading arms, low and high pressure pumps, vaporizers, a gas conditioning plant, salt cavern gas storage, compression, dehydration, metering, utility systems, general facilities and accommodations. The terminal would be able to receive LNG carriers ranging in capacity between 60,000 and 160,000 cubic meters. LNG would be stored in six tanks located on two new fixed platforms. Each tank would have an approximate gross capacity of 24,660 cubic meters, for a total net capacity of approximately 145,000 cubic meters. Four unloading arms would be provided to offload the LNG carriers at a rate of 10,500 to 12,000 cubic meters per hour. The facility would have living quarters to routinely accommodate up to 50 personnel, but would be capable of accommodating up to 94 personnel for brief periods.

FME Main Pass Energy Hub would be designed to handle a nominal capacity of 7.0 million metric tons per year of LNG, or 350 billion cubic feet per year of gas. This is equivalent to an average delivery of approximately 1.0 billion cubic feet per day (bcfd). The facility would be capable of delivering a peak of 1.6 bcfd of pipeline-quality natural gas during periods of high demand, and a peak of 85,000 barrels per day of natural gas liquids.

Application for a Certificate of Public Convenience and Necessity

The onshore portion of this project shoreward of the mean high water line falls under the jurisdiction of the Federal Energy Regulatory Commission (FERC) and must receive a separate authorization from the FERC. As required by their regulations, FERC will also maintain a docket. The FERC docket numbers for this project are CP04–68–000 and CP04–69–000. To submit comments to the FERC docket, send an original and two copies of your comments to Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426. Label one copy of the comments to the Attention of Gas Branch 2. The FERC strongly encourages electronic filing of any comments or interventions or protests to this proceeding. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the FERC's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the Users Guide. Additional information about the project is available from the Commission's Office of External Affairs at 1–866–208 FERC (3372) or on the FERC Internet Web site (*http://www.ferc.gov*). Using the ''eLibrary'' link, select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' (*i.e.*, CP04–68–000 or CP04–69–000), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at 1–866–208–3676, TTY 202–502–8659, or at *FERCOnlineSupport@ferc.gov*. The eLibrary link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. In addition, the FERC now offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. To register for this service, go to *http://www.ferc.gov/esubscribenow.htm*.

Department of Army Permit

New Orleans District, Army Corps of Engineers is issuing a public notice advising all interested parties of the proposed activity for which a Department of the Army permit is being sought and soliciting comments and information necessary to evaluate the probable impact on the public interest. Comments should be furnished to the U.S. Army Corps of Engineers, New Orleans District, OD–SW, P.O. Box 60267, New Orleans, LA 70160–0267.

Dated: June 13, 2005.

Howard L. Hime,

Acting Director of Standards, Marine Safety, Security, and Environmental Protection U.S. Coast Guard.

H. Keith Lesnick,

Senior Transportation, Specialist, Deepwater Ports Program Manager, U.S. Maritime Administration.

[FR Doc. 05–12017 Filed 6–16–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Proposed Collection; Comment Request Foreign Trade Zone Annual Reconciliation Certification and Record Keeping Requirement

AGENCY: Bureau of Customs and Border Protection (CBP), Department of Homeland Security (DHS).

ACTION: Notice and request for comments.

SUMMARY: The Department of Homeland Security, as part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Foreign Trade Zone Annual Reconciliation Certification and Record Keeping Requirement. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before August 16, 2005, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Customs and Border Protection, Information Services Branch Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW., Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW., Room 3.2C, Washington, DC 20229, Tel. (202) 344–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Foreign Trade Zone Annual Reconciliation Certification and Record Keeping Requirement.

OMB Number: 1651–0051.

Form Number: N/A.

Abstract: Each Foreign Trade Zone Operator will be responsible for maintaining its inventory control in compliance with statue and regulations. The operator will furnish CBP an annual certification of their compliance.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 260.

Estimated Time Per Respondent: 45 minutes.

Estimated Total Annual Burden Hours: 195.

Estimated Total Annualized Cost on the Public: $1,025.50.

Dated: June 10, 2005.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 05–11940 Filed 6–16–05; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Proposed Collection; Comment Request Automotive Products Trade Act of 1965

AGENCY: Bureau of Customs and Border Protection (CBP), Department of Homeland Security (DHS).

ACTION: Notice and request for comments.

SUMMARY: The Department of Homeland Security, as part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Automotive Products Trade Act of 1965. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before August 16, 2005, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Customs and Border Protection, Information Services Branch Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW., Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed Bureau of Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW., Room 3.2C, Washington, DC 20229, Tel. (202) 344–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Automotive Products Trade Act of 1965.

OMB Number: 1651–0059.

Form Number: N/A.

Abstract: Under APTA, Canadian articles may enter the U.S. so long as they are intended for use as original motor vehicle equipment in the U.S. If diverted to other purposes, they are subject to duties. This information collection is issued to track these diverted articles and to collect the proper duties on them.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 75.

Estimated Time Per Respondent: 5.6 hours.

Estimated Total Annual Burden Hours: 425.

Estimated Total Annualized Cost on the Public: N/A.

Dated: June 10, 2005.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 05–11941 Filed 6–16–05; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Agency Information Collection Activities: Line Release Regulations

AGENCY: Bureau of Customs and Border Protection, Department of Homeland Security.

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security 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: Line Release Regulations. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments form the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (70 FR 19496–19497) on April 13, 2005, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before July 18, 2005.

ADDRESSES: 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 Homeland Security Desk Officer, Washington, DC 20503. Additionally comments may be submitted to OMB via facsimile to (202) 395–6974.

SUPPLEMENTARY INFORMATION: CBP encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections 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.

Title: Line Release Regulations.

OMB Number: 1651–0060.

Form Number: N/A.

Abstract: Line release was developed to release and track high volume and repetitive shipments using bar code technology and PCS. An application is submitted to CBP by the filer and a common commodity classification code (C4) is assigned to the application.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 25,700.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 6,425

Estimated Total Annualized Cost on the Public: N/A.

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue NW, Room 3.2.C, Washington, DC 20229, at 202–344–1429.

Dated: June 14, 2005.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 05–11942 Filed 6–16–05; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Proposed Collection; Comment Request Prior Disclosure Regulations

AGENCY: Bureau of Customs and Border Protection (CBP), U.S. Department of Homeland Security (DHS) .

ACTION: Notice and request for comments.

SUMMARY: The Department of Homeland Security, as part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Prior Disclosure Regulations. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before August 16, 2005, to be assured of consideration.

ADDRESSES: Direct all written comments to the Bureau of Customs and Border Protection, Information Services Branch Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW., Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW., Room 3.2C, Washington, DC 20229, Tel. (202) 344–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3506(c)(2)(A)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments

will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Prior Disclosure Regulations.

OMB Number: 1651–0074.

Form Number: N/A.

Abstract: This collection of information is required to implement a provision of the Customs Modernization portion of the North American Free Trade Implementation Act (Mod Act) concerning prior disclosure by a person of a violation of law committed by that person involving the entry or introduction or attempted entry or introduction of merchandise into the United States by fraud, gross negligence or negligence, pursuant to 19 U.S.C. 1592(c)(4), as amended.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 3,500.

Estimated Time Per Respondent: 60 minutes.

Estimated Total Annual Burden Hours: 3,500.

Estimated Annualized Cost to the Public: N/A.

Dated: June 9, 2005.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 05–11943 Filed 6–16–05; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Agency Information Collection Activities: Alien Crewman Landing Permit

AGENCY: Bureau of Customs and Border Protection, Department of Homeland Security.

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security 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: Alien Crewman Landing Permit. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments form the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (69 FR 51317) on August 18, 2004, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before July 18, 2005.

ADDRESSES: 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 Homeland Security Desk Officer, Washington, DC 20503. Additionally comments may be submitted to OMB via facsimile to (202) 395–6974.

SUPPLEMENTARY INFORMATION: The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L.104–13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of The proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections 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.

Title: Alien Crewman Landing Permit.

OMB Number: 1651–0114.

Form Number: Form CBP–95A and 95B.

Abstract: This collection of information is used by CBP to document conditions and limitations imposed upon an alien crewman applying for benefits under Section 251 of the Immigration and Nationality Act.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Individuals.

Estimated Number of Respondents: 433,000.

Estimated Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 35,939.

Estimated Total Annualized Cost on the Public: N/A.

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.2.C, Washington, DC 20229, at 202–344–1429.

Dated: June 14, 2005.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 05–11944 Filed 6–16–05; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Proposed Collection; Comment Request Entry Summary and Continuation Sheet

AGENCY: Bureau of Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: Notice and request for comments.

SUMMARY: The Department of Homeland Security, as part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Entry Summary and Continuation Sheet. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before August 16, 2005, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Attn.: Tracey Denning, 1300

Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW., Room 3.2C, Washington, DC 20229, Tel. (202) 344–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Entry Summary and Continuation Sheet.

OMB Number: 1651–0022.

Form Number: Customs Form–7501, 7501A.

Abstract: Form CBP–7501 is used by CBP as a record of the impact transaction, to collect proper duty, taxes, exactions, certifications and enforcement endorsements, and to provide copies to Census for statistical purposes.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 38,500.

Estimated Time Per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 6,627,678.

Estimated Annualized Cost to the Public: N/A.

Dated: June 10, 2005.

Tracey Denning,

Agency Clearance Officer, Information Services Group.

[FR Doc. 05–11945 Filed 6–16–05; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Proposed Collection; Comment Request Entry and Immediate Delivery Application

AGENCY: Bureau of Customs and Border Protection (CBP), Department of Homeland Security (DHS).

ACTION: Notice and request for comments.

SUMMARY: The Department Homeland Security, as part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Entry and Immediate Delivery Application. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before August 16, 2005, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Customs and Border Protection, Information Services Branch Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW., Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW., Room 3.2C, Washington, DC 20229, Tel. (202) 344–1429.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3506(c)(2)(A)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Entry and Immediate Delivery Application.

OMB Number: 1651–0024.

Form Number: CBP Form-3461 and Form-3461 Alternate.

Abstract: CBP Form CBP–3461 and Form-3461 Alternate are used by importers to provide CBP with the necessary information in order to examine and release imported cargo.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 6,543,405.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 838,158.

Estimated Annualized Cost to the Public: N/A.

Dated: June 9, 2005.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 05–11946 Filed 6–16–05; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Agency Information Collection Activities: Report of Diversion

AGENCY: Bureau of Customs and Border Protection, Department of Homeland Security.

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security 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: Report of Diversion. This is a proposed extension of an information collection that was previously approved. CBP is

proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (70 FR 19497) on April 13, 2005, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before July 18, 2005.

ADDRESSES: 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 Homeland Security Desk Officer, Washington, DC 20503. Additionally comments may be submitted to OMB via facsimile to (202) 395–6974.

SUPPLEMENTARY INFORMATION: The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L.104–13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections 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.

Title: Report of Diversion.

OMB Number: 1651–0025.

Form Number: Form CBP–26.

Abstract: CBP uses Form–26 to track vessels traveling coastwise from U.S ports to other U.S. ports when a change occurs in scheduled itineraries. This is required for enforcement of the Jones Act (46 U.S.C. App. 883) and for continuity of vessel manifest information and permits to proceed actions.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 2800.

Estimated Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 233.

Estimated Total Annualized Cost on the Public: $3383.

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Room 3.2.C, Washington, DC 20229, at 202–344–1429.

Dated: June 14, 2005.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 05–11947 Filed 6–16–05; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Agency Information Collection Activities: Permit To Transfer Containers to a Container Station

AGENCY: Bureau of Customs and Border Protection, Department of Homeland Security.

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security 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: Permit to Transfer Containers to a Container Station. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (70 FR 19495–19496) on April 13, 2005, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before July 18, 2005.

ADDRESSES: 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 Homeland Security Desk Officer, Washington, DC 20503. Additional comments may be submitted to OMB via facsimile to (202) 395–6974.

SUPPLEMENTARY INFORMATION: The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L.104–13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections 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.

Title: Permit to Transfer Containers to a Container Station.

OMB Number: 1651–0049.

Form Number: N/A.

Abstract: This information collection is needed in order for a container station operator to receive a permit to transfer a container or containers to a container station, he/she must furnish a list of names, addresses, etc., of the persons employed by them upon demand by CBP officials.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 1,200.

Estimated Time Per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 400.

Estimated Annualized Cost to the Public: $8,700.

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.2.C, Washington, DC 20229, at 202–344–1429.

Dated: June 14, 2005.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 05–11948 Filed 6–16–05; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Proposed Collection; Comment Request Entry and Manifest of Merchandise Free of Duty

AGENCY: Bureau of Customs and Border Protection (CBP), Department of Homeland Security (DHS).

ACTION: Notice and request for comments.

SUMMARY: The Department of Homeland Security, as part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Entry and Manifest of Merchandise Free of Duty. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before August 16, 2005, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW., Room 3.2C, Washington, DC 20229, Tel. (202) 344–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Entry and Manifest of Merchandise Free of Duty.

OMB Number: 1651–0013.

Form Number: CBP Form–7523.

Abstract: CBP Form–7523 is used by carriers and importers as a manifest for the entry of merchandise free of duty under certain condition and by CBP to authorize the entry of such merchandise. It is also used by carriers to show that the articles being imported are to be released to the importer or consignee.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 4,950.

Estimated Time Per Respondent: 1 hour and 40 minutes.

Estimated Total Annual Burden Hours: 8,247.

Estimated Total Annualized Cost on the Public: N/A.

Dated: June 9, 2005.

Tracey Denning,

Agency Clearance Officer, Information Services Group.

[FR Doc. 05–11949 Filed 6–16–05; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Agency Information Collection Activities: Certificate of Origin

AGENCY: Bureau of Customs and Border Protection, Department of Homeland Security.

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security 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: Certificate of Origin. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (70 FR 19496) on April 13, 2005, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before July 18, 2005.

ADDRESSES: 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 Homeland Security Desk Officer, Washington, DC 20503. Additionally comments may be submitted to OMB via facsimile to (202) 395–6974.

SUPPLEMENTARY INFORMATION: The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork

Reduction Act of 1995 (Pub. L. 104–13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections 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.

Title: Certificate of Origin.

OMB Number: 1651–0016.

Form Number: Customs Form-3229.

Abstract: This certification is required to determine whether an importer is entitled to duty-free for goods which are the growth or product of a U.S. insular possession and which contain foreign materials representing no more than 70 percent of the goods total value.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 10.

Estimated Time Per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 113.

Estimated Total Annualized Cost on the Public: $1,030.

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.2.C, Washington, DC 20229, at 202–344–1429.

Dated: June 14, 2005.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 05–11950 Filed 6–16–05; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Proposed Collection; Comment Request Vessel Entrance or Clearance Statement Form

AGENCY: Bureau of Customs and Border Protection, Department of Homeland Security.

ACTION: Notice and request for comments.

SUMMARY: The Department of Homeland Security, as part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning Vessel Entrance of Clearance Statement. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before August 16, 2005, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW., Room 3.2C, Washington, DC 20229, Tel. (202) 344–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Vessel Entrance or Clearance Statement Form.

OMB Number: 1651–0019.

Form Number: CBP Form 1300.

Abstract: This form is used by a master of a vessel to attest to the truthfulness of all other forms associated with the manifest.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 12,000.

Estimated Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 21,991.

Estimated Total Annualized Cost on the Public: N/A.

Dated: June 9, 2005.

Tracey Denning,

Agency Clearance Officer, Information Services Group.

[FR Doc. 05–11951 Filed 6–16–05; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Proposed Collection; Comment Request; Crew Effects Declaration

AGENCY: Bureau of Customs and Border Protection (CBP), Department of Homeland Security (DHS).

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Crews Effects Declaration. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before August 16, 2005, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Customs and Border Protection, Information Services Branch

Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229, Tel. (202) 344–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Crews Effects Declaration.

OMB Number: 1651–0020.

Form Number: CBP Form-1304.

Abstract: CBP Form-1304 contains a list of crews effects that are accompanying them on the trip, which are required to be manifested, and also the statement of the master of the vessel attesting to the truthfulness of the merchandise being carried on board the vessel as crews effects.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 206,100.

Estimated Time per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 17,326.

Estimated Total Annualized Cost on the Public: N/A.

Dated: June 9, 2005.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 05–11952 Filed 6–16–05; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, U.S. Department of Homeland Security.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted the following information collection to the Office of Management and Budget (OMB) for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The submission describes the nature of the information collection, the categories of respondents, the estimated burden (*i.e.*, the time, effort and resources used by respondents to respond) and cost, and includes the actual data collection instruments FEMA will use.

Title: Flood Awareness, Attitude and Usage Study.

OMB Number: 1660-NEW7.

Abstract: The Flood Awareness, Attitude and Usage Survey is the evaluative tool of the NFIP's FloodSmart marketing campaign. The study assesses the overall impact of the campaign elements (*i.e.,* advertising recall, media exposure, etc.) on property owners' perceptions of flood insurance. Data findings are combined with additional program data to measure the sale and retention of flood insurance policies in meeting the program's goal of a 5 percent net growth annually. Findings will be used primarily to plan for the subsequent marketing campaign, and will be combined with additional program metrics for further performance evaluation.

Affected Public: Individuals or households.

Number of Respondents: 800 respondents.

Estimated Time per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 264 hours.

Frequency of Response: Once.

Comments: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs at OMB, Attention: Desk Officer for the Department of Homeland Security/FEMA, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503, or facsimile number (202) 395–7285. Comments must be submitted on or before July 18, 2005.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Muriel B. Anderson, Section Chief, Records Management, FEMA at 500 C Street, SW., Room 316, Washington, DC 20472, facsimile number (202) 646–3347, or e-mail address FEMA-Information-*Collections@dhs.gov.*

Dated: June 3, 2005.

George S. Trotter,

Acting Branch Chief, Information Resources Management Branch, Information Technology Services Division.

[FR Doc. 05–11953 Filed 6–16–05; 8:45 am]

BILLING CODE 9110–13–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, U.S. Department of Homeland Security.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted the following information collection to the Office of Management and Budget (OMB) for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The submission describes the nature of the information collection, the categories of respondents, the estimated burden (*i.e.*, the time, effort and resources used by respondents to respond) and cost, and includes the actual data collection instruments FEMA will use.

Title: Fire Management Assistance Grant Program.

OMB Number: 1660–0058.

Abstract: The collection of information is used by both State and FEMA Regional staff to facilitate the declaration request and grant administration processes of FMAGP, as well as end of year internal reporting of overall declaration requests and

estimated grant outlays. The following information collections are used:

FEMA-State Agreement and Amendment. Federal assistance under Section 420 of the Stafford Act must be provided in accordance with the FEMA-State Agreement for FMAGP. The State Governor and the Regional Director must sign the Agreement, which contains the necessary terms and conditions consistent with the provisions of applicable laws, executive orders, and regulations, and specifies the type and extent of Federal assistance to be provided. The Agreement is an annual agreement applicable only for the calendar year in which it is signed.

Amendments to the FEMA-State Agreement may be executed throughout the calendar year as necessary. One amendment, Exhibit E, must be completed upon each approval of a fire management assistance declaration. Exhibit E confirms the name, incident period, location, and official designation number of the fire. Other amendments modifying the standing agreement may be added throughout the year to reflect changes in the program or signatory parties.

FEMA Form 90–133, Request for Fire Management Assistance Subgrant, is used by State, local and tribal governments to state their interest in applying for sub-grants under a approved fire management assistance grant. The form provides essential subgrantee contact information.

FEMA Form 90–58, Request for Fire Management Assistance Declaration, is used by the State to provide information in support of its request for a fire management assistance declaration. This form must be completed by the Governor or Governor's Authorized Representative (GAR) and forwarded to FEMA's Regional Director for review and transmittal to FEMA's National Office in Washington DC. Additional supporting information may be furnished by the State or requested by FEMA after the initial request has been received.

FEMA Form 90–32, Principal Advisor's Report, form is used to provide FEMA with technical assessment of a fire or fire complex for which the State is requesting a fire management assistance declaration. FEMA will review all information submitted in the State's request along with the Principal Advisor's assessment and Regional summary and will render a determination.

A State Administrative Plan for FMAGP must be developed by the State for the administration of fire management assistance grants. The plan must describe the procedures for the administration of FMAGP, designate the State agency to serve as Grantee, and ensure State compliance with the provisions of law and regulation applicable to fire management assistance grants. The plan must also identify staffing functions, the sources of staff to fill these functions, and the management and oversight responsibilities of each. The plan should describe the procedures to notify potential applicants of the availability of the program, assist FEMA in determining applicant eligibility, review PWs, process payment of subgrants, and audit and reconcile subgrants. The plan should also outline the processes to be used to facilitate close-out of the fire management assistance grant in accordance with 44 CFR part 13, subpart D. The Regional Director must ensure that the State has an up-to-date Administrative Plan or approve a new plan prior to approval of the SF 424. The State may request the Regional Director to provide technical assistance in the preparation of the State Administrative Plan.

Training sessions are provided primarily for Regional staff and State officials who administer FMAGP for the purpose of instructing and updating attendees on the laws, regulations, policies, and process that govern the program, as well as to discuss any program issues.

Appeals. When a State's request for a fire management assistance declaration is denied, the Governor of a State or GAR may appeal the decision in writing pursuant to 44 CFR 204.26. The State may submit this one-time request for reconsideration in writing, with additional information, to the Director, Recovery Division. The appeal must be submitted within 30 days of the date of the letter denying the State's/Indian tribal government's request. A time extension of 30 days may be granted by the Director if the Governor or GAR submits a written request for a time extension within the 30-day period. Similarly, applicants may appeal any cost or eligibility determination under an approved declaration within 60 days after receipt of the notice of the action that is being appealed. The request must be submitted in writing to FEMA through the Grantee in accordance with the appeal procedures detailed in 44 CFR 204.60. Appeals usually consist of a letter briefly describing the reason for the appeal and any new supporting documentation the State or applicant submits to FEMA for review.

Duplication of Benefits. Applicants are required to notify FEMA of all benefits, actual or anticipated, received from other sources for the same loss for which they are applying to FEMA for assistance. Notification can be accomplished in a letter, accompanied by supporting documentation.

Affected Public: State, local or tribal government and Federal government.

Number of Respondents: 36.

Estimated Time per Respondent:

OMB NO. 1660–0058, FIRE MANAGEMENT ASSISTANCE GRANT PROGRAM ANNUAL BURDEN HOURS

Project/activity (survey, form(s), focus group, etc.)	Number of responses (A)	Frequency or responses (B)	Burden hours per respondent (C)	Annual responses	Total annual burden hours (hours)
FEMA-State Agreement and Amendment	12	4	5 minutes	48	4
Exhibit E, FEMA State Agreement for the Fire Management Assistance Grant Program.	12	4	5 minutes	48	4
State Administrative Plan for Fire Management Assistance	12	*1 annually	8 hours	12	96
FEMA Form 90–58, Request for Fire Management Assistance Declaration.	12	4	1 hour	48	48
FEMA Form 90–133, Request for Fire Management Assistance Subgrant (Locals Only).	24	4	10 minutes	96	16
FEMA Form 90–32, Principal Advisor's Report	12	4	20 minutes	48	16
Appeals (10 States and 10 Locals)	20	1 annually	1 hour	20	20
Duplication of Benefits (10 States and 10 Locals)	20	1 annually	1 hour	20	20
Training Sessions	12	1 annually	13 hours	12	156

OMB NO. 1660–0058, FIRE MANAGEMENT ASSISTANCE GRANT PROGRAM ANNUAL BURDEN HOURS—Continued

Project/activity (survey, form(s), focus group, etc.)	Number of responses (A)	Frequency or responses (B)	Burden hours per respondent (C)	Annual responses	Total annual burden hours (hours)
Total Request Burden Hours			24.35 hours	316	377

* The burden estimates in the proposed 60-day Federal Register Notice has be changed to correct the frequency for submitting a State Administrative Plan for Fire Management Assistance. Each State is required to develop or submit one (1) Plan annually to the Regional Director for approval. This change has reduced the total annual burden from 384 to 96 hours. Therefore the Total Requested Burden Hours has been changed from 664 to 376 hours.

Estimated Total Annual Burden Hours: 377.

Frequency of Response: On occasion.

Comments: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs at OMB, Attention: Desk Officer for the Department of Homeland Security/FEMA, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503, or facsimile number (202) 395–7285. Comments must be submitted on or before July 18, 2005.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Muriel B. Anderson, Section Chief, Records Management, FEMA at 500 C Street, SW., Room 316, Washington, DC 20472, facsimile number (202) 646–3347, or e-mail address *FEMA-Information-Collections@dhs.gov*.

Dated: May 31, 2005.

George S. Trotter,

Acting Branch Chief, Information Resources Management Branch, Information Technology Services Division.

[FR Doc. 05–11954 Filed 6–16–05; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1589–DR]

New York; Amendment No. 4 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of New York (FEMA–1589–DR), dated April 19, 2005, and related determinations.

DATES: Effective June 10, 2005.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of New York is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 19, 2005:

Westchester County for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 05–11955 Filed 6–16–05; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Open Meeting/Conference Call, Board of Visitors for the National Fire Academy

AGENCY: U.S. Fire Administration (USFA), Federal Emergency Management Agency (FEMA), Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice of open meeting.

SUMMARY: In accordance with section 10 (a) (2) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, FEMA announces the following committee meeting:

Name: Board of Visitors (BOV) for the National Fire Academy.

Dates of Meeting: July 12–13, 2005.

Place: Building H, Room 300, National Emergency Training Center, Emmitsburg, Maryland.

Time: July 12, 8:30 a.m.—5 p.m., and July 13, 8:30 a.m.—4 p.m.

Proposed Agenda: Review National Fire Academy Program Activities.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public in the Emmitsburg commuting area with seating available on a first-come, first-served basis. Members of the general public who plan to participate in the meeting should contact the Office of the Superintendent, National Fire Academy, U.S. Fire Administration, 16825 South Seton Avenue, Emmitsburg, MD 21727, (301) 447–1117, on or before July 5, 2005.

Minutes of the meeting will be prepared and will be available for public viewing in the Office of the U.S. Fire Administrator, U.S. Fire Administration, Federal Emergency Management Agency, Emmitsburg, Maryland 21727. Copies of the minutes will be available upon request within 60 days after the meeting.

Dated: June 2, 2005.

R. David Paulison,

U.S. Fire Administrator.

[FR Doc. 05–11956 Filed 6–16–05; 8:45 am]

BILLING CODE 9110–17–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4980–N–24]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by

HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, room 7266, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This notice is also published in order to comply with the December 12, 1988, Court Order in *National Coalition for the Homeless v. Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to John Hicks, Division of Property Management, Program Support Center, HHS, room 5B–17, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *Energy:* Mr. Andy Duran, Department of Energy, Office of Engineering & Construction Management, ME–90, 1000 Independence Ave, SW., Washington, DC 20585: (202) 586–4548; *GSA:* Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW., Washington, DC 20405; (202) 501–0084; *Interior:* Ms. Linda Tribby, Acquisition & Property Management, Department of the Interior, 1849 C Street, NW., MS5512, Washington, DC 20240; (202) 219–0728; *Navy:* Mr. Charles C. Cocks, Department of the Navy, Real Estate Policy Division, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE., Suite 1000, Washington, DC 20374–5065; (202) 685–9200 (these are not toll-free numbers).

Dated: June 9, 2005.

Mark R. Johnston,

Director, Office of Special Needs, Assistance Programs.

Title V, Federal Surplus Property Program Federal Register Report For 6/17/05

Suitable/Available Properties

Buildings (by State)

Idaho

Bldg. 79
Section 9
Portion of Tract C
Paul Co: Jeromo ID 83347–
Landholding Agency: Interior
Property Number: 61200520012
Status: Unutilized
Comment: 832 sq. ft., presence of asbestos/lead paint, most recent use—residence, off-site use only

West Virginia

Cyrus House/Garage
New River Gorge
Tract 102–33
Hinton Co: Raleigh WV 25951–
Landholding Agency: Interior
Property Number: 61200520014
Status: Excess
Comment: 2964 sq. ft. & 280 sq. ft., most recent use—residential, off-site use only

Cochran Cabin #1
New River Gorge
Tract 104–04
Hinton Co: Raleigh WV 25951–
Landholding Agency: Interior
Property Number: 61200520015
Status: Excess
Comment: 624 sq. ft., off-site use only

Cochran Cabin #2
New River Gorge
Tract 104–04
Hinton Co: Raleigh WV 25951–
Landholding Agency: Interior
Property Number: 61200520016
Status: Excess
Comment: 624 sq. ft., off-site use only

Rhodes Well House
New River Gorge
Tract 169–21
Hinton Co: Raleigh WV 25951–
Landholding Agency: Interior
Property Number: 61200520017
Status: Excess
Comment: 80 sq. ft., off-site use only

Rhodes Barn/Storage
New River Gorge
Tract 169–21
Hinton Co: Raleigh WV 25951–
Landholding Agency: Interior
Property Number: 61200520018
Status: Excess
Comment: 70 sq. ft., off-site use only

Rhodes House
New River Gorge
Tract 169–21
Hinton Co: Raleigh WV 25951–
Landholding Agency: Interior
Property Number: 61200520019
Status: Excess
Comment: 900 sq. ft., most recent use—residential, off-site use only

Unsuitable Properties

Buildings (by State)

California

Facility 35
Naval Weapons Station
Seal Beach Detachment
Pittsburgh Co: CA
Landholding Agency: GSA
Property Number: 54200520016
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 9–N–CA–1630

Guam

Bldg. FH5
Naval Forces
Marianas Co: GU
Landholding Agency: Navy
Property Number: 77200520022
Status: Unutilized
Reason: Extensive deterioration

Bldg. B–32
Naval Forces
Marianas Co: GU
Landholding Agency: Navy
Property Number: 77200520023
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 76, 77, 79
Naval Forces
Marianas Co: GU
Landholding Agency: Navy
Property Number: 77200520024
Status: Unutilized
Reason: Extensive deterioration

4 Bldgs.
Naval Forces
261, 262, 263, 269
Marianas Co: GU
Landholding Agency: Navy
Property Number: 77200520025
Status: Unutilized
Reason: Extensive deterioration

Bldg. 404NM
Naval Forces
Marianas Co: GU
Landholding Agency: Navy
Property Number: 77200520026
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 635 thru 640
Naval Forces
Marianas Co: GU
Landholding Agency: Navy
Property Number: 77200520027
Status: Unutilized
Reason: Extensive deterioration

Bldg. 1964
Naval Forces
Marianas Co: GU
Landholding Agency: Navy
Property Number: 77200520028
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 2013, 2014
Naval Forces
Marianas Co: GU
Landholding Agency: Navy
Property Number: 77200520029
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 3150, 3268
Naval Forces
Marianas Co: GU
Landholding Agency: Navy
Property Number: 77200520030
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 5409, 5412, 5413
Naval Forces
Marianas Co: GU
Landholding Agency: Navy
Property Number: 77200520031
Status: Unutilized
Reason: Extensive deterioration

Bldg. 5500
Naval Forces
Marianas Co: GU
Landholding Agency: Navy
Property Number: 77200520032
Status: Unutilized
Reason: Extensive deterioration

Illinois

Trailer 072
FERMILAB
Batavia Co: DuPage IL 60510–
Landholding Agency: Energy
Property Number: 41200520009
Status: Excess
Reason: Extensive deterioration

Maryland

Structure 145
Naval Surface Warfare Center
Bethesda Co: MD 20817–5700
Landholding Agency: Navy
Property Number: 77200520015
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

Ft. Washington Facility
Interagency Training Center
Ft. Washington Co: Prince George MD 20744–5821
Landholding Agency: Navy
Property Number: 77200520021
Status: Underutilized
Reason: Secured Area

Mississippi

Tracts 06–156, 06–152, 06–153
National Military Park
Vicksburg Co: Warren MS 39180–
Landholding Agency: Interior
Property Number: 61200520013
Status: Unutilized
Reason: Extensive deterioration

Missouri

National Geospatial Agency
8900 S. Broadway
St. Louis Co: MO 63125–
Landholding Agency: GSA
Property Number: 54200520017
Status: Excess
Reason: Floodway
GSA Number: 7–D–MO–0406

New York

Bldg. 0086
Brookhaven National Laboratory
Upton Co: Suffolk NY 11973–
Landholding Agency: Energy
Property Number: 41200520010
Status: Unutilized
Reason: Extensive deterioration

Bldg. 0527
Brookhaven National Laboratory
Upton Co: Suffolk NY 11973–
Landholding Agency: Energy
Property Number: 41200520011
Status: Unutilized
Reason: Extensive deterioration

Bldg. 0650A
Brookhaven National Laboratory
Upton Co: Suffolk NY 11973–
Landholding Agency: Energy
Property Number: 41200520012
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 0933B, 0934
Brookhaven National Laboratory
Upton Co: Suffolk NY 11973–
Landholding Agency: Energy
Property Number: 41200520013
Status: Unutilized
Reason: Extensive deterioration

Virginia

Facility 1706
Marine Corps Base
Quantico Co: VA
Landholding Agency: Navy
Property Number: 77200520016
Status: Underutilized
Reason: Secured Area

Facility 2194
Marine Corps Base
Quantico Co: VA
Landholding Agency: Navy
Property Number: 77200520017
Status: Underutilized
Reason: Secured Area

Facility 2690
Marine Corps Base
Quantico Co: VA
Landholding Agency: Navy
Property Number: 77200520018
Status: Underutilized
Reason: Secured Area

Facility 24144A
Marine Corps Base
Quantico Co: VA
Landholding Agency: Navy
Property Number: 77200520019
Status: Underutilized
Reason: Secured Area

Facility 27203
Marine Corps Base
Quantico Co: VA
Landholding Agency: Navy
Property Number: 77200520020
Status: Underutilized
Reason: Secured Area

West Virginia

Buckland Pump House
New River Gorge
Tract 104–01
Hinton Co: Raleigh WV 25951–
Landholding Agency: Interior
Property Number: 61200520020
Status: Excess
Reason: Extensive deterioration

Buckland Footbridge
New River Gorge
Tract 104-01
Hinton Co: Raleigh WV 25951–
Landholding Agency: Interior
Property Number: 61200520021
Status: Excess
Reason: Extensive deterioration

Helms House/Shed
New River Gorge

Tract 104–05
Hinton Co: Raleigh WV 25951–
Landholding Agency: Interior
Property Number: 61200520022
Status: Excess
Reason: Extensive deterioration

Cochran Pump House
New River Gorge
Tract 104–29
Hinton Co: Raleigh WV 25951–
Landholding Agency: Interior
Property Number: 61200520023
Status: Excess
Reason: Extensive deterioration

Cochran Camp
New River Gorge
Tract 104–31
Hinton Co: Raleigh WV 25951–
Landholding Agency: Interior
Property Number: 61200520024
Status: Excess
Reason: Extensive deterioration

Emil Pike Buildings
New River Gorge
Tract 121–20
Hinton Co: Raleigh WV 25951–
Landholding Agency: Interior
Property Number: 61200520025
Status: Excess
Reason: Extensive deterioration

Poling House/Sheds
New River Gorge
Tract 121–21
Hinton Co: Raleigh WV 25951–
Landholding Agency: Interior
Property Number: 61200520026
Status: Excess
Reason: Extensive deterioration

Laing House
New River Gorge
Tract 154–9
Hinton Co: Raleigh WV 25951–
Landholding Agency: Interior
Property Number: 61200520027
Status: Excess
Reason: Extensive deterioration

Truman Dent House
New River Gorge
Tract 166–01
Hinton Co: Raleigh WV 25951–
Landholding Agency: Interior
Property Number: 61200520028
Status: Excess
Reason: Extensive deterioration

Harris House
New River Gorge
Tract 166–06
Hinton Co: Raleigh WV 25951–
Landholding Agency: Interior
Property Number: 61200520029
Status: Excess
Reason: Extensive deterioration

Crabtree House
New River Gorge
Tract 169–25
Hinton Co: Raleigh WV 25951–
Landholding Agency: Interior
Property Number: 61200520030
Status: Excess
Reason: Extensive deterioration

Land (by State)

Puerto Rico

Landfill Parcel
Naval Security Group
Sabana Sera
Toa Baja Co: PR
Landholding Agency: GSA
Property Number: 54200520015
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 1–N–PR–0513–1D

[FR Doc. E5–3068 Filed 6–16–05; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Proposed Low Effect Habitat Conservation Plan for the Pioneer Meadows Development in Washoe County, NV

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; receipt of application.

SUMMARY: This notice advises the public that Pioneer Meadows Development, LLC; BCI Properties, LLC; DBJ Holdings, LLC; BB Investment Holdings, LLC; and BPHI, LLC (Applicants) have applied to the Fish and Wildlife Service (Service) for an incidental take permit (permit), pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The Applicants have requested a 42-month permit to authorize the incidental take of the endangered Carson wandering skipper (*Psuedocopaeodes eunus obscurus*, ''skipper'') on 39 acres of habitat associated with the development of a mixed residential and commercial use community within the city limits of Sparks, Nevada.

We are requesting comments on the permit application (application) and on whether the proposed Habitat Conservation Plan (HCP) qualifies as a ''low-effect'' HCP eligible for a categorical exclusion under the National Environmental Policy Act (NEPA) of 1969, as amended. We explain the basis for this possible determination in a draft Environmental Action Statement (EAS), which is also available for public review.

DATES: Written comments must be received by 5 p.m. on July 18, 2005.

ADDRESSES: Comments should be addressed to Robert D. Williams, Field Supervisor, Fish and Wildlife Service, Nevada Fish and Wildlife Office, 1340 Financial Boulevard, Suite 234, Reno, Nevada 89502–7147, fax number (775) 861–6301 (for further information and instruction on the reviewing and commenting process, see Public Review and Comment section below).

FOR FURTHER INFORMATION CONTACT: Jody Brown, Deputy Field Supervisor, Fish and Wildlife Service (see **ADDRESSES**) telephone (775) 861–6300.

SUPPLEMENTARY INFORMATION:

Availability of Documents

Individuals wishing copies of the application, proposed HCP, or EAS should contact the Service by telephone (see **FOR FURTHER INFORMATION CONTACT**) or by letter (see **ADDRESSES**). Copies of the subject documents are also available for public inspection during regular business hours at the Nevada Fish and Wildlife Office (see **ADDRESSES**).

Background

Section 9 of the Act (16 U.S.C. 1531 *et seq.*) and Federal regulations prohibit the ''take'' of a fish or wildlife species listed as endangered or threatened. The definition of take of federally listed fish or wildlife under section 3 of the Act is to ''harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in such conduct'' (16 U.S.C. 1538). The Service may, under limited circumstances, issue permits to authorize ''incidental take'' of listed species. ''Incidental take'' is defined by the Act as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing permits for threatened species and endangered species, respectively, are at 50 CFR 17.32 and 50 CFR 17.22. The Applicants are seeking a permit for the incidental take of the skipper during the requested 42-month term of the permit.

The Applicants propose to develop and carry out construction activities on 610 acres of project lands, comprising a mixed residential and commercial use community, including improvements for residential, retail, industrial, and office use. Specifically, this includes approximately 1,325 single family residences, 800 apartment units, a commercial shopping center, a business park, offices, and other commercial purposes. Of the project's 610 acres, 39 acres (Habitat Area) have been determined to provide suitable habitat for the Carson wandering skipper, based on an extensive habitat component survey and the sighting of one individual skipper on the Habitat Area. The Habitat Area is proposed to be completely developed, which would result in the incidental take of the skipper and the permanent loss of 39 acres of occupied habitat that also support the larval host plant, salt grass (Distichlis spicata), nectar sources, and

alkaline soils. Therefore, the Applicants are requesting a permit for only the 39 acres of Habitat Area considered suitable habitat for the skipper.

The proposed minimization and mitigation measures include the acquisition of 39 acres offsite to mitigate for the 39 acres that would be lost within the project area. The proposed acquired property would provide habitat of equal or greater value than the on-site parcel, protect an existing skipper population or occur in the vicinity of an existing population, and be acquired within 42 months of permit issuance. Management of the acquired off-site lands would be by an undetermined third party. Funds would be provided by the Applicants for management and monitoring of these mitigation lands in perpetuity.

Approval of the HCP may qualify for a categorical exclusion under NEPA, as provided by the Departmental Manual (516 DM 2, Appendix 1 and 516 DM 6, Appendix 1). The proposed HCP also may qualify as a ''low-effect'' plan as defined by the Habitat Conservation Planning Handbook (Service, November, 1996). Determination of whether an HCP is low effect is based on the following criteria: (1) Minor or negligible effects on federally listed, proposed, or candidate species and their habitats; (2) minor or negligible effects on other environmental values or resources; and (3) impacts of the proposed HCP, considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects, would not result, over time, in significant cumulative effects to the environmental values or resources. If the Service determines that the Applicants' HCP qualifies as a low-effect HCP, further NEPA documentation would not be required.

Public Review and Comment

If you wish to comment on the application, EAS, or the proposed HCP, you may submit your comments to the address listed in the **ADDRESSES** section of this document. We will evaluate this application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act and NEPA regulations. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record your name and/or address; you must make this request prominently at the beginning of your comment. Anonymous comments will not be considered. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, are available for public inspection in their entirety.

If we determine that the permit requirements are met, we will issue an incidental take permit under section 10(a)(1)(B) of the Act to the Applicants for take of the skipper, incidental to otherwise lawful activities in accordance with the terms of the permit. We will not make our final decision until after the end of the 30-day comment period and will fully consider all comments received during the comment period.

The Service provides this notice pursuant to section 10 (c) of the Act and pursuant to implementing regulations for NEPA (40 CFR 1506.6).

Dated: June 13, 2005.

Ken McDermond

Deputy Manager, California/Nevada Operations Office, Sacramento, California.

[FR Doc. 05–11977 Filed 6–16–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Application From the Nevada Department of Wildlife, Humboldt County, NV, for an Enhancement of Survival Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and receipt of application.

SUMMARY: In response to an application from the Nevada Department of Wildlife (Applicant), the Fish and Wildlife Service (we, the Service) is considering issuance of an enhancement of survival permit pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA). The permit application includes a proposed programmatic Safe Harbor Agreement (SHA) between the Applicant and the Service. The proposed SHA provides for voluntary habitat restoration, maintenance, enhancement, or creation activities to enhance the reintroduction and recovery of the federally threatened Lahontan cutthroat trout (*Oncorhynchus clarki henshawi*) within the Northwest Distinct Population Segment. The proposed duration of both the SHA and permit is 30 years.

The Service has made a preliminary determination that the proposed SHA and permit application are eligible for categorical exclusion under the National Environmental Policy Act of 1969 (NEPA). The basis for this determination is contained in an Environmental Action Statement, which also is available for public review.

DATES: Written comments must be received by 5 p.m. on July 18, 2005.

ADDRESSES: Please address comments to Robert D. Williams, Field Supervisor, Nevada Fish and Wildlife Office, 1340 Financial Boulevard, Suite 234, Reno, Nevada, facsimile number (775) 861–6301.

FOR FURTHER INFORMATION CONTACT: Lisa Heki, Program Manager for the Lahontan Fish Hatchery Complex, (see **ADDRESSES**), telephone (775) 861–6300.

SUPPLEMENTARY INFORMATION:

Document Availability

Individuals wishing copies of the permit application, the Environmental Action Statement, or copies of the full text of the proposed SHA, including a map of the proposed permit area, references, and legal descriptions of the proposed permit area, should contact the office and personnel listed in the **ADDRESSES** section. Documents also will be available for public inspection, by appointment, during normal business hours at this office (see **ADDRESSES**).

We specifically request information, views, and opinions from the public on the proposed Federal action of issuing a permit, including the identification of any aspects of the human environment not already analyzed in our Environmental Action Statement. Further, we specifically solicit information regarding the adequacy of the SHA as measured against our permit issuance criteria found in 50 CFR 17.22(c).

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their identity from the administrative record. We will honor such requests to the extent allowed by law. Respondents wishing us to withhold their identity (e.g., individual name, home address and home phone number) must state this prominently at the beginning of their comments. We will make all submissions from organizations, agencies or businesses, and from individuals identifying themselves as representatives of officials of such entities, available for public inspection in their entirety.

Background

The primary objective of this proposed SHA is to encourage voluntary habitat restoration, maintenance or

enhancement activities to benefit Lahontan cutthroat trout by relieving a landowner who enters into the provisions of a Cooperative Agreement with the Applicant from any additional Section 9 liability under the Endangered Species Act beyond that which exists at the time the Cooperative Agreement is signed and Certificate of Inclusion issued (''regulatory baseline''). A SHA encourages landowners to conduct voluntary conservation activities and assures them that they will not be subjected to increased listed species restrictions should their beneficial stewardship efforts result in increased listed species populations. Application requirements and issuance criteria for enhancement of survival permits and SHAs are found in 50 CFR 17.22(c). As long as enrolled landowners allow the agreed-upon conservation measures to be completed on their property and agree to maintain their baseline responsibilities, they may make any other lawful use of the property during the permit term, even if such use results in the take of individual Lahontan cutthroat trout or harm to this species' habitat.

As proposed in the SHA, landowners within the Northwest Distinct Population Segment, as identified by the Lahontan Cutthroat Trout Recovery Plan, may be enrolled by the Applicant under the SHA. Landowners, as Cooperators, would receive a Certificate of Inclusion when they sign a Cooperative Agreement. The Cooperative Agreement would include: (1) A map of the property; (2) delineation of the portion of the property to be enrolled and its stream mileage/feet; (3) the property's baseline and biological assessment which would include a thorough stream analysis (with photos) of the enrolled stream miles/feet; (4) a description of the specific conservation measures to be completed; and; (5) the responsibilities of the Cooperator and the Applicant.

The Applicant would provide draft copies of the Cooperative Agreement to the Service for an opportunity to review and concur with the recommended management activities and conservation measures. The Service would have a period of 15 business days in which to make comments on the Cooperative Agreement. If no comments were made within 15 business days, the Applicant would proceed to finalize the Cooperative Agreement. The Applicant, as the Permittee, would be responsible for annual monitoring and reporting related to implementation of the SHA and Cooperative Agreements and fulfillment of provisions by the Cooperators. As specified in the proposed SHA, the Applicant would issue yearly reports to the Service related to implementation of the program.

Each Cooperative Agreement would cover conservation activities to create, maintain, restore, or enhance habitat for Lahontan cutthroat trout and achieve species' recovery goals. These actions, where appropriate, could include (but are not limited to): (1) Restoration of riparian habitat and stream form and function; (2) control of stocking rates for livestock (number /density of animals per unit area; (3) repair or installation of fences to protect existing or created habitat from human disturbance; (4) establishment of riparian buffers; and (5) installation of screens on irrigation diversions as well as facilitation of the implementation of other objectives recommended by the Lahontan Cutthroat Trout Recovery Plan. The overall goal of Cooperative Agreements entered into under the proposed SHA is to produce conservation measures that are mutually beneficial to the Cooperators and the long-term existence of Lahontan cutthroat trout.

Based upon the probable species' response time for Lahontan cutthroat trout to the planned conservation measures, the Service estimates it will take 5 years of implementing the proposed SHA to fully reach a net conservation benefit; some level of benefit would likely occur within a shorter time period. Each Cooperative Agreement would stipulate that the conservation measures be implemented to support a networked population requiring: 1 year to construct a temporary barrier, 2 years to treat the area behind the barrier to remove undesired fish species, and at least 2 years to repopulate or reintroduce Lahontan cutthroat trout and remove the temporary barrier. Most Cooperative Agreements under the proposed SHA are expected to have at least 10 years' duration.

After maintenance of the restored/created/enhanced Lahontan cutthroat trout habitat on the property for the agreed-upon term, Cooperators may then conduct otherwise lawful activities on their property that result in the partial or total elimination of the habitat improvements and the taking of Lahontan cutthroat trout. However, the restrictions on returning a property to its original baseline condition include: (1) The Cooperator must demonstrate that baseline conditions were maintained during the term of the Cooperative Agreement and the conservation measures necessary for achieving a net conservation benefit were carried out; (2) the Applicant and the Service will be notified a minimum of 30 days prior to the activity and given the opportunity to capture, rescue, and/or relocate any Lahontan cutthroat trout; and (3) return to baseline conditions must be completed within the 30-year term of the permit issued to the Applicant. Cooperative Agreements could be extended if the Applicant's permit is renewed and that renewal allows for such an extension.

The Service has made a preliminary determination that approval of this proposed SHA qualifies for categorical exclusion under NEPA, as provided by the Department of Interior Manual (516 DM 2, Appendix 1 and 516 DM 6, Appendix 1) based on the following criteria: (1) Implementation of the SHA would result in minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) implementation of the SHA would result in minor or negligible effects on other environmental values or resources; and (3) impacts of the SHA, considered together with the impacts of other past, present and reasonably foreseeable similarly situated projects, would not result, over time, in cumulative effects to environmental values or resources which would be considered significant. This is more fully explained in our Environmental Action Statement.

Based upon this preliminary determination, we do not intend to prepare further NEPA documentation. The Service will consider public comments in making its final determination on whether to prepare such additional documentation.

Decision

The Service provides this notice pursuant to section 10(c) of the ESA and pursuant to implementing regulations for NEPA (40 CFR 1506.6). We will evaluate the permit application, the proposed SHA, and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the ESA and NEPA regulations. If the requirements are met, the Service will sign the proposed SHA and issue an enhancement of survival permit under section 10(a)(1)(A) of the ESA to the Applicant for take of the Lahontan cutthroat trout incidental to otherwise lawful activities of the project. The Service will not make a final decision until after the end of the 30-day comment period and will fully consider all comments received during the comment period.

Dated: May 23, 2005.

Alexandra Pitts,

Deputy Manager, California/Nevada Operations Office, Sacramento, California.

[FR Doc. 05–11971 Filed 6–16–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Colorado River Tribe—Health and Safety Code, Article 2—Liquor

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes an amendment to the Colorado River Tribal Health and Safety Code, Article 2, Section 2–403(12) ''Liquor. The code regulates and controls the possession, sale and consumption of liquor within the Colorado River Tribe's Reservation. The land is located on trust land and this Code allows for the possession and sale of alcoholic beverages within the Colorado River Tribe's Reservation and will increase the ability of the tribal government to control the tribe's liquor distribution and possession, and at the same time will provide an important source of revenue for the continued operation and strengthening of the tribal government and the delivery of tribal services.

EFFECTIVE DATE: This Ordinance is effective on June 30, 2005.

FOR FURTHER INFORMATION CONTACT: Sharlot Johnson, Western Regional Office, Bureau of Indian Affairs, Division of Tribal Government, P.O. Box 10, Phoenix, AZ 85001, Telephone 602–379–6786; or Ralph Gonzales, Office of Tribal Services, 1951 Constitution Avenue, NW., Mail Stop 320–SIB, Washington, DC 20240; Telephone (202) 513–7629.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Pub. L. 83–277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice* v. *Rehner*, 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor ordinances for the purpose of regulating liquor transactions in Indian country. The Colorado River Tribal Council adopted this amendment to Article 2 of the Health and Safety Code by Resolution No. 04/05 on November 15, 2004. The purpose of this Code is to govern the sale, possession and distribution of alcohol within the Colorado River Tribe's Reservation. This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Principal Deputy Assistant Secretary—Indian Affairs. I certify that this amendment to Article 2, Section 2–403(12) of the Health and Safety Code, of the Colorado River Tribe, was duly adopted by the Tribal Council on November 15, 2004.

Dated: June 13, 2005.

Michael D. Olsen,

Acting Principal Deputy Assistant Secretary—Indian Affairs.

The amendment to Article 2, Section 2–403(12) of the Colorado River Tribe's Health and Safety Code reads as follows:

(12) ''For a Class 1, Class 2, Class 3, Class 4 licensee, or his employee, to sell or give any liquor to any person on the licensed premises between the hours of two o'clock a.m. and six o'clock a.m., Mondays through Saturdays, or two o'clock a.m. through ten o'clock a.m. on Sundays, on the Arizona side of the Reservation, or between the hours of two o'clock a.m. and six o'clock a.m. Pacific Standard or Daylight time, which ever is then generally in effect in California, on the California side or the Reservation, or permit the consumption of liquor on the licensed premises in those places during those hours and those days:'' and

[FR Doc. 05–11984 Filed 6–16–05; 8:45 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs La Posta Band of Mission Indians—Liquor Control Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the La Posta Band of Mission Indians Liquor Control Ordinance. The Ordinance regulates and controls the possession, sale and consumption of liquor within the La Posta Band of Mission Indians' Reservation. The land is located on trust land and this Ordinance allows for the possession and sale of alcoholic beverages within the La Posta Band of Mission Indians' Reservation and will increase the ability of the tribal government to control the tribe's liquor distribution and possession, and at the same time will provide an important source of revenue for the continued operation and strengthening of the tribal government and the delivery of tribal services.

DATES: *Effective Date:* This Ordinance is effective on June 17, 2005.

FOR FURTHER INFORMATION CONTACT: Clay Gregory, Acting Regional Director, Pacific Regional Office, 2800 Cottage Way, Sacramento, CA 95825; Telephone (916) 978–6000; or Ralph Gonzales, Office of Tribal Services, 1951 Constitution Avenue, NW., Mail Stop 320–SIB, Washington, DC 20240; Telephone (202) 513–7629.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Public Law 83–277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice* v. *Rehner*, 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor ordinances for the purpose of regulating liquor transactions in Indian country. The La Posta Band of Mission Indians' General Council adopted its Liquor Control Ordinance by Resolution No. 04–08–10B on October 8, 2004. The purpose of this Ordinance is to govern the sale, possession and distribution of alcohol within the La Posta Band of Mission Indians' Reservation.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Principal Deputy Assistant Secretary—Indian Affairs.

I certify that this Liquor Ordinance, of the La Posta Band of Mission Indians, was duly adopted by the Tribal Council on October 8, 2004.

Dated: June 13, 2005.

Michael D. Olsen,

Acting Principal Deputy Assistant Secretary—Indian Affairs.

The LA Posta Band of Mission Indians' Liquor Control Ordinance reads as follows:

The LA Posta Band of Mission Indians Liquor Control Ordinance

Article I—Declaration of Public Policy and Purpose

Section 1.1. The distribution, possession, consumption and sale of liquor on the La Posta Indian Reservation (''Reservation'') is a matter of special concern to the La Posta Band of Mission Indians (''La Posta Band'' or ''Tribe'').

Section 1.2. Federal law, as codified at 18 U.S.C. 1154, 1161, currently prohibits the introduction of liquor into Indian country, except in accordance with State Law and the duly enacted law of the Tribe. By adoption of this Ordinance, it is the intention of the General Council to establish Tribal law regulating the sale, distribution and consumption of Liquor and to ensure that such activity conforms with all applicable provisions of the laws of the State of California and all applicable Federal laws.

Section 1.3. The General Council, as the governing body of the Tribe, has the authority pursuant to Article VI of the

Constitution to administer Tribal assets and manage all economic affairs and enterprises of the La Posta Band, as well as has the inherent right to enact ordinances to safeguard and provide for the health, safety and welfare of the Reservation Community. Accordingly, the General Council has determined that it is in the best interests of the Tribe to enact a Tribal ordinance governing the distribution, possession, consumption and sale of liquor within the exterior boundaries of the Reservation.

Section 1.4. The General Council has determined that the purchase, distribution and sale of Liquor shall take place only at duly licensed (i) Tribally owned enterprises; (ii) Tribally-licensed establishments; and (iii) Tribally-sanctioned Special Events, all as operating on Tribal Lands.

Section 1.5. The General Council has determined that any sale or other commercial distribution of Liquor on the Reservation, other than sales and distribution in strict compliance with this Ordinance, is detrimental to the health, safety and welfare of the members of the Tribe and is therefore prohibited.

Section 1.6. Based upon the foregoing findings and determinations, the General Council hereby enacts this La Posta Band of Mission Indians Liquor Control Ordinance (''Ordinance'').

Article II—Definitions

As used in this Ordinance, the following words shall have the following meanings, unless the context clearly requires otherwise.

Section 2.1. Alcohol. That substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation, or distillation of grain, starch, molasses or sugar, or other substances including all dilutions and mixtures of this substance.

Section 2.2. Alcoholic Beverage. Shall be defined identically in meaning to the term ''liquor'' as defined herein.

Section 2.3. Bar. Any establishment with special space and accommodations for sale by the glass and for consumption on the premises, of liquor, as herein defined.

Section 2.4. Beer. Any beverage obtained by the alcoholic fermentation at an infusion or concoction of pure hops, or pure extract of hops and pure barley malt or other wholesome grain or cereal in pure water containing not more than four percent (4%) of alcohol by volume. For the purpose of this title, any such beverage, including ale, stout, and porter, containing more than four percent (4%) of alcohol by weight shall be referred to as ''strong beer.''

Section 2.5. Gaming Compact. The federally approved Tribal-State Compact, dated September 10, 2003, between the State of California and the La Posta Band.

Section 2.6. Liquor. The four varieties of liquor herein defined (alcohol, spirits, wine and beer), and all fermented spirituous, vinous, or malt liquor or combinations thereof and mixed liquor, or a part of which is fermented, spirituous, vinous, or malt liquor, or otherwise intoxicating; and every other liquid or solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semisolid, solid, or other substances that contains more than one percent (1%) of alcohol by weight, shall be conclusively deemed to be intoxicating.

Section 2.7. Liquor Store. Any store at which liquor is sold and, for the purpose of this Ordinance, including any store only a portion of which is devoted to the sale of liquor or beer.

Section 2.8. Licensed Wholesaler. A wholesale seller of liquor that is duly licensed by the Tribe and the State.

Section 2.9. Malt liquor. Beer, strong beer, ale, stout and porter.

Section 2.10. Package. Any container or receptacle used for holding liquor.

Section 2.11. Public Place. Includes gaming facilities and commercial or community facilities of every nature which are open to and/or are generally used by the public and to which the public is permitted to have unrestricted access; public conveyances of all kinds and character; and all other places of like or similar nature to which the general public has unrestricted access, and which generally are used by the public.

Section 2.12. Sale and Sell. Any exchange, barter, and traffic; and also includes the selling of or supplying or distributing, by any means whatsoever, of liquor, or of any liquid known or described as beer or by any name whatsoever commonly used to describe malt or brewed liquor, or of wine, by any person to any person.

Section 2.13. Special Event. Any social, charitable or for-profit discreet activity or event conducted by the General Council or any Tribal enterprise on Tribal Lands at which Liquor is sold or proposed to be sold.

Section 2.14. Spirits. Any beverage, which contains alcohol obtained by distillation, including wines exceeding seventeen percent (17%) of alcohol by weight.

Section 2.15. State Law. The duly enacted applicable laws and regulations of the State of California, specifically, Division 9–Alcoholic Beverages, as set forth at California Business and Professions Code Division 9, Sections 23000 through 25762, as amended from time to time, and all applicable provisions of the Compact.

Section 2.16. General Council. The governing body of the Tribe as defined in the Constitution of the La Posta Band of Mission Indians (the ''Constitution'').

Section 2.17. Tribe or Tribal. Means or refers to the La Posta Band of Mission Indians, a federally recognized Indian tribe.

Section 2.18. Tribal Enterprise. Any business entity, operation or enterprise owned, in whole or in part, by the Tribe.

Section 2.19. Tribal Land. All land within the exterior boundaries of the La Posta Indian Reservation that is held in trust by the United States for the benefit of the Tribe.

Section 2.20. Wine. Any alcoholic beverage obtained by fermentation of any fruits (grapes, berries, apples, etc.), or fruit juice, and containing not more than seventeen percent (17%) of alcohol by weight, including sweet wines fortified with wine spirits, such as port, sherry, muscatel and angelica, not exceeding seventeen percent (17%) of alcohol by weight.

Article III—Enforcement

Section 3.1. General Council Powers. The General Council and/or its designee(s), in furtherance of this Ordinance, shall have the power and duty to:

(a) Publish and enforce such rules and regulations governing the purchase, sale, consumption and distribution of alcoholic beverages in public places on the La Posta Indian Reservation as the General Council deems necessary.

(b) Employ managers, accountants, security personnel, inspectors and such other persons as shall be reasonably necessary to allow the General Council or its designee(s) to exercise its authority as set forth in this Ordinance.

(c) Issue licenses permitting the sale and/or distribution of Liquor on the La Posta Indian Reservation.

(d) Hold hearings on violations of this Ordinance or for the issuance or revocation of licenses hereunder;

(e) Bring suit in the appropriate court to enforce this Ordinance as necessary;

(f) Determine and seek damages for violation of this Ordinance;

(g) Publish notices and, in the case of any General Council designee(s), make such reports to the General Council as may be appropriate;

(h) Collect sales taxes and fees levied or set by the General Council on liquor sales and the issuance of liquor licenses,

and to keep accurate records, books and accounts;

(i) Take or facilitate all action necessary to follow or implement applicable provisions of State Law as required;

(j) Cooperate with appropriate State of California authorities for purposes of prosecution of any violation of any criminal law of the State of California; and

(k) Exercise such other powers as may be necessary and appropriate, and in the case of any General Council designee(s), delegated from time to time by the General Council, to implement and enforce this Ordinance.

Section 3.2. Limitation on Powers. In the exercise of its powers and duties under this Ordinance, the General Council, its designee(s), and their individual members, employees and agents shall not:

(a) Accept any gratuity, compensation or other thing of value from any liquor wholesaler, retailer or distributor, or from any licensee; or

(b) Waive the immunity of the Tribe from suit except by express resolution of the General Council, such waiver being subject to the following limitations: the waiver must be transaction specific, limited as to duration and beneficiary, include a provision that limits recourse only to specified assets or revenues of the Tribe or a Tribal entity, and specify the process and venue for dispute resolution, including applicable law.

Section 3.3. Inspection Rights. The public places on or within which liquor is sold or distributed shall be open for inspection by the General Council or its designee(s) at all reasonable times for the purposes of ascertaining compliance with this Ordinance and other regulations promulgated pursuant hereto.

Article IV—Liquor Sales

Section 4.1. License Required. No distribution or sales of Liquor shall be made on or within public places within the exterior boundaries of the La Posta Indian Reservation, except at a duly licensed and authorized Special Event, a Tribal Enterprise, Bar, or Liquor Store located on Tribal Lands.

Section 4.2. Sale only on Tribal Land. All liquor sales within the exterior boundaries of the Reservation shall be on Tribal Land, including leases thereon.

Section 4.2. Sales for Cash. All liquor sales within the Reservation boundaries shall be on a cash only basis and no credit shall be extended to any person, organization or entity, except that this provision does not prevent the payment for purchases with the use of cashiers or personal checks, payroll checks, debit credit cards or credit cards issued by any financial institution.

Section 4.3. Sale For Personal Consumption. Except for sales by Licensed Wholesalers, all sales shall be for the personal use and consumption of the purchaser or members of the purchaser's household, including guests, who are over the age of twenty-one (21). Resale of any alcoholic beverage purchased within the exterior boundaries of the Reservation is prohibited. Any person who is not licensed pursuant to this Ordinance who purchases an alcoholic beverage within the boundaries of the Reservation and re-sells it, whether in the original container or not, shall be guilty of a violation of this Ordinance and shall be subject to exclusion from the Reservation or liability for money damages of up to five hundred dollars ($500), as determined by the General Council or its designee(s) after notice and an opportunity to be heard.

Section 4.4. Compliance Required. All distribution, sale and consumption of liquor within the Reservation shall be in compliance with this Ordinance and all applicable provisions of State Law.

Article V—Licensing

Section 5.1. Licensing Procedures. In order to control the proliferation of establishments on the Reservation that sell or provide liquor by the bottle or by the drink, all persons or entities that desire to sell liquor, whether wholesale or retail, within the exterior boundaries of the La Posta Indian Reservation must apply to the General Council or its designee(s) for a license to sell or provide liquor; provided, however, that no license is necessary to provide liquor within a private single-family residence on the Reservation for which no money is requested or paid.

Section 5.2. State Licensing. In the event dual Tribal and State licenses are required by State Law, no person shall be allowed or permitted to sell or provide liquor on the La Posta Indian Reservation unless such person is also licensed by the State of California, as required, to sell or provide such liquor. If any such license from the State is revoked or suspended, any applicable Tribal license shall automatically be revoked or suspended.

Section 5.3. Application. Any person applying for a license to sell or provide liquor on the La Posta Indian Reservation shall complete and submit an application provided for this purpose by the General Council or its designee(s) and pay such application fee as may be set from time to time by the General Council for this purpose. An incomplete application will not be considered. The General Council shall establish licensing procedures and application forms for wholesalers, retailers and special events.

Section 5.4. Issuance of License. The General Council or its designee may issue a license if it believes such issuance is in the best interests of the Tribe, the residents of the La Posta Indian Reservation and the surrounding community. Licensure is a privilege, not a right, and the decision to issue any license rests in the sole discretion of the General Council.

Section 5.5. Period of License. Each license may be issued for a period not to exceed two (2) years from the date of issuance.

Section 5.6. Renewal of License. A licensee may renew its license if it has complied in full with this Ordinance and has maintained its licensure with the State of California, as required; however, the General Council or its designee may refuse to renew a license if it finds that doing so would not be in the best interests of the health and safety of the members of the Tribe and the other residents of the La Posta Indian Reservation.

Section 5.7. Revocation of License. The General Council or its designee may revoke a license for reasonable cause upon notice and hearing at which the licensee shall be given an opportunity to respond to any charges against it and, to demonstrate why the license should not be suspended or revoked.

Section 5.8. Transferability of Licenses. Licenses issued by the General Council or its designee shall not be transferable and may only be utilized by the person or entity in whose name it was issued.

Article VI—Taxes

Section 6.1. Sales Tax. The General Council shall have the authority to impose a sales tax on all wholesale and retail liquor sales that take place within the Reservation. Such tax may be implemented by duly enacted resolution of the General Council, as supplemented by regulations adopted by the General Council or its designee pursuant to this Ordinance. Any tax imposed by authority of this Section shall apply to all retail and wholesale sales of liquor within the Reservation, and to the extent permitted by law shall preempt any tax imposed on such liquor sales by the State of California.

Section 6.2. Payment of Taxes to the Tribe. All taxes imposed pursuant to this Article VI shall be paid over to the La Posta Band of Mission Indians and be subject to distribution by the General Council in accordance with its usual

appropriation procedures for essential governmental functions and social services, including administration of this Ordinance.

Article VII—Rules, Regulations and Enforcement

Section 7.1. Evidence. In any proceeding under this title, proof of one unlawful sale or distribution of liquor shall suffice to establish prima facie intent or purpose of unlawfully keeping liquor for sale, selling liquor or distributing liquor in violation of this Ordinance.

Section 7.2. Civil Violations. Any person who shall sell or offer for sale or distribute or transport in any manner any liquor in violation of this Ordinance, or who shall have liquor in his/her possession for distribution or resale without a permit, shall be guilty of a violation of this Ordinance subjecting him/her to civil damages assessed by the General Council or its designee. Nothing in this Ordinance shall apply to the possession or transportation of any quantity of liquor by members of the Tribe or other persons located within the Reservation for their personal or other noncommercial use, and the possession, transportation, sale, consumption or other disposition of liquor outside public places on the La Posta Indian Reservation shall be governed solely by the laws of the State of California.

Section 7.3. Illegal Purchases. Any person within the boundaries of the La Posta Indian Reservation who, in a public place, buys liquor from any person other than at a properly licensed facility shall be guilty of a violation of this Ordinance.

Section 7.4. Sale to Intoxicated Person. Any person who sells liquor to a person apparently under the influence of liquor shall be guilty of a violation of this Ordinance.

Section 7.5. Providing Liquor to Underage Person. No person under the age of twenty-one (21) years shall serve, consume, acquire or have in his/her possession any alcoholic beverages. Any person violating this section in a public place shall be guilty of a separate violation of this Ordinance for each and every drink so consumed.

Section 7.6. Selling Liquor to Underage Person. Any person who, in a public place, shall sell or provide any liquor to any person under the age of twenty-one (21) years shall be guilty of a violation of this Ordinance for each such sale or drink provided.

Section 7.7. Civil Penalty. Any person guilty of a violation of this Ordinance shall, be liable to pay the Tribe the amount of two hundred fifty dollars ($250) per violation as civil damages to defray the Tribe's cost of enforcement of this Ordinance. The payment of such damages in each case shall be determined by the General Council or its designee based upon a preponderance of the evidence available to it after the person alleged to have violated this Ordinance has been given notice, hearing and an opportunity to respond to such allegations.

Section 7.8. Identification Requirement. Whenever it reasonably appears to a licensed purveyor of liquor that a person seeking to purchase liquor is under the age of twenty-seven (27), the prospective purchaser shall be required to present any one of the following officially issued cards of identification which shows his/her correct age and bears his/her signature and photograph:

(1) Drivers license of any state or identification card issued by any state Department of Motor Vehicles;

(2) United States Uniformed Services identification documents;

(3) Passport; or

(4) Gaming license or work permit issued by the Tribal Gaming Commission, if said license or permit contains the bearer's correct age, signature and photograph.

Article VIII—Abatement

Section 8.1. Public Nuisance Established. Any public place where liquor is sold, manufactured, bartered, exchanged, given away, furnished, or otherwise disposed of in violation of the provisions of this Ordinance, and all property kept in and used in maintaining such place, is hereby declared to be a public nuisance.

Section 8.2. Abatement of Nuisance. The Tribal Chairperson, upon authorization by a majority of the General Council or, if he/she fails to do so, a majority of the General Council acting at a duly-called meeting at which a quorum is present, shall institute and maintain an action in a court of competent jurisdiction in the name of the Tribe to abate and perpetually enjoin any nuisance declared under this title. Upon establishment of probable cause to find that a nuisance exists, restraining orders, temporary injunctions and permanent injunctions may be granted in the cause as in other injunction proceedings, and upon final judgment against the defendant the court may also order the room, structure or place closed for a period of one (1) year or until the owner, lessee, tenant or occupant thereof shall give bond of sufficient sum of not less than five thousand dollars ($5,000) payable to the Tribe and conditioned that liquor will not be thereafter be manufactured, kept, sold, bartered, exchanged, given away, furnished or otherwise disposed of thereof in violation of the provision of this title or of any other applicable Tribal law, and that s/he will pay all fines, costs and damages assessed against him/her for any violation of this title or other Tribal liquor laws. If any conditions of the bond should be violated, the whole amount may be recovered for the use of the Tribe.

Section 8.3. Evidence. In all cases where any person has been found responsible for a violation of this Ordinance relating to manufacture, importation, transportation, possession, distribution or sale of liquor, an action may be brought to abate as a public nuisance the use of any real estate or other property involved in the violation of this Ordinance, and proof of violation of this Ordinance shall be prima face evidence that the room, house, building, vehicle, structure, or place against which such action is brought, is a public nuisance.

Article IX—Use of Proceeds

Section 9.1. Application of Proceeds. The gross proceeds collected by the Tribe from all Licensing of the sale of alcoholic beverages within the Reservation and from fines imposed as a result of violations of this Ordinance, shall be applied as follows:

(a) First, for the payment of all necessary personnel, administrative costs, and legal fees incurred in the enforcement of this Ordinance; and

(b) Second, the remainder shall be turned over to the General Fund of the Tribe and expended by the General Council for governmental services and programs on the Reservation.

Article X—Miscellaneous Provisions

Section 10.1. Severability and Savings Clause. If any provision or application of this Ordinance is determined by judicial review to be invalid, such provision shall be deemed ineffective and void, but shall not render ineffectual the remaining portions of this Ordinance, which shall remain in full force and effect.

Section 10.2. Effective Date. This Ordinance shall be effective as of the date on which the Secretary of the Interior certifies this Ordinance and publishes the same in the **Federal Register**.

Section 10.3. Repeal of Prior Acts. Any and all prior resolutions, laws, regulations or ordinances pertaining to the subject matter set forth in this Ordinance are hereby rescinded and repealed in their entirety.

Section 10.4. Conformance with State Law. All acts and transactions under this Ordinance shall be in conformity with the Compact and the laws of the State of California to the extent required by 18 U.S.C. § 1161 and with all Federal laws regarding alcohol in Indian Country.

Article XI—Amendments

This Ordinance may be amended only pursuant to a duly enacted General Council Resolution with certification by the Secretary of the Interior and publication in the **Federal Register**, if required.

Article XII—Sovereign Immunity

Nothing contained in this Ordinance is intended to nor does it in any way limit, alter, restrict, or waive the Tribe's sovereign immunity from unconsented suit or action.

[FR Doc. 05–11982 Filed 6–16–05; 8:45 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Table Bluff Reservation—Wiyot Tribe—Liquor Control Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the Table Bluff Reservation ''Wiyot Tribe Liquor Control Ordinance. The Ordinance regulates and controls the possession, sale and consumption of liquor within the Table Bluff Reservation. The land is located on trust land and this Ordinance allows for the possession and sale of alcoholic beverages within the Table Bluff's Reservation and will increase the ability of the tribal government to control the tribe's liquor distribution and possession, and at the same time will provide an important source of revenue for the continued operation and strengthening of the tribal government and the delivery of tribal services.

EFFECTIVE DATE: This Ordinance is effective on June 17, 2005.

FOR FURTHER INFORMATION CONTACT: Clay Gregory, Acting Regional Director, Pacific Regional Office, 2800 Cottage Way, Sacramento, CA 95825; Telephone (916) 978–6000; or Ralph Gonzales, Office of Tribal Services, 1951 Constitution Avenue, NW., Mail Stop 320–SIB, Washington, DC 20240; Telephone (202) 513–7629.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Pub. L. 83–277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice* v. *Rehner*, 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor ordinances for the purpose of regulating liquor transactions in Indian country. The Table Bluff Reservation—Wiyot Tribal Council adopted its Liquor Control Ordinance by Resolution No. 04–12 on July 24, 2004. The purpose of this Ordinance is to govern the sale, possession and distribution of alcohol within the Table Bluff Reservation. This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Principal Deputy Assistant Secretary—Indian Affairs. I certify that this Liquor Ordinance, of the Table Bluff Reservation—Wiyot Tribal Council, was duly adopted by the Tribal Council on July 24, 2004.

Dated: June 13, 2005.

Michael D. Olsen,

Acting Principal Deputy Assistant Secretary—Indian Affairs.

The Table Bluff Liquor Control Ordinance reads as follows:

Table Bluff Liquor Control Ordinance

Be it enacted by the General Council of the Table Bluff Reservation ''Wiyot Tribe:

Article 1: Name. This ordinance shall be known as the Table Bluff Liquor Control Ordinance.

Article 2: Authority. This ordinance is enacted pursuant to the Act of August 15, 1953, (Pub. L. 83–277, 67 Stat. 588, 18 U.S.C. 1161) and Article VII, Section 2(a) of the Constitution and Bylaws of the Table Bluff Reservation—Wiyot Tribe.

Article 3: Purpose. The purpose of this ordinance is to allow for the safe and regulated sale and possession of alcohol within Lands under the Jurisdiction of the Table Bluff Reservation—Wiyot Tribe in order to provide a source of revenue for the continued operation of the tribal government, the economic viability of tribal enterprises, and the delivery of tribal government services.

Article 4: Jurisdiction. This Liquor Control Ordinance shall apply to all lands now or in the future under the jurisdiction of the Table Bluff Reservation—Wiyot Tribe, including the old Table Bluff Rancheria, the new Table Bluff Reservation, and any lands which shall in the future be restored to the Tribe's jurisdiction. This Ordinance is in conformity with the laws of the State of California as required by 18 U.S.C. 1161, and with all applicable federal laws.

Article 5: Definitions. Unless a different meaning is clearly indicated in this Ordinance, the terms used herein shall have the same meaning as in the California Alcohol Beverage Control Act, Cal. Business and Professions Code Section 2300 *et seq.*

(a) ''General Council'' means the Governing Body holding supreme power of the Table Bluff Reservation—Wiyot Tribe as defined in Article VI, Section 1 of the Constitution and Bylaws of the Table Bluff Reservation—Wiyot Tribe.

(b) ''Lands under the Jurisdiction of the Table Bluff Reservation—Wiyot Tribe'' means and includes all lands now or in the future subject to the lawful jurisdiction of the Tribe, including the old Table Bluff Rancheria, the new Table Bluff Reservation, and any lands which shall in the future be restored to the Tribe's jurisdiction.

(c) ''Table Bluff Reservation'' means and includes all lands within the exterior boundaries of the Table Bluff Reservation.

(d) ''Tribal Council'' means the Table Bluff Reservation—Wiyot Tribal Council as defined in Article VI, Section 3 of the Constitution and Bylaws of the Table Bluff Reservation—Wiyot Tribe.

(e) ''Tribe'' means the Table Bluff Reservation—Wiyot Tribe.

Article 6: Effective Date. This ordinance shall be effective as of the date of its publication in the **Federal Register**.

Article 7: Possession of Alcohol. The introduction and possession of alcoholic beverages shall be lawful within Lands under the Jurisdiction of the Table Bluff Reservation—Wiyot Tribe; provided that such introduction or possession is in conformity with the laws of the State of California.

Article 8: Retail Sales of Alcohol. The sale of alcoholic beverages shall be lawful within Lands under the Jurisdiction of the Table Bluff Reservation—Wiyot Tribe; provided that such sales are in conformity with the laws of the State of California and are made pursuant to a license issued by the Tribe.

Article 9: Manufacture of Alcohol. The manufacture of beer and wine shall be lawful within Lands under the jurisdiction of the Table Bluff Reservation—Wiyot Tribe, provided that such manufacture is in conformity with the laws of the State of California and pursuant to a license issued by the Tribe.

Article 10: Age Limits. The legal age for possession or consumption of alcohol within Lands under the Jurisdiction of the Table Bluff Reservation—Wiyot Tribe shall be the same as that of the State of California,

which is currently 21 years. No person under the age of 21 years shall purchase, possess or consume any alcoholic beverage.

Article 11: Licensing. Tribal Council shall have the power to establish procedures and standards for tribal licensing of liquor sales within Lands under the Jurisdiction of the Table Bluff Reservation—Wiyot Tribe, including the setting of a license fee schedule, and shall have the power to publish and enforce such standards; provided that no tribal license shall issue except upon showing of satisfactory proof that the applicant is duly licensed by the State of California. The fact that an applicant for a tribal license possesses a license issued by the State of California shall not provide the applicant with an entitlement to a tribal license; Tribal Council may in its discretion set standards which are more, but in no case less, stringent than those of the State.

Article 12: Enforcement.

(a) Tribal Council shall have the power to develop, enact, promulgate and enforce regulations as necessary for the enforcement of this ordinance and to protect the public health, welfare and safety of the Tribe and Lands under the Jurisdiction of the Table Bluff Reservation—Wiyot Tribe, provided that all such regulations shall conform to and not be in conflict with any tribal, federal or state law. Regulations enacted pursuant hereto may include provisions for suspension or revocation of tribal liquor licenses, reasonable search and seizure provisions and civil and criminal penalties for violations of this ordinance to the full extent permitted by federal law and consistent with due process.

(b) Tribal law enforcement personnel and security personnel duly authorized by Tribal Council shall have the authority to enforce this ordinance by confiscating any liquor sold, possessed, distributed, manufactured or introduced within Lands under the Jurisdiction of the Table Bluff Reservation—Wiyot Tribe in violation of this ordinance or of any regulations duly adopted pursuant to this ordinance.

(c) Tribal Council shall have the exclusive jurisdiction to hold hearings on violations of this ordinance and any procedures or regulations adopted pursuant to this ordinance; to promulgate appropriate procedures governing such hearings; to determine and enforce penalties or damages for violations of this ordinance; and to delegate to a subordinate hearing officer or panel the authority to take any or all of the foregoing actions on its behalf.

Article 13: Prior Inconsistent Enactments. Any prior tribal laws, resolutions or ordinances which are inconsistent with this ordinance are hereby repealed to the extent they are inconsistent with this ordinance.

Article 14: Sovereign Immunity. Nothing contained in this ordinance is intended to, nor does in any way, limit, alter, restrict, or waive the sovereign immunity of the Tribe or any of its agencies, agents or officials from unconsented suit or action of any kind.

Article 15: Taxation. Nothing contained in this ordinance is intended to, nor does in any way limit or restrict the Tribe's ability to impose any tax upon the sale or consumption of alcohol. The Tribe retains the right to impose such taxes by appropriate ordinance to the full extent permitted by federal law.

Article 16: Severability. If any provision of this ordinance is found by any agency or court of competent jurisdiction to be unenforceable, the remaining provisions shall be unaffected thereby.

Article 17: Amendment. This ordinance may be amended by majority vote of the Tribal Council, such amendment to become effective upon publication in the **Federal Register** by the Secretary of the Interior.

Certification

This is to certify that the above ordinance was enacted by the General Council of the Table Bluff Reservation—Wiyot Tribe at a duly called meeting on July 24, 2004 by a vote of 12 for, 2 against, and 1 abstention.

Dated: July 26, 2004.

Cheryl A. Seidner,

Tribal Chairperson.

Dated: July 26, 2004.

Irine J. Carlson,

Tribal Secretary.

[FR Doc. 05–11983 Filed 6–16–05; 8:45 am]

BILLING CODE 4310–4–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–220–1020–24 1A]

RIN 1004–AD42

Grazing Administration—Exclusive of Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the Final Environmental Impact Statement for regulatory amendments of grazing regulations for the public lands.

SUMMARY: The Bureau of Land Management (BLM) announces the availability of the Final Environmental Impact Statement (FEIS) to support amendments of the regulations governing grazing administration. The analysis provided in the FEIS is intended to inform the public of the direct, indirect, and cumulative effects on the human environment of the proposed action and each alternative.

DATES: The Final Environmental Impact Statement is available for review through July 18, 2005.

ADDRESSES: Copies of the FEIS are available at BLM State Offices in 10 western states and the BLM Washington DC office. See the **SUPPLEMENTARY INFORMATION** for a table of BLM State Offices.

FOR FURTHER INFORMATION CONTACT: Bud Cribley at 202–785–6569 for information relating to the FEIS or Ted Hudson at 202–452–3042 for information relating to the rulemaking process. Persons who use a telecommunications device for the deaf (TDD) may contact these individuals through the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week.

SUPPLEMENTARY INFORMATION: Copies of the FEIS are available at the following BLM State Offices:

BLM state offices	Address	Phone numbers
Arizona	222 North Central Ave., Phoenix, AZ 85004–2203	(602) 417–9500
California	2800 Cottage Way, Room W–1834, Sacramento, CA 95825	(916) 978–4600
Colorado	2850 Youngfield St., Lakewood, CO 80215–7093	(303) 239–3700
Idaho	1387 S. Vinnell Way, Boise, ID 83709–1657	(208) 373–4001
Montana	5001 Southgate Drive, Billings, MT 59101	(406) 896–5012
Nevada	1340 Financial Way, Reno, NV 89502	(775) 861–6590
New Mexico	1474 Rodeo Rd., P.O. Box 27115, Santa Fe, NM 87507–0115.	(505) 438–7501
Oregon	P.O. Box 2965, Portland, OR 97208–2965	(503) 808–6024

BLM state offices	Address	Phone numbers
Utah	324 South State Street, P.O. Box 45155 Salt Lake City, UT 84145–0155.	(801) 539–4010
Wyoming	5353 Yellowstone Road, P.O. Box 1828, Cheyenne, WY 82003.	(307) 775–6001
Washington DC	1849 C Street NW., Washington DC 20040	(202) 452–7749

If you have Internet access, you can download the FEIS by going to *http://www.blm.gov/grazing* and follow the directions found at that site.

During the nine years since implementation of the 1995 grazing reforms, a number of discrete concerns have been raised regarding the administration of grazing management. The purpose of the rulemaking is to address a variety of these discrete issues related to the current regulatory scheme without altering the fundamental structure of the grazing regulations. In other words, we are adjusting rather than conducting a major overhaul of the grazing regulations. Fundamental changes such as modifications to the grazing fee provisions; the addition of new regulatory topics; or the removal of substantial portions of the regulations do not meet this limited purpose.

The key amendments of the regulations governing grazing administration are intended to: make clear that BLM managers will document their consideration of the relevant social, cultural, and economic consequences of decisions affecting grazing, consistent with the requirements of the National Environmental Policy Act of 1969; allow the BLM and a grazing permittee to share title of certain permanent range improvements—such as a fence, well, or pipeline—if they are constructed under what is known as a Cooperative Range Improvement Agreement; phase in livestock grazing decreases (and increases) of more than 10 percent over a five-year period unless a livestock operator agrees to a shorter period, or unless a quicker phase-in is necessary under existing law to protect the land's resources; expand the definition of ''grazing preference'' to include an amount of forage on public lands attached to a rancher's private ''base'' property, which can be land or water; require both standards assessments and monitoring of resource conditions to support BLM evaluations of whether an allotment is meeting rangeland health standards; allow up to 24 months, instead of prior to the start of the next grazing season, for the BLM to analyze and formulate an appropriate course of action that will correct a grazing allotment's failure to meet rangeland health standards; remove the current three-consecutive-year limit on temporary non-use of a grazing permit by allowing livestock operators to apply for non-use for up to one year at a time, whether for conservation or business purposes, with no limit on the number of consecutive years; eliminate, in compliance with Federal court rulings, existing regulatory provisions that allow the BLM to issue long-term ''conservation use'' permits; make clear how the BLM will authorize grazing if a BLM decision affecting a grazing permit is ''stayed'' (postponed) pending administrative appeal; clarify that if a livestock operator is convicted of violating a Federal, State, or other law, and if the violation occurs while he is engaged in grazing-related activities, the BLM may take action against his grazing permit or lease only if the violation occurred on the BLM-managed allotment where the operator is authorized to graze; improve efficiency in the BLM's management of public lands grazing by focusing the role of the interested public on planning decisions and reports that influence daily management, rather than on daily management decisions themselves; provide greater flexibility to the Federal government to negotiate with cooperators and States when developing stock water and acquiring livestock water rights by removing the current requirement that the BLM seek ownership of these rights where allowed by state law; clarify that a biological assessment of the BLM, prepared in compliance with the Endangered Species Act, is not a decision of the Bureau and therefore is not subject to protests and appeals; and increase certain service fees to reflect more accurately the cost of grazing administration.

On March 3, 2003, BLM published an Advance Notice of Proposed Rulemaking (ANPR) and Notice of Intent (NOI) to prepare an environmental impact statement (EIS) in the **Federal Register** (68 FR 9964–9966 and 10030–10032) on proposed revisions to BLM's grazing regulations. These notices requested public comment and input to assist BLM with the scoping process for the proposed rule and the EIS. The comment period on the ANPR and the NOI ended on May 2, 2003.

During the scoping process, BLM held four public meetings to solicit comments and suggestions for the proposed rule and development of the draft environmental impact statement. The meetings were held during March 2003 in Albuquerque, New Mexico; Reno, Nevada; Billings, Montana; and Washington DC BLM received approximately 8,300 comments on the ANPR and the NOI.

The BLM published the proposed rule on December 8, 2003 (68 FR 68452), inviting public comments until February 6, 2004. On January 2, 2004, the BLM issued the Draft EIS for a 60 day public comment period. On January 16, 2004, BLM published a notice to extend the comment period on the proposed rule to March 2, 2004 (69 FR 2559). BLM held six public meetings in January and early February, 2004, to provide the public an opportunity to comment on the proposed rule. Meetings were held in Salt Lake City, Utah; Phoenix, Arizona; Boise, Idaho; Billings, Montana; Cheyenne, Wyoming; and Washington DC. Approximately 250 individuals attended the public meetings and 95 people provided oral comments. We received more than 18,000 comment letters and electronic communications. The BLM reviewed and analyzed all public comments and prepared the Final EIS. It is a full text Final EIS and incorporates responses to the public comments.

Chad Calvert,

Acting Assistant Secretary of the Interior.

[FR Doc. 05–11858 Filed 6–16–05; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–956–05–1420–BJ]

Notice of Filing of Plats of Survey; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey described below are scheduled to be officially filed in the Arizona State Office, Bureau of Land Management, Phoenix, Arizona,

(30) thirty calendar days from the date of this publication.

SUPPLEMENTARY INFORMATION:

The Gila and Salt River Meridian, Arizona

The plat representing the dependent resurvey of a portion of the subdivisional lines, the subdivision of sections 8 and 17, and metes-and-bounds survey in section 8, Township 13 North, Range 3 East, accepted January 24, 2005, and officially filed January 28, 2005, for Group 914 Arizona.

This plat was prepared at the request of the United States Forest Service.

The plat (2 sheets) representing the dependent resurvey of a portion of the subdivisional lines and portions of the subdivision lines within section 22, and metes-and-bounds surveys in section 22, Township 6 North, Range 5 East, accepted May 6, 2005, and officially filed May 12, 2005, for Group 930 Arizona.

This plat was prepared at the request of the United States Forest Service.

The plat (5 sheets) representing the dependent resurvey of the fifth standard parallel north (south boundary), a portion of the subdivisional lines, the subdivision of sections 25, 26, 27, 33 and 34 and metes-and-bounds surveys in certain sections, Townships 21 North, Range 8 East, accepted March 4, 2005, and officially filed March 11, 2005 for Group 894 Arizona.

This plat was prepared at the request of the National Park Service

The plat representing the dependent resurvey of a portion of the north boundary, and a portion of the subdivisional lines, and the subdivision of sections 2 and 10, Township 27 North, Range 8 East, accepted March 31, 2005, and officially filed April 6, 2005 for Group 941 Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat (3 sheets) representing the dependent resurvey of the east, south and west boundaries, and the subdivisional lines, and a portion of the boundary, Management District No. 6, Hopi Indian Reservation, Township 26 North, Range 15 East, accepted January 4, 2005, and officially filed January 14, 2005 for Group 892 Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Western Region Office and Hopi.

The plat (3 sheets) representing the dependent resurvey of a portion of the east and west boundaries, and a portion of the subdivisional lines, Township 31 North, Range 18 East, accepted January 14, 2005, and officially filed January 21, 2005 for Group 896 Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Western Region Office and Hopi.

The plat (2 sheets) representing the dependent resurvey of a portion of the south boundary and the survey of the east boundary and the subdivisional lines, Township 26 North, Range 21 East, accepted January 31, 2005 and officially filed February 4, 2005 for Group 898 Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Western Region and Navajo Regional Office.

The plat (3 sheets) representing the dependent resurvey of a portion of the fifth guide meridian east (west boundary) and a portion of the Hopi-Navajo partition line, segment ''B'', and the survey of the south, east, and north boundaries, and the subdivisional lines, Township 27 North, Range 21 East, accepted May 2, 2005 and officially filed May 10, 2005 for Group 895 Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Western Region and Navajo Regional Office.

The plat representing the dependent resurvey of the sixth standard parallel north (south boundary), the east, west and north boundaries, and the survey of the subdivisional lines, Township 25 North, Range 26 East, accepted March 29, 2005, and officially filed April 5, 2005 for Group 886 Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat (2 sheets) representing the dependent resurvey of the east and west boundaries, and a portion of the subdivisional lines, and the survey of a portion of the subdivisional lines, Township 26 North, Range 26 East, accepted April 20, 2005, and officially filed April 28, 2005 for Group 886 Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the dependent resurvey of the west boundary, Township 22 North, Range 27 East, accepted March 22, 2005, and officially filed March 29, 2005 for Group 886 Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the dependent resurvey of the sixth standard parallel north (south boundary), Township 25 North, Range 27 East, accepted March 14, 2005, and officially filed March 18, 2005 for Group 886 Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the survey of a portion of the seventh guide meridian east (west boundary), Township 29 North, Range 29 East, and the survey of the seventh standard parallel north (south boundary), Township 29 North, Range 28 East, accepted March 22, 2005, and officially filed March 29, 2005 for Group 902 Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the dependent resurvey of a portion of the Arizona-Utah state boundary (north boundary) from the 82 mile post to the 85 mile post, a portion of the south boundary, the west boundary, and a portion of the subdivisional lines, Fractional Township 42 North, Range 2 West, accepted March 14, 2005 and officially filed March 18, 2005 for Group 905 Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Western Region Office.

The plat representing the dependent resurvey of a portion of the subdivisional lines and the subdivision of section 20, Township 11 North, Range 4 West, accepted February 9, 2005, and officially filed February 16, 2005 for Group 907 Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Western Region Office.

The plat representing the dependent resurvey of a portion of the tenth standard parallel north (north boundary), a portion of the first guide merdian west (west boundary), a portion of the east boundary, and a portion of the subdivisional lines and the subdivision of section 17, Township 40 North, Range 4 West, accepted March 22, 2005, and officially filed March 29, 2005 for Group 908 Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Western Region Office.

The plat representing the dependent resurvey of a portion of the subdivisional lines and the subdivision of sections 15, 23 and 26, Township 18 North, Range 13 West, accepted February 8, 2005, and officially filed February 15, 2005 for Group 904 Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Western Region Office.

The plat representing the dependent resurvey of a portion of the east boundary and a portion of the subdivision lines, and the subdivision of sections 12, 13 and 24, and the metes-and-bounds survey of the Aravaipa Canyon Wilderness area, Township 6 South, Range 17 East, accepted April 20, 2005, and officially filed April 28, 2005, for Group 860 Arizona.

This plat was prepared at the request of the Bureau of Land Management.

If a protest against a survey, as shown on any of the above plats is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

A person or party who wishes to protest against any of these surveys must file a written protest with the Arizona State Director, Bureau of Land Management, stating that they wish to protest.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the protest is filed.

FOR FURTHER INFORMATION CONTACT: These plats will be available for inspection in the Arizona State Office, Bureau of Land Management, P.O. Box 1552, Phoenix, Arizona, 85001–1552.

Dated: May 18, 2005.

Stephen K. Hansen,

Acting Cadastral Chief.

[FR Doc. 05–11930 Filed 6–16–05; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before June 4, 2005.

Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by July 5, 2005.

John W. Roberts,

Acting Chief, National Register/National Historic Landmarks Program.

GEORGIA

Baldwin County

Central State Hospital Cemeteries, 3 mi. SE of Milledgeville, centered on Cedar Lm, at Central State Hospital, bet. U.S. 441 and GA 112, Hardwick, 05000694

Fulton County

Crogman, William H., School, 103 West Ave., Atlanta, 05000692

Murray County

Chatsworth Downtown Historic District, (Georgia County Courthouses TR (AD)) Roughly bounded by Peachtree St., First Ave., CSX RR tracks, Fort St., and Fourth St., Chatsworth, 05000693

SOUTH DAKOTA

Fall River County

Archeological 39FA1638, (Prehistoric Rock Art of South Dakota MPS) Address Restricted, Edgemont, 05000691

Archeological Site 39FA1336, (Prehistoric Rock Art of South Dakota MPS) Address Restricted, Edgemont, 05000690

Archeological site 39FA1937, (Prehistoric Rock Art of South Dakota MPS) Address Restricted, Edgemont, 05000689

Lord's Ranch Rockshelter, (Prehistoric Rock Art of South Dakota MPS) Address Restricted, Edgemont, 05000688

TENNESSEE

Knox County

Lincoln Park United Methodist Church, (Knoxville and Knox County MPS) 3120 Pershing St., Knoxville, 05000695

Madison County

Holland, William, Jr., House, 215 Roland Ave., Jackson, 05000696

WYOMING

Laramie County

Cheyenne High School, (Public Schools in Cheyenne, Wyoming MPS) 2810 House Ave., Cheyenne, 05000698

Churchill Public School, (Public Schools in Cheyenne, Wyoming MPS) 510 W. 29th St., Cheyenne, 05000704

Corlett School, (Public Schools in Cheyenne, Wyoming MPS) 600 W. 22nd St., Cheyenne, 05000702

Deming School, (Public Schools in Cheyenne, Wyoming MPS) 715 W. Fifth Ave., Cheyenne, 05000701

Fincher, Mabel, School, (Public Schools in Cheyenne, Wyoming MPS) 2201 Morrie Ave., Cheyenne, 05000700

Hebard Public School, (Public Schools in Cheyenne, Wyoming MPS) 413 Seymour Ave., Cheyenne, 05000705

Johnson Public School, (Public Schools in Cheyenne, Wyoming MPS) 711 Warren Ave., Cheyenne, 05000706

McCormick, Lulu, Junior High School, (Public Schools in Cheyenne, Wyoming MPS) 2001 Capitol Ave., Cheyenne, 05000699

Park Addition School, (Public Schools in Cheyenne, Wyoming MPS) 1100 Richardson Court, Cheyenne, 05000703

Storey Gymnasium, (Public Schools in Cheyenne, Wyoming MPS) 2811 House Ave., Cheyenne, 05000707

Uinta County

Union Pacific Railroad Complex, Main and 15th St., Evanston, 05000708

[FR Doc. 05–11933 Filed 6–16–05; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF JUSTICE

Executive Office for United States Trustees; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day emergency notice of information collection under review: Application for Approval as a Nonprofit Budget and Credit Counseling Agency.

The Department of Justice (DOJ), Executive Office for United States Trustees (EOUST), National Institute of Justice (NIJ), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with emergency review procedures of the Paperwork Reduction Act of 1995. OMB approval has been requested by June 24, 2005. The proposed information collection is published to obtain comments from the public and affected agencies. If granted, the emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information and Regulation Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20503. Comments are encouraged and will be accepted for 60 days until August 16, 2005.

During the first 60 days of this same review period, a regular review of this information collection is also being undertaken. All comments and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Rhonda Jones, Program Executive, National Institute of Justice, 202–616–3233.

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) *The title of the form/collection:* Application for Approval as a Nonprofit Budget and Credit Counseling Agency.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* Form Number: None. Executive Office for United States Trustees.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Not-for-profit institutions. Agencies that wish to offer credit counseling services. Other: None. Congress passed a new bankruptcy law that requires any individual who wishes to file for bankruptcy to, within 180

days of filing for bankruptcy relief, first obtain credit counseling from a nonprofit budget and credit counseling agency that has been approved by the United States Trustee.

(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 the form in approximately 3 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated total annual public burden associated with this application is 3,000 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, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: June 14, 2005.

Brenda E. Dyer,

Department Clearance Officer, Department of Justice.

[FR Doc. 05–12020 Filed 6–16–05; 8:45 am]

BILLING CODE 4410–40–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

June 10, 2005.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by contacting Darrin King on (202) 693–4129 (this is not a toll-free number) or e-mail: *king.darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Bureau of Labor Statistics (BLS), Office of Management and Budget, Room 10235, Washington, DC 20503, (202) 395–7316 (this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

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

Agency: Bureau of Labor Statistics, Labor.

Type of Review: Reinstatement, with change, of a previously approved collection.

Title: Veterans Supplement to the CPS.

OMB Number: 1220–0102.

Type of Response: Reporting.

Affected Public: Individuals or households.

Frequency: Biennially.

Number of Respondents: 12,000.

Annual Responses: 12,000.

Average Response Time: 1 minute per response.

Estimated Annual Burden Hours: 200.

Total Annualized capital/startup costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The veterans supplement provides information on the number and characteristics of disabled veterans, veterans who served in the Vietnam war theater, and recently separated veterans, including their employment status. The supplement also provides data on veterans' participation in various employment and training programs. Data are necessary to evaluate veterans programs.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 05–11962 Filed 6–16–05; 8:45 am]

BILLING CODE 4510–28–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

June 10, 2005.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by contacting Darrin King on 202–693–4129 (this is not a toll-free number) or email: *king.darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Occupational Safety and Health Administration (OSHA), Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

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

Agency: Occupational Safety and Health Administration.

Type of Review: Extension of currently approved collection.

Title: Subpart A (General Provisions) and Subpart B (Confined and Enclosed Spaces and Other Dangerous Atmospheres in Shipyard Employment) (29 CFR part 1915).

OMB Number: 1218–0011.

Frequency: On occasion.

Type of Response: Recordkeeping and Third party disclosure.

Affected Public: Business or other for-profit; Federal Government; and State, Local, or Tribal Government.

Number of Respondents: 717.

Number of Annual Responses: 2,123,466.

Estimated Time Per Response: Varies from 1 minute (.02 hour) for a secretary to maintain a training certification record to 10 minutes (.17 hour) for a supervisory shipyard production worker

to update, maintain and post either the required roster or statement at each shipyard.

Total Burden Hours: 348,394.

Total Annualized capital/startup costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The recordkeeping and third party disclosure requirements of 29 CFR part 1915, subparts A (General Provisions) and B (Confined and Enclosed Spaces and Other Dangerous Atmospheres in Shipyard Employment) ensure that shipyard personnel do not enter confined spaces that contain oxygen deficient, toxic or flammable atmospheres.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 05–11963 Filed 6–16–05; 8:45 am]

BILLING CODE 4510–23–U

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Advisory Council on Employee Welfare and Pension Benefit Plans 130th Plenary Meeting; Notice of Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the 130th open meeting of the full Advisory Council on Employee Welfare and Pension Benefit Plans will be held on July 6, 2005.

The session will take place in Room N 4437 A–C, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. The purpose of the open meeting, which will run from 4 p.m. to approximately 5 p.m., is for members to be updated on activities of the Employee Benefits Security Administration and for chairs of this year's working groups to provide progress reports on their individual study topics.

Organizations or members of the public wishing to submit a written statement may do so by submitting 25 copies on or before June 29, 2005 to Larry Good, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5623, 200 Constitution Avenue, NW., Washington, DC 20210. Statements also may be submitted electronically to *good.larry@dol.gov.* Statements received on or before June 29, 2005 will be included in the record of the meeting. Individuals or representatives of organizations wishing to address the Advisory Council should forward their requests to the Executive Secretary or telephone (202) 693–8668. Oral presentations will be limited to 10 minutes, time permitting, but an extended statement may be submitted for the record. Individuals with disabilities who need special accommodations should contact Larry Good by June 29 at the address indicated.

Signed at Washington, DC this 13th day of June, 2005.

Ann L. Combs,

Assistant Secretary, Employee Benefits Security Administration.

[FR Doc. 05–11964 Filed 6–16–05; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Advisory Council on Employee Welfare and Pension Benefit Plans Working Group on Communications to Retirement Plan Participants; Notice of Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group assigned to study the issue of Communications to Retirement Plan Participants will hold a public meeting on July 6, 2005.

The session will take place in Room N 4437 A–C, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. The purpose of the open meeting, which will run from 9 a.m. to approximately 4 p.m., with a one hour break for lunch, is for Working Group members to hear testimony from invited witnesses. The working group will study whether plan participants understand their benefits under health and welfare plans and whether the existing required communication tools are accomplishing their original goal of full disclosure.

Organizations or members of the public wishing to submit a written statement pertaining to the topic may do so by submitting 25 copies on or before June 29, 2005 to Larry Good, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5623, 200 Constitution Avenue, NW., Washington, DC 20210. Statements may be submitted electronically to *good.larry@dol.gov.* Statements received on or before June 29, 2005 will be included in the record of the meeting. Individuals or representatives of organizations wishing to address the Working Group should forward their requests to the Executive Secretary or telephone (202) 693–8668. Oral presentations will be limited to 20 minutes, time permitting, but an extended statement may be submitted for the record. Individuals with disabilities who need special accommodations should contact Larry Good by June 29 at the address indicated.

Dated: Signed at Washington, DC this 13th day of June, 2005.

Ann L. Combs,

Assistant Secretary, Employee Benefits Security Administration.

[FR Doc. 05–11965 Filed 6–16–05; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Advisory Council on Employee Welfare and Pension Benefit Plans Special Joint Session of the Working Group on Communications to Retirement Plan Participants and the Working Group on Improving Plan Communications for Health and Welfare Plan Participants and the Working Group on Retirement Plan Distributions and Options; Notice of Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the Advisory Council on Employee Welfare and Pension Benefit Plans Working Groups assigned to study the issues of Communications to Retirement Plan Participants, Improving Plan Communications for Health and Welfare Plan Participants, and Retirement Plan Distributions and Options will hold a joint public meeting on July 7, 2005.

The session will take place in Room N 4437 A–C, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC. 20210. The purpose of the joint public meeting, which will run from 9 a.m. to approximately 10:45 a.m., is for the members of the Working Groups to hear testimony from witnesses invited by the three Working Groups.

Organizations or members of the public wishing to submit a written statement pertaining to the topic may do so by submitting 25 copies on or before June 29, 2005 to Larry Good, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5623, 200 Constitution Avenue, NW., Washington, DC 20210. Statements also may be submitted electronically to *good.larry@dol.gov.* Statements received

on or before June 29, 2005 will be included in the record of the meeting. Individuals or representatives of organizations wishing to address the Working Groups should forward their requests to the Executive Secretary or telephone (202) 693–8668. Oral presentations will be limited to 10 minutes, time permitting, but an extended statement may be submitted for the record. Individuals with disabilities who need special accommodations should contact Larry Good by June 29 at the address indicated.

Signed at Washington, DC this 13th day of June, 2005.

Ann L. Combs,

Assistant Secretary, Employee Benefits Security Administration.

[FR Doc. 05–11966 Filed 6–16–05; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Advisory Council on Employee Welfare and Pension Benefit Plans, Working Group on Retirement Plan Distributions and Options; Notice of Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group assigned to study the issue of Retirement Plan Distributions and Options will hold a public meeting on July 8, 2005.

The session will take place in Room N 4437 A–C, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. The purpose of the open meeting, which will run from 9 a.m. to approximately 4 p.m., with a one hour break for lunch, is for Working Group members to hear testimony from invited witnesses.

Organizations or members of the public wishing to submit a written statement pertaining to the topic may do so by submitting 25 copies on or before June 29, 2005 to Larry Good, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5623, 200 Constitution Avenue, NW., Washington, DC 20210. Statements may be submitted electronically to *good.larry@dol.gov.* Statements received on or before June 29, 2005 will be included in the record of the meeting. Individuals or representatives of organizations wishing to address the Working Group should forward their requests to the Executive Secretary or telephone (202) 693–8668. Oral presentations will be limited to 20 minutes, time permitting, but an extended statement may be submitted for the record. Individuals with disabilities who need special accommodations should contact Larry Good by June 29 at the address indicated.

Signed at Washington, DC this 13th day of June, 2005.

Ann L. Combs,

Assistant Secretary, Employee Benefits Security Administration.

[FR Doc. 05–11967 Filed 6–16–05; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Advisory Council on Employee Welfare and Pension Benefit Plans Working Group on Improving Plan Communications for Health and Welfare Plan Participants; Notice of Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group assigned to study the issue of Improving Plan Communications for Health and Welfare Plan Participants will hold a public meeting on July 7, 2005.

The session will take place in Room N 4437 A–C, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington DC 20210. The purpose of the open meeting, which will run from 11 a.m. to approximately 4:30 p.m., with a one hour break for lunch, is for Working Group members to hear testimony from invited witnesses.

Organizations or members of the public wishing to submit a written statement pertaining to the topic may do so by submitting 25 copies on or before June 29, 2005 to Larry Good, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5623, 200 Constitution Avenue, NW., Washington, DC 20210. Statements also may be submitted electronically to good.larry@dol.gov. Statements received on or before June 29, 2005 will be included in the record of the meeting. Individuals or representatives of organizations wishing to address the Working Group should forward their requests to the Executive Secretary or telephone (202) 693–8668. Oral presentations will be limited to 20 minutes, time permitting, but an extended statement may be submitted for the record. Individuals with disabilities who need special accommodations should contact Larry Good by June 29 at the address indicated.

Signed at Washington, DC this 13th day of June, 2005.

Ann L. Combs,

Assistant Secretary, Employee Benefits Security Administration.

[FR Doc. 05–11968 Filed 6–16–05; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Employment and Training Administration

Solicitation for Grant Applications (SGA); Community-Based Job Training Grants

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice; additional information.

SUMMARY: The Employment and Training Administration published a document in the **Federal Register** on May 3, 2005, 70 FR 22905, concerning the availability of grant funds for eligible community colleges under the Community-Based Job Training Grants (CBJTG): SGA/DFA PY–04–10. This notice is to alert prospective applicants that a Frequently Asked Questions (FAQ) page has been posted on the Department of Labor's Web site at: *http://www.doleta.gov/business/FAQ_Community-BasedJobTrainingGrants.cfm.* This page is to help answer frequently asked questions that the Grants office has received throughout the CBJTG solicitation. Please check this site periodically for any updates to the FAQ's.

Signed at Washington, DC, this 13th day of June, 2005.

Laura Cesario,

Grant Officer.

[FR Doc. E5–3136 Filed 6–16–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment Standards Administration; Wage and Hour Division

Minimum Wage for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in

accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from the date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of decisions listed to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decision being modified.

Volume I

Connecticut
CT20030001 (Jun. 13, 2003)
CT20030002 (Jun. 13, 2003)
CT20030003 (Jun. 13, 2003)
CT20030004 (Jun. 13, 2003)
New Jersey
NJ20030004 (Jun. 13, 2003)

Volume II

None

Volume III

None

Volume IV

Indiana
IN20030001 (Jun. 13, 2003)
IN20030002 (Jun. 13, 2003)
IN20030003 (Jun. 13, 2003)
IN20030004 (Jun. 13, 2003)
IN20030005 (Jun. 13, 2003)
IN20030006 (Jun. 13, 2003)
IN20030007 (Jun. 13, 2003)
IN20030011 (Jun. 13, 2003)
IN20030012 (Jun. 13, 2003)
IN20030015 (Jun. 13, 2003)
IN20030016 (Jun. 13, 2003)
IN20030018 (Jun. 13, 2003)
IN20030020 (Jun. 13, 2003)
Wisconsin
WI20030001 (Jun. 13, 2003)
WI20030002 (Jun. 13, 2003)
WI20030003 (Jun. 13, 2003)
WI20030004 (Jun. 13, 2003)
WI20030005 (Jun. 13, 2003)
WI20030006 (Jun. 13, 2003)
WI20030007 (Jun. 13, 2003)
WI20030009 (Jun. 13, 2003)
WI20030011 (Jun. 13, 2003)
WI20030012 (Jun. 13, 2003)
WI20030013 (Jun. 13, 2003)
WI20030016 (Jun. 13, 2003)
WI20030017 (Jun. 13, 2003)
WI20030021 (Jun. 13, 2003)
WI20030022 (Jun. 13, 2003)
WI20030029 (Jun. 13, 2003)
WI20030030 (Jun. 13, 2003)
WI20030032 (Jun. 13, 2003)
WI20030039 (Jun. 13, 2003)
WI20030040 (Jun. 13, 2003)
WI20030046 (Jun. 13, 2003)
WI20030047 (Jun. 13, 2003)
WI20030048 (Jun. 13, 2003)

Volume V

Missouri
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General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *http://www.access.gpo.gov/davisbacon.* They are also available electronically by subscription to the Davis-Bacon Online Service *http://davisbacon.fedworld.gov* of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help Desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed in Washington, DC this 9th day of June, 2005.

John Frank,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 05–11772 Filed 6–16–05; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency has submitted to OMB for approval the information collection described in this notice. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted to OMB at the address below on or before July 18, 2005 to be assured of consideration.

ADDRESSES: Send comments to Desk Officer for NARA, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5167.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–837–1694 or fax number 301–837–3213.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. NARA published a notice of proposed collection for this information collection on April 7, 2005 (70 FR 17720 and 17721). No comments were received. NARA has submitted the described information collection to OMB for approval.

In response to this notice, comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology; and (e) whether small businesses are affected by this collection. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Researcher Application.

OMB number: 3095–0016.

Agency form number: NA Form 14003.

Type of review: Regular.

Affected public: Individuals or households, business or other for-profit, not-for-profit institutions, Federal, State, local or tribal government.

Estimated number of respondents: 22,728.

Estimated time per response: 8 minutes.

Frequency of response: On occasion.

Estimated total annual burden hours: 3,030 hours.

Abstract: The information collection is prescribed by 36 CFR 1254.4(c). The collection is an application for a research card. Respondents are individuals who wish to use original archival records in a NARA facility. NARA uses the information to screen individuals, to identify which types of records they should use, and to allow further contact.

Dated: June 13, 2005.

Shelly L. Myers,

Deputy Chief Information Officer.

[FR Doc. 05–11973 Filed 6–16–05; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

Information pertaining to the requirement to be submitted:

1. *The Title of the Information Collection:* Voluntary Reporting of Performance Indicators.

2. *Current OMB Approval Number:* 3150–0195.

3. *How Often the Collection Is Required:* Quarterly.

4. *Who Is Required or Asked To Report:* Power reactor licensees.

5. *The Number of Annual Respondents:* 104 reactors.

6. *The Number of Hours Needed Annually To Complete the Requirement or Request:* 84,520 (83,200 hours for reporting plus 1,320 recordkeeping hours for 33 recordkeepers).

7. *Abstract:* As part of a joint industry-NRC initiative, the NRC receives information submitted voluntarily by power reactor licensees regarding selected performance attributes known as performance indicators (PIs). PIs are objective measures of the performance of licensee systems or programs. The NRC's reactor oversight process uses PI information, along with the results of audits and inspections, as the basis for NRC conclusions regarding plant performance and necessary regulatory response. Licensees transmit PIs electronically to reduce burden on themselves and the NRC.

Submit, by August 16, 2005, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html*. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at (301) 415–7233, or by Internet electronic mail to *INFOCOLLECTS@NRC.GOV*.

Dated at Rockville, Maryland, this 10th day of June 2005.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of Information Services.

[FR Doc. E5–3135 Filed 6–16–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–445 and 50–446]

TXU Generation Company, LP; Notice of Withdrawal of Application for Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of TXU Generation Company, LP (the licensee) to withdraw its August 5, 2004, application for proposed amendment to Facility Operating License No. NPF–87 and Facility Operating License No. NPF–89 for Comanche Peak Steam Electric Station, Units 1 and 2, respectively, located in Somervell County, Texas.

The proposed amendments would have revised the facility Technical Specifications (TSs) pertaining to control room emergency filtration/pressurization system (CREFS). The revised TSs would have added a new condition for an inoperable control room boundary with an opening (breach) into the cable spreading room, for an extended period of time (greater than current 24 hours).

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on August 31, 2004 (69 FR 55114). However, by letter dated May 18, 2005, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated August 5, 2004, and the licensee's letter dated May 18, 2005, which withdrew the application for license amendment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams/html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or (301) 415–4737 or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 9th day of June 2005.

For the Nuclear Regulatory Commission.

Mohan C. Thadani,

Senior Project Manager, Section 1, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. E5–3134 Filed 6–16–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Notice

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting on July 6–8, 2005, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Wednesday, November 24, 2004 (69 FR 68412).

Wednesday, July 6, 2005, Conference Room T–2B3, Two White Flint North, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS—Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10 a.m.: Final Review of the License Renewal Application for Donald C. Cook Nuclear Plant, Units 1 and 2 (Open)—The Committee will hear presentations by and hold discussions with representatives of the Indiana Michigan Power Company and the NRC staff regarding the license renewal application for Donald C. Cook Nuclear Plant, Units 1 and 2 and the associated final Safety Evaluation Report prepared by the NRC staff.

10:15 a.m.–12:15 p.m.: Final Safety Evaluation Report Related to North Anna Early Site Permit Application (Open)—The Committee will hear presentations by and hold discussions with representatives of the Dominion North Anna, LLC and the NRC staff regarding the NRC staff's Final Safety Evaluation report related to the North Anna Early Site Permit Application.

1:45 p.m.–3:15 p.m.: Draft Final Regulatory Guide, DG–1137, ''Guidelines for Lightning Protection for Nuclear Power Plants'' (Open)—The Committee will hear presentations by and hold discussions with

representatives of the NRC staff regarding the draft final revision to Regulatory Guide DG–1137, and the NRC staff's resolution of public comments.

3:30 p.m.–5 p.m.: Draft Final Revision 2 to Regulatory Guide 1.152, ''Criteria for Use of Computers in Safety Systems of Nuclear Power Plants'' (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the draft final revision 2 to Regulatory Guide 1.152, and the NRC staff's resolution of public comments.

5:15 p.m.–7 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters considered during this meeting as well as proposed reports on responding to the Commission request in the April 26, 2005 Staff Requirements Memorandum regarding the ACRS assessment of the quality of the NRC research projects, and on the draft Commission paper on policy issues related to new plant licensing,

Thursday, July 7, 2005, Conference Room T–2B3, Two White Flint North, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–9:30 a.m.: Subcommittee Reports (Open)—The Committee will hear a report by the Chairman of the ACRS Subcommittee on Digital Instrumentation and Control (I&C) Systems regarding the digital I&C research plan and other related matters that were discussed at the June 14–15, 2005 Subcommittee meeting. Also, the Committee will hear a report by the Chairman of the Joint ACRS Subcommittee on Reliability and Probabilistic Risk Assessment and on Plant Operations regarding the Risk-Management Technical Specifications and related matters that were discussed at the June 15, 2005 Subcommittee meeting.

9:30 a.m.–10:30 a.m.: Status Report/ Interim Results of the Quality Assessment of Selected NRC Research Projects (Open)—The Committee will hear reports by the Chairmen of the ACRS Panels regarding the status/ interim results of the quality assessment of the NRC research projects on Standardized Plant Analysis Risk (SPAR) models and on the Steam Generator Tube Integrity Program at the Argonne National Laboratory.

10:45 a.m.–11:45 a.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee (Open)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future meetings. Also, it will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business, including anticipated workload and member assignments.

11:45 a.m.–12 noon: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations (EDO) to comments and recommendations included in recent ACRS reports and letters.

1:30 p.m.–4:30 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports.

4:45 p.m.–6:45 p.m.: Safeguards and Security Matters (Closed), Room T–8E8. The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the safeguards and security matters. (**NOTE:** This session will be closed to protect information classified as national security information and safeguards information pursuant to 5 U.S.C. 552b(c)(1) and (3).)

Friday, July 8, 2005, Conference Room T–2B3, Two White Flint North, Rockville, Maryland

8:30 a.m.–4 p.m.: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

4 p.m.–4:30 p.m.: Miscellaneous (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 5, 2004 (69 FR 59620). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Electronic recordings will be permitted only during the open portions of the meeting. Persons desiring to make oral statements should notify the Cognizant ACRS staff named below five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Cognizant ACRS staff prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS staff if such rescheduling would result in major inconvenience.

In accordance with Subsection 10(d) Pub. L. 92–463, I have determined that it is necessary to close a portion of this meeting noted above to discuss and protect information classified as national security information and safeguards information pursuant to 5 U.S.C. 552b(c)(1) and (3).

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, as well as the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Mr. Sam Duraiswamy, Cognizant ACRS staff (301–415–7364), between 7:30 a.m. and 4:15 p.m., ET.

ACRS meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at *pdr@nrc.gov*, or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/* (ACRS & ACNW Mtg schedules/agendas).

Videoteleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m., ET, at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the videoteleconferencing link. The availability of videoteleconferencing services is not guaranteed.

Dated: June 13, 2005.

Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. E5–3132 Filed 6–16–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on July 5, 2005, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Tuesday, July 5, 2005, 3 p.m.–4:30 p.m.

The Subcommittee will discuss proposed ACRS activities and related matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Sam Duraiswamy (telephone: (301) 415–7364) between 7:30 a.m. and 4:15 p.m. (ET) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:30 a.m. and 4:15 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes in the agenda.

Dated: June 13, 2005.

Michael R. Snodderly,

Acting Chief, ACRS/ACNW.

[FR Doc. E5–3133 Filed 6–16–05; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Submission of Information Collections for OMB Review; Comment Request; Locating and Paying Participants

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for OMB approval of revision of collection of information.

SUMMARY: The Pension Benefit Guaranty Corporation (''PBGC'') is requesting that the Office of Management and Budget (''OMB'') approve a revision of a collection of information under the Paperwork Reduction Act. The purpose of the information collection is to enable the PBGC to pay benefits to participants and beneficiaries in plans covered by the PBGC insurance program. The PBGC created an electronic facility, My Pension Benefit Account (''MyPBA''), on its Web site at *http://www.pbgc.gov*, through which plan participants can conduct electronic transactions with the PBGC. The PBGC is adding additional transactions to MyPBA: applying for benefits, designating a beneficiary, providing payee and general information, and requesting an estimate. This notice informs the public of the PBGC's request to OMB for approval of this revision and solicits public comment on the collection of information.

DATES: Comments should be submitted by July 18, 2005.

ADDRESSES: Comments should be mailed to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for Pension Benefit Guaranty Corporation, 725 17th Street, NW., Washington, DC 20503. Copies of the request for approval (including the collection of information) may be obtained without charge by writing to or visiting the PBGC's Communications and Public Affairs Department, suite 240, 1200 K Street, NW., Washington, DC 20005–4026, or calling 202–326–4040. (TTY and TDD users may call 800–877–8339 and request connection to 202–326–4040).

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion, Attorney, Legislative & Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024. (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: The PBGC is requesting that OMB extend its approval (with modifications) of a collection of information needed to pay participants and beneficiaries who may be entitled to pension benefits under a defined benefit plan that has terminated. The collection consists of information participants and beneficiaries are asked to provide in connection with an application for benefits. In addition, in some instances, as part of a search for participants and beneficiaries who may be entitled to benefits, the PBGC requests individuals to provide identifying information that the individual would provide as part of an initial contact with the PBGC.

As part of its ongoing implementation of the Government Paperwork Elimination Act, the PBGC created an application, MyPBA, on its Web site at *http://www.pbgc.gov*. The goal of MyPBA is to enable plan participants and beneficiaries to conduct electronic transactions with the PBGC. In August 2003, the PBGC made MyPBA available for two transactions—changing contact information and applying for electronic direct deposit—for participants in pay status in a limited number of plans. The PBGC subsequently made MyPBA available for participants in pay status in all trusteed plans. In August 2004, the PBGC added an additional transaction to MyPBA (electing to withhold income tax from periodic payments), made MyPBA available for deferred vested participants to change their contact information, and enhanced certain MyPBA screens to make them easier for participants to use. The PBGC intends to add additional transactions to MyPBA, including applying for benefits, designating a beneficiary, providing payee and general information, and requesting an estimate.

All requested information is needed to enable the PBGC to determine benefit entitlements and to make appropriate payments or to provide respondents with specific information about their pension plan and enable them to obtain a rough estimate of their benefit.

The existing collection of information was approved under control number 1212–0055 (expires April 30, 2006). The PBGC is requesting that OMB approve this revision of the collection of information through the current expiration date. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The PBGC estimates that 220,100 benefit application or information forms will be filed annually by individuals entitled to benefits from the PBGC and that the associated burden is 116,975 hours (an average of about one-half hour

per response) and $77,365. The PBGC further estimates that 5,500 individuals annually will provide the PBGC with identifying information as part of an initial contact and that the associated burden is 1,500 hours (an average of about one-quarter hour per response) and $1,110. Thus, the total estimated annual burden associated with this collection of information is 118,475 hours and $78,475.

Issued in Washington, DC, this 13th day of June, 2005.

Richard W. Hartt,

Assistant Executive Director and Chief Technology Officer, Pension Benefit Guaranty Corporation.

[FR Doc. 05–11959 Filed 6–16–05; 8:45 am]

BILLING CODE 7708–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 103, SEC File No. 270–410, OMB Control No. 3235–0466.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 103 permits passive market-making in Nasdaq securities during a distribution. A distribution participant that seeks use of this exception would be required to disclose to third parties its intention to engage in passive market making. The Commission estimates that 171 respondents collect information under Rule 103 and that approximately 171 hours in the aggregate are required annually for these collections.

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 control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC, 20503, or by sending an e-mail to *David_Rostker@omb.eop.gov;* and (ii) R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW. Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: June 7, 2005.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–3097 Filed 6–16–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 102, SEC File No. 270–409, OMB Control No. 3235–0467.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 102 prohibits distribution participants, issuers, and selling security holders from purchasing activities at specified times during a distribution of securities. Persons otherwise covered by these rules may seek to use several applicable exceptions such as a calculation of the average daily trading volume of the securities in distribution, the maintenance of policies regarding information barriers between their affiliates, and the maintenance a written policy regarding general compliance with Regulation M for de minimus transactions. The Commission estimates that 669 respondents collect information under Rule 102 and that approximately 1,569 hours in the aggregate are required annually for these collections.

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 control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC, 20503 or by sending an e-mail to: *David_Rostker@omb.eop.gov;* and (ii) R. Corey Booth, Director/Chief Information Officer. Comments must be submitted to OMB within 30 days of this notice.

Dated: June 6, 2005.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E5–3102 Filed 6–16–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 27d–1 and Form N–27D–1; SEC File No. 270–499; OMB Control No. 3235–0560; Rule 27d–2; SEC File No. 270–500; OMB Control No. 3235–0566.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 350l *et seq.*), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of the collections of information under the Investment Company Act of 1940 (''Act'') summarized below.

Rule 27d–1 [17 CFR 270.27d–1] is entitled ''Reserve Requirements for Principal Underwriters and Depositors to Carry Out the Obligations to Refund Charges Required by Section 27(d) and Section 27(f) of the Act.'' Form N–27D–1 is entitled ''Accounting of Segregated Trust Account.'' Rule 27d–2 [17 CFR 270.27d–2] is entitled ''Insurance Company Undertaking in Lieu of Segregated Trust Account.'' Rule 27d–1 requires the depositor or principal underwriter for an issuer to deposit funds into a segregated trust account to provide assurance of its ability to fulfill its refund obligations under sections 27(d) and 27(f). The rule sets forth minimum reserve amounts and guidelines for the management and disbursement of the assets in the account. A single account may be used for the periodic payment plans of multiple investment companies. Rule 27d–1(j) directs depositors and principal underwriters to make an accounting of their segregated trust

accounts on Form N–27D–1, which is intended to facilitate the Commission's oversight of compliance with the reserve requirements set forth in rule 27d–1. The form requires depositors and principal underwriters to report deposits to a segregated trust account, including those made pursuant to paragraphs (c) and (e) of the rule. Withdrawals pursuant to paragraph (f) of the rule also must be reported. In addition, the form solicits information regarding the minimum amount required to be maintained under paragraphs (d) and (e) of rule 27d–1. Depositors and principal underwriters must file the form once a year on or before January 31 of the year following the year for which information is presented.

Instead of relying on rule 27d–1 and filing Form N–27D–1, depositors or principal underwriters for the issuers of periodic payment plans may rely on the exemption afforded by rule 27d–2. In order to comply with the rule, (i) the depositor or principal underwriter must secure from an insurance company a written guarantee of the refund requirements, (ii) the insurance company must satisfy certain financial criteria, and (iii) the depositor or principal underwriter must file as an exhibit to the issuer's registration statement, a copy of the written undertaking, an annual statement that the insurance company has met the requisite financial criteria on a monthly basis, and an annual audited balance sheet.

Rules 27d–1 and 27d–2, which were explicitly authorized by statute, provide assurance that depositors and principal underwriters of issuers have access to sufficient cash to meet the demands of certificate holders who reconsider their decisions to invest in a periodic payment plan. The information collection requirements in rules 27d–1 and 27d–2 enable the Commission to monitor compliance with reserve rules.

Commission staff estimates that there are four issuers of periodic payment plan certificates. The depositor or principal underwriter of each of these issuers must file Form N–27D–1 annually or comply with the requirements in rule 27d–2. On average, the Commission receives two Form N–27D–1 filings annually. The staff estimates that a staff accountant spends 8 hours and an accounting manager spends 3 hours preparing the form. Therefore, the total annual hour burden associated with rule 27d–1 and Form N–27d–1 is estimated to be 22 hours.[1] The staff estimates that two depositors or principal underwriters rely on rule 27d–2 and that each of these respondents makes three responses annually. We estimate that each depositor or underwriter expends approximately two hours per year obtaining a written guarantee from an insurance company or negotiating changes to coverage with the insurance company and five hours per year filing the two required documents from the insurance company on EDGAR. Thus, we estimate that the annual burden is approximately 14 hours.[2]

The staff believes that rules 27d–1 and 27d–2 and Form N–27D–1 do not impose any cost burdens other than those arising from the hour burdens discussed above.

The estimates of average burden hours and costs are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.[3]

Complying with the collection of information requirements of rule 27d–1 is mandatory for depositors or principal underwriters of issuers of periodic payment plans unless they comply with the requirements in rule 27d–2. The information provided pursuant to rules 27d–1 and 27d–2 is public and, therefore, will not be kept confidential. 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.

General comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; or e-mail to: *David_Rostker@omb.eop.gov;* and (ii) R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

[1] This estimate is based on the following calculation: 2 funds × (8 hours of staff accountant time + 3 hours of accounting time) = 22 hours.

[2] This estimate is based on the following calculation: 2 funds × (2 hours negotiating coverage + 5 hours filing necessary proof of adequate coverage) = 14 hours.

[3] These estimates are based on telephone interviews between the Commission staff and representatives of depositors or principle underwriters of periodic payment plan issuers.

June 6, 2005.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E5–3103 Filed 6–16–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 17f–2(e), SEC File No. 270–37, OMB Control No. 3235–0031.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for approval of extension on the following rule: Rule 17f–2(e).

Rule 17f–2(e) requires members of national securities exchanges, brokers, dealers, registered transfer agents, and registered clearing agencies claiming exemption from the fingerprinting requirements of Rule 17f–2 to prepare and maintain a statement supporting their claim exemption. This requirement assists the Commission and other regulatory agencies with ensuring compliance with Rule 17f–2.

Notices prepared pursuant to Rule 17f–2(e) must be maintained for as long as the covered entity claims an exemption from the fingerprinting requirements of Rule 17f–2. The recordkeeping requirement under Rule 17f–2(e) is mandatory to assist the Commission and other regulatory agencies with ensuring compliance with Rule 17f–2. This rule does not involve the collection of confidential information.

It is estimated that approximately 75 respondents will incur an average burden of 30 minutes per year to comply with this rule, for a total approximate burden of 38 hours.

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 control number. Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office

Building, Washington, DC 20503 or by sending an e-mail to: *David_Rostker@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: June 7, 2005.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E5–3104 Filed 6–16–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 17e–1, SEC File No. 270–224, OMB Control No. 3235–0217.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information described below.

Rule 17e–1 [17 CFR 270.17e–1] under the Investment Company Act of 1940 (the ''Act'') is entitled ''Brokerage Transactions on a Securities Exchange.'' The rule governs the remuneration that a broker affiliated with a registered investment company (''fund'') may receive in connection with securities transactions by the fund. The rule requires a fund's board of directors to establish, and review as necessary, procedures reasonably designed to provide that the remuneration to an affiliated broker is a fair amount compared to that received by other brokers in connection with transactions in similar securities during a comparable period of time. Each quarter, the board must determine that all transactions with affiliated brokers during the preceding quarter complied with the procedures established under the rule. Rule 17e–1 also requires the fund to (i) maintain permanently a written copy of the procedures adopted by the board for complying with the requirements of the rule; and (ii) maintain for a period of six years a written record of each transaction subject to the rule, setting forth: the amount and source of the commission, fee or other remuneration received; the identity of the broker; the terms of the transaction; and the materials used to determine that the transactions were effected in compliance with the procedures adopted by the board. The Commission's examination staff uses these records to evaluate transactions between funds and their affiliated brokers for compliance with the rule.

The Commission staff estimates that 3,028 portfolios of approximately 2,126 funds use the services of one or more subadvisers. Based on discussions with industry representatives, the staff estimates that it will require approximately 6 hours to draft and execute revised subadvisory contracts (5 staff attorney hours, 1 supervisory attorney hour), in order for funds and subadvisers to be able to rely on the exemptions in rule 17e–1. The staff assumes that all of these funds amended their advisory contracts when rule 17e-1 was amended in 2002 by conditioning certain exemptions upon such contractual alterations.[1]

Based on an analysis of fund filings, the staff estimates that approximately 200 new funds are registered annually. Assuming that the number of these funds that will use the services of subadvisers is proportionate to the number of funds that currently use the services of subadvisers, then approximately 46 new funds will enter into subadvisory agreements each year.[2] The Commission staff further estimates, based on analysis of fund filings, that 10 extant funds will employ the services of subadvisers for the first time each year. Thus, the staff estimates that a total of 56 funds, with a total of 78 portfolios,[3] will enter into subadvisory agreements each year. Assuming that each of these funds enters into a contract that permits it to rely on the exemptions in rule 17e–1, we estimate that the rule's contract modification requirement will result in 117 burden hours annually.[4]

Based on an analysis of fund filings, the staff estimates that approximately 300 funds use at least one affiliated broker. Based on conversations with fund representatives, the staff estimates that rule 17e–1's exemption would free approximately 40 percent of transactions that occur under rule 17e–1 from the rule's recordkeeping and review requirements. This would leave approximately 180 funds (300 funds × .6 = 180) still subject to the rule's recordkeeping and review requirements. The staff estimates that each of these funds spends 57 hours per year hours at a cost of approximately $3,780 per year complying with rule 17e–1's requirements that (i) the fund retain records of transactions entered into pursuant to the rule, and (ii) the fund's directors review those transactions quarterly.[5] We estimate, therefore, that all funds relying on this exemption incur yearly hourly burdens of 10,260 burden.[6] Therefore, the annual aggregate burden hour associated with rule 17e–1 is 10,377.[7]

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study. 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.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or e-mail to: *David_Rostker@omb.eop.gov;* and (ii) R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

[1] Rules 12d3–1, 10f–3, 17a–10, and 17e–1 require virtually identical modifications to fund advisory contracts. The Commission staff assumes that funds would rely equally on the exemptions in these rules, and therefore the burden hours associated with the required contract modifications should be apportioned equally among the four rules.

[2] Based on information in Commission filings, we estimate that 23 percent of funds are advised by subadvisers.

[3] Based on existing statistics, we assume that each fund has 1.4 portfolios advised by a subadviser.

[4] This estimate is based on the following calculations: (78 portfolios × 6 hours = 468 burden hours for rules 12d3–1, 10f–3, 17a–10, and 17e–1; 468 total burden hours for all of the rules / four rules = 117 annual burden hours per rule.)

[5] In calculating the total annual cost of complying with amended rule 17e–1, the Commission staff assumes that the entire burden would be attributable to professionals with an average hourly wage rate of $66.31 per hour. Unless stated otherwise, all hourly rates in this Supporting Statement are derived from the average annual salaries reported for employees outside of New York City in Securities Industry Association, *Management and Professional Earnings in the Securities Industry* (2003) and Securities Industry Association, *Office Salaries in the Securities Industry* (2003).

[6] This estimate is based on the following calculation: (180 funds × 57 hours = 10,260).

[7] This estimate is based on the following calculation: (117 hours + 10,260 hours = 10,377).

Dated: June 6, 2005.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E5–3105 Filed 6–16–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 17d–1, SEC File No. 270–505, OMB Control No. 3235–0562.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Section 17(d) of the Investment Company Act of 1940 (the ''Act'') prohibits first- and second-tier affiliates of a fund, the fund's principal underwriters, and affiliated persons of the fund's principal underwriters, acting as principal, to effect any transaction in which the fund or a company controlled by the fund is a joint or a joint and several participant in contravention of the Commission's rules. Rule 17d–1 (''Applications regarding joint enterprises or arrangements and certain profit-sharing plans'' [17 CFR 270.17d–1]) permits a fund to enter into a joint arrangement with a portfolio affiliate (an issuer of which a fund owns a position in excess of five percent of the voting securities), or an affiliated person of a portfolio affiliate, as long as certain other affiliated persons of the fund (*e.g.*, the fund's adviser, persons controlling the fund, and persons under common control with the fund) are not parties to the transaction and do not have a financial interest in a party to the transaction. Rule 17d–1 provides that, in addition to the interests identified in the rule not to be ''financial interests,'' the term ''financial interest'' also does not include any interest that the fund's board of directors (including a majority of the directors who are not interested persons of the fund) finds to be not material. The rule requires that the minutes of the board's meeting record the basis for the board's finding.

The information collection requirements in rule 17d–1 are intended to ensure that Commission staff can review, in the course of its compliance and examination functions, the basis for a board of director's finding that the financial interest of a prohibited participant in a party to a transaction with a portfolio affiliate is not material.

Based on analysis of past filings, the Commission's staff estimates that 148 funds are affiliated persons of 668 issuers as a result of the fund's ownership or control of the issuer's voting securities, and that there are approximately 1,000 such affiliate relationships. Staff discussions with mutual fund representatives have suggested that no funds are currently relying on rule 17d–1 exemptions. We do not know definitively the reasons for this change in transactional behavior, but differing market conditions from year to year may offer some explanation for the current lack of fund interest in the exemptions under rule 17d–1. Accordingly, we estimate that annually there will be no joint transactions under rule 17d–1 that will result in a collection of information. The Commission requests authorization to maintain an inventory of one burden hour to ease future renewals of rule 17d-1 collection of information analysis should reliance on the rule increase in the coming years.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. Complying with this collection of information requirement is necessary to obtain the benefit of relying on rule 17d–1. 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 control number.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or email to: *David_Rostker@omb.eop.gov;* and (ii) R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: June 6, 2005.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E5–3106 Filed 6–16–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 17Ac3–1(a), SEC File No. 270–96, OMB Control No. 3235–0151. Form TA–W, SEC File No. 270–96, OMB Control No. 3235–0151.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget requests for approval of extension on the following rule and form: Rule 17Ac3–1(a) and Form TA–W.

Subsection (c)(4)(B) of Section 17A of the Securities Exchange Act of 1934 (''Exchange Act'') authorizes transfer agents registered with an appropriate regulatory agency (''ARA'') to withdraw from registration by filing with the ARA a written notice of withdrawal and by agreeing to such terms and conditions as the ARA deems necessary or appropriate in the public interest, for the protection of investors, or in the furtherance of the purposes of Section 17A.

In order to implement Section 17A(c)(4)(B) of the Exchange Act the Commission, on September 1, 1977, promulgated Rule 17Ac3–1(a) and accompanying Form TA–W. Rule 17Ac3–1(a) provides that notice of withdrawal of registration as a transfer agent with the Commission shall be filed on Form TA–W. Form TA–W requires the withdrawing transfer agent to provide the Commission with certain information, including: (1) The locations where transfer agent activities are or were performed; (2) the reasons for ceasing the performance of such activities; (3) disclosure of unsatisfied judgments or liens; and (4) information regarding successor transfer agents.

The Commission uses the information disclosed on Form TA–W to determine whether the registered transfer agent applying for withdrawal from registration as a transfer agent should be allowed to deregister and, if so, whether

the Commission should attach to the granting of the application any terms or conditions necessary or appropriate in the public interest, for the protection of investors, or in furtherance of the purposes of Section 17A of the Exchange Act. Without Rule 17Ac3–1(a) and Form TA–W, transfer agents registered with the Commission would not have a means for voluntary deregistration when necessary or appropriate to do so.

Respondents file approximately 50 TA–Ws with the Commission annually. A Form TA–W filing occurs only once, when a transfer agent is seeing deregistration. Since the form is simple and straightforward, the Commission estimates that a transfer agent need spend no more than 30 minutes to complete a Form TA–W. Therefore, the total average annual burden to covered entities is approximately 25 hours of preparation and maintenance time.

In view of the ready availability of the information requested by TA–W, its short and simple presentation, and the Commission's experience with the form, we estimate that approximately 30 minutes is required to complete Form TA–W, including clerical time. The Commission estimates a cost of approximately $35 for each 30 minutes. Therefore, the total average annual cost burden is approximately $1,750.

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 control number. Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an e-mail to: *David_Rostker@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: June 7, 2005.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E5–3107 Filed 6–16–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 17a–13, SEC File No. 270–27, OMB Control No. 3235–0035.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for the extension of the previously approved collection of information on the following rule: 17 CFR 240.17a–13 Quarterly Security Counts to be Made by Certain Exchange Members, Brokers, and Dealers.

Rule 17a–13(b) generally requires that at least once each calendar quarter, all registered brokers and dealers physically examine and count all securities held and account for all other securities not in their possession, but subject to the broker-dealer's control or direction. Any discrepancies between the broker-dealer's securities count and the firm's records must be noted and, within seven days, the unaccounted for difference must be recorded in the firm's records. Rule 17a–13(c) provides that under specified conditions, the securities counts, examination and verification of the broker-dealer's entire list of securities may be conducted on a cyclical basis rather than on a certain date. Although Rule 17a–13 does not require filing a report with the Commission, the discrepancies must be reported on Form X–17a–5 as required by Rule 17a–5. Rule 17a–13 exempts broker-dealers that limit their business to the sale and redemption of securities of registered investment companies and interests or participation in an insurance company separate account and those who solicit accounts for federally insured savings and loan associations, provided that such persons promptly transmit all funds and securities and hold no customer funds and securities.

The information obtained from Rule 17a–13 is used as an inventory control device to monitor a broker-dealer's ability to account for all securities held, in transfer, in transit, pledged, loaned, borrowed, deposited or otherwise subject to the firm's control or direction. Discrepancies between the securities counts and the broker-dealer's records alert the Commission and the Self Regulatory Organizations (''SROs'') to those firms having problems in their back offices.

Currently, there are approximately 5,907 respondents that must comply with Rule 17a–13. However, given the variability in their businesses, it is difficult to quantify how many hours per year each respondent spends on the rule. As noted, the rule requires a respondent to account for all securities in its possession. Many respondents hold few, if any, securities; while others hold large quantities. Therefore, the time burden of complying with the rule will depend on respondent-specific factors, including size, number of customers, and proprietary trading activity. The staff estimates that the average time spent per respondent on the rule is 100 hours per year. This estimate takes into account the fact that more than half the 5,907 respondents—according to financial reports filed with the SEC—may spend little or no time in complying with the rule, given that they do not do a public securities business or do not hold inventories of securities. For these reasons, the staff estimates that the total compliance burden per year is 590,700 hours (5,907 respondents x 100 hours/respondent). It should be noted that most broker-dealers would engage in the activities required by Rule 17a–13 even if they were not required to do so.

Security counts under Rule 17a–13 are mandatory for broker-dealers. If a broker-dealer has security discrepancies that must be recorded in its records, such records must be preserved for a period of no less than three years pursuant to Rule 17a–4(b)(1). Rule 17a–13 does not assure confidentiality for security discrepancy records and reports on Form X–17a–5.[1] Please note that 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 control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and

[1] The records required by Rule 17a–13 are available only to the examination of the Commission staff, state securities authorities and the SROs. Subject to the provisions of the Freedom of Information Act, 5 U.S.C. 522, and the Commission's rules thereunder (17 CFR 200.80(b)(4)(iii)), the Commission does not generally publish or make available information contained in any reports, summaries, analyses, letters, or memoranda arising out of, in anticipation of, or in connection with an examination or inspection of the books and records of any person or any other investigation.

Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503 or e-mail to *David_Rostker@omb.eop.gov*; and (ii) R. Corey Booth, Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: June 6, 2005.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E5–3116 Filed 6–16–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 17a–10, SEC File No. 270–507, OMB Control No. 3235–0563.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Section 17(a) of the Investment Company Act of 1940 (the ''Act''), prohibits affiliated persons of a registered investment company (''fund'') from borrowing money or other property from, or selling or buying securities or other property to or from the fund, or any company that the fund controls. Rule 17a–10 permits (i) a subadviser of a fund to enter into transactions with funds the subadviser does not advise but which are affiliated persons of a fund that it does advise (*e.g.*, other funds in the fund complex), and (ii) a subadviser (and its affiliated persons) to enter into transactions and arrangements with funds the subadviser does advise, but only with respect to discrete portions of the subadvised fund for which the subadviser does not provide investment advice.

To qualify for the exemptions in rule 17a–10, the subadvisory relationship must be the sole reason why section 17(a) prohibits the transaction; and the advisory contracts of the subadviser entering into the transaction, and any subadviser that is advising the purchasing portion of the fund, must prohibit the subadvisers from consulting with each other concerning securities transactions of the fund, and limit their responsibility to providing advice with respect to discrete portions of the fund's portfolio.[1]

The Commission staff estimates that 3,028 portfolios of approximately 2,126 funds use the services of one or more subadvisers. Based on discussions with industry representatives, the staff estimates that it will require approximately 6 hours to draft and execute revised subadvisory contracts (5 staff attorney hours, 1 supervisory attorney hour), in order for funds and subadvisers to be able to rely on the exemptions in rule 17a–10. The staff assumes that all of these funds amended their advisory contracts following the adoption of rule 17a–10 in 2002 that conditioned certain exemptions upon these contractual alterations.[2]

Based on an analysis of investment company filings, the staff estimates that approximately 200 new funds are registered annually. Assuming that the number of these funds that will use the services of subadvisers is proportionate to the number of funds that currently use the services of subadvisers, then approximately 46 new funds will enter into subadvisory agreements each year.[3] The Commission staff further estimates, based on an analysis of investment company filings, that 10 extant funds will employ the services of subadvisers for the first time each year. Thus, the staff estimates that a total of 56 funds, with a total of 78 portfolios,[4] will enter into subadvisory agreements each year. Assuming that each of these funds enters into a contract that permits it to rely on the exemptions in rule 17a–10, we estimate that the rule's contract modification requirement will result in 117 burden hours annually.[5]

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. Complying with this collection of information requirement is necessary to obtain the benefit of relying on rule 17a–10. Responses will not be kept confidential. 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 control number.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or email to: *David_Rostker@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: June 6, 2005.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E5–3117 Filed 6–16–05; 8:45 am]

BILLING CODE 8010–01–P

[1] *See* 17 CFR 270.17a–10(a)(2).

[2] Rules 12d3–1, 10f–3, 17a–10, and 17e–1 require virtually identical modifications to fund advisory contracts. The Commission staff assumes that funds would rely equally on the exemptions in these rules, and therefore the Commission has apportioned the burden hours associated with the required contract modifications equally among the four rules.

[3] Based on information in Commission filings, we estimate that 23 percent of funds are advised by subadvisers.

[4] Based on existing statistics, we assume that each fund has 1.4 portfolios advised by a subadviser.

[5] This estimate is based on the following calculations: (78 portfolios × 6 hours = 468 burden hours for rules 12d3–1, 10f–3, 17a–10, and 17e–1; 468 total burden hours for all of the rules / four rules = 117 annual burden hours per rule).

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extensions:

Form 6–K, OMB Control No. 3235–0116, SEC File No. 270–107.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Form 6–K elicits material information from foreign private issuers of publicly traded securities promptly after the occurrence of specified or other important corporate events so that investors have current information upon which to base investment decisions. The purpose of Form 6–K is to ensure that U.S. investors have access to the same

information that foreign investors do when making investment decisions. Form 6–K is a public document and all information provided is mandatory. Form 6–K is filed by approximately 14,661 issuers annually. We estimate that it takes 8 hours per response to prepare Form 6–K for a total annual burden of 117,288 hours. We further estimate that 367 Forms 6–K each year require an additional 27 hours per response to translate into English an additional 8 pages of foreign language text for a total of 9,909 additional burden hours, which results in 127,197 total annual burden hours for Form 6–K. We estimate that respondents incur 75% of the 117,288 annual burden hours (87,966 hours) to prepare Form 6–K and 25% of the 9,909 burden hours (2,477 hours) to translate the additional foreign language text into English for a total annual reporting burden of 90,443 hours. The remaining burden hours are reflected as a cost to the foreign private issuers.

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 control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to *David_Rostker@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: June 7, 2005.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E5–3118 Filed 6–16–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extensions:

Form 8–A, OMB Control No. 3235–0056, SEC File No. 270–54.

Form 12b–25, OMB Control No. 3235–0058, SEC File No. 270–71.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget for extension and approval.

Form 8–A is a registration statement for certain classes of securities pursuant to Section 12(b) and 12(g) of the Securities Exchange Act of 1934. Section 12(a) requires securities traded on national exchanges to be registered under the Exchange Act. Section 12(g), and Rule 12g–1 promulgated thereunder, extend the Exchange Act registration requirements to issuers engaged in interstate commerce, or in a business affecting interstate commerce, and having total assets exceeding $10,000,000 and a class of equity security held or record by 500 or more people. Form 8–A takes approximately 3 hours to prepare and is filed by approximately 1,760 respondents for a total of 5,280 annual burden hours.

Form 12b–25 provides notice to the Commission and the marketplace that a public company will be unable to timely file a required periodic report. If certain conditions are met, the company is granted an automatic filing extension. Form 12b–25 is filed by publicly held companies. Form 12b–25 takes approximately 2.5 hours to prepare and is filed by approximately 7,799 companies for a total of 19,498 annual burden hours.

Written comments are invited on: (a) Whether these collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collections of information; (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 respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

Dated: June 8, 2005.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E5–3119 Filed 6–16–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 7d–2, SEC File No. 270–464, OMB Control No. 3235–0527.

Rule 237, SEC File No. 270–465, OMB Control No. 3235–0528.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension and approval of the collections of information discussed below.

In Canada, as in the United States, individuals can invest a portion of their earnings in tax-deferred retirement savings accounts (''Canadian retirement accounts''). In cases where these individuals move to the United States, these participants (''Canadian/U.S. Participants'' or ''participants'') may not be able to manage their Canadian retirement account investments. Most securities and most investment companies (''funds'') that are ''qualified investments'' for Canadian retirement accounts are not registered under the U.S. securities laws. Those securities, therefore, generally cannot be publicly offered and sold in the United States without violating the registration requirements of the Securities Act of 1933 (''Securities Act'')[1] and, in the case of securities of an unregistered fund, the Investment Company Act of 1940 (''Investment Company Act'').[2] As a result of these registration requirements of the U.S. securities laws, Canadian/U.S. Participants, in the past, had not been able to purchase or exchange securities for their Canadian retirement accounts as needed to meet their changing investment goals or income needs.

In 2000, the Commission issued two rules that enabled Canadian/U.S. Participants to manage the assets in

[1] 15 U.S.C. 77.

[2] 15 U.S.C. 80a.

their Canadian retirement accounts by providing relief from the U.S. registration requirements for offers of securities of foreign issuers to Canadian/U.S. Participants and sales to their accounts.[3] Rule 237 under the Securities Act permits securities of foreign issuers, including securities of foreign funds, to be offered to Canadian/U.S. Participants and sold to their Canadian retirement accounts without being registered under the Securities Act. Rule 7d–2 under the Investment Company Act permits foreign funds to offer securities to Canadian/U.S. Participants and sell securities to their Canadian retirement accounts without registering as investment companies under the Investment Company Act.

The provisions of rules 237 and 7d–2 are substantially identical. Rule 237 requires written offering materials for securities that are offered and sold in reliance on the rule to disclose prominently that those securities are not registered with the Commission and may not be offered or sold in the United States unless they are registered or exempt from registration under the U.S. securities laws. Rule 7d–2 requires written offering materials for securities offered or sold in reliance on that rule to make the same disclosure concerning those securities, and also to disclose prominently that the fund that issued the securities is not registered with the Commission. Neither rule 237 nor rule 7d–2 requires any documents to be filed with the Commission. The burden under either rule associated with adding this disclosure to written offering documents is minimal and is non-recurring. The foreign issuer, underwriter or broker-dealer can redraft an existing prospectus or other written offering material to add this disclosure statement, or may draft a sticker or supplement containing this disclosure to be added to existing offering materials. In either case, based on discussions with representatives of the Canadian fund industry, the staff estimates that it would take an average of 10 minutes per document to draft the requisite disclosure statement. The staff estimates the annual burden as a result of the disclosure requirements of rules 7d-2 and 237 as follows.

a. Rule 7d–2

The staff estimated that there are approximately 1,300 publicly offered Canadian funds that potentially would rely on the rule to offer securities to participants and sell securities to their Canadian retirement accounts without registering under the Investment Company Act. The staff estimates that approximately 65 (5 percent) additional Canadian funds may rely on the rule each year to offer securities to Canadian/U.S. participants and sell securities to their Canadian retirement accounts, and that each of those funds, on average, distributes 3 different written offering documents concerning those securities, for a total of 195 offering documents. The staff therefore estimates that approximately 65 respondents would make 195 responses by adding the new disclosure statement to approximately 195 written offering documents. The staff therefore estimates that the annual burden associated with the rule 7d–2 disclosure requirement would be approximately 32.5 hours (195 offering documents × 10 minutes per document). The total annual cost of these burden hours is estimated to be $2,155.08 (32.5 hours × $66.31 per hour of professional time).[4]

b. Rule 237

Canadian issuers other than funds. The Commission understands that there are approximately 3,500 Canadian issuers other than funds that may rely on rule 237 to make an initial public offering of their securities to Canadian/U.S. Participants.[5] The staff estimates that in any given year approximately 35 (or 1 percent) of those issuers are likely to rely on rule 237 to make a public offering of their securities to participants, and that each of those 35 issuers, on average, distributes 3 different written offering documents concerning those securities, for a total of 105 offering documents.

The staff therefore estimates that during each year that rule 237 is in effect, approximately 35 respondents[6] would be required to make 105 responses by adding the new disclosure statements to approximately 105 written offering documents. Thus, the staff estimates that the total annual burden associated with the rule 237 disclosure requirement would be approximately 17.5 hours (105 offering documents × 10 minutes per document). The total annual cost of burden hours is estimated to be $1,160.43 (17.5 hours × $66.31 hour of professional time).[7] Other foreign issuers other than funds. In addition, issuers from foreign countries other than Canada could rely on rule 237 to offer securities to Canadian/U.S. Participants and sell securities to their accounts without becoming subject to the registration requirements of the Securities Act. Because Canadian law strictly limits the amount of foreign investments that may be held in a Canadian retirement account, however, the staff believes that the number of issuers from other countries that relies on rule 237, and that therefore is required to comply with the offering document disclosure requirements, is negligible.

These burden hour estimates are based upon the Commission staff's experience and discussions with the fund industry. The estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act. These estimates are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

Compliance with the collection of information requirements of the rule is mandatory and is necessary to comply with the requirements of the rule in general. 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 control number.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or e-mail to: *David_Rostker@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Comments must

[3] *See* Offer and Sale of Securities to Canadian Tax-Deferred Retirement Savings Accounts, Release Nos. 33–7860, 34–42905, IC–24491 (June 7, 2000) [65 FR 37672 (June 15, 2000)].

[4] The Commission's estimate concerning the wage rate for professional time is based on salary information for the securities industry compiled by the Securities Industry Association. See Securities Industry Association, Report on Management and Professional Earnings in the Securities Industry 2003 (September 2003).

[5] Canadian funds can rely on both rule 7d–2 and rule 237 to offer securities to participants and sell securities to their Canadian retirement accounts without violating the registration requirements of the Investment Company Act or the Securities Act. Rule 237, however, does not require any disclosure in addition to that required by rule 7d–2. Thus, the disclosure requirements of rule 237 do not impose any burden on Canadian funds in addition to the burden imposed by the disclosure requirements of rule 7d–2. To avoid double-counting this burden, the staff has excluded Canadian funds from the estimate of the hourly burden associated with rule 237.

[6] This estimate of respondents also assumes that all respondents are foreign issuers. The number of respondents may be greater if foreign underwriters or broker-dealers draft a sticker or supplement to add the required disclosure to an existing offering document.

[7] *See supra* note 4.

be submitted to OMB within 30 days of this notice.

Dated: June 6, 2005.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E5–3120 Filed 6–16–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 12d3–1, SEC File No. 270–504, OMB Control No. 3235–0561.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Section 12(d)(3) of the Act generally prohibits registered investment companies (''funds''), and companies controlled by funds, from purchasing securities issued by a registered investment adviser, broker, dealer, or underwriter (''securities-related businesses''). Rule 12d3–1 (''Exemption of acquisitions of securities issued by persons engaged in securities related businesses'' [17 CFR 270.12d3–1]) permits a fund to invest up to five percent of its assets in securities of an issuer deriving more than fifteen percent of its gross revenues from securities-related businesses, but a fund may not rely on rule 12d3–1 to acquire securities of its own investment adviser or any affiliated person of its own investment adviser.

A fund may, however, rely on an exemption in rule 12d3–1 to acquire securities issued by its subadvisers in circumstances in which the subadviser would have little ability to take advantage of the fund, because it is not in a position to direct the fund's securities purchases. The exemption in rule 12d3–1 is available if (i) the subadviser is not, and is not an affiliated person of, an investment adviser that provides advice with respect to the portion of the fund that is acquiring the securities, and (ii) the advisory contracts of the subadviser, and any subadviser that is advising the purchasing portion of the fund, prohibit them from consulting with each other concerning securities transactions of the fund, and limit their responsibility in providing advice to providing advice with respect to discrete portions of the fund's portfolio.

The Commission staff estimates that 3,028 portfolios of approximately 2,126 funds use the services of one or more subadvisers. Based on an analysis of investment company filings, the staff estimates that approximately 200 funds are registered annually. Assuming that the number of these funds that will use the services of subadvisers is proportionate to the number of funds that currently use the services of subadvisers, then we estimate that 46 new funds will enter into subadvisory agreements each year.[1] The Commission staff further estimates, based on analysis of investment company filings, that 10 extant funds will employ the services of subadvisers for the first time each year. Thus, the staff estimates that a total of 56 funds, with a total of 78 portfolios (respondents),[2] will enter into subadvisory agreements each year. Assuming that each of these funds enters into a subadvisory contract that permits it to rely on the exemptions in rule 12d3–1(c)(3),[3] we estimate that the rule's contract modification requirement will result in 117 burden hours annually.[4]

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. Complying with this collection of information requirement is necessary to obtain the benefit of relying on rule 12d3–1. Responses will not be kept confidential. 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 control number.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or email to: *David_Rostker@omb.eop.gov;* and (ii) R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: June 6, 2005.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E5–3121 Filed 6–16–05; 8:45 am]

BILLING CODE 8010–01–P

[1] The Commission staff estimates that approximately 23 percent of funds are advised by subadvisers.

[2] Based on existing statistics, we assume that each fund has 1.4 portfolios advised by a subadviser.

[3] Rules 12d3–1, 10f–3, 17a–10, and 17e–1 require virtually identical modifications to fund advisory contracts. The Commission staff assumes that funds would rely equally on the exemptions in these rules, and therefore the Commission has apportioned the burden hours associated with the required contract modifications equally among the four rules.

[4] This estimate is based on the following calculations: (78 portfolios × 6 hours = 468 burden hours for rules 12d3–1, 10f–3, 17a–10, and 17e–1; 468 total burden hours for all of the rules/four rules = 117 annual burden hours per rule.)

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 15g–2; SEC File No. 270–381; OMB Control No. 3235–0434.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

The ''Penny Stock Disclosure Rules'' (Rule 15g–2, 17 CFR 240.15g–2) require broker-dealers to provide their customers with a risk disclosure document, as set forth in Schedule 15G, prior to their first non-exempt transaction in a ''penny stock''. As amended, the rule requires broker-dealers to obtain written acknowledgement from the customer that he or she has received the required risk disclosure document. The amended rule also requires broker-dealers to maintain a copy of the customer's written acknowledgement for at least three years following the date on which the risk disclosure document was provided to the customer, the first two years in an accessible place.

The risk disclosure documents are for the benefit of the customers, to assure that they are aware of the risks of trading in ''penny stocks'' before they enter into a transaction. The risk

disclosure documents are maintained by the broker-dealers and may be reviewed during the course of an examination by the Commission. The Commission estimates that there are approximately 270 broker-dealers subject to Rule 15g–2, and that each one of these firms will process an average of three new customers for ''penny stocks'' per week. Thus each respondent will process approximately 156 risk disclosure documents per year. The staff calculates that (a) the copying and mailing of the risk disclosure document should take no more than two minutes per customer, and (b) each customer should take no more than eight minutes to review, sign, and return the risk disclosure document. Thus, the total ongoing respondent burden is approximately 10 minutes per response, or an aggregate total of 1,560 minutes per respondent. Since there are 270 respondents, the annual burden is 421,200 minutes (1,560 minutes per each of the 270 respondents), or 7,020 hours. In addition, broker-dealers will incur a recordkeeping burden of approximately two minutes per response. Thus each respondent will incur a recordkeeping burden of 312 (156×2) minutes per year, and respondents as a group will incur an aggregate annual recordkeeping burden of 1,404 hours ($270 \times 312 / 60$). Accordingly, the aggregate annual hour burden associated with Rule 15g–2 is 8,424 hours (7,020 + 1,404).

The Commission does not maintain the risk disclosure document. Instead, it must be retained by the broker-dealer for at least three years following the date on which the risk disclosure document was provided to the customer, the first two years in an accessible place. The collection of information required by the rule is mandatory. The risk disclosure document is otherwise governed by the internal policies of the broker-dealer regarding confidentiality, etc.

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 control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503 or send an email to: *David_Rostker@omb.eop.gov*; and (ii) R. Corey Booth, Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: June 7, 2005.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E5–3125 Filed 6–16–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:
Rule 17a–2, SEC File No. 270–189, OMB Control No. 3235–0201.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for an extension of the previously approved collection of information discussed below.

Rule 17a–2 requires underwriters to maintain information regarding stabilizing activities conducted in accordance with Rule 104. The Commission estimates that 519 respondents collect information under Rule 17a–2 and that approximately 2,595 hours in the aggregate are required annually for these collections.

The collections of information under Regulation M and Rule 17a–2 are necessary for covered persons to obtain certain benefits or to comply with certain requirements. The collections of information are necessary to provide the Commission with information regarding syndicate covering transactions and penalty bids. The Commission may review this information during periodic examinations or with respect to investigations. Except for the information required to be kept under Rule 104(i) and Rule 17a2(c), none of the information required to be collected or disclosed for PRA purposes will be kept confidential.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the agency displays a valid OMB control number.

The recordkeeping requirement of Rule 17a–2 requires the information be maintained in a separate file, or in a separately retrievable format, for a period of three years, the first two years in an easily accessible place, consistent with the requirements of Exchange Act Rule 17a–4(f).

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: ''*David_Rostker@omb.eop.gov*''; and (ii) R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: June 6, 2005.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E5–3126 Filed 6–16–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 17a–6, SEC File No. 270–506, OMB Control No. 3235–0564.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Section 17(a) of the Investment Company Act of 1940 (the ''Act''), prohibits affiliated persons of a registered investment company (''fund'') from borrowing money or other property from, or selling or buying securities or other property to or from the fund, or any company that the fund controls. Rule 17a–6 permits a fund and its ''portfolio affiliates'' (an issuer of which a fund owns more than five percent of the voting securities) to engage in principal transactions with if no prohibited participants (*e.g.*, directors, officers, employees, or investment advisers of the fund contain persons controlling and under common control with the fund, and their affiliates) are

parties to the transaction or have a direct or indirect financial interest in the transaction. Rule 17a–6 specifies certain interests that are not ''financial interests.'' The rule also provides that the term ''financial interest'' does not include any interest that the fund's board of directors (including a majority of the directors who are not interested persons of the fund) finds to be not material, as long as the board records the basis for the findings in its meeting minutes.

The information collection requirements in rule 17a–6 are intended to ensure that Commission staff can review, in the course of its compliance and examination functions, the basis for a board of director's finding that the financial interest of a prohibited participant in a party to a transaction with a portfolio affiliate is not material.

Based on analysis of past filings, Commission staff estimates that 148 funds are affiliated persons of 668 issuers as a result of the fund's ownership or control of the issuer's voting securities, and that there are approximately 1,000 such affiliate relationships. Staff discussions with mutual fund representatives have suggested that no funds currently rely on rule 17a–6 exemptions. We do not know definitively the reasons for this change in transactional behavior, but differing market conditions from year to year may offer some explanation for the current lack of fund interest in the exemptions under rule 17a–6. Accordingly, we estimate that annually there will be no principal transactions under rule 17a–6 that will result in a collection of information.

The Commission requests authorization to maintain an inventory of one burden hour to ease future renewals of rule 17a–6's collection of information analysis should reliance on rule 17a–6 increase in the coming years.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. Complying with this collection of information requirement is necessary to obtain the benefit of relying on rule 17a–6. 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 control number.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or email to: *David_Rostker@omb.eop.gov;* and (ii) R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: June 6, 2005.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E5–3127 Filed 6–16–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51822; File No. SR-CBOE–2004–87]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Accelerated Approval of a Proposed Rule Change and Amendment Nos. 1 and 2 Thereto and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 3 Thereto Relating to Trading Rules on the Hybrid System for Index Options and Options on ETFs

June 10, 2005.

I. Introduction

On December 17, 2004, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder, [2] a proposed rule change to adopt index hybrid trading rules applicable to classes in which there are Designated Primary Market-Makers (''DPMs''), Lead Market-Makers (''LMMs'') or, alternatively, Market-Makers (''MMs''). The CBOE filed Amendment Nos. 1 and 2 to the proposed rule change on March 23, 2005 [3] and April 26, 2005, [4] respectively. The proposed rule change, as amended by Amendment Nos. 1 and 2, was published for comment in the **Federal Register** on May 17, 2005. [5] The Commission received no comments on the proposal.

On June 3, 2005, the CBOE filed Amendment No. 3 to the proposed rule change. [6] This order grants accelerated approval the proposed rule change, as amended by Amendment Nos. 1 and 2. Simultaneously, the Commission is providing notice of filing of Amendment No. 3 and granting accelerated approval of Amendment No. 3.

II. Description

The Exchange currently trades equity options, index options, and options on exchange-traded funds (''ETFs'') on its Hybrid Trading System (''Hybrid''), which is an options trading platform that combines the features of electronic and open outcry, auction market principles, while, at the same time, providing market makers the ability to electronically stream their own quotes. Currently, one prerequisite for trading a class on Hybrid, that there be a DPM assigned to the class, prevents the Exchange from introducing Hybrid into those classes in which there is no assigned DPM. The Exchange proposes to extend the Hybrid trading rules that currently apply to classes of equity options (''equity classes'') to classes of index options and options on ETFs (collectively, ''index classes'') without an assigned DPM, with some proposed rule modifications. In this regard, the proposal would allow the trading of these index classes on Hybrid either with a DPM, LMM, or without a DPM or LMM in classes where there are a requisite number of assigned MMs.

To implement this proposal, the Exchange proposes to adopt several new rules (most notably CBOE Rules 6.45B, 8.14, 8.15, and 8.15B), and to amend several existing rules (*i.e.*, CBOE Rules 6.1, 6.2, 6.2B, 6.45A, 7.4, and 8.15). New CBOE Rule 6.45B would contain the rules pertaining to priority and allocation of trades for index classes, while existing CBOE Rule 6.45A would be amended to apply solely to equity options. New proposed CBOE Rule 8.14 describes the market maker participants permissible for index classes trading in Hybrid. New proposed CBOE Rule 8.15A contains provisions relating to LMMs in Hybrid classes, while existing CBOE Rule 8.15 would be amended to apply to LMMs in non-Hybrid classes. Finally, new proposed CBOE Rule 8.15B describes the participation entitlement applicable to LMMs. A more complete

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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 originally filed proposed rule change.

[4] Amendment No. 2 replaced and superseded the originally filed proposed rule change and Amendment No. 1.

[5] *See* Securities Exchange Act Release No. 51680 (May 10, 2005), 70 FR 28326.

[6] Amendment No. 3 amended note 7 in Item 3 of Form 19b-4 of Amendment No. 2 and the parallel reference in Exhibit 1 to Amendment No. 2 to delete the reference to Satisfaction Orders and made two technical corrections to the proposed rule text.

description of the proposal, as amended, is provided in Section IV, below.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 3 is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *(http://www.sec.gov/rules/sro.shtml)*; or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2004–87 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–CBOE–2004–87. 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 the filing also will be available for inspection and copying at the principal office of the CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2004–87 and should be submitted on or before July 8, 2005.

IV. Commission's Findings and Order Granting Accelerated Approval of Amendment No. 3 and Accelerated Approval of Proposed Rule Change, As Amended

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange [7] and, in particular, the requirements of Section 6(b) of the Act. [8] Specifically, the Commission finds that the proposed rule change, as amended, is consistent with Section 6(b)(5) of the Act [9] in that it is designed to facilitate transactions in securities, to prevent fraudulent and manipulative acts, to promote just and equitable principles of trade and, in general, to protect investors and the public interest.

A. Trading Without a DPM or LMM

The Exchange proposes to adopt new CBOE Rule 8.14 to specify the permitted categories of market participants in index classes. The proposed rule would allow the appropriate Exchange procedures committee (''EPC''), for classes currently trading on the Exchange, to authorize for trading on the CBOE Hybrid Trading System or Hybrid 2.0 Program index classes. Additionally, the appropriate EPC would determine the eligible categories of market maker participants for each of these option classes currently trading on the Exchange, which may include DPMs, LMMs, Electronic DPMs (''e-DPMs''), and MMs.[10]

Proposed paragraph (b) of CBOE Rule 8.14 would provide that each class designated for trading on Hybrid must have a DPM or LMM assigned to it, unless there are at least four (4) MMs quoting in the class and each MM that has an appointment in the class is subject to the continuous quoting obligations imposed by CBOE Rule 8.7(d).[11] In those classes in which there is no DPM or LMM, the proposed rule provides that, in the event the CBOE activates request-for-quote (''RFQ'') functionality, each MM would have an obligation to respond to that percentage of RFQs as determined by the appropriate EPC provided, however, that such percentage shall not be less than 80%. The following requirements would be applicable to RFQ responses:[12]

- MMs must comply with the bid-ask differential contained in CBOE Rule 8.7(b)(iv);
- Responses must be submitted within the amount of time specified by the appropriate EPC from the time the RFQ is entered;
- Responses must be for a minimum of ten (10) contracts or a size specified by the appropriate EPC, whichever is greater; and
- MMs responding to an RFQ must maintain a continuous market in that series for a subsequent 30-second period (or for some other time specified by the appropriate EPC) or until his/her quote is filled in its entirety. A MM may change his/her quotes during this 30-second period but may not cancel them without replacing them. If the MM does cancel without replacing the quote, his/her response to the RFQ would not count toward the MM's response rate requirement set forth above. A MM would be considered to have responded to the RFQ if he/she has a quote in the market for the series at the time the RFQ is received and he/she maintains it for the appropriate period of time.

Proposed CBOE Rule 8.14(b)(4) provides that, in order to allow a multiply-listed product to trade without a DPM or LMM, the Exchange will need to amend its market maker obligation rules (and receive Commission approval thereof) to indicate how orders will be submitted to other exchanges on behalf of market makers in accordance with the Intermarket Options Linkage Plan requirements.

The Commission believes that the proposed rules governing trading without a DPM or LMM are consistent with the Act. In addition, the Commission notes that the current proposal does not permit the Exchange to allow a multiply-listed product to trade without a DPM or LMM unless the Exchange submits a new proposed rule change to the Commission (and receives Commission approval thereof) relating to its market maker obligation rules indicating how such orders would be submitted to other exchanges on behalf of market makers in accordance with the Intermarket Options Linkage Plan requirements.

B. Index Classes Trading With an LMM: LMM Obligations

The Exchange operates an LMM system in several index classes. Current

[7] In approving this proposed rule change, as amended, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] CBOE Rule 8.1 provides that the term ''Market-Maker'' includes Remote Market-Makers, as defined in CBOE Rule 8.4.

[11] CBOE Rule 8.7(d) governs the quoting obligations for MMs in Hybrid classes.

[12] These requirements are based on similar requirements contained in CBOE Rule 44.4(b).

CBOE Rule 8.15, Lead Market-Makers and Supplemental Market-Makers, governs the LMM appointment process and imposes obligations upon LMMs. The Exchange proposes to adopt new proposed CBOE Rule 8.15A, Lead Market Makers in Hybrid Classes, which mimics current CBOE Rule 8.15 with few changes.[13] As an initial matter, the Exchange eliminates reference to Supplemental Market-Makers as they would not exist in Hybrid. Next, with respect to appointments of LMMs, the Exchange eliminates all references in the proposed rules to ''zones'' as LMMs in Hybrid would not be assigned to zones. Instead, there would only be one LMM at any time in a particular class. The Exchange anticipates that, in any given class, there may be several approved LMMs; however, only one LMM would function at any given time.

Current CBOE Rule 8.15(b) governs LMM obligations and the Exchange proposes to adopt similar obligations in proposed paragraph (b) of CBOE Rule 8.15A. In this regard, the Exchange proposes to adopt in paragraph (b)(i) of proposed CBOE Rule 8.15A a continuous quoting obligation to mandate LMMs in a class to quote a legal width market in 90% of the option series. This requirement would apply at all times, not just during the opening rotation. Proposed paragraph (b)(ii) would obligate LMMs to assure that their displayed market quotations are honored for at least the number of contracts prescribed pursuant to CBOE Rule 8.51 (*i.e.*, the firm quote rule). Proposed paragraph (b)(iii) requires an LMM to perform the above obligations for a period of one (1) expiration month commencing on the first day following an expiration. Failure to perform such obligations for such time may result in suspension of up to three (3) months from trading in all series of the option class. Proposed paragraph (b)(iv) requires LMMs to participate in the Hybrid Opening System (as described in CBOE Rule 6.2B). As such, LMMs would be required to submit quotes during the opening rotation. Proposed paragraph (v) requires LMMs to respond to any open outcry request for quote by a floor broker with a two-sided quote complying with the current quote width requirements of CBOE Rule 8.7(b)(iv) for a minimum of ten (10) contracts for non-broker-dealer orders and one (1) contract for broker-dealer orders.

The Exchange also proposes to modify rules to accommodate trading in multiply-listed classes that would be subject to the Intermarket Options Linkage Plan. DPMs currently handle linkage functions with respect to routing of linkage orders to other markets on behalf of customer orders and representing inbound linkage orders from other markets that are not automatically executed on the CBOE. Under the proposal, LMMs and Order Book Officials (''OBOs'') would handle linkage functions for classes without a DPM. OBOs would represent inbound linkage orders and would be responsible for transmitting outbound linkage orders on behalf of underlying customer orders but would do so using the LMMs trading account and with instruction and input from the LMM. An LMM, as opposed to a DPM, currently does not have agency obligations. For this reason, the Exchange proposes to add an LMM obligation in proposed paragraph (vi) of proposed CBOE Rule 8.15A to require an LMM, in multiply-listed products, to act as agent for orders routed to other exchanges that are participants in the Intermarket Options Linkage Plan.[14] The proposed paragraph also provides that an LMM's account would be used for Principal Acting as Agent (''P/A'') and Satisfaction orders routed by the OBO for the benefit of an underlying customer order, and the LMM would be responsible for any charges incurred from the execution of the P/A orders.[15]

The Exchange proposes to make a corresponding change to CBOE Rule 7.4(a)(2) to permit OBOs to receive Linkage orders from other exchanges that are participants in the Intermarket Options Linkage Plan.[16] In this regard, the proposed change to CBOE Rule 7.4(a)(2) also provide that, for Index option classes on the Hybrid Trading System that are not assigned a DPM, the OBO shall be responsible for (1) routing linkage P/A and Satisfaction orders (utilizing the LMM's account) to other markets based on prior written instructions that must be provided by the LMM to the OBO; and (2) handling all linkage orders or portions of linkage orders received by the Exchange that are not automatically executed. This change would provide OBOs with the ability to route outbound linkage orders to other exchanges and to handle inbound linkage orders received from other exchanges. In this regard, orders routed by the OBO in accordance with this rule would be routed in accordance with written instructions provided by the LMM.[17] With respect to handling inbound linkage orders, OBOs would handle only those orders that do not automatically execute via the Exchange's systems.

There are some obligations currently applicable in CBOE Rule 8.15 that the Exchange does not propose to adopt in CBOE Rule 8.15A. First, the Exchange proposes not to adopt the requirement that an LMM facilitate imbalances of customer orders in all series.[18] Instead, the Exchange proposes to replace this obligation with a requirement that LMMs respond to any open outcry RFQ with a two-sided legal-width quote. In practice, LMMs facilitate order imbalances in open outcry. Second, the Exchange also proposes to not adopt in CBOE Rule 8.15A the language contained in CBOE Rule 8.15(d). CBOE Rule 8.15(d) operates under the assumption that only the LMM disseminates a quote, for which the entire trading crowd is required under CBOE Rule 8.51 to be firm. In a Hybrid system, each MM posts its own quotes; hence, there is no need for MMs to know which variables an LMM uses in its pricing calculation.

The Commission believes that the proposed rules regarding LMM obligations are consistent with the Act. In particular, the Commission believes that the proposed use of the OBO, together with the proposed agency responsibility of the LMM in handling P/A and Satisfaction orders, should ensure that these orders will be handled properly in accordance with the Intermarket Options Linkage Plan.

C. LMM Participation Entitlement

Today, LMMs do not receive participation entitlements nor does CBOE Rule 8.87 address granting a participation entitlement to LMMs. The Exchange proposes to adopt new proposed CBOE Rule 8.15B, Participation Entitlement of LMMs, which is based on CBOE Rule 8.87, Participation Entitlement of DPMs and e-DPMs.

As proposed, paragraph (a) would allow the appropriate Market Performance Committee (''MPC'') to establish, on a class by class basis, a participation entitlement formula that is applicable to LMMs. Proposed paragraph (b) states that, to be entitled to a participation entitlement, the LMM must be quoting at the best bid/offer on the Exchange and the LMM may not be

[13] The Exchange proposes to amend CBOE Rule 8.15 to limits its application to non-Hybrid classes.

[14] *See* Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (Aug. 4, 2000) (order approving the Options Intermarket Linkage Plan).

[15] *See* Amendment No. 3, *supra* note 6.

[16] The Exchange makes minor changes to CBOE Rules 7.4(a)(1) and (b)(iv), and Interpretations and Policies .06 thereto, to include references to CBOE Rule 6.45B in each place where CBOE Rule 6.45A is mentioned.

[17] All linkage fees incurred for routing P/A orders for the benefit of underlying orders would be borne by the LMM.

[18] CBOE Rule 8.15(b)(2).

allocated a total quantity greater than the quantity for which the LMM is quoting at the best bid/offer on the Exchange.[19]

Paragraph (c) establishes the percentages of the participation entitlement at the same levels currently in effect in CBOE Rule 8.87, which means that the LMM participation entitlement shall be: 50% when there is one market maker also quoting at the best bid/offer on the Exchange; 40% when there are two market makers also quoting at the best bid/offer on the Exchange; and 30% when there are three or more market makers also quoting at the best bid/offer on the Exchange. If more than one LMM is entitled to a participation entitlement, such entitlement shall be distributed equally among all eligible LMMs provided, however, that an LMM may not be allocated a total quantity greater than the quantity for which the LMM is quoting at the best bid/offer on the Exchange.[20]

Finally, proposed paragraph (c) also allows the appropriate MPC to determine, on a class-by-class basis, to decrease the LMM participation entitlement percentages from the percentages specified in paragraph (c). Any such reductions would be announced to the membership via Regulatory Circular in advance of implementation. The Exchange states that, in the unlikely event the Exchange seeks to increase the participation entitlement, it will submit a ''regular-way'' rule filing to the Commission.

The Commission believes that the proposed rules governing LMM participation entitlements are consistent with the Act. The Commission believes that, under the proposed new rules, LMMs would have many of the same functions and obligations as DPMs and e-DPMs, both of which receive participation entitlements, and therefore, it would be reasonable for LMMs to receive a participation entitlement not to exceed the percentage previously approved by the Commission. The Commission also believes that it is reasonable for the MPC to have discretion to decrease the participation entitlement for a given index class after advance notice has been given via Regulatory Circular to the membership. The Commission emphasizes that the CBOE must submit a proposed rule change to the Commission if it seeks to increase the LMM participation entitlement beyond the 30/40/50 percent entitlement.

D. Allocation of Trades

Current CBOE Rule 6.45A governs the allocation of trades on the Hybrid System. The Exchange proposes to adopt new proposed CBOE Rule 6.45B, which is substantially similar in most respects to CBOE Rule 6.45A, and restricts its application to index classes. The Exchange proposes to amend current CBOE Rule 6.45A, therefore, to limit its applicability to equity classes only.

1. Allocation of Incoming Electronic Orders: CBOE Rule 6.45B(a)

Regarding the allocation of incoming electronic orders, CBOE Rule 6.45B(a) provides the appropriate EPC with the ability to adopt on a class by class basis one of two allocation models. The first allocation model is a scaled-down version of the Exchange's Screen-Based Trading (''SBT'') Rule 43.1, while the second allocation model is the Exchange's current Ultimate Matching Algorithm (''UMA''). For example, the EPC may determine that trading of a particular product would be enhanced by utilizing a strict price-time allocation model. At the same time, the EPC may determine that a second index product, which perhaps does not trade as actively as the first index product, may be better suited to using UMA for its allocation model.

a. CBOE Rule 6.45B(a)(i): Price-Time or Pro-Rata Priority

The first allocation model comes from the Exchange's SBT rules and is substantially reproduced in proposed paragraph (a)(i). Pursuant to this model, the Exchange may, on a class by class basis, adopt either a price-time or pro-rata allocation model.[21] Accordingly, the EPC committee would determine whether to utilize a price-time model in which the first quote or order at the best price has priority. Alternatively, the committee may determine to utilize a pro-rata priority model whereby the size of an individual's allocation of an incoming order is a function of the relative size of his/her quote/order compared to all others at the same price.

Additionally, the Exchange may determine to utilize one or two priority overlays in any class using a price-time or pro-rata allocation model: Public customer priority[22] or participation entitlement priority.[23] A priority overlay functions as an exception to the general priority rule in effect. Under the public customer overlay, public customers have priority over all others, and multiple public customer orders are ranked based on time priority. Under the participation entitlement overlay, DPMs/e-DPMs/LMMs at the best price receive their participation entitlement provided their order/quote is at the best price on the Exchange.

As an example, in a class using price-time priority with a public customer priority overlay, the first order/quote at the best price has priority, unless there is a public customer order at that best price, in which case the public customer moves to the front of the line and takes priority (up to the size of his/her order). In this example, after the public customer order is satisfied, any remainder of the order would be allocated using the price-time priority principles.

Both priority overlays may be in effect in a particular class at one time or, alternatively, neither need be operational. The participation right overlay is akin to the DPM participation entitlement. In determining which overlays would be in effect, the EPC is bound by the requirement that it may not offer a participation entitlement unless it also offers public customer priority and that the public customer priority overlay applies before the participation entitlement does.[24]

b. CBOE Rule 6.45B(a)(ii): UMA

Under the proposal, the appropriate EPC would have the ability to use the allocation method currently used in all classes trading on Hybrid. When a market participant is quoting alone at the disseminated CBOE BBO and is not subsequently matched in the quote by other market participants prior to execution, it would be entitled to receive incoming electronic order(s) up to the size of its quote. In this respect, market participants quoting alone at the

[19] The participation entitlement is based on the number of contracts remaining after all public customer orders in the book at the best bid/offer on the Exchange have been satisfied.

[20] A single LMM would function in any given class at one time, though there may be several LMMs approved in such class. Should more than one LMM function in a given class at the same time, the Exchange would need to file a proposed rule change with the Commission to address potential rule changes required in such a situation (*e.g.*, how linkage orders would be handled). Telephone conversation between David Doherty, Attorney II, CBOE and David Liu, Attorney, Division of Market Regulation, Commission, on June 8, 2005.

[21] *See* CBOE Rule 43.1(a)(1) (price-time priority) and (a)(2) (pro rata priority). The International Stock Exchange, Inc. (''ISE'') utilizes a pro rata priority model for market makers and non-customers (*see* ISE Rule 713.01) while the Boston Options Exchange (''BOX'') utilizes the price-time priority model (*see* BOX Trading Rules, Chapter V, Sec. 16).

[22] *See* CBOE Rule 43.1(b)(1). Under the public customer priority model, public customers at the highest bid or lowest offer will have priority over non-public customers at the same price.

[23] *See* CBOE Rule 43.1(b)(3) (trade participation right priority).

[24] *See* proposed CBOE Rule 6.45B(a)(i)(2)(D).

BBO have priority. When more than one market participant is quoting at the BBO, inbound electronic orders shall be allocated pursuant to UMA. UMA rewards market participants quoting at the best price with allocations of incoming orders. The UMA formula is a weighted average consisting of two components, one based on the number of participants quoting at the best price (Component A), and the second based on the relative size of each participant's quote (Component B), as described below.

Component A: This is the parity component of UMA. In this component, UMA treats as equal all market participants quoting at the relevant best bid or best offer (or both). Accordingly, the percentage used for Component A is an equal percentage, derived by dividing 100 by the number of market participants quoting at the best price. For instance, if there are four (4) market participants quoting at the best price, each is assigned 25% for Component A (or 100/4). This component rewards and incents market participants that quote at a better price than do their counterparts even if they quote for a smaller size.

Component B: This size prorata component is designed to reward and incent market participants to quote with size. As such, the percentage used for Component B of the Allocation Algorithm formula is that percentage that the size of each market participant's quote at the best price represents relative to the total number of contracts in the disseminated quote. For example, if the disseminated quote represents the quotes of market makers X, Y, and Z who quote for 20, 30, and 50 contracts respectively, then the percentages assigned under Component B are 20% for X, 30% for Y, and 50% for Z.

Final Weighting: The final weighting, which shall be determined by the appropriate EPC, shall be a weighted average of the percentages derived for Components A and B multiplied by the size of the incoming order. Initially, the weighting of Components A and B shall be equal, represented mathematically by the formula: ((Component A Percentage + Component B Percentage)/2) * incoming order size.

Under current CBOE Rule 6.45A, the appropriate index floor procedures committee has the ability, for index classes, to vary the weights of Components A and B on a product by product basis.[25] Proposed CBOE Rule 6.45B retains this flexibility. All other aspects of the UMA methodology remain unchanged, with the exception of the participation entitlement, as described below.

Currently, the appropriate committee establishes the participation entitlement methodology, which generally must be either: the entitlement percentage established by CBOE Rule 8.87 or the greater of the DPM's (or e-DPM's) UMA share or the amount the DPM/e-DPM would be entitled to by virtue of CBOE Rule 8.87.[26] The Exchange proposes in CBOE Rule 6.45B(a)(ii)(C) to retain this provision (simply adding references to LMMs) and to add a third alternative, which would allow the Exchange to not award a participation entitlement.[27] In this regard, proposed paragraph (a)(ii)(C) incorporates this change by stating that the amount of the DPM's (or LMM's or e-DPM's) entitlement would be equal to the amount it otherwise would receive by virtue of the operation of UMA. Aside from this change, the Exchange has represented that the proposed participation entitlement, as it relates to the allocation of incoming electronic orders pursuant to UMA, would operate the same as it does today.

The Commission believes that the proposed rules regarding allocation of incoming electronic orders are consistent with the Act. The Commission notes that the allocation provisions are based on rules currently in place at the Exchange, including current rules relating to SBT and UMA. The Commission notes that the CBOE believes that providing the EPC with the ability to determine which allocation methodology is best for a given index class should be appropriate because the EPC should have the best familiarity with the product and its trading dynamics, which should allow it to determine which allocation methodology is most appropriate for it. In addition, the Commission believes that the proposed allocation algorithms should provide incentives to quote competitively by providing market participants with the ability to independently submit their quotes and then rewarding the market participants that quote at the best price with an allocation of the resulting trade. The Commission also expects the Exchange to ensure compliance with the requirements of Section 11(a) of the Act.[28]

2. Allocation of Orders in Open Outcry

With respect to the allocation of orders in the trading crowd, proposed CBOE Rule 6.45B(b) would govern. This rule is substantially similar to current CBOE Rule 6.45A(b). The section ''Allocation of Orders Represented in the Trading Crowd'' provides two alternative methods for allocating trades occurring in open outcry depending on whether there are any broker-dealer (''BD'') orders in the book.[29] If there are no BD orders in the book when the trade occurs in open outcry, allocation would be as it is today (*i.e.*, first to respond may take 100%). If, however, there are BD orders in the book, the rule provides an alternative allocation mode. The first person to respond in open outcry would be entitled to take up to 70% of the order, the second person to respond may take 70% of the balance, and all others who responded (including those in the book) shall participate in the remainder of the order pursuant to the UMA allocation methodology, as is currently the case. Throughout both methods, public customers have absolute priority.

The CBOE Hybrid System would continue to utilize the exception to the general priority rules for complex orders in index products. As such, the Exchange proposes to incorporate the existing provision contained in CBOE Rules 6.45(e) and 6.45A(b)(iii). Under this rule, a member holding a spread, straddle, or combination order (or a stock-option order or security future-option order as defined in CBOE Rule 1.1(ii)(b) and CBOE Rule 1.1(zz)(b), respectively) and bidding (offering) on a net debit or credit basis (in a multiple of the minimum increment) may execute the order with another member without giving priority to equivalent bids (offers) in the trading crowd or in the electronic book provided at least one leg of the order betters the corresponding bid (offer) in the book. Stock-option orders and security future-option orders, as defined in CBOE Rule 1.1(ii)(a) and CBOE Rule 1.1(zz)(a), respectively, have priority over bids (offers) of the trading crowd but not over bids (offers) of public customers in the limit order book.

The Commission believes that the proposed rules governing allocation of orders represented in open outcry are consistent with the Act. The Commission also expects the CBOE to comply with the requirements of Section 11(a) of the Act[30] in dealing

[25] The Exchange proposes to delete this section from current CBOE Rule 6.45A and move it to CBOE Rule 6.45B.

[26] *See* current CBOE Rule 6.45A(a)(i)(C).

[27] The Exchange also amends the references to CBOE Rule 8.87 to include references to new CBOE Rule 8.15B. As such, CBOE Rule 8.87 will govern participation entitlements for DPMs and e-DPMs while new CBOE Rule 8.15B will govern participation entitlements for LMMs. CBOE Rule 8.15B is discussed in greater detail *supra.*

[28] 28 15 U.S.C. 78k(a).

[29] A broker-dealer order is an order for the account of a non-public customer broker-dealer.

[30] 15 U.S.C. 78k(a).

with the allocation of orders in open outcry.

3. Interaction of Market Participant's Quotes/Orders With Orders in the Electronic Book

The Exchange proposes to adopt CBOE Rule 6.45B(c) to govern the interaction of market participants' quotes or orders with orders in the book. This rule, with minor modifications, operates in the same manner as does existing CBOE Rule 6.45A(c), which governs the allocation of orders resting in the Exchange's electronic book (''book'' or ''Ebook'') among market participants. Generally, under the existing rule, if only one market participant interacts with the order in the book, he/she would be entitled to full priority. If, however, more than one market participant attempts to interact with the same order in the book, a ''quote trigger'' process initiates. Under the quote trigger process, the first market participant to interact with the book order starts a counting period lasting N-seconds whereby each market participant that submits an order within that ''N-second period'' becomes part of the ''N-second group'' and is entitled to share in the allocation of that order via the formula contained in the rule.

The Exchange proposes minor modifications to the operation of the current rule. First, the second paragraph of proposed section (c) provides that if the appropriate EPC has determined that the allocation of incoming electronic orders shall be pursuant to price-time priority as described in CBOE Rule 6.45B(a)(i), then the allocation of orders in the Electronic Book pursuant to paragraph (c) must also be based on time-priority (*i.e.,* allocated to the first market participant to interact with the order in the book, up to the size of that market participant's order). In all other instances (*i.e.,* when pro-rata priority or UMA is in effect), the allocation of the book order would be as it is today (*i.e.,* allocation via the ''N-second group'').

Second, whereas the N-second timer must be uniform across equity classes, this proposed rule allows for different durations on a class-by-class basis. The sizes of index option trading crowds vary considerably, from perhaps five traders in a less-active class to more than one hundred traders in options on the S&P 500 (''SPX''). The Exchange states that a 5-second timer in the SPX could result in numerous traders executing against the same order, which could mean very small allocations and rounding nightmares. The ability to vary the timer would allow the EPC to set a considerably shorter time-period. The Exchange states that, as with equities, changes to the timers would be announced to the membership via Regulatory Circular.

The Commission believes that this algorithm, which is similar to the algorithm adopted for the Exchange's equity classes, is consistent with the Act, and should ensure that additional market participants have an opportunity to interact with orders resting on the Exchange's electronic book. The Commission also notes that, given that the sizes of index option trading crowds vary considerably, the Exchange provides flexibility and discretion to its EPC to set, on a class by class basis for index classes, a shorter time period than the 5-second timer applicable to equity classes. The Commission also notes that any changes to the N-second interval would be announced to the CBOE membership in advance of implementation.

4. Interaction of Market Participants' Quotes

The Exchange also proposes to adopt CBOE Rule 6.45B(d) governing the interaction of quotes when they are locked. Because Hybrid allows for the simultaneous entry of quotes by multiple market participants, there would be instances in which quotes from competing market participants become locked. Currently, CBOE Rule 6.45A(d) provides that when the quotes of two market participants interact (*i.e.,* ''quote lock''), either party has one (1) second during which it may move its quote without obligation to trade with the other party. If, however, the quotes remain locked at the conclusion of one (1) second, the quotes trade in full against each other. Proposed CBOE Rule 6.45B(d) is based on the equity rule (CBOE Rule 6.45A(d)) with one modification relating to the length of the timer. The proposal allows the appropriate EPC to vary by product the length of the quote lock timer provided it does not exceed one (1) second.[31] The ability to vary the timer by product is more important in an index setting where there are larger trading crowds than there are in an equity setting. In the event the appropriate committee determines to eliminate the timer (*i.e.,* set it to zero seconds), the Exchange would not be required to send out the quote update notification otherwise required in paragraph (d)(i)(B).

Additionally, the Exchange proposes to amend paragraph (e) to CBOE Rule 6.45A in order to remove references to expired dates. Finally, the Exchange removes reference to the listing of index options and options on ETFs, as this would now be addressed in the introductory paragraph of proposed CBOE Rule 6.45B.

The Commission notes that the proposed provisions regarding locked quotes are substantially similar to provisions previously approved by the Commission. The Commission believes that the proposed provisions are consistent with the Quote Rule.[32] Market makers would continue to be required to honor their quotes and thus would be obligated to execute incoming orders pursuant to CBOE Rule 6.13. In addition, the Commission believes that the proposed ''counting period'' provides a reasonable method for market makers that lock or cross a market to unlock or uncross the market, as required by the Intermarket Options Linkage Plan. Moreover, during the ''counting period,'' the market makers whose quotes are locked would remain obligated to execute customer and broker-dealer orders eligible for automatic execution at the locked price.[33]

E. Other Changes

1. HOSS: CBOE Rule 6.2B

The Exchange proposes to amend certain aspects of its opening rule, CBOE Rule 6.2B, Hybrid Opening System (''HOSS''). HOSS establishes opening procedures and, today, only applies in classes in which there are DPMs. The changes proposed herein would allow HOSS to be utilized in classes in which there is either a DPM, LMM, or neither.

First, the Exchange proposes to amend paragraph (a) of CBOE Rule 6.2B to provide that HOSS would accept orders and quotes for a period of time prior to 8:30 a.m. Central Time. The absence of an underlying security for index options necessitates this change. Similarly, the second change to paragraph (a) allows the opening process to begin after 8:30 a.m., as opposed to when the underlying security opens. The third change to paragraph (a) obligates the appointed LMM in the class to submit opening quotes. The purpose of this requirement is to ensure the existence of a quote so that the class may open. This is the same requirement that exists for DPMs.

The Exchange also proposes to amend paragraph (b) of CBOE Rule 6.2B to provide that in classes without a DPM, an expected opening price would be calculated if there is a quote from either an LMM or MM in the class. This

[31] Equity classes utilize a one-second times across-the-board.

[32] 17 CFR 240.11Ac1–1.

[33] *See* Proposed CBOE Rule 6.45B(d).

requirement recognizes that because a class may trade without a DPM or LMM, the opening procedure would need to operate with only quotes from MMs. Similarly, the proposed change to paragraph (e) of CBOE Rule 6.2B provides that HOSS would not open a class unless there is a quote from either a MM or LMM with an appointment in the class. This is equivalent to the equities side, where a class will not open without a quote from the DPM.

The Commission believes that the proposed rule changes are consistent with the Act to ensure that: (1) An opening price is calculated if a class trades without a DPM or LMM; (2) a class will not be opened on HOSS (i) without a quote from the DPM, in classes which a DPM has been appointed; and (ii) when there is no quote from at least one MM or LMM with an appointment in the class, in classes in which no DPM has been appointed.

2. CBOE Rules 6.1 and 6.2

The Exchange also proposes to amend Interpretation and Policy .05 to CBOE Rule 6.1[34] and Interpretation and Policy .01 to Rule 6.2 by inserting the term ''LMM'' next to every reference to DPM. As LMMs would perform essentially the same functions as DPMs, this change is necessary. The Exchange also proposes in CBOE Rule 6.2 to eliminate reference to the term ''Board Broker'' since there is no such person anymore.

The Commission believes that these proposed rule changes are also consistent with the Act.

F. Accelerated Approval of Amendment No. 3 and the Proposed Rule Change and Amendment Nos. 1 and 2 Thereto

In Amendment No. 3, the Exchange proposes to: (1) Clarify that linkage fees do not apply to Satisfaction orders; (2) change the reference from CBOE Rule 6.1, Interpretation .04 to CBOE Rule 6.1, Interpretation .05 to more accurately reflect the proposed rule text; and (3) insert in the proposed rule text the reference to CBOE Rule 6.45A(c)(ii)(A) that the CBOE inadvertently left out of the proposed rule text. The Commission notes that the changes contained in Amendment No. 3 are non-substantive in nature and are necessary to clarify the proposal, as well as to correct technical omissions in the proposed new rules.[35] Accordingly, the Commission finds that there is good cause, consistent with Section 6(b)(5)[36] and Section 19(b)(2) of the Act,[37] to approve Amendment No. 3 on an accelerated basis prior to the 30th day after the date of publication of notice of filing thereof in the **Federal Register.**

Pursuant to Section 19(b)(2) of the Act,[38] the Commission may not approve any proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof, unless the Commission finds good cause for so finding. The Commission hereby finds good cause for approving the proposed rule change prior to the 30th day after publishing notice thereof in the **Federal Register**. The Commission notes that the proposed rule change, as amended, has been subject to a full notice and comment period, and that no comments have been received.

By permitting the Exchange to trade index classes on Hybrid without an assigned DPM, the Exchange will have the flexibility to trade index classes on Hybrid either with a DPM, LMM, or without a DPM or LMM in classes where there are a requisite number of assigned MMs. The Commission believes that the proposed rule change, which provides for a variety of different participants to trade index classes on Hybrid, will greatly benefit the way investors trade their index classes. Therefore, the Commission finds good cause exists to accelerate approval of the proposal, as amended, pursuant to Section 19(b)(2) of the Act.[39]

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[40] that the proposed rule change (File No. SR–CBOE–2004–87), as amended by Amendment Nos. 1, 2, and 3, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[41]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–3128 Filed 6–16–05; 8:45 am]

BILLING CODE 8010–01–P

[34] *See* Amendment No. 3, *supra* note 6.

[35] *See* Amendment No. 3, *supra* note 6.

[36] 15 U.S.C. 78f(b)(5).

[37] 15 U.S.C. 78s(b)(2).

[38] 15 U.S.C. 78s(b)(2).

[39] *Id.*

[40] 15 U.S.C. 78s(b)(2).

[41] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10123 and # 10124]

Florida Disaster # FL–00002

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Florida, dated 04/29/2005.

Incident: Severe storms, flooding, and Tornadoes.

Incident Period: 03/31/2005 through 04/07/2005.

Dates: Effective Date: 04/29/2005.

Physical Loan Application Deadline Date: 06/29/2005.

EIDL Loan Application Deadline Date: 01/25/2006.

ADDRESSES: Submit completed loan applications to :

U.S. Small Business Administration, Disaster Area Office 1, 360 Rainbow Blvd. South 3rd Floor, Niagara Falls, NY 14303.

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 Administrator's disaster declaration on 04/29/2005 , applications for disaster loans may be filed 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:

Escambia, Marion, and Santa Rosa.

Contiguous Counties:

Florida: Alachua, Citrus, Lake, Levy, Okaloosa, Putnam, Sumter, and Volusia.

Alabama: Baldwin and Escambia.

The Interest Rates are:

	Percent
Homeowners with credit available elsewhere	5.875
Homeowners without credit available elsewhere	2.937
Businesses with credit available elsewhere	6.000
Businesses & small agricultural cooperatives without credit available elsewhere	4.000
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 10123 6 and for economic injury is 10124 0.

The States which received EIDL Decl # are Florida and Alabama.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: April 29, 2005.

Hector V. Barreto,

Administrator.

[FR Doc. 05–11960 Filed 6–16–05; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Announcement of 504 Loan Application Streamlining Pilot

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Notice of Pilot.

SUMMARY: In order to develop more consistent and efficient processes, SBA is streamlining the procedures for the submission of 504 loan applications to its Sacramento Loan Processing Center (SLPC) on a Pilot program basis.

The Pilot's modifications to the existing procedures fall into two categories:

(1) Changes in documentation submitted to SLPC that apply to all CDCs; and

(2) Changes in process that apply to CDCs meeting certain requirements.

Any existing procedures not addressed in this document are not affected and will continue with no change.

DATES: The Pilot is effective upon OMB's approval of the modifications to SBA Form 1244 (Application for Section 504 Loan) and will terminate one year from that date. SBA will notify CDCs upon receipt of OMB approval of the Form. The new procedures will apply with respect to loan applications a CDC submits after the effective date. Loans submitted to the SLPC before that date will continue to be processed under current standard procedures.

ADDRESSES: You may submit comments, identified as ''Notice of Pilot'' by any of the following methods: (1) Rulemaking portal at *www.regulations.gov;* (2) Agency Web site: *http://www.sba.gov/:* (3) E-mail: *andrew.mcconnell@sba.gov;* (4) Mail to: Andrew (''Bin'') McConnell, Chief 504 Program Branch, Office of Financial Assistance, at 409 3rd St. SW., Washington, DC 20416; and (5) Hand Delivery/Courier: 409 3rd Street, SW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Bin McConnell, Chief 504 Program Branch, Office of Financial Assistance, 409 3rd Street, SW., Washington, DC 20416, (202) 205–7238, or Richard Taylor, Director, Sacramento Loan Processing Center, at (916) 930–2462.

SUPPLEMENTARY INFORMATION:

Introduction

On September 30, 2004, the Small Business Administration (SBA) completed the process of transferring all 504 loan processing to a centralized facility, the Sacramento Loan Processing Center (SLPC), in Sacramento, California. This was a significant step in allowing the agency to develop more consistent and efficient processes.

Since then, SBA has been considering ways to streamline the process, both for CDCs and SBA staff. As the result of a recently completed analysis of the processing actions currently performed by the SLPC, and after discussions with industry representatives, the agency has determined that several modifications can be made to improve 504 loan processing. The agency will be testing these modifications in a 504 Loan Application Streamlining Pilot (''Pilot'').

Purpose of Pilot

As with other streamlining efforts, the goal is to promote efficient use of staff and other valuable resources. In this case, the following are the goals that the agency proposes to meet through the Pilot:

- Enhance SBA's ability to process 504 applications efficiently,
- Reduce the physical size of the 504 application,
- Reduce the cost of shipping and storing files, and
- Reduce the paperwork submission burden on CDCs.

The Pilot has been designed to minimize any increased risk to the agency that might result from streamlined processes.

Discussion of Changes

This Pilot encompasses procedural changes and the waiver of one regulatory provision. Changes to 504 loan procedures fall into two categories:

(1) Changes in documentation submitted to SLPC that apply to all CDCs; and

(2) Changes in process that apply to CDCs meeting certain requirements.

Each of these changes is discussed in more detail below. SBA Form 1244 is being revised to reflect these changes. SBA has submitted a request to OMB, as required under the Paperwork Reduction Act, to approve the modification to SBA Form 1244 to reflect these changes.

I. Changes in documentation submitted to SLPC that apply to all CDCs: During the Pilot, CDCs will not be required to submit certain documents currently required, and will be required to address certain issues as part of the credit memorandum instead of submitting the information in separate Exhibits. Borrower will also be allowed to provide a single certification instead of having to sign each exhibit individually (other than Exhibits 11 and 12, as further discussed below). Lastly, the timing of the submission of four documents will be changed to accommodate current business practices.

More specifically, the following are changes that apply to *all* 504 loan applications submitted to SLPC by all CDC:

1. The requirements of Exhibit 1—History of business and analysis of management ability, and Exhibit 5—Resumes of principals, will now be met by the CDC addressing these in the credit memorandum.

2. Changes in documents submitted to the SLPC as Exhibits to SBA Form 1244:

- Exhibit 2—The required eligibility analysis will be satisfied by the CDC completing and submitting SBA's Eligibility Checklist (available by calling, faxing, or e-mailing the SLPC) as Exhibit 2.
- Exhibit 4—Only a copy of the income tax return for the last full year will be required instead of the last 3 years of income tax returns.
- Exhibit 6—Only copies of the last 2 full years of income tax returns will be required instead of the last 3 years of income tax returns *except* if the alternate 7(a) size standard is being used. (This does not change the requirements for verification of financial information in the Authorization. The CDC is still required to verify the financial information in the application by obtaining tax information for 3 years using IRS Form 4506-T to IRS and comparing the financials to this information, as required in existing SBA guidance.)
- Exhibit 12—Only copies of the last 2 full years of income tax returns or financial statements for each affiliated or subsidiary business will be required instead of the past 3 years of income tax returns, except if the alternate 7(a) size standard is being used. A current financial statement for each affiliated or subsidiary business is no longer required to be submitted since it is not necessary for the size determination.

3. With the exception of Exhibits 11 and 12 , the Borrower will no longer be required to sign and date each separate SBA Form 1244 Exhibit. The Borrower will be required instead to certify that all information in the SBA Form 1244 and Exhibits is true and correct, except that Exhibits 11 (Schedule of previous government financing) and 12 (Names of affiliated or subsidiary businesses) must

each be signed by the applicant/owner on the front page of the document.

4. The CDC must collect and retain all Exhibits to SBA Form 1244. CDC files containing the Exhibits must be available for review by SBA at any time.

5. CDCs should not submit Exhibit 15 (lease agreements), Exhibit 18 (closing costs), Exhibit 20 (resolutions), and Exhibit 23 (SBA Forms 159) to SBA until closing.

II. *Changes in process that apply to CDCs meeting certain requirements:* This Pilot establishes a streamlined loan application processing procedure, referred to as Abridged Submission Method (ASM). A CDC that has been designated ''ASM eligible'' must submit a 504 loan application to SLPC that includes *only* the following:

- Credit memorandum,
- Draft loan authorization,
- SBA Form 1244.
- *Only* the following exhibits to the 1244:
  - eligibility checklist (Exhibit 2),
  - SBA Forms 912 (Exhibit 3),
  - Franchise documentation (Exhibit 13),
  - Collateral appraisals (Exhibit 16)
  - Environmental documentation (Exhibit 17),
  - INS Verification (Exhibit 21).

When SBA has the capability to accept scanned and/or digitized documents electronically, we will notify ASM participants that they may use that option.

CDCs using ASM must *collect and retain all the Exhibits* to SBA Form 1244 including those Exhibits not required to be submitted to the SLPC. The CDC files including the Exhibits must be available for review by SBA at any time. To identify CDCs eligible to participate in ASM, SLPC staff will review each CDC's 504 lending activity and performance.

CDCs will not be required to apply to participate in ASM. At the start of this Pilot (see **DATES** above), the SLPC will provide written notification to CDCs that qualify of its eligibility to participate, as of that date. As a courtesy, at approximately the time of the publication of this Notice, the SLPC will inform each CDC of its prospective status, based on the information available at that date. CDCs should be aware that any loans they submit between the date of the courtesy notification and the official notification may affect their status. Only CDCs that are eligible on or after the effective date of the pilot may use ASM.

There are two criteria a CDC must meet to be eligible for ASM:

1. A CDC must either:

a. Be a participant in SBA's Accredited Lenders Program (ALP) or Premier Certified Lenders Program (PCLP), *or*

b. Have submitted at least twenty-five (25) 504 loans to the SLPC in the last 12 months, *and* have passed three or more of the benchmark measures using SBA's most recent data. (A description of the Benchmarks is available at *http://www.sba.gov/banking/programguide.html*.) (**Note:** SBA will replace the benchmark requirement with SBA's Office of Lender Oversight risk rating system when that system's use is finalized in a subsequent Register Notice.) and

2. A CDC must earn an average ''Loan Package Score'' (LPS) numeric equivalent rating of no more than ''1.9'' *AND* have no loans rated ''C'' or lower among the most recent 10 loans submitted.

Appendix 1 to this Notice describes the LPS in detail. In summary, during processing SLPC staff evaluates and rates each 504 loan application package based on quality and presentation. The rating will range from ''A'' to ''E'' with ''A'' being the highest possible rating. (For purposes of numeric calculation the ''A'' through ''E'' designation will be converted as follows: ''A'' = 1, ''B'' = 2, ''C'' = 3, ''D'' = 4 and ''E'' = 5.) SLPC computes the rating by assigning equal weights (one-third) to the following three factors:

- CDC submitted all necessary documents and data.
- CDC completely and accurately analyzed the eligibility of the transaction.
- CDC produced a complete and thorough credit analysis.

The quality level of loan packages a CDC presents is the key to the SLPC 's ability to expedite processing of approval requests. Consequently, the ''cut-off'' numeric equivalent average score of ''1.9'' was selected to ensure that only CDCs with packages of the highest quality are allowed to use the ASM. After receiving ASM status, if the CDC's numeric equivalent average LPS for the most recent 25 loans processed is more than ''1.9'' or if the CDC's submission of any one loan package rates a ''C'' or lower, the CDC will lose its ASM status. In the case of a numeric equivalent average LPS that exceeds ''1.9'' the CDC will again become eligible for ASM once its numeric equivalent average rating for its 25 most recent loans is no more than ''1.9''. In the case of a single loan package rated ''C'' or lower, the CDC will again become eligible with the subsequent submission of five (5) sequential non-ASM loan packages that rate a numeric equivalent average of no more than ''1.9''. These are carefully considered decisions based on the fact that SBA staff will not be scrutinizing all individual source documents in an ASM application. Establishing a high standard for performance will reduce the risk to the agency in implementing the ASM. A CDC may appeal the rating provided by the SLPC to the Associate Administrator for Financial Assistance.

Monitoring—To monitor the CDC's continued eligibility to use ASM, the SLPC periodically will require the CDC to submit a full 504 loan application for review. The general frequency will be one (1) loan out of ten (10), within the following parameters:

- Each CDC will have at least one (1) loan reviewed during the twelve months of the pilot.
- No CDC will have more than twelve (12) loans reviewed during the pilot.

Upon written notice identifying a specific loan for review, a CDC will have 3 business days to submit the entire file to the SLPC. Should the review of a file result in a ''C'' or lower rating, the CDC will lose its ASM status. The CDC's ASM status may be regained as described above.

If a CDC fails to continue to meet the required portfolio performance standards or any other criteria for ASM, it is no longer eligible to use ASM, and the SLPC will inform the CDC in writing. Effective immediately upon such notice, a CDC must revert to submitting all of the Exhibits listed on the SBA Form 1244 as modified under ''I'' above.

Sections 120.840–846 of Title 13 of the Code of Regulations contain requirements for participation in the ALP and PCLP programs, one benefit of which is expedited loan application processing. During the Pilot, using its authority under 13 CFR 120.3, SBA will modify the provision in 13 CFR 120.840(a) under which ALP (and PCLP CDCs submitting applications to the SLPC) receive expedited loan processing. Instead, during the Pilot, ALP (and PCLP CDCs submitting applications to the SLPC) will be able to use ASM, as long as they maintain that status and also achieve and maintain the required LPS. This LPS requirement is necessary to ensure that the agency is sufficiently protected, because during the Pilot SBA will be relying more heavily on the actions of CDCs and consequently is exposed to additional risk. CDCs with ALP and CDC status are reminded that one consideration in maintaining that status is continued acceptable portfolio performance as currently measured by performance benchmarks. The existence of this Pilot has no effect on a CDC's ALP or PCLP status, nor does it change any of the

servicing or other authorities granted to ALP or PCLP CDCs.

The CDC is required to retain a copy of all loan application documents in its file regardless of whether they are submitted to SBA.

Authority: 13 CFR 120.3.

James E. Rivera,

Associate Administrator for Financial Assistance.

Appendix 1—''Loan Package Score'' (LPS)

The quality level of loan packages being presented by the CDC is the key to the SLPC's ability to expedite processing of approval requests. During the processing of each 504 loan application, the SBA loan specialist evaluates the quality and presentation of the package and assigns a grade based on the following standards.

On the official start date of the pilot, SLPC will determine the CDC's score based on the 25 most recent loans submitted to the Center. A CDC not eligible for ASM because of its LPS score at the start of the pilot will become eligible for ASM when its most recent 25 loans submitted have a numeric equivalent average LPS of no more than ''1.9''. The SLPC will notify a CDC when it becomes eligible for ASM. In the case of an ALP or PCLP lender that has submitted fewer than 25 loans, the Center will base the score on all loans submitted. If, at the start of the pilot, a CDC was not ALP or PCLP and did not have 25 loans submitted during the preceding 12 months, it will be notified as soon as it submits its 25th loan if it has an acceptable score.

The SLPC will continue to monitor CDC performance by maintaining a ''rolling'' average that includes the most recent twenty-five (25) loans submitted. After receiving ASM status, if the CDC's numeric equivalent average LPS exceeds ''1.9'' or if the CDC's submission of any one loan package rates a ''C'' or lower, the CDC will lose its ASM status. In the case of a numeric equivalent average LPS that exceeds ''1.9'' the CDC will again become eligible for ASM once its numeric equivalent average rating is no more than ''1.9''. In the case of a single loan package rated ''C'' or lower, the CDC will again become eligible with the subsequent submission of five (5) sequential non-ASM loan packages that rate a numeric equivalent average of no more than ''1.9''.

SLPC staff rates every 504 loan application processed by SLPC. The rating will range from ''A'' to ''E'' with ''A'' being the highest possible rating. (For purposes of numeric calculation the ''A'' through ''E'' designation will be converted as follows: ''A'' = 1, ''B'' = 2, ''C'' = 3, ''D'' = 4 and ''E'' = 5.) SLPC computes the rating by evaluating the following three factors to comprise a composite score:

1. CDC submitted all necessary documents and data.
2. CDC completely and accurately analyzed the eligibility of the transaction.
3. CDC produced a complete and thorough credit analysis.

The following describes each rating level:

A—A level ''A'' application package is complete in all respects. The CDC's credit memo provides a clear representation of the loan proposal, and a complete analysis of the business including management, financial capacity, eligibility, and project costs. The credit memo also explains why the transaction completely satisfies SBA's credit and eligibility standards. Ownership of all entities including potential affiliates is broken down with full analysis completed and true affiliates identified. The 1244 is complete and the information contained matches the credit memo and the financial documents in the file. The package is in exhibit order of the 1244 with all exhibits included and complete. This would also include:

—All required signatures on the 1244 Part C.
—All required 912s are completed
—All required personal, corporate and affiliate tax returns and financial statements.
—Project property is clearly identified with cost documents to support the project cost.
—All required SBA forms are included and completed properly, including appropriate signatures as required.
—The draft authorization is consistent with the CDC's recommendation on the 1244 and the credit memo, is presented in the current version being used, and has all the relevant provisions included.

In summary, a level ''A'' application package is complete and stands on its own. The SBA loan specialist is able to review the CDC's credit memo and quickly identify all of the entities for which exhibit information is required. At this level, additional contact with the CDC is rarely necessary.

B—A level ''B'' application package is well prepared however it is not complete. The SBA loan specialist must contact the CDC to obtain further information to clarify the proposal or to obtain a missing document. The information usually will not change the structure of the proposal but is required for the package to be complete and eligibility to be established. Common items missed that would create a level ''B'' assessment are missing signatures/dates on the 1244; missing 912s; incomplete or missing financial information; misidentified or unidentified affiliates; missing INS verification; missing costs documents; stale dated documents.

At this level, the CDC's credit memo is well prepared, making the identification of the missing documents relatively easy. Usually, only one or two items are needed to complete the file. The missing information can usually be faxed or overnight mailed with minimal delay in processing.

C—A level ''C'' application package is missing substantially more information than a level ''B''. The SBA loan specialist will provide a list of missing items and/or those needing clarification via e-mail to the CDC. The CDC's credit memo is lacking in one or more key areas making the identification of the scope of the project difficult. The information contained in the 1244 and exhibits often do not match the credit memo and/or the draft authorization. The information requested may result in additional questions/issues being identified. Very often this results in a change to the structure and dollar amount of the project. Areas of concern, in addition to those identified in level ''B'' are: ineligible project costs; ineligible structure due to new business or single purpose property; miscalculated equity injection; existing SBA loan that limits project participation.

The volume of missing information or the incorrect structure of the project can cause extended delays in the processing of the request.

D—Level ''D'' application packages are seriously incomplete and often contain an ineligible structure. The CDC's credit memo, if included, does not provide adequate information to establish that the file meets SBA credit and eligibility standards. Many of the exhibits are missing or incomplete. It is difficult for the SBA loan specialist to determine, based on the contents of the file, what the actual project involves. These files usually require repeated requests to the CDC for information in order for the SBA loan specialist to construct a file that is complete enough to make a decision.

E—Level ''E'' application packages are missing many critical documents which make it difficult to determine the scope of the proposed project or the principals or companies involved. Packages graded at this level are rare and are likely to come from new CDCs that are just beginning to learn the process.

[FR Doc. 05–11961 Filed 6–16–05; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Pub. L. 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. The information collection packages that may be included in this notice are for revisions to OMB-approved information collections and extensions (no change) of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer. The information can be mailed

and/or faxed to the individuals at the addresses and fax numbers listed below:

(OMB), Office of Management and Budget, Fax: 202–395–6974. (SSA), Social Security Administration, DCFAM, Attn: Reports Clearance Officer, 1333 Annex Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–965–6400.

I. The information collections listed below are pending at SSA and will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–0454 or by writing to the address listed above.

1. Marriage Certification—20 CFR 404.725—0960–0009. When the worker and spouse are not filing concurrently, the Social Security Administration uses Form SSA–3–F6 to record any changes/additions to the worker's marital history since the worker's claim was adjudicated. The marital history of the claimant's wife or husband, when compared to the worker's marital history (as supplemented by Form SSA–3–F6), enables the fact finder to determine if the claimant has the necessary relationship to the worker. In cases where the spouse and worker were ceremonially married, the worker's statement on his/her marital history that he/she was ceremonially married to the claimant's spouse and the claimant's spouse's statement that he/she was ceremonially married to the worker generally constitute evidence of a ceremonial marriage in lieu of obtaining a marriage certificate.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 180,000.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 15,000 hours.

2. Request To Be Selected As Payee—20 CFR 404.2025 and 416.625—0960–0014. The information established by the form SSA–11–BK is necessary to determine the proper payee for a Social Security beneficiary and Supplemental Security Income (SSI) recipient. The form is designed to aid in the investigation of a payee applicant. The use of the form will establish the applicant's relationship to the beneficiary/recipient, his/her justification and his/her concern for the beneficiary/recipient, as well as the manner in which the benefits will be used. The respondents are applicants for representative payee.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 2,121,686.

Frequency of Response: 1.

Average Burden Per Response: 10.5 minutes.

Estimated Annual Burden: 371,295 hours.

3. Statement for Determining Continuing Eligibility for Supplemental Security Income Payments—Adult, Form SSA–3988; Statement for Determining Continuing Eligibility for Supplemental Security Income Payments—Child, Form SSA–3989–20 CFR Subpart B—416.204—0960–NEW.

Background

The Social Security Act mandates periodic redeterminations of non-medical factors relating to SSI recipient's continuing eligibility for SSI payments. SSA studies have indicated that as many as two-thirds of these scheduled redeterminations, which are completed with the assistance of an SSA employee, do not result in any change in circumstances that affects the recipients payment. SSA has conducted extensive testing of both of the SSA–3988 and SSA–3989, under OMB control number 0960–0643, and has validated that these redetermination formats result in significant operational savings and a decrease in recipient inconvenience while still obtaining timely, accurate data to determine continuing eligibility through the process.

The Collection

Forms SSA–3988 and SSA–3989 will be used to determine whether SSI recipients have met and continue to meet all statutory and regulatory non-medical requirements for SSI eligibility, and whether they have been and are still receiving the correct payment amount. The SSA–3988 and SSA–3989 are designed as self-help forms that will be mailed to recipients or to their representative payees for completion and return to SSA. The respondents are recipients of SSI payments or their representatives.

Type of Request: New information collection.

Forms	Respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden (hours)
SSA–3988	650,000	1	26	281,667
SSA–3989	65,000	1	26	28,167

4. Denial of Title II Benefits to Fugitive Felons—0960–New. Specifically, Section 203 of the SSPA prohibits payment of title II benefits:

- To persons fleeing to avoid prosecution or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees; or
- In jurisdictions that do not define crimes as felonies, where the crime is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed; and
- To persons violating a condition of probation or parole imposed under Federal or State law.

To identify claimants who should not be receiving benefits, the Commissioner directed that we add specific questions to title II applications that solicit information about any outstanding felony warrants or warrants for parole/probation violations.

In addition, SSA will collect supplemental information if a claimant responds affirmatively to either or both of the two fugitive felon questions on title II applications, thereby indicating that they have an unsatisfied warrant. Answers to these questions will be used to verify that a warrant is still outstanding. An SSA claims representative will contact beneficiaries by telephone to collect the information. Respondents will be claimants for benefits who indicated on their application that they have an unsatisfied warrant.

Type of Request: New information collection.

Number of Respondents: 10,000.

Frequency of Response: 1.

Average Burden Per Response: 8 minutes.

Estimated Annual Burden: 1,333 hours.

II. The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance package by calling the SSA Reports Clearance Officer at 410–965–0454, or by writing to the address listed above.

Social Security Benefits Application—20 CFR Subpart D, 404.310–404.311 and 20 CFR Subpart F, 404.601–404.603—0960–0618. One of the requirements for obtaining Social Security benefits is the filing of an application so that a determination may be made on the applicant's eligibility for monthly benefits. In addition to the traditional paper application, SSA has developed various options for the public to add convenience and operational efficiency to the application process. The total estimated number of respondents to all application collection formats is 3,874,369 with a cumulative total of 1,008,180 burden hours. The respondents are applicants for retirement insurance benefits (RIB), disability insurance benefits (DIB), and/or spouses' benefits.

Please note that burden hours for applications taken through the Modernized Claims System (MCS) are accounted for in the hardcopy collection formats. Guided by the MCS collection screens, an SSA representative interviews the applicant and inputs the information directly into the SSA's application database. MCS offers the representative prompts based on the type of application being filed and the circumstances of the applicant. These prompts facilitate a more complete initial application, saving both the agency and applicant time. MCS also propagates identity and similar information within the application, which saves additional time.

Internet Social Security Benefits Application (ISBA)

Type of Request: Revision of an OMB-approved information collection. (ISBA collection only)

ISBA, which is available through SSA's Internet site, is one method that an individual can choose to file an application for benefits. Individuals can use ISBA to apply for RIB, DIB and spouse's insurance benefits based on age. SSA gathers only information relevant to the individual applicant's circumstances and will use the information collected by ISBA to entitle individuals to RIB, DIB, and/or spouse's benefits. The respondents are applicants for RIB, DIB, and/or spouse's benefits.

Number of Respondents: 200,000.

Frequency of Response: 1.

Average Burden Per Response: 21.9 minutes.

Estimated Annual Burden: 73,000 hours.

Paper Application Forms

Application for Retirement Insurance Benefits (SSA–1)

Form SSA–1 is used by SSA to determine an individual's entitlement to RIB. In order to receive Social Security retirement insurance benefits, an individual must file an application with SSA. Form SSA–1 is one application that the Commissioner of Social Security prescribes to meet this requirement. The information that SSA collects will be used to determine entitlement to retirement benefits. The respondents are individuals who choose to apply for Social Security retirement insurance.

Number of Respondents: 1,460,692.

Frequency of Response: 1.

Average Burden Per Response: 10.5 minutes.

Estimated Annual Burden: 255,621 hours.

Application for Wife's or Husband's Insurance Benefits (SSA–2)

SSA uses the information collected on Form SSA–2 to determine if an applicant (including a divorced applicant) can be entitled to benefits as the spouse of the worker and the amount of the spouse's benefits. The respondents are applicants for wife's or husband's benefits, including those who are divorced.

Number of Respondents: 700,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 175,000 hours.

Application for Disability Insurance Benefits (SSA–16)

Form SSA–16–F6 obtains the information necessary to determine whether the provisions of the Act have been satisfied with respect to an applicant for disability benefits, and detects whether the applicant has dependents who would qualify for benefits based on his or her earnings record. The information collected on form SSA–16–F6 helps to determine eligibility for Social Security disability benefits. The respondents are applicants for Social Security disability benefits.

Number of Respondents: 1,513,677.

Frequency of Response: 1.

Average Burden Per Response: 20 minutes.

Estimated Annual Burden: 504,559 hours.

Dated: June 13, 2005.

Elizabeth A. Davidson,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 05–11974 Filed 6–16–05; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 5110]

In the Matter of the Designation of the Islamic Jihad Group, aka the Jama'at al-Jihad, aka the Libyan Society, aka the Kazakh Jama'at, aka the Jamaat Mojahedin, aka Jamiyat, aka Jamiat al-Jihad al-Islami, aka Dzhamaat Modzhakhedov, aka Islamic Jihad Group of Uzbekistan, aka al-Djihad al-Islami (Including Any and All Transliterations of Its Name) as a Foreign Terrorist Organization Pursuant to Section 219 of the Immigration and Nationality Act, as Amended

Based upon a review of the Administrative Record assembled in this matter, and in consultation with the Attorney General and the Secretary of the Treasury, the Secretary of State has concluded that there is a sufficient factual basis to find that the relevant circumstances described in section 219 of the Immigration and Nationality Act, as amended (8 U.S.C. section 1189), exist with respect to the Islamic Jihad Group, aka the Jama'at al-Jihad, aka the Libyan Society, aka the Kazakh Jama'at, aka the Jamaat Mojahedin, aka Jamiyat, aka Jamiat al-Jihad al-Islami, aka Dzhamaat Modzhakhedov, aka Islamic Jihad Group of Uzbekistan, aka al-Djihad al-Islami (including any and all transliterations of its name). Therefore, effective upon the date of publication in the **Federal Register**, the Secretary of State hereby designates that organization as a foreign terrorist organization pursuant to section 219 of the INA.

Dated: June 12, 2005.

Karen Aguilar,

Acting Coordinator for Counterterrorism, Department of State.

[FR Doc. 05–12010 Filed 6–16–05; 5:00 pm]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice 5109]

In the Matter of the Amended Designation of Lashkar-e-Tayyiba (LT, LeT), aka Lashkar-e-Toiba, aka Lashkar-i-Taiba, aka al Mansoorian, aka al Mansooreen, aka Army of the Pure, aka Army of the Righteous, aka Army of the Pure and Righteous as a Foreign Terrorist Organization Pursuant to Section 219(b) of the Immigration and Nationality Act

Based upon a review of the Administrative Record assembled in this matter, and in consultation with the Attorney General and the Secretary of the Treasury, the Secretary of State has concluded that there is a sufficient factual basis to find that Lashkar-e-Tayyiba, also known under the aliases listed above, uses or has used additional aliases, namely, Paasban-e-Kashmir, Paasban-i-Ahle Hadith, Pasban-e-Kashmir, Pasban-e-Ahle Hadith, and Paasban-e-Ahle Hadis.

Therefore, effective upon the date of publication in the **Federal Register**, the Secretary of State hereby amends the 2003 redesignation of Lashkar-e-Tayyiba as a foreign terrorist organization, pursuant to section 219(b) of the INA (8 U.S.C. 1189(b)), to include the following new aliases and other possible transliterations thereof: Paasban-e-Kashmir, Paasban-i-Ahle Hadith, Pasban-e-Kashmir, Pasban-e-Ahle-Hadith, Paasban-e-Ahle Hadis.

Dated: June 12, 2005.

Karen Aguilar,

Acting Coordinator for Counterterrorism, Department of State.

[FR Doc. 05–12012 Filed 6–16–05; 5:00 pm]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice 5111]

Debarment Involving Hughes Network Systems (Beijing) Co. Ltd.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of State has imposed an administrative debarment against Hughes Network Systems (Beijing) Co. Ltd. pursuant to a January 26, 2005 Consent Agreement and other authority based upon section 127.7(a) and (b)(2) of the International Traffic in Arms Regulations (ITAR) (22 CFR sections 120 to 130).

DATES: *Effective Date:* January 26, 2005.

FOR FURTHER INFORMATION CONTACT: David Trimble, Director, Office of Defense Trade Controls Compliance, Bureau of Political-Military Affairs, Department of State (202) 663–2700.

SUPPLEMENTARY INFORMATION: Section 127.7 of the ITAR authorizes the Assistant Secretary of State for Political-Military Affairs to debar any person who has been found pursuant to Section 128 of the ITAR to have committed a violation of the Arms Export Control Act (AECA) or the ITAR of such character as to provide a reasonable basis for the Office of Defense Trade Controls Compliance to believe that the violator cannot be relied upon to comply with the AECA or ITAR in the future. Such debarment prohibits the subject from participating directly or indirectly in the export of defense articles or defense services for which a license or approval is required by the ITAR.

Debarred persons are generally ineligible to participate in activity regulated under the ITAR (*see e.g.*, sections 120.1(c) and (d), 126.7, 127.1(c), and 127.11(a)). The Department of State will not consider applications for licenses or requests for approvals that involve any debarred person.

Hughes Network Systems (Beijing) Co. Ltd. (HNS China), a wholly owned subsidiary of Hughes Network Systems Corporation (''HNS''), was under a Consent Agreement dated March 2003 for their activities related to failed launches in the People's Republic of China (PRC). The DirecTV Group Inc. (''DTV''), successor to Hughes Electronics Corporation, is the parent company of HNS. The internal investigation determined that many of the practices, which led to the March 2003 Consent Agreement had not been corrected within HNS China, and in fact, continued, in violation of the ITAR. As a result, on May 14, 2004, DDTC imposed a policy of denial against HNS for a period of one year.

On January 5, 2005, the Department of State served a Sanction Letter to DTV for violating terms of its 2003 Consent Agreement. On January 26, 2005, the Department and DTV and HNS entered a new Consent Agreement, which debarred HNS (China) until May 14, 2005.

Reinstatement after May 14, 2005 is not automatic, but is contingent on full compliance with the terms of the January 26, 2005 Consent Agreement and evidence that the underlying problems that gave rise to the violations have been addressed. At the end of the debarment period, licensing privileges may be reinstated only at the request of the debarred person following the necessary Departmental review. Until licensing privileges are reinstated, HNS China will remain debarred.

This notice is provided in order to make the public aware that the persons listed above are prohibited from participating directly or indirectly in any brokering activities and in any export from or temporary import into the United States of defense articles, related technical data, or defense services in all situations covered by the ITAR.

Exceptions may be made to this denial policy on a case-by-case basis at the discretion of the Directorate of Defense Trade Controls. However, such an exception would be granted only after a full review of all circumstances, paying particular attention to the following factors: whether an exception is warranted by overriding U.S. foreign policy or national security interest; whether an exception would further law enforcement concerns that are consistent with the foreign policy or national security interests of the United States; or whether other compelling circumstances exist that are consistent with the foreign policy or national security interests of the United States, and do not conflict with law enforcement concerns.

This notice involves a foreign affairs function of the United States encompassed within the meaning of the military and foreign affairs exclusion of the Administrative Procedure Act. Because the exercise of this foreign affairs function is discretionary, it is excluded from review under the Administrative Procedure Act.

Dated: June 10, 2005.

Rose M. Likins,

Acting Assistant Secretary for Political-Military Affairs, Department of State.

[FR Doc. 05–12011 Filed 6–16–05; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q)

During the Week Ending June 3, 2005

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (*See* 14 CFR 301.201 *et. seq.*). The due date for Answers, Conforming Applications, or Motions to

Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–2005–21398.

Date Filed: June 2, 2005.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: June 23, 2005.

Description: Application of GoJet Airlines LLC, requesting a certificate of public convenience and necessity authorizing it to engage in foreign scheduled air transportation of persons, property and mail.

Andrea M. Jenkins,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 05–11958 Filed 6–16–05; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF THE TREASURY

Notice of Availability of the Treasury Department's Annual Report on Alternative Fuel Vehicle Acquisitions

AGENCY: Departmental Offices, Treasury.

ACTION: Notice.

SUMMARY: This notice advises the public how it may access the Treasury Department's annual report on alternative fuel vehicle acquisitions for FY 2004.

FOR FURTHER INFORMATION CONTACT: Carolyn Austin-Diggs, Director, Office of Asset Management, 202–622–0500 (not a toll-free call).

SUPPLEMENTARY INFORMATION: In accordance with section 8 of the Energy Policy Act, Pub. L. 105–38, as amended (42 U.S.C. 13218), the Department of the Treasury gives notice that the Department's annual report on alternative fuel vehicle acquisitions for FY 2004 is available at the following Web site: *http://www.treas.gov/offices/management/asset-management/personal-property/fleet-and-aviation.*

Dated: June 10, 2005.

Barry K. Hudson,

Acting Chief Financial Officer.

[FR Doc. 05–11981 Filed 6–16–05; 8:45 am]

BILLING CODE 4811–33–P

Federal Register

Friday,
June 17, 2005

Part II

Farm Credit Administration

12 CFR Parts 607, 614, 615, and 620

Assessment and Apportionment of Administrative Expenses; Loan Policies and Operations; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Disclosure to Shareholders; Capital Adequacy Risk-Weighting Revisions; Final Rule

FARM CREDIT ADMINISTRATION

12 CFR Parts 607, 614, 615, and 620

RIN 3052–AC09

Assessment and Apportionment of Administrative Expenses; Loan Policies and Operations; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Disclosure to Shareholders; Capital Adequacy Risk-Weighting Revisions

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA, we, our) issues this final rule changing our regulatory capital standards on recourse obligations, direct credit substitutes, residual interests, asset- and mortgage-backed securities, claims on securities firms, and certain residential loans. We are modifying our risk-based capital requirements to more closely match a Farm Credit System (FCS or System) institution's relative risk of loss on these credit exposures to its capital requirements. In doing so, our rule risk-weights recourse obligations, direct credit substitutes, residual interests, asset- and mortgage-backed securities, and claims on securities firms based on external credit ratings from nationally recognized statistical rating organizations (NRSROs). In addition, our rule will make our regulatory capital treatment more consistent with that of the other financial regulatory agencies for transactions and assets involving similar risk and address financial structures and transactions developed by the market since our last update. We also make a number of nonsubstantive changes to our regulations to make them easier to use.

DATES: *Effective Date:* This regulation will be effective 30 days after publication in the **Federal Register** during which either or both Houses of Congress are in session. We will publish a notice of the effective date in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Robert Donnelly, Senior Accountant, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498; TTY (703) 883–4434; or Jennifer A. Cohn, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4020.

SUPPLEMENTARY INFORMATION:

I. Objectives

The objectives of this rule are to:

- Ensure FCS institutions maintain capital levels commensurate with their relative exposure to credit risk;
- Help achieve a more consistent regulatory capital treatment with the other financial regulatory agencies [1] for transactions involving similar risk; and
- Allow FCS institutions' capital to be used more efficiently in serving agriculture and rural America and supporting other System mission activities.

II. Background

A. Rulemaking History

The FCA published a proposed rule implementing a ratings-based approach for risk-weighting certain FCS assets on August 6, 2004.[2] The proposal incorporated an interim final rule the FCA published on March 28, 2003 that had implemented a ratings-based approach for investments in non-agency asset-backed securities (ABS) and mortgage-backed securities (MBS).[3] The proposal also incorporated a final rule the FCA published on May 26, 2004, that implemented a ratings-based approach for loans to other financing institutions (OFIs).[4]

We received 12 letters commenting on this proposal. Ten of these letters were from individual FCS institutions (including the Federal Agricultural Mortgage Corporation (Farmer Mac)) and one was from the Farm Credit Council, trade association for the System banks and associations. The final letter was from a commercial bank. All commenters generally applauded our overall effort to implement capital treatment that is more consistent with that of the other financial regulatory agencies but opposed one or more specific provisions of the proposed regulation. We discuss these comments, and our responses, later in this preamble.[5]

B. Basis of Risk-Based Capital Rules

Since the late 1980s, the regulatory capital requirements applicable to federally regulated financial institutions, including FCS institutions, have been based, in part, on the risk-based capital framework developed by the Basel Committee on Banking Supervision (Basel Committee).[6] We first adopted risk-weighting categories for System assets as part of the 1988 regulatory capital revisions [7] required by the Agricultural Credit Act of 1987 [8] and made minor revisions to these categories in 1998.[9] Risk-weighting is used to assign appropriate capital requirements to on- and off-balance sheet positions and to compute the risk-adjusted asset base for FCS banks' and associations' permanent capital, core surplus, and total surplus ratios. These previous risk-weighting categories were similar to those outlined in the Accord on International Convergence of Capital Measurement and Capital Standards (1988, as amended in 1998) (Basel Accord) and were also adopted by the other financial regulatory agencies. Our risk-based capital requirements are contained in subparts H and K of part 615 of our regulations.

C. Subsequent Capital Developments

Since the FCA adopted its previous risk-weighting regulations, much has occurred in the area of capital and credit risk. The Basel Committee has for a number of years been developing a new accord to reflect advances in risk management practices, technology, and banking markets. In June 2004, the Basel Committee released its document ''International Convergence of Capital Measurement and Capital Standards: A Revised Framework.'' The Basel Committee intends for its new framework (known as Basel II) to be available for implementation as of year-end 2006, with the most advanced approaches to risk measurement available for implementation as of year-end 2007.[10]

In January 2005, the other financial regulatory agencies announced that they planned to publish a proposed rule and guidance implementing Basel II in mid-

[1] We refer collectively to the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Federal Reserve Board), the Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS) as the ''other financial regulatory agencies.''

[2] 69 FR 47984.

[3] 68 FR 15045.

[4] 69 FR 29852.

[5] We also received a letter from CoBank. That letter did not comment on the proposed regulation. Rather, it suggested a coordinated System/FCA effort to jointly explore further implications and appropriateness of Basel II and volunteered CoBank as a testing bank for a possible ''Quantitative Impact Study.'' We note that, separately from this regulation, FCA staff is currently evaluating the implementation of Basel II and will assess CoBank's suggestions as part of that evaluation.

[6] The Basel Committee is a committee reporting to the central banks and bank supervisors/regulators from the major industrialized countries that formulates standards and guidelines related to banking and recommends them for adoption by member countries and others. The Basel Committee has no formal supranational supervisory authority and its recommendations have no legal force.

[7] *See* 53 FR 39229 (October 6, 1988).

[8] Pub. L. 100–233 (January 6, 1988).

[9] *See* 63 FR 39219 (July 22, 1998).

[10] See the Basel Committee's Web site at *http://www.bis.org* for extensive information about Basel II.

year 2005 and that their final regulations would be effective in January 2008.[11] However, on April 29, 2005, these agencies announced that additional analysis was needed before they could publish a proposed rule.[12] The agencies emphasized that, although they are delaying their timeline, they remain committed to implementing Basel II.[13]

Basel II is very complex. In the United States, only a very small number of large, internationally active banking organizations will be subject to the entire, advanced Basel II framework, but some of the principles of Basel II will apply to all banking organizations. One such principle is a reliance on external credit ratings by NRSROs as a basis for determining counterparty risk. The other financial regulatory agencies have stated that they also expect to consider possible changes to their risk-based capital regulations for banking organizations not subject to the advanced Basel II framework. They expect that these changes would become effective at the same time as the framework-based regulations.[14]

Since 2001, even before Basel II was finalized, the other financial regulatory agencies have amended their risk-based capital regulations consistent with the ratings-based approach of Basel II. Most relevant to our final rule, in November 2001 the other financial regulatory agencies published a rule [15] that bases the capital requirements for positions that banking organizations [16] hold in recourse obligations, direct credit substitutes, residual interests, and asset- and mortgage-backed securities [17] on the relative credit exposure of these positions, as measured by external credit ratings received from an NRSRO.[18] Similarly, in April 2002, the other financial regulatory agencies published a rule [19] that bases the capital requirements for claims on or guaranteed by securities firms on their relative risk exposure as measured by external credit ratings from NRSROs. The other financial regulatory agencies have also applied the ratings-based approach to other credit exposures, consistent with the approach of Basel II.

D. Scope of FCA's Rulemaking

Just as the other financial regulatory agencies have adopted risk-based rules, consistent with the approach of Basel II, that are relevant for the banking organizations that they regulate, the FCA has proposed and adopted rules tailored to activities of the FCS. Our intention is to align our risk-based capital framework with the rules of the other financial regulatory agencies where appropriate, but also to recognize areas where differences are warranted. For example, this rule places emphasis on capital treatment of investments in ABS and MBS held for liquidity. In contrast, the rules of the other financial regulatory agencies focus on traditional securitization activities, where a banking organization sells assets or credit exposures to increase its liquidity and manage credit risk.

As the other financial regulatory agencies have done, we are making explicit our existing authority to modify a specified risk weight if it does not accurately reflect the actual risk.

III. Overview

A. General Approach

These revisions to our capital rules implement a ratings-based approach for risk-weighting positions in recourse obligations, residual interests (other than credit-enhancing interest-only strips), direct credit substitutes, and asset- and mortgage-backed securities. Highly rated positions will receive a favorable (less than 100-percent) risk weighting. Positions that are rated below investment grade [20] will receive a less favorable risk weighting. The FCA will apply this approach to positions based on their inherent risks rather than how they might be characterized or labeled.

As noted, this ratings-based approach provides risk weightings for a variety of assets that have a wide range of credit ratings. We provide risk weightings for investments that are rated below investment grade, although they are not eligible investments under our current investment regulations.[21] This rule does not, however, expand the scope of eligible investments. It merely explains how to risk weight an investment that was eligible when purchased if its credit rating subsequently deteriorates. Such investments must still be disposed of in accordance with § 615.5143.[22]

B. Asset Securitization

Understanding this rule requires an understanding of asset securitization and other structured transactions that are used as tools to manage and transfer credit risk. Therefore, we have included the following background explanation to aid our readers.

Asset securitization is the process by which loans or other credit exposures are pooled and reconstituted into securities, with one or more classes or positions that may then be sold. Securitization provides an efficient mechanism for institutions to sell loan assets or credit exposures and thereby to increase the institution's liquidity.

Securitizations typically carve up the risk of credit losses from the underlying assets and distribute it to different parties. The ''first dollar,'' or most subordinate, loss position is first to absorb credit losses; the most ''senior'' investor position is last to absorb losses; and there may be one or more loss positions in between (''second dollar'' loss positions). Each loss position functions as a credit enhancement for the more senior positions in the structure.

Recourse, in connection with sales of whole loans or loan participations, is now frequently associated with asset securitizations. Depending on the type of securitization, the sponsor of a securitization may provide a portion of the total credit enhancement internally, as part of the securitization structure, through the use of excess spread accounts, overcollateralization, retained subordinated interests, or other similar on-balance sheet assets. When these or other on-balance sheet internal enhancements are provided, the enhancements are ''residual interests'' for regulatory capital purposes.

A seller may also arrange for a third party to provide credit enhancement [23] in an asset securitization. If another financial institution provides the third-party enhancement, then that institution assumes some portion of the assets' credit risk. In this proposed rule, all

[11] *See* Interagency Statement—U.S. Implementation of Basel II Framework: Qualification Process—IRB and AMA (Jan. 27, 2005).

[12] *See* Joint Press Release, Banking Agencies to Perform Additional Analysis Before Issuing Notice of Proposed Rulemaking Related to Basel II (April 29, 2005).

[13] *Id.*

[14] *See* Interagency Statement—U.S. Implementation of Basel II Framework: Qualification Process—IRB and AMA (January 27, 2005).

[15] 66 FR 59614 (November 29, 2001).

[16] Banking organizations include banks, bank holding companies, and thrifts. *See* 66 FR 59614 (November 29, 2001).

[17] *See* 66 FR 59614 (November 29, 2001.)

[18] An NRSRO is a rating organization that the Securities and Exchange Commission recognizes as an NRSRO. *See* new FCA regulation 12 CFR 615.5201.

[19] 67 FR 16971 (April 9, 2002).

[20] Investment grade means a credit rating of AAA, AA, A or BBB or equivalent by an NRSRO.

[21] *See* § 615.5140.

[22] Section 615.5143 provides that an institution must dispose of an ineligible investment within 6 months unless FCA approves, in writing, a plan that authorizes divestiture over a longer period of time. An institution must dispose of an ineligible investment as quickly as possible without substantial financial loss.

[23] The terms ''credit enhancement'' and ''enhancement'' refer to both recourse arrangements (including residual interests) and direct credit substitutes.

forms of third-party enhancements, *i.e.*, all arrangements in which an FCS institution assumes credit risk from third-party assets or other claims that it has not transferred, are referred to as ''direct credit substitutes.''

Many asset securitizations use a combination of recourse and third-party enhancements to protect investors from credit risk. When third-party enhancements are not provided, the institution ordinarily retains virtually all of the credit risk on the assets.

C. Risk Management

While asset securitization can enhance both credit availability and profitability, managing the risks associated with this activity poses significant challenges. While not new to FCS institutions, these risks may be less obvious and more complex than traditional lending activities. Specifically, securitization can involve credit, liquidity, operational, legal, and reputation risks that may not be fully recognized by management or adequately incorporated into risk management systems. The capital treatment required by this proposed rule addresses credit risk associated with securitizations and other credit risk mitigation techniques. Therefore, it is essential that an institution's compliance with capital standards be complemented by effective risk management practices and strategies.

Similar to the other financial regulatory agencies, the FCA expects FCS institutions to identify, measure, monitor, and control securitization risks and explicitly incorporate the full range of those risks into their risk management systems. The board and management are responsible for adequate policies and procedures that address the economic substance of their activities and fully recognize and ensure appropriate management of related risks. Additionally, FCS institutions must be able to measure and manage their risk exposure from securitized positions, either retained or acquired. The formality and sophistication with which the risks of these activities are incorporated into an institution's risk management system should be commensurate with the nature and volume of its securitization activities.[24]

IV. The Ratings-Based Approach for Government-Sponsored Agencies and OECD Banks

Under our proposal, beginning 18 months after the effective date of the final rule, the ratings-based approach would have applied to assets covered by credit protection provided by Government-sponsored agencies and OECD banks, including credit derivatives (*e.g.*, credit default swaps), loss purchase commitments, guarantees and other similar arrangements. In addition, the ratings-based approach would have applied to unrated positions in recourse obligations, direct credit substitutes, residual interests (other than credit-enhancing interest-only strips) and asset- or mortgage-backed securities that are guaranteed by Government-sponsored agencies beginning 18 months after the final rule's effective date.

As we noted in the preamble to our proposed rule, the other financial regulatory agencies have not yet implemented the ratings-based approach for assets covered by credit protection provided by Government-sponsored agencies or OECD banks or for positions in securitizations guaranteed by Government-sponsored agencies. However, we proposed these provisions as a limited implementation of the Basel II framework. Further, we cited because of our concern that claims of this nature on any counterparties that are not highly rated or are unrated, including Government-sponsored agencies and OECD banks, may pose significant risks to FCS institutions. In particular, we expressed our concern about the unique structural and operational risks that these types of claims may present.

In addition, we noted in the preamble to the proposed rule that the United States General Accounting Office (GAO)[25] recently recommended that the FCA ''[c]reate a plan to implement actions currently under consideration to reduce potential safety and soundness issues that may arise from capital arbitrage activities of Farmer Mac and FCS institutions.''[26] Our proposal stated that the rule would help ensure that FCS institutions could not alter their capital requirements simply by using different structures, arrangements, or counterparties without changing the nature of the risks they assume or retain.

We received letters opposing these provisions from nine commenters. In brief, the commenters made the following points:

- The other financial regulatory agencies have not implemented the ratings-based approach for their regulated financial institutions for claims of this nature on Government-sponsored agency counterparties, and therefore the FCA's requirements would put System institutions at a competitive disadvantage.
- Applying the ratings-based approach to claims of this nature on Government-sponsored agencies would discourage System institutions from using such agencies as a tool to enhance safety and soundness and to manage risk. In particular, it would discourage the use of Farmer Mac programs, which could hinder both the System's and Farmer Mac's ability to further their mission to serve agriculture and could jeopardize the financial viability of Farmer Mac.
- The proposed regulation, which would permit a 20-percent risk weighting for a claim of this nature on a Government-sponsored agency or OECD bank counterparty only if the agency or bank has an AAA or AA issuer credit rating, is inconsistent with other FCA regulations, including its rule governing other financing institutions (OFIs) and its proposed rule governing Investments in Farmers' Notes.[27] In addition, under the proposed rule, investments in debt obligations of a Government-sponsored agency would be risk weighted at 20 percent regardless of issuer credit rating, even though these investments are not backed by mortgages, unlike the investments that would be subject to the ratings-based approach.
- The proposed rule is an ad hoc implementation of Basel II; FCA should wait to see what approach the other Federal financial regulators are going to adopt before implementing any components of Basel II.
- FCA could better achieve its purpose of limiting counterparty risk by establishing counterparty exposure limits.

We have removed these provisions related to Government-sponsored agencies and OECD banks from the final rule. We believe it is prudent to wait for the other financial regulatory agencies to announce the approach they plan to take so that any competitive disadvantage due to inconsistent risk-weighting requirements can be avoided. We are continuing to evaluate the progress of the other financial regulatory agencies toward implementing Basel II and to determine the appropriate

[24] This rule does not grant any new authorities to System institutions. It merely provides risk weightings for investments and transactions that are otherwise authorized.

[25] This agency has been renamed the Government Accountability Office.

[26] United States General Accounting Office, Farmer Mac: Some Progress Made, but Greater Attention to Risk Management, Mission, and Corporate Governance Is Needed, GAO–04–116, at page 59 (2003).

[27] Both the OFI rule and the proposed Farmers' Notes rule permit a 20-percent risk weighting if the counterparty is an OECD bank, regardless of issuer credit rating, or if the counterparty has at least an A credit rating. *See* 69 FR 29852 (May 26, 2004); 69 FR 55362 (Sept. 14, 2004).

implementation for the System. As Basel II is implemented throughout the banking world, we expect to revisit our approach to risk weighting. Thus, System institutions should anticipate additional regulatory capital amendments, consistent with Basel II, over the next few years.

In the meantime, when appropriate, as we have emphasized, we will exercise our reservation of authority to modify the risk-weighting requirements (which could result in a higher or lower risk weight) for any asset or off-balance sheet item when its capital treatment does not accurately reflect its associated risk.

As we have also emphasized, transactions or arrangements involving credit protection such as credit derivatives, loss purchase commitments, guarantees and the like often contain a number of structural complexities and may impose additional operational and counterparty risk on FCS institutions that enter into them. Accordingly, FCS institutions should ensure their counterparties are sophisticated, financially strong, and well capitalized. Moreover, FCS institutions must fully understand the risks transferred, retained, or assumed through these arrangements. We expect FCS institutions to take appropriate measures to manage the additional operational risks that may be created by these arrangements. FCS institutions should thoroughly review and understand all the legal definitions and parameters of these instruments, including credit events that constitute default, as well as representations and warranties, to determine how well the contract will perform under a variety of economic conditions. We also advise FCS institutions to review FCA's Informational Memorandum dated October 21, 2003, in which the Agency suggested items for consideration in managing counterparty risk.

V. Section-by-Section Analysis of Rule

The following discussion provides explanations, where necessary, of the more complex changes this rule makes. Most of the changes are necessary to align our rules more closely with those of the other financial regulatory agencies and to recognize relative risk exposure. As mentioned above, we have also made a number of organizational and plain language changes to make our rules easier to follow. These changes are discussed later in this preamble.

A. Section 615.5201—Definitions

Because this rule implements a new risk-weighting approach for recourse obligations, residual interests, direct credit substitutes, and other securitization arrangements, we are amending § 615.5201 to add a number of new definitions relating to these activities. We are updating certain other definitions as warranted. For the most part, to achieve consistency with the other financial regulatory agencies, we are adopting the same definitions as the other agencies.

1. Credit Derivative

We define ''credit derivative'' as a contract that allows one party (the protection purchaser) to transfer the credit risk of an asset or off-balance sheet credit exposure to another party (the protection provider). The value of a credit derivative is dependent, at least in part, on the credit performance of a ''reference asset.''

The definitions of ''recourse'' and ''direct credit substitute'' cover credit derivatives to the extent that an institution's credit risk exposure exceeds its pro rata interest in the underlying obligation. The ratings-based approach therefore applies to rated instruments such as credit-linked notes issued as part of a synthetic securitization.

Credit derivatives can have a variety of structures. Therefore, we will continue to evaluate the risk weighting of credit derivatives on a case-by-case basis. Furthermore, we will continue to use the November 1999 and December 1999 guidance on synthetic securitizations issued by the Federal Reserve Board and the OCC as a guide for determining appropriate capital requirements for FCS institutions and continue to apply the structural and risk management requirements outlined in the 1999 guidance.[28]

2. Credit-Enhancing Interest-Only Strip

We define the term ''credit-enhancing interest-only strip'' as an on-balance sheet asset that, in form or in substance, (1) Represents the contractual right to receive some or all of the interest due on transferred assets; and (2) exposes the institution to credit risk directly or indirectly associated with the transferred assets that exceeds its pro rata claim on the assets, whether through subordination provisions or other credit enhancement techniques. FCA reserves the right to identify other cash flows or related interests as credit-enhancing interest-only strips based on the economic substance of the transaction.

Credit-enhancing interest-only strips include any balance sheet asset that represents the contractual right to receive some or all of the remaining interest cash flow generated from assets that have been transferred into a trust (or other special purpose entity), after taking into account trustee and other administrative expenses, interest payments to investors, servicing fees, and reimbursements to investors for losses attributable to the beneficial interests they hold, as well as reinvestment income and ancillary revenues[29] on the transferred assets.

Credit-enhancing interest-only strips are generally carried on the balance sheet at the present value of the reasonably expected net cash flow, adjusted for some level of prepayments if relevant, and discounted at an appropriate market interest rate. As mentioned earlier, FCA will look to the economic substance of the transaction and reserves the right to identify other cash flows or spread-related assets as credit-enhancing interest-only strips on a case-by-case basis. For example, including some principal payments with interest and fee cash flows will not otherwise negate the regulatory capital treatment of that asset as a credit-enhancing interest-only strip. Credit-enhancing interest-only strips include both purchased and retained interest-only strips that serve in a credit-enhancing capacity, even though purchased interest-only strips generally do not result in the creation of capital on the purchaser's balance sheet.

3. Credit-Enhancing Representations and Warranties

When an institution transfers or purchases assets, including servicing rights, it customarily makes or receives representations and warranties concerning those assets. These representations and warranties give certain rights to other parties and impose obligations upon the seller or servicer of those assets. To the extent such representations and warranties function as credit enhancements to protect asset purchasers or investors from credit risk, the rule treats them as recourse or direct credit substitutes.

More specifically, ''credit-enhancing representations and warranties'' are defined as representations and warranties that: (1) Are made or assumed in connection with a transfer of assets (including loan-servicing assets); and (2) obligate an institution to protect investors from losses arising

[28] *See* Banking Bulletin 99–43, December 1999 (OCC); Supervision and Regulation Letter 99–32, Capital Treatment for Synthetic Collateralized Loan Obligations, November 15, 1999 (Federal Reserve Board).

[29] Under Statement of Financial Accounting Standards No. 140, ancillary revenues include late charges on transferred assets.

from credit risk in the assets transferred or loans serviced. The term includes promises to protect a party from losses resulting from the default or nonperformance of another party or from an insufficiency in the value of collateral.

This definition is consistent with the other financial regulatory agencies' long-standing recourse treatment of representations and warranties that effectively guarantee performance or credit quality of transferred loans. However, a number of factual warranties unrelated to ongoing performance or credit quality are typically made. These warranties entail operational risk, as opposed to credit risk inherent in a financial guaranty, and are excluded from the definitions of recourse and direct credit substitute. Warranties that create operational risk include warranties that assets have been underwritten or collateral appraised in conformity with identified standards and warranties that permit the return of assets in instances of incomplete documentation, misrepresentation, or fraud. FCA expects FCS institutions to be able to demonstrate effective management of operational risks created by warranties.

Warranties or assurances that are treated as recourse or direct credit substitutes include warranties on the actual value of asset collateral or that ensure the market value corresponds to appraised value or the appraised value will be realized in the event of foreclosure and sale. Also, premium refund clauses, which can be triggered by defaults, are generally credit enhancements. A premium refund clause is a warranty that obligates the seller who has sold a loan at a price in excess of par, *i.e.*, at a premium, to refund the premium, either in whole or in part, if the loan defaults or is prepaid within a certain period of time. However, certain premium refund clauses are not considered credit enhancements, including:

(1) Premium refund clauses covering loans for a period not to exceed 120 days from the date of transfer. These warranties may cover only those loans that were originated within 1 year of the date of the transfer; and

(2) Premium refund clauses covering assets guaranteed, in whole or in part, by the United States Government, a United States Government agency, or a United States Government-sponsored agency, provided the premium refund clause is for a period not to exceed 120 days from the date of transfer.

Clean-up calls, an option that permits a servicer or its affiliate to take investors out of their positions prior to repayment of all loans, are also generally treated as credit enhancements. A clean-up call is not considered recourse or a direct credit substitute only if the agreement to repurchase is limited to 10 percent or less of the original pool balance. Repurchase of any loans 30 days or more past due would invalidate this exemption.

Similarly, a loan-servicing arrangement is considered as recourse or a direct credit substitute if the institution, as servicer, is responsible for credit losses associated with the serviced loans. However, a cash advance made by a servicer to ensure an uninterrupted flow of payments to investors or the timely collection of the loans is specifically excluded from the definitions of recourse and direct credit substitute, provided that the servicer is entitled to reimbursement for any significant advances and this reimbursement is not subordinate to other claims. To be excluded from recourse and direct credit substitute treatment, an independent credit assessment of the likelihood of repayment of the servicer's cash advance should be made prior to advancing funds, and the institution should only make such an advance if prudent lending standards are met.

4. Direct Credit Substitute

The definition of ''direct credit substitute'' complements the definition of ''recourse.'' The term ''direct credit substitute'' refers to an arrangement in which an institution assumes, in form or in substance, credit risk directly or indirectly associated with an on- or off-balance sheet asset or exposure that was not previously owned by the institution (third-party asset) and the risk assumed by the institution exceeds the pro rata share of the institution's interest in the third-party asset. If the institution has no claim on the third-party asset, then the institution's assumption of any credit risk is a direct credit substitute. The term explicitly includes items such as the following:

- Financial standby letters of credit that support financial claims on a third party that exceed an institution's pro rata share in the financial claim;
- Guarantees, surety arrangements, credit derivatives, and similar instruments backing financial claims that exceed an institution's pro rata share in the financial claim;
- Purchased subordinated interests that absorb more than their pro rata share of losses from the underlying assets;
- Credit derivative contracts under which the institution assumes more than its pro rata share of credit risk on a third-party asset or exposure;
- Loans or lines of credit that provide credit enhancement for the financial obligations of a third party;
- Purchased loan-servicing assets if the servicer is responsible for credit losses or if the servicer makes or assumes credit-enhancing representations and warranties with respect to the loans serviced (servicer cash advances are not direct credit substitutes); and
- Clean-up calls on third-party assets. However, clean-up calls that are 10 percent or less of the original pool balance and that are exercisable at the option of the institution are not direct credit substitutes.

5. Externally Rated

The rule defines ''externally rated'' to mean that an instrument or obligation has received a credit rating from at least one NRSRO. The use of external credit ratings provides a way to determine credit quality relied upon by investors and other market participants to differentiate the regulatory capital treatment for loss positions representing different gradations of risk. This use permits more equitable treatment of transactions and structures in administering the risk-based capital requirements.

6. Financial Standby Letter of Credit

Section 615.5201(o) of our regulations previously defined the term ''standby letter of credit.'' We are changing the term to ''financial standby letter of credit'' to conform our term to that used by the other financial regulatory agencies. We are making no substantive changes to the definition.

7. Government Agency

The term ''Government agency'' was defined in two places in our previous capital regulations: § 615.5201(f), the definitions section, and § 615.5210(f)(2)(i)(D), which was the section on computing the permanent capital ratio. We have modified the previous § 615.5201(f) definition by replacing it with the definition of Government agency previously in § 615.5210(f)(2)(i)(D) and have deleted the definition in previous § 615.5210(f)(2)(i)(D). We believe these changes streamline the regulation. We do not intend to change the meaning of this term.

8. Government-Sponsored Agency

The term ''Government-sponsored agency'' was also defined in two places in our previous capital regulations (§ 615.5201(g), the definitions section,

and § 615.5210(f)(2)(ii)(A), the former section on computing the permanent capital ratio). We have modified the previous definition in § 615.5201(g) by replacing it with the previous § 615.5210(f)(2)(ii)(A) definition of Government-sponsored agency (amended slightly for clarity, as discussed below) and have deleted the redundant definition in previous § 615.5210(f)(2)(ii)(A). This change simply streamlines our regulations and does not change the meaning of the term.

''Government-sponsored agency'' is defined as an agency, instrumentality, or corporation chartered or established to serve public purposes specified by the United States Congress but whose obligations are not explicitly guaranteed by the full faith and credit of the United States Government, including but not limited to any Government-sponsored enterprise (GSE). This definition includes GSEs such as Fannie Mae and Farmer Mac, as well as Federal agencies, such as the Tennessee Valley Authority, that issue obligations that are not explicitly guaranteed by the United States' full faith and credit. This definition is slightly different from that in our proposal, although the meaning is the same; we have clarified that the term includes corporations, as well as agencies or instrumentalities, that are chartered or established to serve public purposes specified by Congress, and also that the term includes GSEs. This information was provided in the preamble to the proposed rule but was not explicitly stated in the rule itself.

9. Nationally Recognized Statistical Rating Organization

We define ''nationally recognized statistical rating organization'' (NRSRO) as a rating organization that the Securities and Exchange Commission (SEC) recognizes as an NRSRO. This definition is identical to the definition in § 615.5131(j) of our regulations.

10. Non-OECD Bank

We define ''non-OECD bank'' as a bank and its branches (foreign and domestic) organized under the laws of a country that does not belong to the OECD group of countries.[30]

11. OECD Bank

We define ''OECD bank'' as a bank and its branches (foreign and domestic) organized under the laws of a country that belongs to the OECD group of countries. For purposes of our capital regulations, this term includes U.S. depository institutions.

12. Permanent Capital

We add language to clarify that permanent capital is subject to adjustments such as dollar-for-dollar reduction of capital for residual interests or other high-risk assets as described in new § 615.5207. We made no other changes.

13. Recourse

The rule defines the term ''recourse'' to mean an arrangement in which an institution retains, in form or in substance, any credit risk directly or indirectly associated with an asset it has sold (in accordance with generally accepted accounting principles (GAAP)) that exceeds a pro rata share of the institution's claim on the asset. If an institution has no claim on an asset it has sold, then the retention of any credit risk is recourse. A recourse obligation typically arises when an institution transfers assets in a sale and retains an explicit obligation to repurchase assets or to absorb losses due to a default on the payment of principal or interest or any other deficiency in the performance of the underlying obligor or some other party. Recourse may also exist implicitly if an institution provides credit enhancement beyond any contractual obligation to support assets it has sold.

Our definition of recourse is consistent with the other regulators' long-standing use of this term and incorporates existing practices regarding retention of risk in asset sales. The other financial regulatory agencies have noted that third-party enhancements, such as insurance protection, purchased by the originator of a securitization for the benefit of investors, do not constitute recourse. The purchase of enhancements for a securitization or other structured transaction where the institution is completely removed from any credit risk will not, in most instances, constitute recourse. However, if the purchase or premium price is paid over time and the size of the payment is a function of the third party's loss experience on the portfolio, such an arrangement indicates an assumption of credit risk and would be considered recourse.

14. Residual Interest

The rule defines ''residual interest'' as any on-balance sheet asset that: (1) Represents an interest (including a beneficial interest) created by a transfer that qualifies as a sale (in accordance with GAAP) of financial assets, whether through a securitization or otherwise; and (2) exposes an institution to credit risk directly or indirectly associated with the transferred asset that exceeds a pro rata share of that institution's claim on the asset, whether through subordination provisions or other credit enhancement techniques.

Residual interests generally include credit-enhancing interest-only strips, spread accounts, cash collateral accounts, retained subordinated interests (and other forms of overcollateralization), and similar assets that function as a credit enhancement. Residual interests generally do not include interests purchased from a third party. However, a purchased credit-enhancing interest-only strip is a residual interest because of its similar risk profile.

This functional definition reflects the fact that financial structures vary in the way they use certain assets as credit enhancements. Therefore, residual interests include any retained on-balance sheet asset that functions as a credit enhancement in a securitization or other structured transaction, regardless of its characterization in financial or regulatory reports.

15. Rural Business Investment Company

The rule adds a definition for ''Rural Business Investment Company'' (RBIC). Section 6029 of the Farm Security and Rural Investment Act of 2002 [31] amended the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1921 *et seq.*) by adding a new subtitle H, establishing a new ''Rural Business Investment Program.'' The new subtitle permits FCS institutions to establish or invest in RBICs, subject to specified limitations. We define RBICs by referring to the statutory definition codified in 7 U.S.C. 2009cc(14). That provision defines RBIC as ''a company that (A) has been granted final approval by the Secretary [of Agriculture] * * * and; (B) has entered into a participation agreement with the Secretary [of Agriculture].''

16. Securitization

The rule defines ''securitization'' as the pooling and repackaging by a special

[30] OECD stands for the Organization for Economic Cooperation and Development. The OECD is an international organization of countries that are committed to democratic government and the market economy. For purposes of our capital regulations, as well as those of the other financial regulatory agencies and the Basel Accord, OECD countries are those countries that are full members of the OECD or that have concluded special lending arrangements associated with the International Monetary Fund's General Arrangements to Borrow, excluding any country that has rescheduled its external sovereign debt within the previous 5 years. The OECD currently has 30 member countries. An up-to-date listing of member countries is available at *http://www.oecd.org* or *www.oecdwash.org*..

[31] Pub. L. 107–171.

purpose entity or trust of assets or other credit exposures that can be sold to investors. Securitization includes transactions that create stratified credit risk positions whose performance is dependent upon an underlying pool of credit exposures, including loans and commitments.

17. Other Terms

We also add definitions for the following terms:

- Bank.
- Face Amount.
- Financial Asset.
- Qualified Residential Loan.
- Qualifying Securities Firm.
- Risk Participation.
- Servicer Cash Advance.
- Traded Position.
- U.S. Depository Institution.

Finally, we carry over the remaining definitions from the previous rule without substantive change.

B. Sections 615.5210 and 615.5211—Ratings-Based Approach for Positions in Securitizations

1. Sections 615.5210 and 615.5211—General

As described in the overview section of this preamble, each loss position in an asset securitization structure functions as a credit enhancement for the more senior loss positions in the structure. Historically, neither our risk-based capital standards nor those of the other financial regulatory agencies varied the capital requirements for different credit enhancements or loss positions to reflect differences in the relative credit risks represented by the positions. To address this issue, the other financial regulatory agencies implemented a multilevel, ratings-based approach to assess capital requirements on recourse obligations, residual interests (except credit-enhancing interest-only strips), direct credit substitutes, and senior and subordinated positions in asset-backed securities and mortgage-backed securities based on their relative exposure to credit risk. The approach uses credit ratings from NRSROs to measure relative exposure to credit risk and determine the associated risk-based capital requirement.

With this rule, we are adopting similar requirements. These changes bring our regulations into close alignment with those of the other financial regulatory agencies for externally rated positions in securitizations with similar risks.

Additionally, new § 615.5210(f) of the regulation makes explicit FCA's authority to override the use of certain ratings or the ratings on certain instruments, either on a case-by-case basis or through broader supervisory policy, if necessary or appropriate to address the risk that an instrument poses to FCS institutions.

2. Section 615.5210(b)—Positions that Qualify for the Ratings-Based Approach

Under new § 615.5210(b) of our rule, certain positions in securitizations qualify for the ratings-based approach. These positions in securitizations are eligible for the ratings-based approach, provided the positions have favorable external ratings (as explained below) by at least one NRSRO.

More specifically, the following positions in securitizations qualify for the ratings-based approach if they satisfy the criteria set forth below:

- Recourse obligations;
- Direct credit substitutes;
- Residual interests (other than credit-enhancing interest-only strips);[32] and
- Asset- and mortgage-backed securities.

3. Section 615.5210(b)—Application of the Ratings-Based Approach

Under new § 615.5210, the capital requirement for a position that qualifies for the ratings-based approach is computed by multiplying the face amount of the position by the appropriate risk weight as determined by the position's external credit rating.

Under new § 615.5210(b), a position that is traded and externally rated qualifies for the ratings-based approach if its long-term external rating is one grade below investment grade or better (*e.g.*, BB or better) or its short-term external rating is investment grade or better (*e.g.*, A–3, P–3).[33] If the position receives more than one external rating, the lowest rating would apply. This requirement eliminates the potential for rating shopping.

A position that is externally rated but not traded qualifies for the ratings-based approach if it satisfies the following criteria:

- It must be externally rated by more than one NRSRO;
- Its long-term external rating must be one grade below investment grade or better (*e.g.*, BB or better) or its short-term external rating must be investment grade or better (*e.g.*, A–3, P–3). If the position receives more than one external rating, the lowest rating would apply;
- The ratings must be publicly available; and
- The ratings must be based on the same criteria used to rate traded positions.

Under the ratings-based approach, the capital requirement for a position that qualifies for the ratings-based approach is computed by multiplying the face amount of the position by the appropriate risk weight determined in accordance with the following tables:[34]

RISK-BASED CAPITAL REQUIREMENTS FOR LONG-TERM ISSUE OR ISSUER RATINGS

Rating category	Rating examples[35]	Risk weight (in percent)
Highest or second highest investment grade	AAA or AA	20
Third highest investment grade	A	50
Lowest investment grade	BBB	100
One category below investment grade	BB	200
More than one category below investment grade, or unrated	B or below or Unrated	Not eligible for the ratings-based approach.

[32] We exclude credit-enhancing interest-only strips from the ratings-based approach because of their high-risk profile, as discussed under section V.C.1. of this preamble.

[33] These ratings are examples only. Different NRSROs may have different ratings for the same grade.

[34] *See* paragraphs (b)(13), (c)(3), (d)(6), and (e) of new § 615.5211.

[35] These ratings are examples only. Different NRSROs may have different ratings for the same grade. Further, ratings are often modified by either a plus or minus sign to show relative standing within a major rating category. Under the proposed rule, ratings refer to the major rating category without regard to modifiers. For example, an investment with a long-term rating of ''A – '' would be risk weighted at 50 percent.

RISK-BASED CAPITAL REQUIREMENTS FOR SHORT-TERM ISSUE RATINGS

Short-term rating category	Rating examples	Risk weight (in percent)
Highest investment grade	A–1, P–1	20
Second highest investment grade	A–2, P–2	50
Lowest investment grade	A–3, P–3	100
Below investment grade, or unrated	B or lower (Not Prime)	Not eligible for the ratings-based approach.

The charts for long-term and short-term ratings are not identical because rating agencies use different methodologies. Each short-term rating category covers a range of longer-term rating categories. For example, a P–1 rating could map to a long-term rating as high as Aaa or as low as A3.

These amendments do not change the risk-weight requirement that FCA adopted in its interim final rule for non-agency asset- and mortgage-backed securities that are highly rated.[36] These amendments simply make our rule language more consistent with that used by the other financial regulatory agencies for these types of transactions.

C. Section 615.5210(c)—Treatment of Positions in Securitizations That Do Not Qualify for the Ratings-Based Approach

1. Section 615.5210(c)(1), (c)(2), and (c)(3)—Positions Subject to Dollar-for-Dollar Capital Treatment

This rule subjects certain positions in asset securitizations that do not qualify for the ratings-based approach to dollar-for-dollar capital treatment. As set forth in new paragraphs 615.5210(c)(1), (c)(2), and (c)(3), these positions include:

- Residual interests that are not externally rated;
- Credit-enhancing interest-only strips; and
- Positions that have long-term external ratings that are two grades below investment grade or lower (*e.g.*, B or lower) or short-term external ratings that are one grade below investment grade or lower (*e.g.*, B or lower, Not Prime).

Under the dollar-for-dollar treatment, an FCS institution must deduct from capital and assets the face amount of the position. This means, in effect, one dollar in total capital must be held against every dollar held in these positions, even if this capital requirement exceeds the full risk-based capital charge.

We adopt the dollar-for-dollar treatment for the credit-enhancing and highly subordinated positions listed above because these positions raise a number of supervisory concerns that the other financial regulatory agencies also share.[37] The level of credit risk exposure associated with deeply subordinated assets, particularly subinvestment grade and unrated residual interests, is extremely high. They are generally subordinated to all other positions, and these assets are subject to valuation concerns that might lead to loss as explained further below. Additionally, the lack of an active market makes these assets difficult to independently value and relatively illiquid.

In particular, there are a number of concerns regarding residual interests. A banking organization can inappropriately generate ''paper profits'' (or mask actual losses) through incorrect cash flow modeling, flawed loss assumptions, inaccurate prepayment estimates, and inappropriate discount rates. Such practices often lead to an inflation of capital, falsely making the banking organization appear more financially sound. Also, embedded within residual interests, including credit-enhancing interest-only strips, is a significant level of credit and prepayment risk that make their valuation extremely sensitive to changes in underlying assumptions. For these reasons we, like the other financial regulatory agencies, concluded that a higher capital requirement is warranted for unrated residual interests and all credit-enhancing interest-only strips. Furthermore, the ''low-level exposure rule,'' discussed below, does not apply to these positions in securitizations. For example, if an FCS institution holds a non-externally rated 10-percent residual interest in $100 million of loans sold into a securitization, the institution's capital charge would be $10 million. If an FCS institution purchases a $25 million position in an ABS that is subsequently downgraded to B or lower, its capital charge would be $25 million, the full amount of the position.

We note that the final rules adopted by the other financial regulatory agencies impose both a dollar-for-dollar risk weighting for residual interests that do not qualify for the ratings-based approach and a concentration limit on a subset of those residual interests—credit-enhancing interest-only strips—for the purpose of calculating a bank's leverage ratio. Under their combined approach, credit-enhancing interest-only strips are limited to 25 percent of a banking organization's Tier 1 capital. Everything above that amount is deducted from Tier 1 capital. Generally, under the other financial regulatory agencies' rules, all other residual interests that do not qualify for the ratings-based approach (including any credit-enhancing interest-only strips that were not deducted from Tier 1 capital) are subject to a dollar-for-dollar risk weighting. The combined capital charge is limited to the face amount of a banking organization's residual interests.

As indicated previously, we are adopting a one-step approach for these positions in securitizations. This requires FCS institutions to deduct from capital and assets the face amount of their position. The resulting total capital charge is virtually the same under both approaches. However, we found that the one-step approach is easier to apply to FCS institutions because the way they compute their regulatory capital standards differs from the way other banking organizations compute their standards.

2. Section 615.5210(c)(4)—Unrated Recourse Obligations and Direct Credit Substitutes

As discussed in the definitions section, the contractual retention of credit risk by an FCS institution associated with assets it has sold generally constitutes recourse.[38] The definitions of recourse and direct credit substitute complement each other, and there are many types of recourse arrangements and direct credit substitutes that can be assumed through either on- or off-balance sheet credit exposures that are not externally rated.

[36] *See* 68 FR 15045 (March 28, 2003).

[37] *See* 66 FR 59614 (November 29, 2001).

[38] As previously discussed, this rule defines the term ''recourse'' to mean an arrangement in which an institution retains, in form or in substance, any credit risk directly or indirectly associated with an asset it has sold, if the credit risk exceeds a pro rata share of the institution's claim on the asset. If an institution has no claim on an asset that it has sold, then the retention of any credit risk is recourse.

Under new § 615.5210(c)(4), FCS institutions are required to hold capital against the entire outstanding amount of assets supported (*e.g.*, all more senior positions) by an on-balance sheet recourse obligation or direct credit substitute that is unrated. This treatment parallels our approach for off-balance sheet recourse obligations and direct credit substitutes, as discussed later under the computation of credit equivalent amounts. For example, if an FCS institution retains an on-balance sheet first-loss position through a recourse arrangement or direct credit substitute in a pool of rural housing loans that qualify for a 50-percent risk weight, the FCS institution would include the full amount of the assets in the pool, risk weighted at 50 percent, in its risk-weighted assets for purposes of determining its risk-based capital ratios. The low-level exposure rule [39] provides that the dollar amount of risk-based capital required for assets transferred with recourse should not exceed the maximum dollar amount for which an FCS institution is contractually liable.

The other financial regulatory agencies currently permit their banking organizations to use three alternative approaches (*i.e.*, internal ratings, program ratings, and computer programs) for determining the capital requirements for certain unrated direct credit substitutes and recourse obligations in asset-backed commercial paper programs. As discussed in the preamble to our proposed rule, the FCA has decided not to address the capital requirements for asset-backed commercial paper programs at this time due to the limited involvement FCS institutions presently have in these programs. FCA will continue to determine the capital requirements for such programs on a case-by-case basis.

3. Sections 615.5210(c)(5) and 615.5211(d)(7)—Stripped Mortgage-Backed Securities (SMBS)

Under new §§ 615.5210(c)(5) and 615.5211(d)(7), SMBS and similar instruments, such as interest-only strips that are not credit-enhancing or principal-only strips (including such instruments guaranteed by Government-sponsored agencies), are assigned to the 100-percent risk-weight category. Even if highly rated, these securities do not receive the more favorable capital treatment available to other mortgage securities because of their higher market risk profile. Typically, SMBS contain a higher degree of price volatility associated with mortgage prepayments.[40]

4. Section 615.5211(d)(12)—Unrated Positions in Asset-Backed Securities and Mortgage-Backed Securities

Unrated positions in mortgage- and asset-backed securities that do not qualify for the ratings-based approach are generally assigned to the 100-percent risk-weight category under this rule.

The FCA recognizes that these risk-based capital requirements can provide a more favorable treatment for certain unrated positions in asset- and mortgage-backed securities than those rated below investment grade. For this reason, FCA will look to the substance of the transaction to determine whether a higher capital requirement is warranted based on the risk characteristics of the position. Additionally, because of the many advantages, including pricing, liquidity, and favorable capital treatment on highly rated positions in asset- and mortgage-backed securities, we believe this overall regulatory approach does not provide a disincentive for participants to obtain external ratings.

D. Section 615.5210(d)—Senior Positions Not Externally Rated

For senior positions not externally rated, the following capital treatment applies under new § 615.5210(d). If an FCS institution retains an unrated position that is senior or preferred in all respects (including collateral and maturity) to a rated position that is traded, the position is treated as if it had the same rating assigned to the rated position. These senior unrated positions qualify for the risk weighting of the subordinated rated positions as long as the subordinate rated position is traded and remains outstanding for the entire life of the unrated position, thus providing full credit support for the term of the unrated position.

E. Section 615.5210(e)—Low-Level Exposure Rule

New section 615.5210(e) limits the maximum risk-based capital requirement to the lesser of the maximum contractual exposure or the full capital charge against the outstanding amount of assets transferred with recourse. When the low-level exposure rule applies, an institution will generally hold capital dollar-for-dollar against the amount of its maximum contractual exposure. Thus, if the maximum contractual exposure to loss retained or assumed in connection with recourse obligation or a direct credit substitute is less than the full risk-based capital requirement for the assets enhanced, the risk-based capital requirement is limited to the maximum contractual exposure.

In the absence of any other recourse provisions, the on-balance sheet amount of assets retained or assumed in connection with a recourse obligation or direct credit substitute represents the maximum contractual exposure. For example, assume that $100 million in loans are sold and an FCS institution provides a $5 million credit enhancement through a recourse obligation. Instead of holding 7 percent or $7 million of capital, the low-level exposure limits the risk-based requirement to the $5 million maximum contractual loss exposure, with $5 million held dollar-for-dollar against capital.

F. Section 615.5211—Risk Categories—Balance Sheet Assets

1. Section 615.5211(b)(6)—Securities and Other Claims on, and Portions of Claims Guaranteed by, Government-Sponsored Agencies

Under new § 615.5211(b)(6), securities and other claims on, and portions of claims guaranteed by, Government-sponsored agencies are assigned to the 20-percent risk-weight category. This category includes, for example, debt securities and asset- or mortgage-backed securities [41] guaranteed by Government-sponsored agencies. The category also includes assets covered by credit protection provided by Government-sponsored agencies through credit derivatives (*e.g.*, credit default swaps), loss purchase commitments, guarantees, and other similar arrangements.

2. Section 615.5211(a)(5), (b)(14), and (b)(15)—Treatment of Claims on Qualifying Securities Firms

We are adding claims on qualifying securities firms to the current risk-based capital requirements.[42]

Specifically, we are adopting a 0-percent risk weight for claims on, or guaranteed by, qualifying securities firms that are collateralized by cash held

[39] *See* new § 615.5210(e).

[40] As indicated previously, credit-enhancing positions in securitizations are subject to dollar-for-dollar capital treatment.

[41] Stripped mortgage-backed securities, as discussed above, are assigned to the 100-percent risk-weighting category.

[42] Under revised § 615.201, ''qualifying securities firm'' means: (1) A securities firm incorporated in the United States that is a broker-dealer that is registered with the SEC and that complies with the SEC's net capital regulatiions; and (2) a securities firm incorporated in any other OECD-based country, if the institution is subject to supervision and regulation comparable to that imposed on depository institutions in OECD countries.

by the institution or by securities issued or guaranteed by the United States or OECD central governments, provided that a positive margin of collateral is required to be maintained on such a claim on a daily basis, taking into account any change in the institution's exposure to the obligor or counterparty under the claim in relation to the market value of the collateral held in support of the claim.[43]

We are also reducing from 100 percent to 20 percent the risk weighting applied to all other claims on and claims guaranteed by qualifying securities firms that satisfy specified external rating requirements.[44] Specifically, we are adopting a 20-percent risk weighting for all claims on and claims guaranteed by a qualifying securities firm that has a long-term issuer credit rating in one of the two highest investment-grade rating categories from an NRSRO, or if the claim is guaranteed by the qualifying securities firm's parent company with such a rating.[45]

Finally, we adopt a 20-percent risk weight for certain collateralized claims on qualifying securities firms without regard to satisfaction of the rating standard, provided the claim arises under a contract that:

- Is a reverse repurchase/repurchase agreement or securities lending/borrowing transaction executed under standard industry documentation;
- Is collateralized by liquid and readily marketable debt or equity securities;
- Is marked-to-market daily;
- Is subject to a daily margin maintenance requirement under the standard documentation; and
- Can be liquidated, terminated, or accelerated immediately in bankruptcy or similar proceeding, and the security or collateral agreement will not be stayed or voided, under applicable law of the relevant country.[46]

3. Section 615.5211(c)(2)—Treatment of Qualified Residential Loans

Existing § 613.3030 authorizes System institutions to provide financing to rural homeowners for the purpose of buying, remodeling, improving, and repairing rural homes. ''Rural homeowner'' is defined as an individual who resides in a rural area and is not a bona fide farmer, rancher, or producer or harvester of aquatic products. ''Rural home'' means a single-family moderately priced dwelling located in a rural area that will be owned and occupied as the rural homeowner's principal residence. ''Rural area'' means open country within a state or the Commonwealth of Puerto Rico, which may include a town or village that has a population of not more than 2,500 persons.

Previous § 615.5210(f)(2)(iii)(B) assigned these rural home loans, provided they were secured by first lien mortgages or deeds of trust, to the 50-percent risk-weight category.[47] However, residential loans to bona fide farmers, ranchers, and producers and harvesters of aquatic products have formerly been considered to be agricultural loans and have been risk weighted at 100 percent under previous § 615.5210(f)(2)(iv).

New § 615.5211(c)(2) assigns a 50-percent risk weight to all qualified residential loans, as defined in revised § 615.5201. To be a qualified residential loan, a loan must be either: (i) A rural home loan, as authorized by § 613.3030,[48] or (ii) a single-family residential loan to a bona fide farmer, rancher, or producer or harvester of aquatic products.[49] A qualified residential loan must be secured by a first lien mortgage or deed of trust on the residential property only (not on any adjoining agricultural property or any other nonresidential property), must have been approved in accordance with prudent underwriting standards, must not be past due 90 days or more or carried in nonaccrual status, and must have a monthly amortization schedule. In addition, the mortgage or deed of trust securing the residential property must be written and recorded in accordance with all state and local requirements governing its enforceability as a first lien. Finally, the secured residential property must have a permanent right-of-way access.

The reason we are providing for a 50-percent risk weighting for residential loans to farmers, ranchers, and aquatic producers and harvesters that meet the standards set forth in the definition of qualified residential loan is because the risk weighting is commensurate with the level of risk, which is similar to the level of risk posed by residential loans to non-farmers that meet the same standards. Such residential loans generally carry lower risk than do loans secured by agricultural property.

This view is consistent with that of the other financial regulatory agencies. Under their rules, a loan that is fully secured by a first lien on a one- to four-family residential property is assigned to the 50-percent risk-weight category as long as the loan has been approved in accordance with prudent underwriting standards and is not past due 90 days or more or carried in nonaccrual status.[50] The other financial regulatory agencies do not distinguish among types of borrowers.

Consistent with the position of the other financial regulatory agencies, any residential loan that does not meet the definition of a qualified residential loan must be assigned to the 100-percent risk-weight category.

The other financial regulatory agencies have issued guidance that addresses their concerns about the appropriate risk weighting for residential loans with high loan-to-value (LTV) ratios. Unlike the lenders that these other agencies regulate, however, System institutions are limited by statute, except in limited circumstances, to an 85-percent LTV ratio on real estate (including residential real estate).[51] Therefore, this regulation does not contain specific LTV requirements. Assigning risk weighting based on specific risk factors with greater granularity (including LTV) is consistent with the underlying framework of Basel II. We expect to review these risk factors as we consider future rulemakings regarding Basel II.

We made one non-substantive change to the final rule. We added language to clarify that the first lien mortgage or deed of trust must be on the residential property only, not on any other property.[52]

The Farm Credit Council and six System institutions commented on this proposal. All commenters appreciated FCA's proposed reduction of the risk weighting for residential loans to farmers. Six of the seven commenters, however, stated that the proposed rule's requirement for a separate residential deed would be burdensome for the institution and costly for the borrower and that a separate survey or legal description could be used instead. One commenter stated that competitors make loans on residential property using legal descriptions but not recorded deeds and that the deed requirement is an additional cost and time requirement that would prevent it from competing

[43] Proposed § 615.5211(a)(5).

[44] Proposed § 615.5211(b)(15).

[45] If ratings are available from more than one NRSRO, the lowest rating will be used to determine whether the rating standard has been met.

[46] *See* new § 615.5211(b)(16).

[47] This risk weighting has been retained in the new rule. *See* §§ 615.5201 and 615.5211(c)(2).

[48] As discussed above, these loans have previously been included in the 50-percent risk-weight category.

[49] As discussed above, these loans have previously received a 100-percent risk weighting.

[50] *See, e.g.,* FDIC regualtions at 12 CFR Part 325, Appendix A, II.C., Category 3.

[51] Section 1.10 of the Act.

[52] This requirement does not preclude an institution, in an abundance of caution, from taking other property as additional collateral.

for these loans. Another commenter stated that the requirement for a separate residential deed penalizes farmers who own existing sites that were acquired as part of larger parcels from obtaining loans with 50-percent risk weighting to remodel or repair their homes. All of these commenters requested that we delete the requirement for a separate deed. Another commenter suggested, if the deed requirement could not be eliminated, that the regulation set a maximum acreage limitation, such as 50 or 100 acres, that could be included in the residential site.

In response to these comments, we have deleted the proposed rule's requirement that, for a residential loan to receive a 50-percent risk weighting, the secured residential property have a separate deed. We recognize that some states and localities may permit a lender to record and enforce a valid mortgage or deed of trust on property that is part of a larger deed, as long as the mortgage or deed of trust is written and recorded in accordance with all applicable requirements governing its enforceability as a first lien. Other states or localities, however, require that the mortgage or deed of trust may be recorded or enforced only if its property description is identical to that contained in the deed.

The final regulation, therefore, provides that, for a residential loan to receive a 50-percent risk weighting, the mortgage or deed of trust securing the residential property must be written and recorded in accordance with all state and local requirements governing its enforceability as a first lien. In those states or localities where the description of property in the deed must match the description in the mortgage or deed of trust, the deed must cover the residential property only. In those states or localities where the description of property in the deed need not match the description in the mortgage or deed of trust, a separate deed on the residential property only is not required. In all situations, to receive the 50-percent risk weighting, institutions must follow state and local recordation requirements governing enforceability of the mortgage or deed of trust as a first lien.

Using risk-based examination principles, FCA examiners will review these loans as part of their examination process to determine whether they have been categorized appropriately. As part of this review, the examiners will review the institution's underwriting standards for qualified residential loans and appropriate application of those standards. Their review will focus on ensuring the underwriting standards contain appropriate criteria, including that a loan is secured by a first lien on residential property alone (not on any adjoining agricultural property or any other nonresidential property).

The examiners may also review other factors that indicate whether the loan is a bona fide residential mortgage loan. The factors may include, but are not limited to:

- The marketability of the property as residential property with a marketable dwelling;
- The zoning and planning requirements that enable the property to be marketable as a residential property; and
- Whether the characteristics and market value of the property are commensurate with those of residential properties in the local market area.

We chose not to set a specific acreage limitation because size does not necessarily determine the residential nature of property. Rather, we expect each institution to adopt underwriting standards that would ensure the collateral is characteristic of comparable residential property. If FCA examiners find that the collateral is not characteristic of residential property or that any loan was inappropriately classified as a qualified residential loan, the Agency will require the loan to be risk weighted at 100 percent.

4. Section 615.5211(d)(8)—Treatment of Investments in Rural Business Investment Companies

As previously discussed, the Farm Security and Rural Investment Act (Pub. L. 107–171) amended the Consolidated Farm and Rural Development Act, 7 U.S.C. 1921 *et seq.*, to permit FCS institutions to establish or invest in RBICs subject to certain limitations. A RBIC has a similar mission and objectives to serve rural entrepreneurs as a Small Business Investment Company (SBIC) does to serve qualifying small businesses. Currently, the other financial regulatory agencies risk weight investments in SBICs at 100 percent and deduct from capital an escalating percentage of SBIC investments that exceed 15 percent of capital.[53] In this rule, FCA risk weights investments in RBICs at 100 percent.[54] FCA is not limiting the amount of RBIC investments that can receive the 100-percent risk weight because a System institution is precluded by statute from making an investment in a RBIC in excess of 5 percent of the capital and surplus of the institution.[55] This statutory limitation imposes adequate controls on risk from these investments.

G. Section 615.5212(b)(4)(i)—Computation of Credit-Equivalent Amounts for Direct Credit Substitutes and Recourse Obligations

The final rule modifies our methodology for determining the credit equivalent amount of off-balance sheet direct credit substitutes and adds a similar provision for recourse obligations. Under the new rule, the credit equivalent amount for a direct credit substitute or recourse obligation is the full amount of the credit-enhanced assets for which an institution directly or indirectly retains or assumes credit risk multiplied by a 100-percent conversion factor.[56] To determine the institution's risk-weighted assets for an off-balance sheet recourse obligation or a direct credit substitute, the credit equivalent amount is assigned to the risk-weight category appropriate to the obligor in the underlying transaction, after considering any associated guarantees or collateral.

The rule eliminates the previous anomalies between direct credit substitutes and recourse arrangements that expose an institution to the same amount of risk but had different capital requirements. These changes will also provide consistent risk-based capital treatment for positions with similar risk exposures regardless of whether they are structured as on-or off-balance sheet transactions. For example, as noted previously, for a direct credit substitute that is an on-balance sheet asset, *e.g.*, a purchased subordinated security, an institution must also calculate risk-weighted assets using the amount of the direct credit substitute and the full amount of the assets it supports, meaning all the more senior positions in the structure. This is another change necessary to make our rules consistent with the current rules established by the other financial regulatory agencies.

H. Section 615.5210(f)—Reservation of Authority

Financial institutions are developing novel transactions that do not fit into the conventional risk-weight categories or credit conversion factors in the current standards. Financial institutions are also devising novel instruments that nominally fit into a particular category but impose levels of risk on the financial institutions that are not commensurate with the risk-weight category for the asset, exposure, or instrument. Accordingly, new § 615.5210(f) of the rule more explicitly

[53] *See* 67 FR 3784, January 25, 2002.

[54] *See* new § 615.5211(d)(8).

[55] 7 U.S.C. 2009cc–9(b).

[56] *See* new § 615.5212(b)(4)(i).

indicates that FCA, on a case-by-case basis, may determine the appropriate risk weight for any asset or credit equivalent amount and the appropriate credit conversion factor for any off-balance sheet item in these circumstances. Exercise of this authority may result in a higher or lower risk weight or credit equivalent amount for these assets or off-balance sheet items. This reservation of authority explicitly recognizes the retention of sufficient discretion to ensure that novel financial assets, exposures, and instruments will be treated appropriately under the regulatory capital standards.

VI. Other Changes

In addition to the changes detailed above, we also make a number of other changes. We make most of these changes for clarity or plain language purposes or to eliminate obsolete references. These changes are described below.

A. Section 615.5211—Changes to Listing of Balance Sheet Assets

We clarify the listing of balance sheet assets identified in each risk-weight category in new § 615.5211 to more closely align the regulatory language with our long-standing policy positions. This new regulatory language also mirrors the language used by the other financial regulatory agencies to the extent applicable to System institutions. Over the years, we have generally interpreted our risk-weighting categories consistently with the other financial regulatory agencies. In some instances, however, the listing of assets included in each category is not as specific or clear as that of the other financial regulatory agencies. We make these amendments for the purpose of clarity and consistency with the other financial regulatory agencies.

1. Section 615.5211(a)— 0-Percent Category

We have reorganized the order of the assets listed in the 0-percent risk-weight category.[57] We have added a listing for portions of local currency claims on, or unconditionally guaranteed by, non-OECD central governments (including non-OECD central banks), to the extent the institution has liabilities booked in that currency (§ 615.5211(a)(4)). We have also revised the language in § 615.5211(a)(1), (a)(2), and (a)(3).[58] Finally, we have deleted previous § 615.5210(f)(2)(i)(C), which put goodwill in the 0-percent category. New § 615.5207(g) (which carried over without substantive change from previous § 615.5210(e)(7)) provides that an institution must deduct from total capital an amount equal to all goodwill before it assigns assets to the risk-weighting categories. Thus, it is unnecessary to assign goodwill to a risk-weighting category.

2. Section 615.5211(b)—20-Percent Category

We have reorganized the order of the assets listed in the 20-percent risk-weight category.[59] We have added the following assets in addition to the changes previously discussed:

- Portions of loans and other claims collateralized by cash on deposit (§ 615.5211(b)(8));
- Portions of claims collateralized by securities issued by official multinational lending institutions or regional development institutions in which the United States Government is a shareholder or contributing member (§ 615.5211(b)(11)); and
- Investments in shares of mutual funds whose portfolios are permitted to hold only assets that qualify for the zero or 20-percent risk-weight categories (§ 615.5211(b)(12)).

We have revised the language in § 615.5211(b)(3),[60] (b)(4),[61] (b)(5),[62] (b)(7),[63] (b)(9),[64] and (b)(10)[65] to make these provisions easier to read. In addition, we added the language in § 615.5211(b)(6) to clarify our policy position and to conform to the language used by for the other financial regulatory agencies.

3. Section 615.5211(c)— 50-Percent Category

In the 50-percent risk-weight category, we added a listing for revenue bonds or similar obligations, including loans and leases, that are obligations of a state or political subdivisions of the United States or other OECD countries but for which the government entity is committed to repay the debt only out of revenue from the specific projects financed.[66] We are making these revisions to further distinguish the varying degrees of risk associated with investments in different types of revenue bonds. This change also parallels the rules of the other financial regulatory agencies. We also made plain language changes to § 615.5211(c)(1).[67]

4. Section 615.5211(d)—100-Percent Category

The previous 100-percent risk-weight category listed only four assets, including a catch-all: All other assets not specified in the other risk-weight categories, including, but not limited to, leases, fixed assets, and receivables. Consistent with the other financial regulatory agencies, and to provide clearer guidance, we have itemized many of the assets that were previously included within the catch-all, including:

- Claims on, or portions of claims guaranteed by, non-OECD central governments (except such claims that are included in other risk-weighting categories), and all claims on non-OECD state and local governments (§ 615.5211(d)(3));
- Industrial development bonds and similar obligations issued under the auspices of states or political subdivisions of the OECD-based group of countries for the benefit of a private party or enterprise where that party or enterprise, not the government entity, is obligated to pay the principal and interest (§ 615.5211(d)(4));
- Premises, plant, and equipment; other fixed assets; and other real estate owned (§ 615.5211(d)(5));
- If they have not already been deducted from capital, investments in unconsolidated companies, joint ventures, or associated companies; deferred-tax assets; and servicing assets (§ 615.5211(d)(9)); and
- All other assets not specified, including, but not limited to, leases and receivables (§ 615.5211(d)(12)).

B. Other Nonsubstantive Changes

We have changed the heading of § 615.5200 from ''General'' to ''Capital planning'' to better reflect the content of this section. We have made no other changes to this section.

We have broken up previous § 615.5210, which was cumbersome to use because of its length, into seven separate regulatory sections. The newly redesignated sections are:

- § 615.5206—Permanent capital ratio computation.
- § 615.5207—Capital adjustments and associated reductions to assets.
- § 615.5208—Allotment of allocated investments.
- § 615.5209—Deferred-tax assets.
- § 615.5210—Risk-adjusted assets.
- § 615.5211—Risk categories—balance sheet assets.

[57] Except where otherwise indicated, all references are to the new regulation.

[58] *See* previous § 615.5210(f)(2)(i)(A), (f)(2)(i)(B), and (f)(2)(i)(C).

[59] Except where otherwise indicated, all references are to the new regulation.

[60] Consolidated from previous § 615.5210(f)(2)(ii)(D) and (f)(2)(ii)(E).

[61] Previous § 615.5210(f)(2)(ii)(F).

[62] Consolidated from previous § 615.4210(f)(2)(ii)(B) and (f)(2)(ii)(J).

[63] Consolidated from previous § 615.5210(f)(2)(ii)(A) and (f)(2)(ii)(C).

[64] *See* previous § 615.5210(f)(2)(ii)(G).

[65] *See* previous § 615.5210(f)(2)(ii)(H).

[66] New § 615.5211(c)(4). This provision was not contained in previous FCA regulations.

[67] *See* previous § 615.5210(f)(2)(iii)(A).

• § 615.5212—Credit conversion factors—off-balance sheet items.

This reorganization should make these provisions easier to use. We do not intend to make any substantive changes with this reorganization.

We have deleted an obsolete reference to the Farm Credit System Financial Assistance Corporation in § 615.5201.

We have added paragraph (k) to newly redesignated § 615.5207 for clarity.

We have made minor, nonsubstantive, plain language, and organizational changes throughout the revised regulation.

Because we have reorganized this regulation, references to the regulation in other FCA regulations need to be updated. Accordingly, we have made conforming reference updates in parts 607, 614, and 620 of this chapter.

VII. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the FCA hereby certifies that the final rule will not have a significant impact on a substantial number of small entities. Each of the banks in the System, considered together with its affiliated associations, has assets and annual income in excess of the amounts that would qualify them as small entities. Therefore, System institutions are not ''small entities'' as defined in the Regulatory Flexibility Act.

List of Subjects

12 CFR Part 607

Accounting, Agriculture, Banks, banking, Reporting and recordkeeping requirements, Rural areas.

12 CFR Part 614

Agriculture, Banks, banking, Flood insurance, Foreign trade, Reporting and recordkeeping requirements, Rural areas.

12 CFR Part 615

Accounting, Agriculture, Banks, banking, Government securities, Investments, Rural areas.

12 CFR Part 620

Accounting, Agriculture, Banks, banking, Reporting and recordkeeping requirements, Rural areas.

■ For the reasons stated in the preamble, we amend parts 607, 614, 615, and 620 of chapter VI, title 12 of the Code of Federal Regulations as follows:

PART 607—ASSESSMENT AND APPORTIONMENT OF ADMINISTRATIVE EXPENSES

■ 1. The authority citation for part 607 continues to read as follows:

Authority: Secs. 5.15, 5.17 of the Farm Credit Act (12 U.S.C. 2250, 2252) and 12 U.S.C. 3025.

§ 607.2 [Amended]

■ 2. Amend § 607.2(b) introductory text by removing the reference ''§ 615.5210(f)'' and adding in its place ''§ 615.5210.''

PART 614—LOAN POLICIES AND OPERATIONS

■ 3. The authority citation for part 614 continues to read as follows:

Authority: 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128; secs. 1.3, 1.5, 1.6, 1.7, 1.9, 1.10, 1.11, 2.0, 2.2, 2.3, 2.4, 2.10, 2.12, 2.13, 2.15, 3.0, 3.1, 3.3, 3.7, 3.8, 3.10, 3.20, 3.28, 4.12, 4.12A, 4.13B, 4.14, 4.14A, 4.14C, 4.14D, 4.14E, 4.18, 4.18A, 4.19, 4.25, 4.26, 4.27, 4.28, 4.36, 4.37, 5.9, 5.10, 5.17, 7.0, 7.2, 7.6, 7.8, 7.12, 7.13, 8.0, 8.5, of the Farm Credit Act (12 U.S.C. 2011, 2013, 2014, 2015, 2017, 2018, 2019, 2071, 2073, 2074, 2075, 2091, 2093, 2094, 2097, 2121, 2122, 2124, 2128, 2129, 2131, 2141, 2149, 2183, 2184, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2206a, 2207, 2211, 2212, 2213, 2214, 2219a, 2219b, 2243, 2244, 2252, 2279a, 2279a–2, 2279b, 2279c–1, 2279f, 2279f–1, 2279aa, 2279aa–5); sec. 413 of Pub. L. 100–233, 101 Stat. 1568, 1639.

Subpart J—Lending and Leasing Limits

■ 4. Revise § 614.4351 (a) introductory text to read as follows:

§ 614.4351 Computation of lending and leasing limit base

(a) *Lending and leasing limit base.* An institution's lending and leasing limit base is composed of the permanent capital of the institution, as defined in § 615.5201 of this chapter, with adjustments applicable to the institution provided for in § 615.5207 of this chapter, and with the following further adjustments:

* * * * *

PART 615—FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS

■ 5. The authority citation for part 615 continues to read as follows:

Authority: Secs. 1.5, 1.7, 1.10, 1.11, 1.12, 2.2, 2.3, 2.4, 2.5, 2.12, 3.1, 3.7, 3.11, 3.25, 4.3, 4.3A, 4.9, 4.14B, 4.25, 5.9, 5.17, 6.20, 6.26, 8.0, 8.3, 8.4, 8.6, 8.7, 8.8, 8.10, 8.12 of the Farm Credit Act (12 U.S.C. 2013, 2015, 2018, 2019, 2020, 2073, 2074, 2075, 2076, 2093, 2122, 2128, 2132, 2146, 2154, 2154a, 2160, 2202b, 2211, 2243, 2252, 2278b, 2278b–6, 2279aa, 2279aa–3, 2279aa–4, 2279aa–6, 2279aa–7, 2279aa–8, 2279aa–10, 2279aa–12); sec. 301(a) of Pub. L. 100–233, 101 Stat. 1568, 1608.

Subpart H—Capital Adequacy

■ 6. Revise the heading of § 615.5200 to read as follows:

§ 615.5200 Capital planning.

* * * * *

■ 7. Revise § 615.5201 to read as follows:

§ 615.5201 Definitions.

For the purpose of this subpart, the following definitions apply:

Allocated investment means earnings allocated but not paid in cash by a System bank to an association or other recipient.

Bank means an institution that:

(1) Engages in the business of banking;

(2) Is recognized as a bank by the bank supervisory or monetary authority of the country of its organization or principal banking operations;

(3) Receives deposits to a substantial extent in the regular course of business; and

(4) Has the power to accept demand deposits.

Commitment means any arrangement that legally obligates an institution to:

(1) Purchase loans or securities;

(2) Participate in loans or leases;

(3) Extend credit in the form of loans or leases;

(4) Pay the obligation of another;

(5) Provide overdraft, revolving credit, or underwriting facilities; or

(6) Participate in similar transactions.

Credit conversion factor means that number by which an off-balance sheet item is multiplied to obtain a credit equivalent before placing the item in a risk-weight category.

Credit derivative means a contract that allows one party (the protection purchaser) to transfer the credit risk of an asset or off-balance sheet credit exposure to another party (the protection provider). The value of a credit derivative is dependent, at least in part, on the credit performance of a ''reference asset.''

Credit-enhancing interest-only strip—

(1) The term credit-enhancing interest-only strip means an on-balance sheet asset that, in form or in substance:

(i) Represents the contractual right to receive some or all of the interest due on transferred assets; and

(ii) Exposes the institution to credit risk directly or indirectly associated with the transferred assets that exceeds its pro rata claim on the assets, whether through subordination provisions or other credit enhancement techniques.

(2) FCA reserves the right to identify other cash flows or related interests as credit-enhancing interest-only strips. In determining whether a particular

interest cash flow functions as a credit-enhancing interest-only strip, FCA will consider the economic substance of the transaction.

Credit-enhancing representations and warranties—

(1) The term credit-enhancing representations and warranties means representations and warranties that:

(i) Are made or assumed in connection with a transfer of assets (including loan-servicing assets), and

(ii) Obligate an institution to protect investors from losses arising from credit risk in the assets transferred or loans serviced.

(2) Credit-enhancing representations and warranties include promises to protect a party from losses resulting from the default or nonperformance of another party or from an insufficiency in the value of the collateral.

(3) Credit-enhancing representations and warranties do not include:

(i) Early-default clauses and similar warranties that permit the return of, or premium refund clauses covering, loans for a period not to exceed 120 days from the date of transfer. These warranties may cover only those loans that were originated within 1 year of the date of the transfer;

(ii) Premium refund clauses covering assets guaranteed, in whole or in part, by the United States Government, a United States Government agency, or a United States Government-sponsored agency, provided the premium refund clause is for a period not to exceed 120 days from the date of transfer;

(iii) Warranties that permit the return of assets in instances of fraud, misrepresentation, or incomplete documentation; or

(iv) Clean-up calls if the agreements to repurchase are limited to 10 percent or less of the original pool balance (except where loans 30 days or more past due are repurchased).

Deferred-tax assets that are dependent on future income or future events means:

(1) Deferred-tax assets arising from deductible temporary differences dependent upon future income that exceed the amount of taxes previously paid that could be recovered through loss carrybacks if existing temporary differences (both deductible and taxable and regardless of where the related tax-deferred effects are recorded on the institution's balance sheet) fully reverse;

(2) Deferred-tax assets dependent upon future income arising from operating loss and tax carryforwards;

(3) Deferred-tax assets arising from temporary differences that could be recovered if existing temporary differences that are dependent upon other future events (both deductible and taxable and regardless of where the related tax-deferred effects are recorded on the institution's balance sheet) fully reverse.

Direct credit substitute means an arrangement in which an institution assumes, in form or in substance, credit risk directly or indirectly associated with an on-or off-balance sheet asset or exposure that was not previously owned by the institution (third-party asset) and the risk assumed by the institution exceeds the pro rata share of the institution's interest in the third-party asset. If the institution has no claim on the third-party asset, then the institution's assumption of any credit risk is a direct credit substitute. Direct credit substitutes include, but are not limited to:

(1) Financial standby letters of credit that support financial claims on a third party that exceed an institution's pro rata share in the financial claim;

(2) Guarantees, surety arrangements, credit derivatives, and similar instruments backing financial claims that exceed an institution's pro rata share in the financial claim;

(3) Purchased subordinated interests that absorb more than their pro rata share of losses from the underlying assets;

(4) Credit derivative contracts under which the institution assumes more than its pro rata share of credit risk on a third-party asset or exposure;

(5) Loans or lines of credit that provide credit enhancement for the financial obligations of a third party;

(6) Purchased loan-servicing assets if the servicer is responsible for credit losses or if the servicer makes or assumes credit-enhancing representations and warranties with respect to the loans serviced. Servicer cash advances as defined in this section are not direct credit substitutes; and,

(7) Clean-up calls on third-party assets. However, clean-up calls that are 10 percent or less of the original pool balance and that are exercisable at the option of the institution are not direct credit substitutes.

Direct lender institution means an institution that extends credit in the form of loans or leases to eligible borrowers in its own right and carries such loan or lease assets on its books.

Externally rated means that an instrument or obligation has received a credit rating from at least one NRSRO.

Face amount means:

(1) The notional principal, or face value, amount of an off-balance sheet item;

(2) The amortized cost of an asset not held for trading purposes; and

(3) The fair value of a trading asset.

Financial asset means cash or other monetary instrument, evidence of debt, evidence of an ownership interest in an entity, or a contract that conveys a right to receive from or exchange cash or another financial instrument with another party.

Financial standby letter of credit means a letter of credit or similar arrangement that represents an irrevocable obligation to a third-party beneficiary:

(1) To repay money borrowed by, or advanced to, or for the account of, a second party (the account party); or

(2) To make payment on behalf of the account party, in the event that the account party fails to fulfill its obligation to the beneficiary.

Government agency means an agency or instrumentality of the United States Government whose obligations are fully and explicitly guaranteed as to the timely repayment of principal and interest by the full faith and credit of the United States Government.

Government-sponsored agency means an agency, instrumentality, or corporation chartered or established to serve public purposes specified by the United States Congress but whose obligations are not explicitly guaranteed by the full faith and credit of the United States Government, including but not limited to any Government-sponsored enterprise.

Institution means a Farm Credit Bank, Federal land bank association, Federal land credit association, production credit association, agricultural credit association, Farm Credit Leasing Services Corporation, bank for cooperatives, agricultural credit bank, and their successors.

Nationally recognized statistical rating organization (NRSRO) means a rating organization that the Securities and Exchange Commission recognizes as an NRSRO.

Non-OECD bank means a bank and its branches (foreign and domestic) organized under the laws of a country that does not belong to the OECD group of countries.

Nonagreeing association means an association that does not have an allotment agreement in effect with a Farm Credit Bank or agricultural credit bank pursuant to § 615.5207(b)(2).

OECD means the group of countries that are full members of the Organization for Economic Cooperation and Development, regardless of entry date, as well as countries that have concluded special lending arrangements with the International Monetary Fund's General Arrangement to Borrow, excluding any country that has

rescheduled its external sovereign debt within the previous 5 years.

OECD bank means a bank and its branches (foreign and domestic) organized under the laws of a country that belongs to the OECD group of countries. For purposes of this subpart, this term includes U.S. depository institutions.

Performance-based standby letter of credit means any letter of credit, or similar arrangement, however named or described, that represents an irrevocable obligation to the beneficiary on the part of the issuer to make payment as a result of any default by a third party in the performance of a nonfinancial or commercial obligation.

Permanent capital, subject to adjustments as described in § 615.5207, includes:

(1) Current year retained earnings;

(2) Allocated and unallocated earnings (which, in the case of earnings allocated in any form by a System bank to any association or other recipient and retained by the bank, must be considered, in whole or in part, permanent capital of the bank or of any such association or other recipient as provided under an agreement between the bank and each such association or other recipient);

(3) All surplus;

(4) Stock issued by a System institution, except:

(i) Stock that may be retired by the holder of the stock on repayment of the holder's loan, or otherwise at the option or request of the holder;

(ii) Stock that is protected under section 4.9A of the Act or is otherwise not at risk;

(iii) Farm Credit Bank equities required to be purchased by Federal land bank associations in connection with stock issued to borrowers that is protected under section 4.9A of the Act;

(iv) Capital subject to revolvement, unless:

(A) The bylaws of the institution clearly provide that there is no express or implied right for such capital to be retired at the end of the revolvement cycle or at any other time; and

(B) The institution clearly states in the notice of allocation that such capital may only be retired at the sole discretion of the board of directors in accordance with statutory and regulatory requirements and that no express or implied right to have such capital retired at the end of the revolvement cycle or at any other time is thereby granted;

(5) Term preferred stock with an original maturity of at least 5 years and on which, if cumulative, the board of directors has the option to defer dividends, provided that, at the beginning of each of the last 5 years of the term of the stock, the amount that is eligible to be counted as permanent capital is reduced by 20 percent of the original amount of the stock (net of redemptions);

(6) Financial assistance provided by the Farm Credit System Insurance Corporation that the FCA determines appropriate to be considered permanent capital; and

(7) Any other debt or equity instruments or other accounts the FCA has determined are appropriate to be considered permanent capital. The FCA may permit one or more institutions to include all or a portion of such instrument, entry, or account as permanent capital, permanently or on a temporary basis, for purposes of this part.

Qualified residential loan—

(1) The term qualified residential loan means:

(i) A rural home loan, as authorized by § 613.3030, and

(ii) A single-family residential loan to a bona fide farmer, rancher, or producer or harvester of aquatic products.

(2) A qualified residential loan must be secured by a separate first lien mortgage or deed of trust on the residential property alone (not on any adjoining agricultural property or any other nonresidential property), must have been approved in accordance with prudent underwriting standards suitable for residential property, must not be past due 90 days or more or carried in nonaccrual status, and must have a monthly amortization schedule. In addition, the mortgage or deed of trust securing the residential property must be written and recorded in accordance with all state and local requirements governing its enforceability as a first lien and the secured residential property must have a permanent right-of-way access.

Qualifying bilateral netting contract means a bilateral netting contract that meets at least the following conditions:

(1) The contract is in writing;

(2) The contract is not subject to a walkaway clause, defined as a provision that permits a non-defaulting counterparty to make lower payments than it would make otherwise under the contract, or no payment at all, to a defaulter or to the estate of a defaulter, even if the defaulter or the estate of the defaulter is a net creditor under the contract;

(3) The contract creates a single obligation either to pay or receive the net amount of the sum of positive and negative mark-to-market values for all derivative contracts subject to the qualifying bilateral netting contract;

(4) The institution receives a legal opinion that represents, to a high degree of certainty, that in the event of legal challenge the relevant court and administrative authorities would find the institution's exposure to be the net amount;

(5) The institution establishes a procedure to monitor relevant law and to ensure that the contracts continue to satisfy the requirements of this section; and

(6) The institution maintains in its files adequate documentation to support the netting of a derivatives contract.

Qualifying securities firm means:

(1) A securities firm incorporated in the United States that is a broker-dealer that is registered with the Securities and Exchange Commission (SEC) and that complies with the SEC's net capital regulations (17 CFR 240.15c3–1); and

(2) A securities firm incorporated in any other OECD-based country, if the institution is able to demonstrate that the securities firm is subject to supervision and regulation (covering its direct and indirect subsidiaries, but not necessarily its parent organizations) comparable to that imposed on depository institutions in OECD countries. Such regulation must include risk-based capital requirements comparable to those imposed on depository institutions under the Accord on International Convergence of Capital Measurement and Capital Standards (1988, as amended in 1998) (Basel Accord).

Recourse means an institution's retention, in form or in substance, of any credit risk directly or indirectly associated with an asset it has sold (in accordance with GAAP) that exceeds a pro rata share of the institution's claim on the asset. If an institution has no claim on an asset it has sold, then the retention of any credit risk is recourse. A recourse obligation typically arises when an institution transfers assets in a sale and retains an explicit obligation to repurchase assets or to absorb losses due to a default on the payment of principal or interest or any other deficiency in the performance of the underlying obligor or some other party. Recourse may also exist implicitly if an institution provides credit enhancement beyond any contractual obligation to support assets it has sold. Recourse obligations include, but are not limited to:

(1) Credit-enhancing representations and warranties made on transferred assets;

(2) Loan-servicing assets retained pursuant to an agreement under which the institution will be responsible for

losses associated with the loans serviced. Servicer cash advances as defined in this section are not recourse obligations;

(3) Retained subordinated interests that absorb more than their pro rata share of losses from the underlying assets;

(4) Assets sold under an agreement to repurchase, if the assets are not already included on the balance sheet;

(5) Loan strips sold without contractual recourse where the maturity of the transferred portion of the loan is shorter than the maturity of the commitment under which the loan is drawn;

(6) Credit derivatives issued that absorb more than the institution's pro rata share of losses from the transferred assets; and

(7) Clean-up call on assets the institution has sold. However, clean-up calls that are 10 percent or less of the original pool balance and that are exercisable at the option of the institution are not recourse arrangements.

Residual interest—

(1) The term residual interest means any on-balance sheet asset that:

(i) Represents an interest (including a beneficial interest) created by a transfer that qualifies as a sale (in accordance with generally accepted accounting principles) of financial assets, whether through a securitization or otherwise; and

(ii) Exposes an institution to credit risk directly or indirectly associated with the transferred asset that exceeds a pro rata share of the institution's claim on the asset, whether through subordination provisions or other credit enhancement techniques.

(2) Residual interests generally include credit-enhancing interest-only strips, spread accounts, cash collateral accounts, retained subordinated interests (and other forms of overcollateralization), and similar assets that function as a credit enhancement.

(3) Residual interests further include those exposures that, in substance, cause the institution to retain the credit risk of an asset or exposure that had qualified as a residual interest before it was sold.

(4) Residual interests generally do not include interests purchased from a third party. However, purchased credit-enhancing interest-only strips are residual interests.

Risk-adjusted asset base means the total dollar amount of the institution's assets adjusted in accordance with § 615.5207 and weighted on the basis of risk in accordance with §§ 615.5211 and 615.5212.

Risk participation means a participation in which the originating party remains liable to the beneficiary for the full amount of an obligation (*e.g.*, a direct credit substitute) notwithstanding that another party has acquired a participation in that obligation.

Rural Business Investment Company has the definition given in 7 U.S.C. 2009cc(14).

Securitization means the pooling and repackaging by a special purpose entity or trust of assets or other credit exposures that can be sold to investors. Securitization includes transactions that create stratified credit risk positions whose performance is dependent upon an underlying pool of credit exposures, including loans and commitments.

Servicer cash advance means funds that a mortgage servicer advances to ensure an uninterrupted flow of payments, including advances made to cover foreclosure costs or other expenses to facilitate the timely collection of the loan. A servicer cash advance is not a recourse obligation or a direct credit substitute if:

(1) The servicer is entitled to full reimbursement and this right is not subordinated to other claims on the cash flows from the underlying asset pool; or

(2) For any one loan, the servicer's obligation to make nonreimbursable advances is contractually limited to an insignificant amount of the outstanding principal amount on that loan.

Stock means stock and participation certificates.

Total capital means assets minus liabilities, valued in accordance with generally accepted accounting principles, except that liabilities do not include obligations to retire stock protected under section 4.9A of the Act.

Traded position means a position retained, assumed, or issued that is externally rated, where there is a reasonable expectation that, in the near future, the rating will be relied upon by:

(1) Unaffiliated investors to purchase the position; or

(2) An unaffiliated third party to enter into a transaction involving the position, such as a purchase, loan, or repurchase agreement.

U.S. depository institution means branches (foreign and domestic) of federally insured banks and depository institutions chartered and headquartered in the 50 states of the United States, the District of Columbia, Puerto Rico, and United States territories and possessions. The definition encompasses banks, mutual or stock savings banks, savings or building and loan associations, cooperative banks, credit unions, international banking facilities of domestic depository institutions, and U.S.-chartered depository institutions owned by foreigners. The definition excludes branches and agencies of foreign banks located in the U.S. and bank holding companies.

§ 615.5210 [Removed]

■ 8. Remove existing § 615.5210.

■ 9. Add new §§ 615.5206 through 615.5212 to read as follows:

§ 615.5206 Permanent capital ratio computation.

(a) The institution's permanent capital ratio is determined on the basis of the financial statements of the institution prepared in accordance with generally accepted accounting principles except that the obligations of the Farm Credit System Financial Assistance Corporation issued to repay banks in connection with the capital preservation and loss-sharing agreements described in section 6.9(e)(1) of the Act shall not be considered obligations of any institution subject to this regulation prior to their maturity.

(b) The institution's asset base and permanent capital are computed using average daily balances for the most recent 3 months.

(c) The institution's permanent capital ratio is calculated by dividing the institution's permanent capital, adjusted in accordance with § 615.5207 (the numerator), by the risk-adjusted asset base (the denominator) as determined in § 615.5210, to derive a ratio expressed as a percentage.

(d) Until September 27, 2002, payments of assessments to the Farm Credit System Financial Assistance Corporation, and any part of the obligation to pay future assessments to the Farm Credit System Financial Assistance Corporation that is recognized as an expense on the books of a bank or association, shall be included in the capital of such bank or association for the purpose of determining its compliance with regulatory capital requirements, to the extent allowed by section 6.26(c)(5)(G) of the Act. If the bank directly or indirectly passes on all or part of the payments to its affiliated associations pursuant to section 6.26(c)(5)(D) of the Act, such amounts shall be included in the capital of the associations and shall not be included in the capital of the bank. After September 27, 2002, no payments of assessments or obligations to pay future assessments may be included in the capital of the bank or association.

§ 615.5207 Capital adjustments and associated reductions to assets.

For the purpose of computing the institution's permanent capital ratio, the following adjustments must be made prior to assigning assets to risk-weight categories and computing the ratio:

(a) Where two Farm Credit System institutions have stock investments in each other, such reciprocal holdings must be eliminated to the extent of the offset. If the investments are equal in amount, each institution must deduct from its assets and its total capital an amount equal to the investment. If the investments are not equal in amount, each institution must deduct from its total capital and its assets an amount equal to the smaller investment. The elimination of reciprocal holdings required by this paragraph must be made prior to making the other adjustments required by this section.

(b) Where a Farm Credit Bank or an agricultural credit bank is owned by one or more Farm Credit System institutions, the double counting of capital is eliminated in the following manner:

(1) All equities of a Farm Credit Bank or agricultural credit bank that have been purchased by other Farm Credit institutions are considered to be permanent capital of the Farm Credit Bank or agricultural credit bank.

(2) Each Farm Credit Bank or agricultural credit bank and each of its affiliated associations may enter into an agreement that specifies, for the purpose of computing permanent capital only, a dollar amount and/or percentage allotment of the association's allocated investment between the bank and the association. Section 615.5208 provides conditions for allotment agreements or defines allotments in the absence of such agreements.

(c) A Farm Credit Bank or agricultural credit bank and a recipient, other than an association, of allocated earnings from such bank may enter into an agreement specifying a dollar amount and/or percentage allotment of the recipient's allocated earnings in the bank between the bank and the recipient. Such agreement must comply with the provisions of paragraph (b) of this section, except that, in the absence of an agreement, the allocated investment must be allotted 100 percent to the allocating bank and 0 percent to the recipient. All equities of the bank that are purchased by a recipient are considered as permanent capital of the issuing bank.

(d) A bank for cooperatives and a recipient of allocated earnings from such bank may enter into an agreement specifying a dollar amount and/or percentage allotment of the recipient's allocated earnings in the bank between the bank and the recipient. Such agreement must comply with the provisions of paragraph (b) of this section, except that, in the absence of an agreement, the allocated investment must be allotted 100 percent to the allocating bank and 0 percent to the recipient. All equities of a bank that are purchased by a recipient shall be considered as permanent capital of the issuing bank.

(e) Where a bank or association invests in an association to capitalize a loan participation interest, the investing institution must deduct from its total capital an amount equal to its investment in the participating institution.

(f) The double counting of capital by a service corporation chartered under section 4.25 of the Act and its stockholder institutions must be eliminated by deducting an amount equal to the institution's investment in the service corporation from its total capital.

(g) Each institution must deduct from its total capital an amount equal to all goodwill, whenever acquired.

(h) To the extent an institution has deducted its investment in another Farm Credit institution from its total capital, the investment may be eliminated from its asset base.

(i) Where a Farm Credit Bank and an association have an enforceable written agreement to share losses on specifically identified assets on a predetermined quantifiable basis, such assets must be counted in each institution's risk-adjusted asset base in the same proportion as the institutions have agreed to share the loss.

(j) The permanent capital of an institution must exclude the net effect of all transactions covered by the definition of ''accumulated other comprehensive income'' contained in the Statement of Financial Accounting Standards No. 130, as promulgated by the Financial Accounting Standards Board.

(k) For purposes of calculating capital ratios under this part, deferred-tax assets are subject to the conditions, limitations, and restrictions described in § 615.5209.

(l) Capital may also need to be reduced for potential loss exposure on any recourse obligations, direct credit substitutes, residual interests, and credit-enhancing interest-only-strips in accordance with § 615.5210.

§ 615.5208 Allotment of allocated investments.

(a) The following conditions apply to agreements that a Farm Credit Bank or agricultural credit bank enters into with an affiliated association pursuant to § 615.5207(b)(2):

(1) The agreement must be for a term of 1 year or longer.

(2) The agreement must be entered into on or before its effective date.

(3) The agreement may be amended according to its terms, but no more frequently than annually except in the event that a party to the agreement is merged or reorganized.

(4) On or before the effective date of the agreement, a certified copy of the agreement, and any amendments thereto, must be sent to the field office of the Farm Credit Administration responsible for examining the institution. A copy must also be sent within 30 calendar days of adoption to the bank's other affiliated associations.

(5) Unless the parties otherwise agree, if the bank and the association have not entered into a new agreement on or before the expiration of an existing agreement, the existing agreement will automatically be extended for another 12 months, unless either party notifies the Farm Credit Administration in writing of its objection to the extension prior to the expiration of the existing agreement.

(b) In the absence of an agreement between a Farm Credit Bank or an agricultural credit bank and one or more associations, or in the event that an agreement expires and at least one party has timely objected to the continuation of the terms of its agreement, the following formula applies with respect to the allocated investments held by those associations with which there is no agreement (nonagreeing associations), and does not apply to the allocated investments held by those associations with which the bank has an agreement (agreeing associations):

(1) The allotment formula must be calculated annually.

(2) The permanent capital ratio of the Farm Credit Bank or agricultural credit bank must be computed as of the date that the existing agreement terminates, using a 3-month average daily balance, excluding the allocated investment from nonagreeing associations but including any allocated investments of agreeing associations that are allotted to the bank under applicable allocation agreements. The permanent capital ratio of each nonagreeing association must be computed as of the same date using a 3-month average daily balance, and must be computed excluding its allocated investment in the bank.

(3) If the permanent capital ratio for the Farm Credit Bank or agricultural credit bank calculated in accordance with § 615.5208(b)(2) is 7 percent or above, the allocated investment of each nonagreeing association whose permanent capital ratio calculated in accordance with § 615.5208(b)(2) is 7 percent or above must be allotted 50 percent to the bank and 50 percent to the association.

(4) If the permanent capital ratio of the Farm Credit Bank or agricultural credit bank calculated in accordance with § 615.5208(b)(2) is 7 percent or above, the allocated investment of each nonagreeing association whose capital ratio is below 7 percent must be allotted to the association until the association's capital ratio reaches 7 percent or until all of the investment is allotted to the association, whichever occurs first. Any remaining unallotted allocated investment must be allotted 50 percent to the bank and 50 percent to the association.

(5) If the permanent capital ratio of the Farm Credit Bank or agricultural credit bank calculated in accordance with § 615.5208(b)(2) is less than 7 percent, the amount of additional capital needed by the bank to reach a permanent capital ratio of 7 percent must be determined, and an amount of the allocated investment of each nonagreeing association must be allotted to the Farm Credit Bank or agricultural credit bank, as follows:

(i) If the total of the allocated investments of all nonagreeing associations is greater than the additional capital needed by the bank, the allocated investment of each nonagreeing association must be multiplied by a fraction whose numerator is the amount of capital needed by the bank and whose denominator is the total amount of allocated investments of the nonagreeing associations, and such amount must be allotted to the bank. Next, if the permanent capital ratio of any nonagreeing association is less than 7 percent, a sufficient amount of unallotted allocated investment must then be allotted to each nonagreeing association, as necessary, to increase its permanent capital ratio to 7 percent, or until all such remaining investment is allotted to the association, whichever occurs first. Any unallotted allocated investment still remaining must be allotted 50 percent to the bank and 50 percent to the nonagreeing association.

(ii) If the additional capital needed by the bank is greater than the total of the allocated investments of the nonagreeing associations, all of the remaining allocated investments of the nonagreeing associations must be allotted to the bank.

(c) If a payment or part of a payment to the Farm Credit System Financial Assistance Corporation pursuant to section 6.9(e)(3)(D)(ii) of the Act would cause a bank to fall below its minimum permanent capital requirement, the bank and one or more associations shall amend their allocation agreements to increase the allotment of the allocated investment to the bank sufficiently to enable the bank to make the payment to the Farm Credit System Financial Assistance Corporation, provided that the associations would continue to meet their minimum permanent capital requirement. In the case of a nonagreeing association, the Farm Credit Administration may require a revision of the allotment sufficient to enable the bank to make the payment to the Farm Credit System Financial Assistance Corporation, provided that the association would continue to meet its minimum permanent capital requirement. The Farm Credit Administration may, at the request of one or more of the institutions affected, waive the requirements of this paragraph if the FCA deems it is in the overall best interest of the institutions affected.

§ 615.5209 Deferred-tax assets.

For purposes of calculating capital ratios under this part, deferred-tax assets are subject to the conditions, limitations, and restrictions described in this section.

(a) Each institution must deduct an amount of deferred-tax assets, net of any valuation allowance, from its assets and its total capital that is equal to the greater of:

(1) The amount of deferred-tax assets that is dependent on future income or future events in excess of the amount that is reasonably expected to be realized within 1 year of the most recent calendar quarter-end date, based on financial projections for that year, or

(2) The amount of deferred-tax assets that is dependent on future income or future events in excess of 10 percent of the amount of core surplus that exists before the deduction of any deferred-tax assets.

(b) For purposes of this calculation:

(1) The amount of deferred-tax assets that can be realized from taxes paid in prior carryback years and from the reversal of existing taxable temporary differences may not be deducted from assets and from equity capital.

(2) All existing temporary differences should be assumed to fully reverse at the calculation date.

(3) Projected future taxable income should not include net operating loss carryforwards to be used within 1 year or the amount of existing temporary differences expected to reverse within that year.

(4) Financial projections must include the estimated effect of tax-planning strategies that are expected to be implemented to minimize tax liabilities and realize tax benefits. Financial projections for the current fiscal year (adjusted for any significant changes that have occurred or are expected to occur) may be used when applying the capital limit at an interim date within the fiscal year.

(5) The deferred tax effects of any unrealized holding gains and losses on available-for-sale debt securities may be excluded from the determination of the amount of deferred-tax assets that are dependent upon future taxable income and the calculation of the maximum allowable amount of such assets. If these deferred-tax effects are excluded, this treatment must be followed consistently over time.

§ 615.5210 Risk-adjusted assets.

(a) *Computation.* Each asset on the institution's balance sheet and each off-balance-sheet item, adjusted by the appropriate credit conversion factor in § 615.5212, is assigned to one of the risk categories specified in § 615.5211. The aggregate dollar value of the assets in each category is multiplied by the percentage weight assigned to that category. The sum of the weighted dollar values from each of the risk categories comprises ''risk-adjusted assets,'' the denominator for computation of the permanent capital ratio.

(b) *Ratings-based approach.* (1) Under the ratings-based approach, a rated position in a securitization (provided it satisfies the criteria specified in paragraph (b)(3) of this section) is assigned to the appropriate risk-weight category based on its external rating.

(2) Provided they satisfy the criteria specified in paragraph (b)(3) of this section, the following positions qualify for the ratings-based approach:

(i) Recourse obligations;

(ii) Direct credit substitutes;

(iii) Residual interests (other than credit-enhancing interest-only strips); and

(iv) Asset-or mortgage-backed securities.

(3) A position specified in paragraph (b)(2) of this section qualifies for a ratings-based approach provided it satisfies the following criteria:

(i) If the position is traded and externally rated, its long-term external

rating must be one grade below investment grade or better (*e.g.*, BB or better) or its short-term external rating must be investment grade or better (*e.g.*, A–3, P–3). If the position receives more than one external rating, the lowest rating applies.

(ii) If the position is not traded and is externally rated,

(A) It must be externally rated by more than one NRSRO;

(B) Its long-term external rating must be one grade below investment grade or better (*e.g.*, BB or better) or its short-term external rating must be investment grade or better (*e.g.*, A–3, P–3 or better). If the ratings are different, the lowest rating applies;

(C) The ratings must be publicly available; and

(D) The ratings must be based on the same criteria used to rate traded positions.

(c) *Positions in securitizations that do not qualify for a ratings-based approach.*

The following positions in securitizations do not qualify for a ratings-based approach. They are treated as indicated.

(1) For any residual interest that is not externally rated, the institution must deduct from capital and assets the face amount of the position (dollar-for-dollar reduction).

(2) For any credit-enhancing interest-only strip, the institution must deduct from capital and assets the face amount of the position (dollar-for-dollar reduction).

(3) For any position that has a long-term external rating that is two grades below investment grade or lower (*e.g.*, B or lower) or a short-term external rating that is one grade below investment grade or lower (*e.g.*, B or lower, Not Prime), the institution must deduct from capital and assets the face amount of the position (dollar-for-dollar reduction).

(4) Any recourse obligation or direct credit substitute (*e.g.*, a purchased subordinated security) that is not externally rated is risk weighted using the amount of the recourse obligation or direct credit substitute and the full amount of the assets it supports, *i.e.*, all the more senior positions in the structure. This treatment is subject to the low-level exposure rule set forth in paragraph (e) of this section. This amount is then placed into a risk-weight category according to the obligor or, if relevant, the guarantor or the nature of the collateral.

(5) Any stripped mortgage-backed security or similar instrument, such as an interest-only strip that is not credit-enhancing or a principal-only strip (including such instruments guaranteed by Government-sponsored agencies), is assigned to the 100-percent risk-weight category described in § 615.5211(d)(7).

(d) *Senior positions not externally rated.* For a position in a securitization that is not externally rated but is senior in all features to a traded position (including collateralization and maturity), an institution may apply a risk weight to the face amount of the senior position based on the traded position's external rating. This section will apply only if the traded position provides substantial credit support for the entire life of the unrated position.

(e) *Low-level exposure rule.* If the maximum contractual exposure to loss retained or assumed by an institution in connection with a recourse obligation or a direct credit substitute is less than the effective risk-based capital requirement for the credit-enhanced assets, the risk-based capital required under paragraph (c)(4) of this section is limited to the institution's maximum contractual exposure, less any recourse liability account established in accordance with generally accepted accounting principles. This limitation does not apply when an institution provides credit enhancement beyond any contractual obligation to support assets it has sold.

(f) *Reservation of authority.* The FCA may, on a case-by-case basis, determine the appropriate risk weight for any asset or credit equivalent amount that does not fit wholly within one of the risk categories set forth in § 615.5211 or that imposes risks that are not commensurate with the risk weight otherwise specified in § 615.5211 for the asset or credit equivalent. In addition, the FCA may, on a case-by-case basis, determine the appropriate credit conversion factor for any off-balance sheet item that does not fit wholly within one of the credit conversion factors set forth in § 615.5212 or that imposes risks that are not commensurate with the credit conversion factor otherwise specified in § 615.5212 for the item. In making this determination, the FCA will consider the similarity of the asset or off-balance sheet item to assets or off-balance sheet items explicitly treated in §§ 615.5211 or 615.5212, as well as other relevant factors.

§ 615.5211 Risk categories—balance sheet assets.

Section 615.5210(c) specifies certain balance sheet assets that are not assigned to the risk categories set forth below. All other balance sheet assets are assigned to the percentage risk categories as follows:

(a) *Category 1: 0 Percent.*

(1) Cash (domestic and foreign).

(2) Balances due from Federal Reserve Banks and central banks in other OECD countries.

(3) Direct claims on, and portions of claims unconditionally guaranteed by, the U.S. Treasury, government agencies, or central governments in other OECD countries.

(4) Portions of local currency claims on, or unconditionally guaranteed by, non-OECD central governments (including non-OECD central banks), to the extent the institution has liabilities booked in that currency.

(5) Claims on, or guaranteed by, qualifying securities firms that are collateralized by cash held by the institution or by securities issued or guaranteed by the United States (including U.S. Government agencies) or OECD central governments, provided that a positive margin of collateral is required to be maintained on such a claim on a daily basis, taking into account any change in the institution's exposure to the obligor or counterparty under the claim in relation to the market value of the collateral held in support of the claim.

(b) *Category 2: 20 Percent.*

(1) Cash items in the process of collection.

(2) Loans and other obligations of and investments in Farm Credit institutions.

(3) All claims (long- and short-term) on, and portions of claims (long- and short-term) guaranteed by, OECD banks.

(4) Short-term (remaining maturity of 1 year or less) claims on, and portions of short-term claims guaranteed by, non-OECD banks.

(5) Portions of loans and other claims conditionally guaranteed by the U.S. Treasury, government agencies, or central governments in other OECD countries and portions of local currency claims conditionally guaranteed by non-OECD central governments to the extent that the institution has liabilities booked in that currency.

(6) All securities and other claims on, and portions of claims guaranteed by, Government-sponsored agencies.

(7) Portions of loans and other claims (including repurchase agreements) collateralized by securities issued or guaranteed by the U.S. Treasury, government agencies, Government-sponsored agencies or central governments in other OECD countries.

(8) Portions of loans and other claims collateralized by cash held by the institution or its funding bank.

(9) General obligation claims on, and portions of claims guaranteed by, the full faith and credit of states or other political subdivisions or OECD

countries, including U.S. state and local governments.

(10) Claims on, and portions of claims guaranteed by, official multinational lending institutions or regional development institutions in which the U.S. Government is a shareholder or a contributing member.

(11) Portions of claims collateralized by securities issued by official multilateral lending institutions or regional development institutions in which the U.S. Government is a shareholder or contributing member.

(12) Investments in shares of mutual funds whose portfolios are permitted to hold only assets that qualify for the zero or 20-percent risk categories.

(13) Recourse obligations, direct credit substitutes, residual interests (other than credit-enhancing interest-only strips) and asset-or mortgage-backed securities that are externally rated in the highest or second highest investment grade category, *e.g.*, AAA, AA, in the case of long-term ratings, or the highest rating category, *e.g.*, A–1, P–1, in the case of short-term ratings.

(14) Claims on, and claims guaranteed by, qualifying securities firms provided that:

(i) The qualifying securities firm, or at least one issue of its long-term debt, has a rating in one of the highest two investment grade rating categories from an NRSRO (if the securities firm or debt has more than one NRSRO rating the lowest rating applies); or

(ii) The claim is guaranteed by a qualifying securities firm's parent company with such a rating.

(15) Certain collateralized claims on qualifying securities firms without regard to satisfaction of the rating standard, provided that the claim arises under a contract that:

(i) Is a reverse repurchase/repurchase agreement or securities lending/borrowing transaction executed under standard industry documentation;

(ii) Is collateralized by liquid and readily marketable debt or equity securities;

(iii) Is marked-to-market daily;

(iv) Is subject to a daily margin maintenance requirement under the standard documentation; and

(v) Can be liquidated, terminated, or accelerated immediately in bankruptcy or similar proceedings, and the security or collateral agreement will not be stayed or avoided, under applicable law of the relevant country.

(16) Claims on other financing institutions provided that:

(i) The other financing institution qualifies as an OECD bank or it is owned and controlled by an OECD bank that guarantees the claim, or

(ii) The other financing institution has a rating in one of the highest three investment-grade rating categories from a NRSRO or the claim is guaranteed by a parent company with such a rating, and

(iii) The other financing institution has endorsed all obligations it pledges to its funding Farm Credit bank with full recourse.

(c) *Category 3: 50 Percent.*

(1) All other investment securities with remaining maturities under 1 year, if the securities are not eligible for the ratings-based approach or subject to the dollar-for-dollar capital treatment.

(2) Qualified residential loans.

(3) Recourse obligations, direct credit substitutes, residual interests (other than credit-enhancing interest-only strips) and asset-or mortgage-backed securities that are rated in the third highest investment grade category, *e.g.*, A, in the case of long-term ratings, or the second highest rating category, *e.g.*, A–2, P–2, in the case of short-term ratings.

(4) Revenue bonds or similar obligations, including loans and leases, that are obligations of state or political subdivisions of the United States or other OECD countries but for which the government entity is committed to repay the debt only out of revenue from the specific projects financed.

(5) Claims on other financing institutions that:

(i) Are not covered by the provisions of paragraph (b)(17) of this section, but otherwise meet similar capital, risk identification and control, and operational standards, or

(ii) Carry an investment-grade or higher NRSRO rating or the claim is guaranteed by a parent company with such a rating, and

(iii) The other financing institution has endorsed all obligations it pledges to its funding Farm Credit bank with full recourse.

(d) *Category 4: 100 Percent.* This category includes all assets not specified in the categories above or below nor deducted dollar-for-dollar from capital and assets as discussed in § 615.5210(c). This category comprises standard risk assets such as those typically found in a loan or lease portfolio and includes:

(1) All other claims on private obligors.

(2) Claims on, or portions of claims guaranteed by, non-OECD banks with a remaining maturity exceeding 1 year.

(3) Claims on, or portions of claims guaranteed by, non-OECD central governments that are not included in paragraphs (a)(4) or (b)(4) of this section, and all claims on non-OECD state and local governments.

(4) Industrial-development bonds and similar obligations issued under the auspices of states or political subdivisions of the OECD-based group of countries for the benefit of a private party or enterprise where that party or enterprise, not the government entity, is obligated to pay the principal and interest.

(5) Premises, plant, and equipment; other fixed assets; and other real estate owned.

(6) Recourse obligations, direct credit substitutes, residual interests (other than credit-enhancing interest-only strips) and asset-or mortgage-backed securities that are rated in the lowest investment grade category, *e.g.*, BBB, in the case of long-term ratings, or the third highest rating category, *e.g.*, A–3, P–3, in the case of short-term ratings.

(7) Stripped mortgage-backed securities and similar instruments, such as interest-only strips that are not credit-enhancing and principal-only strips (including such instruments guaranteed by Government-sponsored agencies).

(8) Investments in Rural Business Investment Companies.

(9) If they have not already been deducted from capital:

(i) Investments in unconsolidated companies, joint ventures, or associated companies.

(ii) Deferred-tax assets.

(iii) Servicing assets.

(10) All non-local currency claims on foreign central governments, as well as local currency claims on foreign central governments that are not included in any other category.

(11) Claims on other financing institutions that do not otherwise qualify for a lower risk-weight category under this section; and

(12) All other assets not specified above, including but not limited to leases and receivables.

(e) *Category 5: 200 Percent.* Recourse obligations, direct credit substitutes, residual interests (other than credit-enhancing interest-only strips) and asset-or mortgage-backed securities that are rated one category below the lowest investment grade category, *e.g.*, BB.

§ 615.5212 Credit conversion factors—off-balance sheet items.

(a) The face amount of an off-balance sheet item is generally incorporated into risk-weighted assets in two steps. For most off-balance sheet items, the face amount is first multiplied by a credit conversion factor. (In the case of direct credit substitutes and recourse obligations the full amount of the assets enhanced are multiplied by a credit conversion factor). The resultant credit equivalent amount is assigned to the

appropriate risk-weight category described in § 615.5211 according to the obligor or, if relevant, the guarantor or the collateral.

(b) Conversion factors for various types of off-balance sheet items are as follows:

(1) *0 Percent.*

(i) Unused commitments with an original maturity of 14 months or less;

(ii) Unused commitments with an original maturity greater than 14 months if:

(A) They are unconditionally cancellable by the institution; and

(B) The institution has the contractual right to, and in fact does, make a separate credit decision based upon the borrower's current financial condition before each drawing under the lending arrangement.

(2) *20 Percent.* Short-term, self-liquidating, trade-related contingencies, including but not limited to commercial letters of credit.

(3) *50 Percent.*

(i) Transaction-related contingencies (*e.g.*, bid bonds, performance bonds, warranties, and performance-based standby letters of credit related to a particular transaction).

(ii) Unused loan commitments with an original maturity greater than 14 months, including underwriting commitments and commercial credit lines.

(iii) Revolving underwriting facilities (RUFs), note issuance facilities (NIFs) and other similar arrangements pursuant to which the institution's customer can issue short-term debt obligations in its own name, but for which the institution has a legally binding commitment to either:

(A) Purchase the obligations its customer is unable to sell by a stated date; or

(B) Advance funds to its customer if the obligations cannot be sold.

(4) *100 Percent.*

(i) The full amount of the assets supported by direct credit substitutes and recourse obligations for which an institution directly or indirectly retains or assumes credit risk. For risk participations in such arrangements acquired by the institution, the full amount of assets supported by the main obligation multiplied by the acquiring institution's percentage share of the risk participation. The capital requirement under this paragraph is limited to the institution's maximum contractual exposure, less any recourse liability account established under generally accepted accounting principles.

(ii) Acquisitions of risk participations in bankers acceptances.

(iii) Sale and repurchase agreements, if not already included on the balance sheet.

(iv) Forward agreements (*i.e.*, contractual obligations) to purchase assets, including financing facilities with certain drawdown.

(c) *Credit equivalents of interest rate contracts and foreign exchange contracts.* (1) Credit equivalents of interest rate contracts and foreign exchange contracts (except single-currency floating/floating interest rate swaps) are determined by adding the replacement cost (mark-to-market value, if positive) to the potential future credit exposure, determined by multiplying the notional principal amount by the following credit conversion factors as appropriate.

CONVERSION FACTOR MATRIX

(In percent)

Remaining maturity	Interest rate	Exchange rate	Commodity
1 year or less	0.0	1.0	10.0
Over 1 to 5 years	0.5	5.0	12.0
Over 5 years	1.5	7.5	15.0

(2) For any derivative contract that does not fall within one of the categories in the above table, the potential future credit exposure is to be calculated using the commodity conversion factors. The net current exposure for multiple derivative contracts with a single counterparty and subject to a qualifying bilateral netting contract is the net sum of all positive and negative mark-to-market values for each derivative contract. The positive sum of the net current exposure is added to the adjusted potential future credit exposure for the same multiple contracts with a single counterparty. The adjusted potential future credit exposure is computed as $A_{net} = (0.4 \times A_{gross}) + 0.6\ (NGR \times A_{gross})$ where:

(i) A_{net} is the adjusted potential future credit exposure;

(ii) A_{gross} is the sum of potential future credit exposures determined by multiplying the notional principal amount by the appropriate credit conversion factor; and

(iii) NGR is the ratio of the net current credit exposure divided by the gross current credit exposure determined as the sum of only the positive mark-to-markets for each derivative contract with the single counterparty.

(3) Credit equivalents of single-currency floating/floating interest rate swaps are determined by their replacement cost (mark-to-market).

Subpart K—Surplus and Collateral Requirements

■ 10. Amend § 615.5301 by revising paragraphs (b)(3), (i)(2), and (i)(8) to read as follows:

§ 615.5301 Definitions.

* * * * *

(b) * * *

(3) The deductions that must be made by an institution in the computation of its permanent capital pursuant to § 615.5207(f), (g), (i), and (k) shall also be made in the computation of its core surplus. Deductions required by § 615.5207(a) shall also be made to the extent that they do not duplicate deductions calculated pursuant to this section and required by § 615.5330(b)(2).

* * * * *

(i) * * *

(2) Allocated equities, including allocated surplus and stock, that are not subject to a plan or practice of revolvement or retirement of 5 years or less and are eligible to be included in permanent capital pursuant to paragraph(4)(iv) of the definition of permanent capital in § 615.5201; and

* * * * *

(8) Any deductions made by an institution in the computation of its permanent capital pursuant to § 615.5207 shall also be made in the computation of its total surplus.

* * * * *

§ 615.5330 [Amended]

■ 11. Amend § 615.5330 by removing the reference ''§ 615.5210(f)'' and adding in its place ''§ 615.5210'' in paragraphs (a)(2) and (b)(3).

PART 620—DISCLOSURE TO SHAREHOLDERS

■ 12. The authority citation for part 620 continues to read as follows:

Authority: Secs. 5.17, 5.19, 8.11 of the Farm Credit Act (12 U.S.C. 2252, 2254, 2279aa–11); secs. 424 of Pub. L. 100–233, 101 Stat. 1568, 1656.

Subpart A—General

§ 620.1 [Amended]

■ 13. Amend § 620.1(j) by removing the reference ''§ 615.5201(l)'' and adding in its place ''§ 615.5201.''

Dated: June 9, 2005.

Jeanette C. Brinkley,

Secretary, Farm Credit Administration Board.

[FR Doc. 05–11801 Filed 6–16–05; 8:45 am]

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Federal Register

Friday,
June 17, 2005

Part III

Department of Education

Office of Special Education and Rehabilitative Services Overview Information; National Institute on Disability and Rehabilitation Research—Disability and Rehabilitation Research Projects and Centers Program—Rehabilitation Research and Training Centers; Overview Information and Notice Inviting Applications for New Awards for Fiscal Year (FY) 2005; Notices

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services Overview Information; National Institute on Disability and Rehabilitation Research (NIDRR)—Rehabilitation Research and Training Centers (RRTC); Notice Inviting Applications for New Awards for Fiscal Year (FY) 2005

Catalog of Federal Domestic Assistance (CFDA) Number: 84.133B–3.

Dates: Applications Available: June 17, 2005.

Deadline for Transmittal of Applications: August 16, 2005.

Eligible Applicants: States; public or private agencies, including for-profit agencies; public or private organizations, including for-profit organizations; institutions of higher education (IHEs); and Indian tribes and tribal organizations.

Estimated Available Funds: $1,300,000.

Note: Additional funding information is provided elsewhere in this notice under Section II Award Information.

Maximum Award: We will reject any application that proposes a budget exceeding $1,300,000 for a single budget period of 12 months.

Note: The maximum amount includes direct and indirect costs. The maximum allowable indirect cost rate is 15 percent.

Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the RRTC program is to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Act). For FY 2005, the competition for new awards focuses on projects designed to meet the priority we describe in the *Priority* section of this notice. We intend this priority to improve rehabilitation services and outcomes for individuals with disabilities.

Priority: This priority is from the notice of final priority for this program, published elsewhere in this issue of the **Federal Register**.

Absolute Priority: For FY 2005 this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is: *Promoting Access To Effective Consumer-Centered And Community-Based Practices And Supports For Adults With Serious Mental Illness.*

The general and specific requirements for meeting this priority are in the notice of final priority for this program, published elsewhere in this issue of the **Federal Register**.

Program Authority: 29 U.S.C. 762(g) and 764(b)(2).

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 84, 85, 86, and 97; (b) the regulations for this program in 34 CFR part 350; and (c) the notice of final priority for this program, published elsewhere in this issue of the **Federal Register**.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $1,300,000.

Note: This amount of estimated available funds includes $800,000 from the Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (DHHS/SAMHSA) and $500,000 from NIDRR.

Maximum Award: We will reject any application that proposes a budget exceeding $1,300,000 for a single budget period of 12 months.

Note: The maximum amount includes direct and indirect costs. The maximum allowable indirect cost rate is 15 percent.

Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* States; public or private agencies, including for-profit agencies; public or private organizations, including for-profit organizations; IHEs; and Indian tribes and tribal organizations.

2. *Cost Sharing or Matching:* This program does not involve cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* You may obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet use the following address: *http://www.ed.gov/fund/grant/apply/grantapps/index.html.*

To obtain a copy from ED Pubs, write or call the following: Education Publications Center, P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs at its Web site: *http://www.ed.gov/pubs/edpubs.html* or you may contact ED Pubs at its e-mail address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA Number 84.133B–3.

Individuals with disabilities may obtain a copy of the application package in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) by contacting the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We strongly recommend that you limit Part III to the equivalent of no more than 125 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1'' margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, you must include all of the application narrative in Part III.

The application package will provide instructions for completing all components to be included in the application.

3. *Submission Dates and Times: Applications Available:* June 17, 2005.

Deadline for Transmittal of Applications: August 16, 2005.

Applications for grants under this competition may be submitted electronically using the Grants.gov Apply site (Grants.gov), or in paper

format by mail or hand delivery. For information (including dates and times) about how to submit your application electronically, or by mail or hand delivery, please refer to section IV. 7. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements.

4. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Pre-Application Meeting:* Interested parties are invited to participate in a pre-application meeting to discuss the funding priority and to receive information and technical assistance through individual consultation about the funding priority. The pre-application meeting will be held on June 30, 2005. Interested parties may participate in this meeting either in person or by conference call at the U.S. Department of Education, Office of Special Education and Rehabilitative Services, Potomac Center Plaza, room 6082, 550 12th Street, SW., Washington, DC between 10 a.m. and 12 noon. After the meeting, NIDRR staff also will be available from 1:30 p.m. to 4 p.m. on that same day to provide information and technical assistance through individual consultation about the funding priority. For further information or to make arrangements to attend either in person or by conference call, or for an individual consultation, contact Donna Nangle, U.S. Department of Education, Potomac Center Plaza, room 6030, 550 12th Street, SW., Washington, DC 20202. Telephone (202) 245–7462 or by e-mail: *donna.nangle@ed.gov.*

Assistance to Individuals With Disabilities at the Pre-Application Meeting

The meeting site is accessible to individuals with disabilities, and a sign language interpreter will be available. If you will need an auxiliary aid or service other than a sign language interpreter in order to participate in the meeting (*e.g.*, other interpreting service such as oral, cued speech, or tactile interpreter; assistive listening device; or materials in alternate format), notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although we will attempt to meet a request we receive after this date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

7. *Other Submission Requirements:* Applications for grants under this program, the Rehabilitation Research Training Centers Program-CFDA Number 84.133B–3.

a. *Electronic Submission of Applications.*

We have been accepting applications electronically through the Department's e-Application system since FY 2000. In order to expand on those efforts and comply with the President's Management Agenda, we are continuing to participate as a partner in the new government-wide Grants.gov Apply site in FY 2005. The Rehabilitation Research Training Centers Program-CFDA Number 84.133B–3 is one of the programs included in this project.

If you choose to submit your application electronically, you must use the Grants.gov Apply site (Grants.gov). Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us. We request your participation in Grants.gov.

You may access the electronic grant application for the Rehabilitation Research Training Centers Program-CFDA Number 84.133B–3 at: *http://www.grants.gov*. You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search.

Please note the following:

- Your participation in Grants.gov is voluntary.
- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are time and date stamped. Your application must be fully uploaded and submitted with a date/time received by the Grants.gov system no later than 4:30 p.m., Washington, DC time, on the application deadline date. We will not consider your application if it was received by the Grants.gov system later than 4:30 p.m. on the application deadline date. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was submitted after 4:30 p.m. on the application deadline date.
- If you experience technical difficulties on the application deadline date and are unable to meet the 4:30 p.m., Washington, DC time, deadline, print out your application and follow the instructions in this notice for the submission of paper applications by mail or hand delivery.
- The amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the application process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this program [competition] to ensure that your application is submitted timely to the Grants.gov system.
- To use Grants.gov, you, as the applicant, must have a D–U–N–S Number and register in the Central Contractor Registry (CCR). You should allow a minimum of five business days to complete the CCR registration.
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you submit your application in paper format.
- You may submit all documents electronically, including all information typically included on the Application for Federal Education Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. Any narrative sections of your application must be attached as files in a .DOC (document), .RTF (rich text) or .PDF (Portable Document) format.
- Your electronic application must comply with any page limit requirements described in this notice.
- After you electronically submit your application, you will receive an automatic acknowledgment from Grants.gov that contains a Grants.gov tracking number. The Department will retrieve your application from Grants.gov and send you a second confirmation by e-mail that will include a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

b. *Submission of Paper Applications by Mail.*

If you submit your application in paper format by mail (through the U.S. Postal Service or a commercial carrier), you must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

By mail through the U.S. Postal Service: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.133B–3), 400 Maryland Avenue, SW., Washington, DC 20202–4260. or

By mail through a commercial carrier: U.S. Department of Education, Application Control Center—Stop 4260, Attention: (CFDA Number 84.133B–3), 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark,

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service,

(3) A dated shipping label, invoice, or receipt from a commercial carrier, or

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark, or

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you submit your application in paper format by hand delivery, you (or a courier service) must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.133B–3), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department:

(1) You must indicate on the envelope and—if not provided by the Department—in Item 4 of the Application for Federal Education Assistance (ED 424) the CFDA number—and suffix letter, if any—of the competition under which you are submitting your application.

(2) The Application Control Center will mail a grant application receipt acknowledgment to you. If you do not receive the grant application receipt acknowledgment within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

Selection Criteria: The selection criteria for this competition are from 34 CFR 75.210 of EDGAR and 34 CFR 350.54. The specific selection criteria to be used for this competition are listed in the application package.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118.

Note: NIDRR will provide information by letter to grantees on how and when to submit this report.

4. *Performance Measures:* To evaluate the overall success of its research program, NIDRR assesses the quality of its funded projects through review of grantee performance and products. Each year, NIDRR examines, through expert program review, a portion of its grantees to determine:

- The percentage of grantees judged by an external panel to be implementing a systematic, outcomes-oriented plan of evaluation, with well-formulated, measurable, and appropriate goals that are aligned with NIDRR's priorities and Government Performance and Results Act of 1993 (GPRA) and Program Assessment Rating Tool (PART) performance measures and are used to track progress towards project objectives;
- The percentage of grantee research and development that has appropriate study design, meets rigorous standards of scientific methods, and builds on and contributes to knowledge in the field;
- The number of discoveries, analyses, and standards developed and/or tested and published by NIDRR grantees that are judged by expert panels to meet accepted standards of scientific rigor;
- The number of new or improved tools and methods developed, evaluated and/or tested, and published by NIDRR grantees that are judged by an expert panel to meet accepted standards of scientific rigor;
- The percentage of new studies funded by NIDRR that assess the effectiveness of interventions, programs, and devices using rigorous and appropriate methods; and
- The percentage of non-academic and consumer-oriented dissemination products and services, nominated by grantees to be their best outputs based on NIDRR-funded research and related activities, that are judged by an expert panel to demonstrate ''good to excellent'' utility and have potential to advance knowledge, change/improve policy or practice, and/or enhance choice and self-determination for individuals with disabilities.

NIDRR uses information submitted by grantees as part of their Annual Performance Reports (APRs) for these reviews. NIDRR also determines, using information submitted as part of the APR:

- The number of publications in refereed journals that are based on NIDRR-funded research and development activities; and
- The percentage of NIDRR-supported fellows, post-doctoral trainees, and doctoral students who publish results of NIDRR-sponsored research in refereed journals.

Department of Education program performance reports, which include information on NIDRR programs, are available on the Department of Education Web site: *http://www.ed.gov/offices/OUS/PES/planning.html.*

Updates on the GPRA indicators, revisions and methods appear in the NIDRR Program Review Web site: *http://www.neweditions.net/pr/commonfiles/pmconcepts.htm.*

Grantees should consult these sites, on a regular basis, to obtain details and explanations on how NIDRR programs contribute to the advancement of the Department's long-term and annual performance goals.

VII. Agency Contact

For Further Information Contact: Donna Nangle, U.S. Department of Education, 400 Maryland Avenue, SW., room 6030, Potomac Center Plaza, Washington, DC 20202. Telephone: (202) 245–7462 or by e-mail: *donna.nangle@ed.gov*.

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VIII. Other Information

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Dated: June 13, 2005.

John H. Hager,

Assistant Secretary for Special Education and, Rehabilitative Services.

[FR Doc. 05–11923 Filed 6–16–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research—Disability and Rehabilitation Research Projects and Centers Program—Rehabilitation Research and Training Centers; Grants and Cooperative Agreements; Availability

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of final priority (NFP) on promoting access to effective consumer-centered and community-based practices and supports for adults with serious mental illness.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services announces a funding priority for the National Institute on Disability and Rehabilitation Research's (NIDRR) Disability and Rehabilitation Research Projects and Centers Program, Rehabilitation Research and Training Centers (RRTC) program. This priority may be used for competitions in fiscal year (FY) 2005 and later years. We take this action to focus research attention on areas of national need. We intend this priority to improve rehabilitation services and outcomes for individuals with disabilities.

DATES: *Effective Date:* This priority is effective July 18, 2005.

FOR FURTHER INFORMATION CONTACT: Donna Nangle, U.S. Department of Education, 400 Maryland Avenue, SW., room 6030, Potomac Center Plaza, Washington, DC 20202. Telephone: (202) 245–7462 or by e-mail: *donna.nangle@ed.gov*.

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SUPPLEMENTARY INFORMATION:

Rehabilitation Research and Training Centers

RRTCs conduct coordinated and integrated advanced programs of research targeted toward the production of new knowledge to improve rehabilitation methodology and service delivery systems, alleviate or stabilize disability conditions, or promote maximum social and economic independence for persons with disabilities. Additional information on the RRTC program can be found at: *http://www.ed.gov/rschstat/research/pubs/res-program.html#RRTC*.

General Requirements of Rehabilitation Research and Training Centers

RRTCs must—

- Carry out coordinated advanced programs of rehabilitation research;
- Provide training, including graduate, pre-service, and in-service training, to help rehabilitation personnel more effectively provide rehabilitation services to individuals with disabilities;
- Provide technical assistance to individuals with disabilities, their representatives, providers, and other interested parties;
- Demonstrate in its application how it will address, in whole or in part, the needs of individuals with disabilities from minority backgrounds;
- Disseminate informational materials to individuals with disabilities, their representatives, providers, and other interested parties; and
- Serve as centers for national excellence in rehabilitation research for individuals with disabilities, their representatives, providers, and other interested parties.

The Department is particularly interested in ensuring that the expenditure of public funds is justified by the execution of intended activities and the advancement of knowledge and, thus, has built this accountability into the selection criteria. Not later than three years after the establishment of any RRTC, NIDRR will conduct one or more reviews of the activities and achievements of the RRTC. In accordance with the provisions of 34 CFR 75.253(a), continued funding depends at all times on satisfactory performance and accomplishment of approved grant objectives.

Analysis of Comments and Changes

We published a notice of proposed priority (NPP) for this program in the **Federal Register** on March 3, 2005 (70 FR 10378). The NPP included a background statement that described our rationale for proposing this priority.

In response to our invitation in the NPP, 17 parties submitted comments on the proposed priority. An analysis of the comments and of any changes in the priority since publication of the NPP is discussed in the *Analysis of Comments and Changes* section published as an appendix to this notice.

Generally, we do not address technical and other minor changes and suggested changes we are not authorized to make under the applicable statutory authority.

Note: This notice does *not* solicit applications. In any year in which we choose to use this final priority, we invite applications through a notice in the **Federal Register**. When inviting applications we designate the priority as absolute, competitive preference, or invitational. The effect of the priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by either (1) awarding additional points, depending on how well or the extent to which the application meets the competitive priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the competitive priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the invitational priority. However, we do not give an application that meets the priority a competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

Note: NIDRR supports the goals of President Bush's New Freedom Initiative (NFI). The NFI can be accessed on the Internet at the following site: *http://www.whitehouse.gov/infocus/newfreedom*.

The final priority is in concert with NIDRR's 1999–2003 Long-Range Plan (Plan). The Plan is comprehensive and integrates many issues relating to disability and rehabilitation research topics. Applicants will find many sections throughout the Plan that support potential research to be conducted under the final priority. The references to the topic of this priority may be found in the Plan, Chapter 4, Health and Function and Chapter 6, Independent Living And Community Integration. The Plan can be accessed on the Internet at the following site: *http://www.ed.gov/rschstat/research/pubs/index.html*.

Through the implementation of the NFI and the Plan, NIDRR seeks to: (1) Improve the quality and utility of disability and rehabilitation research; (2) foster an exchange of expertise, information, and training to facilitate the advancement of knowledge and understanding of the unique needs of traditionally underserved populations; (3) determine best strategies and programs to improve rehabilitation outcomes for underserved populations; (4) identify research gaps; (5) identify mechanisms of integrating research and practice; and (6) disseminate findings.

Priority

The Assistant Secretary intends to fund a priority for one RRTC that must focus on promoting access to effective consumer-centered and community-based practices and supports for adults with serious mental illness.

The RRTC must—

(1) Identify or develop and evaluate models, methods, and measures for improving the quality of mental health outcomes through transformation of the service delivery system in a manner that reflects and embodies consumer choice. These models, methods, and measures may focus on, but are not limited to, self-determination, consumer-centered services, consumer choice, and coordination across service systems. All of these efforts must be culturally competent and appropriate for targeted populations;

(2) Identify or develop and then evaluate strategies for translating evidence-based mental health research findings and best practices into effective interventions, including the development of tools and supports for providers of mental health or other adjunctive services that reflect consumer choice; and

(3) Identify or develop and evaluate interventions, such as peer support services, that help to improve workforce capacity, choice, participation, and job longevity for adults with serious mental illness.

In addition to these requirements, the RRTC must—

- Conduct a state-of-the-science conference on its respective area of research in the third year of the grant cycle and publish a comprehensive report on the final outcomes of the conference in the fourth year of the grant cycle. This conference must include materials from experts internal and external to the RRTC;
- Coordinate on research projects of mutual interest with relevant NIDRR-funded projects as identified through consultation with the NIDRR project officer;
- Involve individuals with disabilities in planning and implementing its research, training, and dissemination activities, and in evaluating the RRTC; and
- Identify anticipated outcomes (*i.e.*, advances in knowledge and/or changes and improvements in policy, practice, behavior, and system capacity) that are linked to the applicant's stated grant objectives.

Executive Order 12866

This NFP has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the NFP are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this NFP, we have determined that the benefits of the final priority justify the costs.

Summary of potential costs and benefits:

The potential costs associated with this final priority are minimal while the benefits are significant. Grantees may incur some costs associated with completing the application process in terms of staff time, copying, and mailing or delivery. The use of Grants.gov technology reduces mailing and copying costs significantly.

The benefits of the RRTC program have been well established over the years in that similar projects have been completed successfully. This final priority will generate new knowledge and technologies through research, development, dissemination, utilization, and technical assistance projects.

Another benefit of this final priority is that the establishment of a new RRTC will support the President's NFI and will improve the lives of persons with disabilities, in particular promoting access to effective consumer-centered and community-based practices and supports for adults with serious mental illness. The new RRTC will generate, disseminate, and promote the use of new information that will improve options for individuals with disabilities and allow them to perform regular activities in the community.

Applicable Program Regulations: 34 CFR part 350.

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(Catalog of Federal Domestic Assistance Number 84.133B Rehabilitation Research and Training Centers Program)

Program Authority: 29 U.S.C. 762(g) and 764(b)(2).

Dated: June 13, 2005.

John H. Hager,

Assistant Secretary for Special Education and Rehabilitative Services.

Appendix

Analysis of Comments and Changes

An analysis of the comments and the changes in the priority since publication of the NPP follows.

Comment: None.

Discussion: After further review of the general requirements of an RRTC and the priority requirements, we have changed the location of two of the requirements, ''Identify anticipated outcomes (*i.e.*, advances in knowledge and/or changes and improvements in policy, practice, behavior, and system capacity) that are linked to the applicant's stated grant objectives'' has been moved from the general requirements of an RRTC to the priority section of the NPP. ''Demonstrate in its application how it will address, in whole or in part, the needs of individuals with disabilities from minority backgrounds'' has been moved from the priority section of the NPP to the general requirements of an RRTC.

Change: The location of two of the requirements has been changed to better reflect the requirements of an RRTC. This change in the structure of the requirements does not change the requirements in the NPP.

Comment: One commenter suggested that the first required activity was ambiguous. The commenter indicated that the priority could be read to require ''improving the quality of practices and supports (which should then lead to improved outcomes) or improving outcomes per se'.

Discussion: The goal of this priority is to achieve improved outcomes in a variety of domains for individuals with serious mental illness. To reach that goal, the applicant may propose a variety of means that could improve the quality of practices and supports that would facilitate those outcomes. The peer review panel will evaluate the models, methods, and measures an applicant proposes.

Changes: None.

Comment: One commenter raised concerns about the phrase ''strategies for translating evidence-based mental health research findings and best practices into effective interventions'' that is in the second required activity. The commenter stated that ''interventions cannot be considered to be effective if they are not already evidence-based, thus evidence-based practices should by definition be effective and not require translation—unless the priority is addressing specific translational research or the adaptation of evidence-based practices for real world naturalistic settings (*e.g.*, for communities of color, which might be considered to be more dissemination research)''. The commenter further asked whether applicants were being encouraged to develop ''toolkits'' for practices that do not already have them or to disseminate existing evidence-based practices to populations other than those on whom the evidence was based.

Discussion: Evidence-based practices must be used in order to benefit the people they are intended to serve; research alone is insufficient for improving outcomes. This requirement focuses on strategies for translating evidence-based research findings into interventions. This can include dissemination and utilization activities. Additionally, an applicant may propose a variety of methods to achieve the goal of bridging gaps between research and implementation. The peer review panel will evaluate the methodologies applicants propose.

Changes: None.

Comment: One commenter expressed confusion about the phrase ''workforce capacity and choice'' in the third required activity. The commenter stated that ''increasing capacity can be done purely by hiring additional staff made possible by an infusion of new resources, but this may have no impact whatsoever in terms of choice. Alternatively, training staff in culturally responsive and consumer-centered approaches can increase consumer choice and the quality of services, without having any impact on capacity. By putting the two terms together are we to understand that they are somehow related, for example, increasing specifically the capacity of the system for enhancing choice.''

Discussion: This comment suggests a misunderstanding of the target population for the third required activity. This activity focuses on interventions that enhance employment opportunities for individuals with serious mental illness—not methods of increasing provider workforce capacity. The RRTC must identify or develop and evaluate interventions that improve job readiness, skills, and overall capacity for people with serious mental illness. Interventions that strengthen the workforce capacity of workers with serious mental illness lead to increased choice. Workers with more skills and capacity have more options and choices in the job market because they can offer more to employers.

Changes: None.

Comment: One commenter wrote that persons with psychiatric disabilities are a key emerging disability group in the United States. The commenter noted that although this population now represents one quarter of new state based vocational rehabilitation cases, the total number of interventions and effective approaches for addressing these needs is quite small. The commenter suggested that the third required activity be modified to emphasize the need for interventions that help to improve workforce participation and job longevity, as well as choice.

Discussion: We agree that adding the terms participation and job longevity would be helpful. As noted in the NPP background statement, a number of data sources indicate the need for effective programs, services, and supports to improve workforce participation for individuals with psychiatric disabilities.

Changes: The third required activity now includes the phrase ''participation and job longevity'' and reads, ''Identify or develop and evaluate interventions, such as peer support services, that help to improve workforce capacity, choice, participation, and job longevity for adults with serious mental illness.

Comment: One commenter suggested that the priority be expanded to require greater efforts on the part of the mental health and disabilities systems in helping clients to access mainstream resources such as—housing programs that promote home ownership opportunities, vocational opportunities that support consumers who want to enter mainstream academic or skill training programs outside the mental health system, and social supports that work with community groups rather than solely support segregated social programs.

Discussion: NIDRR has long encouraged disability-focused providers to draw upon the wide range of generic community supports and services. Those resources might expand the range of opportunities available to individuals with disabilities. They are potential tools and supports for both providers and consumers. Within the framework of this RRTC, an applicant could propose methodologies to enhance use of such generic programs. The peer review panel will evaluate the merits of any activities of this nature that the applicant proposes.

Changes: None.

[FR Doc. 05–11924 Filed 6–16–05; 8:45 am]

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Maryland Swim for Life; published 6-10-05

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Classification services to growers; 2004 user fees; Open for comments until further notice; published 5-28-04 [FR 04-12138]

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Dairy Disaster Assistance Payment Program; comments due by 6-24-05; published 5-25-05 [FR 05-10444]

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Semi-annual agenda; Open for comments until further notice; published 12-22-03 [FR 03-25121]

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ENERGY DEPARTMENT

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ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Electric rate and corporate regulation filings:

Virginia Electric & Power Co. et al.; Open for comments until further notice; published 10-1-03 [FR 03-24818]

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Brick and structural clay products manufacturing; maximum achievable control technology requirements; comment request and public hearing; comments due by 6-21-05; published 4-22-05 [FR 05-08125]

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal_register/public_laws/public_laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 2566/P.L. 109–14

Surface Transportation Extension Act of 2005 (May 31, 2005; 119 Stat. 324)

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