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Washington, DC 20002

RESERVATIONS: (202) 741–6008

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 04–134–2]

Karnal Bunt; Criteria for Releasing Fields From Regulation

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the Karnal bunt regulations regarding the requirements that must be met in order for a field or area to be removed from the list of regulated areas. The changes will allow a field to qualify for release after 5 cumulative years of specified management practices, rather than 5 consecutive years as the regulations have provided, and reorganize the manner in which those management practices are described. These changes will clarify the existing regulations and provide growers in regulated areas with greater flexibility in their planting decisions.

DATES: *Effective Date:* April 13, 2006.

FOR FURTHER INFORMATION CONTACT: Dr. Vedpal Malik, Agriculturalist, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–6774.

SUPPLEMENTARY INFORMATION:

Background

On October 5, 2005, we published in the **Federal Register** (70 FR 58084–58086, Docket No. 04–134–1) a proposal to amend the regulations in ''Subpart-Karnal Bunt'' (7 CFR 301.89–1 through 301.89–16) regarding the requirements that must be met in order for a field or area to be removed from the list of regulated areas. These changes would allow a field to qualify for release after 5 cumulative years of specified management practices, rather than 5 consecutive years as the regulations have provided, and reorganize the manner in which those management practices are described. Our proposed changes were intended to clarify the existing regulations and provide growers in regulated areas with greater flexibility in their planting decisions.

We solicited comments on the proposed rule for 60 days ending on December 5, 2005. We received four comments by that date. Of those comments, three fully supported the proposed changes. The fourth commenter requested clarification on one of the criteria for removing fields from regulation, specifically the criterion that a field may be removed from the list of regulated areas if it has been permanently removed from crop production. The commenter stated that there are a number of regulated fields in California whose owners have recently sold their water rights to the city of Los Angeles for an extended period of time (over 10 years). The commenter suggested that these fields should be removed from regulation, an action which would substantially reduce the size of the regulated area in California.

In the proposed rule, we noted that the regulations have provided that a field will be released from regulation for Karnal bunt when it is ''no longer being used for crop production,'' and that this criterion has normally applied when land is removed from agricultural use (e.g., the land is sold and subdivided for home construction). To make it clear that this criterion applies to land permanently removed from agricultural use, rather than land that may have been only temporarily taken out of production, we proposed to amend the regulations to specifically state that the field must have been permanently removed from crop production in order to be released from regulation for Karnal bunt.

In the scenario described by the commenter, the fields would not have been permanently removed from agricultural use and thus would not qualify for deregulation under the amended regulations. Further, unless those fields were tilled at least once per year for a total of 5 years, there may be only a minimal reduction in the spore load in the soil, so once the fields were put back into production, even after 10 years, it is possible that Karnal bunt could once again be present in a host crop grown on that land. We will not, therefore, be making any changes in response to the commenter's suggestion.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, without change.

Executive Order 12866 and Regulatory Flexibility Act

This final rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

We are amending the Karnal bunt regulations regarding the requirements that must be met in order for a field or area to be removed from the list of regulated areas. The changes will allow a field to qualify for release after 5 cumulative years of specified management practices, rather than 5 consecutive years as the regulations have provided. These changes will clarify the existing regulations and provide growers in regulated areas with greater flexibility in their planting decisions.

The change to 5 cumulative years using the specified management practices will afford regulated wheat producers greater flexibility in the planting cycle; they can elect not to till in a particular year without having to start over to satisfy the 5 consecutive years requirement for deregulation that has been in place. However, as a practical matter, the change should have little or no impact, as the ''consecutive years'' criterion has been in effect only since March 2004, near the end of the 2003–2004 crop season, and has not prevented any fields from being released that APHIS field personnel and managers determined were otherwise eligible for release from regulation.

The Regulatory Flexibility Act requires that agencies consider the economic impact of their rules on small businesses, organizations, and governmental jurisdictions. The Karnal bunt regulations have the potential to have the most impact on wheat producers. At the present time, parts of Texas, Arizona, and California are regulated for Karnal bunt. In Texas, there are approximately 285,000

agricultural acres and about 550 wheat producers under regulation. The equivalent figures for Arizona and California are, respectively, 278,000 acres (120 producers) and 56,000 acres (18 producers).

As determined by the Small Business Administration (SBA), the small entity size standard for wheat farming, which is defined as farms ''primarily engaged in growing wheat and/or producing wheat seeds'' (North American Industry Classification System code 11114), is $750,000 or less in annual receipts. Although the size of regulated wheat producers is unknown, they are likely to be small in size under SBA standards. This assumption is based on composite data for providers of the same and similar services. In 2002, Arizona had a total of 7,294 farms of all types. Of those farms, 91 percent had annual sales that year of less than $500,000, well below the SBA's small entity threshold. Similarly, the comparable percentages for Texas (228,926 total farms) and California (79,631 total farms) were 99 percent and 90 percent, respectively. (Source: SBA and NASS, 2002 Census of Agriculture.) Although many of these businesses are considered small under SBA standards, given the reason cited above, the proposed change should have little or no economic impact on small entities, wheat producers or otherwise.

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

Executive Order 12372

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

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all 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 challenging this rule.

Paperwork Reduction Act

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

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

■ Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

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

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

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

■ 2. In § 301.89–3, paragraph (f) is revised to read as follows:

§ 301.89–3 Regulated areas.

* * * * *

(f) A field known to have been infected with Karnal bunt, as well as any non-infected acreage surrounding the field, will be released from regulation if:

(1) The field has been permanently removed from crop production; or

(2) The field is tilled at least once per year for a total of 5 years (the years need not be consecutive). After tilling, the field may be planted with a crop or left fallow. If the field is planted with a host crop, the crop must test negative, through the absence of bunted kernels, for Karnal bunt.

* * * * *

Done in Washington, DC, this 7th day of March 2006.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 06–2402 Filed 3–13–06; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 05–027–2]

Pine Shoot Beetle; Additions to Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the pine shoot beetle regulations by adding counties in Illinois, Indiana, New York, Ohio, Pennsylvania, and Wisconsin to the list of quarantined areas. In addition, the interim rule designated the States of New Hampshire and Vermont, in their entirety, as quarantined areas based on their decision to no longer enforce intrastate movement restrictions. The interim rule was necessary to prevent the spread of pine shoot beetle, a pest of pine trees, into noninfested areas of the United States.

DATES: Effective on March 14, 2006, we are adopting as a final rule the interim rule that became effective on May 26, 2005.

FOR FURTHER INFORMATION CONTACT: Mr. Weyman Fussell, Program Manager, Pest Detection and Management Programs, PPQ, APHIS, 4700 River Road, Unit 134, Riverdale, MD 20737–1231; (301) 734–5705.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR 301.50 through 301.50–10 (referred to below as the regulations) restrict the interstate movement of certain regulated articles from quarantined areas in order to prevent the spread of pine shoot beetle (PSB) into noninfested areas of the United States.

In an interim rule effective and published in the **Federal Register** on May 26, 2005 (70 FR 30329–30330, Docket No. 05–027–1), we amended the regulations in § 301.50–3 by adding Christian, Douglas, and Edgar Counties, IL; Vigo County, IN; Clinton, Essex, Rensselaer, Warren, and Washington Counties, NY; Lawrence and Meigs Counties, OH; Snyder, Sullivan, Union, and Wayne Counties, PA; and Dane, Jackson, Lafayette, Sauk, and Walworth Counties, WI, to the list of quarantined areas in § 301.50–3(c). We took this action based on official surveys which indicated that these counties are infested with PSB.The interim rule also designated the States of New Hampshire and Vermont, in their entirety, as quarantined areas based on their decision to no longer enforce intrastate movement restrictions.

Comments on the interim rule were required to be received on or before July 25, 2005. We did not receive any comments. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rule concerning Executive Orders 12866, 12372, and 12988 and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

Regulatory Flexibility Act

This rule affirms an interim rule that amended the regulations by adding 20 counties in Illinois, Indiana, New York, Ohio, Pennsylvania, and Wisconsin, and the States of New Hampshire (9 previously nonquarantined counties) and Vermont (10 previously nonquarantined counties), in their entirety, to the list of areas quarantined for PSB. As a result of this action, there are additional restrictions on the interstate movement of regulated articles from these areas.

The following analysis addresses the economic effect of the interim rule on small entities, as required by the Regulatory Flexibility Act.

The interim rule affects entities in the 39 newly regulated counties in Illinois, Indiana, New Hampshire, New York, Ohio, Pennsylvania, Vermont, and Wisconsin that are engaged in moving regulated articles interstate from the regulated area.

Entities affected by the interim rule may include nursery stock growers, Christmas tree farms, logging operations, and others who sell, process, or move regulated articles. As a result of the interim rule, any regulated articles to be moved interstate from a quarantined area must first be inspected and/or treated in order to qualify for a certificate or limited permit authorizing the movement. Cut Christmas tree farms, nurseries and greenhouses, sawmills, logging operations, and others in the newly quarantined counties will be required to inspect and/or treat infested pine products before moving them interstate. Certain pine products may not be shipped during certain months of the year or will be required to undergo debarking before transport occurs.

APHIS has identified at least 1,048 entities that sell, process, or move forest products in these 39 regulated counties which might be impacted by the rule. Of these entities, there were approximately 253 that were producing nursery and greenhouse crops and 795 cut Christmas tree farms (table 1). In addition, an unknown number of sawmills and logging operations in the newly operated counties process pine tree products. According to information provided by agricultural extension officers in Illinois, Indiana, and New York and information previously collected by APHIS, pine trees and pine tree products such as cut Christmas trees sold in these States generally remain within the regulated areas. Nurseries and greenhouses specialize in production of deciduous landscape products rather than production of rooted pine Christmas trees and pine nursery stock, which generally constitute a small part of their production, if they are produced at all. Therefore, the interim rule is not likely to affect most nurseries and greenhouses.

TABLE 1.—NURSERY AND CUT CHRISTMAS TREE FARMS IN NEWLY QUARANTINED AREAS

State	Newly quarantined counties	Nursery and greenhouse farms	Cut Christmas tree farms
Illinois	3	6	17
Indiana	1	3	8
New Hampshire	9	73	209
New York	5	37	125
Ohio	2	17	11
Pennsylvania	4	30	73
Vermont	10	22	252
Wisconsin	5	65	100
Total	39	253	795

Sources: USDA, NASS, 2002 Census of Agriculture Volume 1, Chapter 2, County level data, table 34; Indiana Agricultural Extension Office; and New York Agricultural Extension Office. The 2002 Census of Agriculture does not report sales with county-level data.

Impact on Small Entities

The Regulatory Flexibility Act requires that agencies consider the economic effects of their rules on small entities and to use flexibility to provide regulatory relief when regulations create economic disparities between different sized entities. According to the Small Business Administration's (SBA's) Office of Advocacy, regulations create disparities based on size when they have a significant economic impact on a substantial number of small entities.

According to SBA size standards, nursery stock growers are considered small entities when they have annual sales of $750,000 or less, and Christmas tree growers are considered small entities when they have annual sales of $5 million or less. The 2002 Agricultural Census does not report sales by county. However, from previously gathered information, APHIS would assume that the majority of these types of entities within the newly quarantined areas are small by the SBA size standards.

As noted previously, those nurseries and greenhouses within the newly quarantined areas specialize in production of deciduous landscape products, not the production of regulated articles such as rooted pine trees and pine nursery stock. Further, the Christmas trees and pine products from cut Christmas tree farms generally remain within the regulated areas. For these reasons, the economic effects of the interim rule on regulated entities as a whole are not expected to be significant.

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

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

■ Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 301 and that was published at 70 FR 30329–30330 on May 26, 2005.

Done in Washington, DC, this 7th day of March 2006.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 06–2403 Filed 3–13–06; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 93 and 95

[Docket No. 03–080–9]

Bovine Spongiform Encephalopathy; Minimal-Risk Regions and Importation of Commodities; Technical Amendments

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; technical amendments.

SUMMARY: In a final rule published in the **Federal Register** on January 4, 2005, we amended the regulations regarding the importation of animals and animal products to establish a category of regions that present a minimal risk of introducing bovine spongiform encephalopathy into the United States via live ruminants and ruminant products and byproducts, and added Canada to this category. We also established conditions for the importation of certain live ruminants and ruminant products and byproducts from such regions. In this document, we are clarifying our intent with regard to certain provisions in the final rule and are correcting several inconsistencies within the rule. These technical amendments will clarify the regulations.

DATES: *Effective Date:* These amendments are effective March 14, 2006.

FOR FURTHER INFORMATION CONTACT: For information regarding ruminant products, contact Dr. Karen James-Preston, Director, Technical Trade Services, Animal Products, National Center for Import and Export, VS, APHIS, 4700 River Road, Unit 38, Riverdale, MD 20737–1231; (301) 734–4356.

For information concerning live ruminants, contact Lee Ann Thomas, Director, Technical Trade Services, Animals, Organisms and Vectors, and Select Agents, National Center for Import and Export, VS, APHIS, 4700 River Road, Unit 38, Riverdale, MD 20737–1231; (301) 734–4356.

SUPPLEMENTARY INFORMATION:

Background

In a final rule published in the **Federal Register** on January 4, 2005 (70 FR 460–553, Docket No. 03–080–3), we amended the regulations regarding the importation of animals and animal products to establish a category of regions that present a minimal risk of introducing bovine spongiform encephalopathy (BSE) into the United States via live ruminants and ruminant products and byproducts, and we added Canada to this category. We also established conditions for the importation of certain live ruminants and ruminant products and byproducts from such regions.

Following publication of the final rule, it came to our attention that certain provisions in the rule either did not make clear our intention or were written in a way that was inconsistent with other provisions in the rule or with the description of such provisions in the preamble of the rule. We addressed two of those issues in an interim rule that was published in the **Federal Register** and made effective on November 28, 2005 (70 FR 71213–71218, Docket No. 03–080–8). In this document, we are clarifying certain other provisions of the January 2005 final rule, as discussed below.

Certification and Individual Identification of Bovines, Sheep, and Goats Imported for Immediate Slaughter

In this amendment, we are making clear that live bovines, sheep, and goats imported from Canada for slaughter in the United States—whether for immediate slaughter or for feeding and then slaughter—must be accompanied by a health certificate issued in accordance with § 93.405 of the regulations and be individually identified before the animal's arrival at the port of entry into the United States.

As established by the January 2005 final rule, § 93.436(a) of the regulations requires a certificate for bovines imported from BSE minimal-risk regions for immediate slaughter, and § 93.436(b) requires a certificate for bovines imported from BSE minimal-risk regions for feeding and then slaughter. Section 93.419(c) requires a certificate for sheep and goats imported from BSE minimal-risk regions. Section 93.405, which contains general requirements for certificates for ruminants, provides in paragraph (a)(4) that certificates for bovines, sheep, and goats imported from BSE minimal-risk regions include, among other information, the name and address of the importer; the species, breed and number or quantity of ruminants to be imported; the purpose of the importation; individual ruminant identification and any other identification present on the animal, including registration number, if any; a description of the ruminant, including name, age, color, and markings, if any; the region of origin; the address of or other means of identifying the premises of origin and any other premises where the ruminants resided immediately prior to export, including the State or its equivalent, the municipality or nearest city, or an equivalent method, approved by the Administrator, of identifying the location of the premises; the name and address of the exporter; the port of embarkation in the foreign region; and the mode of transportation, route of travel, and port of entry in the United States.

The January 2005 final rule did not amend § 93.405(a), however, which allowed for exemptions to the certificate requirement as provided in § 93.418(a) for cattle imported from Canada for immediate slaughter and as provided in § 93.419(a) for sheep and goats imported from Canada for immediate slaughter.

The language in §§ 93.418(a) and 93.419(a) that exempted cattle, sheep, and goats imported from Canada for immediate slaughter from the certification requirements of § 93.405 was included in the regulations before a BSE-infected cow was diagnosed in Canada in May 2003. It was not removed when BSE was detected in Canada because, following that detection, no live ruminants were allowed importation from Canada, which made the exemptions moot. It was our intention to remove those exemptions once the importation of bovines, sheep, and goats from Canada was allowed to resume. However, by oversight, we neglected to remove those exemptions in our January 2005 final rule. Therefore, in this document, we are amending §§ 93.405(a), 93.418(a), and 93.419(a) to do so.

What Must Be Included on the Certification Regarding Sheep and Goats Imported for Immediate Slaughter

As discussed above, we are making clear in this technical amendment that sheep and goats imported from Canada for immediate slaughter must be accompanied by the health certificate required in accordance with § 93.405. However, only parts of § 93.405 are applicable to sheep and goats imported from Canada for immediate slaughter. Paragraphs (b) and (c) of § 93.405 include import conditions with regard to scrapie that are not applicable to sheep and goats imported from Canada for immediate slaughter, due to the very restricted movement of such animals in

the United States. In this document, we are adding wording to § 93.405(b)(1) and (c)(2) to make clear which sheep and goats those paragraphs apply to.

Individual Identification

Among the information required on the health certificate under § 93.405(a)(4) is the individual identification of the animal being imported from a BSE minimal-risk region. To make the requirement for individual identification more explicit, in this document we are amending §§ 93.419(c) and 93.436(a)(3) and (b)(4) to specify that each sheep, goat, and bovine imported from a BSE minimal-risk region—both those imported for immediate slaughter as well as those imported for feeding and then slaughter—must be identified before the animal's arrival at the port of entry into the United States by means of an official eartag of the country of origin (in this case a Canadian Food Inspection Agency eartag) that is determined by the APHIS Administrator to meet standards equivalent to those for official eartags in the United States as defined in 9 CFR 71.1 and to be traceable to the premises of origin of the animal. We are also specifying that no person may alter, deface, remove, or otherwise tamper with the official eartag while the animal is in the United States or moving into or through the United States, except that the identification may be removed at the time of slaughter.

Remove Requirement for Name of Animal on Health Certificate

As noted above, among the information required on the health certificate under § 93.405(a)(4) of the January 2005 final rule is the name of the animal. It is not our intent to require the name of the animal on the health certificate. The wording of § 93.405(a)(4) of the January 2005 final rule was taken in part from information that is usually supplied for purebred animals imported for shows or for breeding. Many animals of this type have been given a name, unlike ruminants imported for immediate slaughter or for feeding and then slaughter. Because the January 2005 final rule does not allow the importation of bovines, sheep, and goats from Canada for shows or breeding, a requirement that the name of the animal be included on the health certificate is not necessary or useful. Therefore, consistent with our intent, we are removing the requirement in § 93.405(a)(4) that a bovine, sheep, or goat imported from Canada be identified by name on the health certificate required under § 93.405.

Change to the Heading to § 93.405

Consistent with the content of § 93.405, we are changing the heading to that section from ''Certificate for ruminants'' to ''Health certificate for ruminants.''

Reformatting of § 93.418

Section 93.418 of the regulations contains certification requirements regarding the tuberculosis and brucellosis status of cattle from Canada. These requirements were in effect before Canada reported a case of BSE in May 2003. However, from May 2003 until the January 2005 final rule became effective, the provisions in § 93.418 were moot, because no live cattle were imported from Canada. With the resumption of the importation of cattle from Canada, and our making explicit in this technical amendment that all cattle from Canada must be accompanied by a health certificate in accordance with § 93.405, we are rewording and reformatting § 93.418 to be consistent with § 93.405 and to remove redundant language.

Paragraph (b) of § 93.418 has required that cattle imported from Canada for other than immediate slaughter be accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian Government stating that the cattle meet specified requirements regarding their tuberculosis status. Similarly, § 93.418(c) has required that certain cattle imported from Canada for other than immediate slaughter be accompanied by a certification that the cattle meet specified requirements regarding their brucellosis status.

As noted above under the heading ''Certification and Individual Identification of Bovines, Sheep, and Goats Imported for Immediate Slaughter,'' in this technical amendment we are removing the language in § 93.418(a) that has said that cattle imported from Canada for immediate slaughter do not need to be accompanied with the health certificate required under § 93.405. Consistent with this change to § 93.418(a), we are rewording § 93.418(b) and (c) to make it clear that, although all cattle imported from Canada must be accompanied by a health certificate in accordance with § 93.405, § 93.418 requires specific information regarding tuberculosis and brucellosis only for certain cattle (i.e., for cattle other than those imported for immediate slaughter and, with regard to brucellosis, for cattle other than steers).

Additionally, in this technical amendment, we are removing § 93.418(d) because its provisions are contained elsewhere in the regulations. Section 93.418 has contained language requiring that the health certificate accompanying cattle to the United States indicate the names of the consignor and consignee, as well as a description of the cattle to be imported. This language is duplicative of language contained in § 93.405. Also, § 93.418(d)(3) has required that the certification accompanying certain cattle from Canada indicate the dates and places of tuberculosis and brucellosis tests required under § 93.418(b) and (c). That requirement is duplicative of language already set forth in § 93.418(b) and (c). Finally, we are removing the language from § 93.418(d) that says that, for brucellosis vaccinations required under § 93.418, the required certificate must indicate the date of vaccination, dosage of vaccine, and age of each animal, and are including it instead in § 93.418(c).

Certification That Bovines, Sheep, and Goats Are Not Pregnant

Section 93.436 of our January 2005 final rule allows, under certain conditions, the importation of bovines under 30 months of age and sheep and goats under 12 months of age. One of the conditions is that the animals must be imported either for immediate slaughter or for movement to a feedlot for subsequent movement to slaughter. The final rule does not allow the importation of breeding cattle and breeding sheep and goats from BSE minimal-risk regions. This prohibition was discussed in the preamble (see 70 FR 484–485 and 487), and the rule allows the importation of bovines, sheep, and goats for slaughter only.

However, the regulatory text of the final rule does not explicitly address whether pregnant bovines, sheep, or goats may be imported for immediate slaughter or for movement to a feedlot for subsequent movement to slaughter.

We did not intend to allow the importation of pregnant bovines, sheep, and goats under the final rule. Calves, lambs, and kids born in the United States from animals imported under the January 2005 final rule would not have been imported in compliance with the final rule, in that they would not have been identified as being of Canadian origin by means of a brand, they would not be individually identified in a way that is traceable to their herd or flock of origin, and they would not be specifically covered by a certificate. Further, the importation of fetal bovine serum (FBS) from BSE minimal-risk regions was not evaluated for the January 2005 final rule, and the regulations do not allow the importation FBS from BSE minimal-risk regions. It

would be inconsistent to prohibit the importation of FBS from BSE minimal-risk regions, while at the same time allow the importation of pregnant bovines from whose fetuses FBS could be obtained.

Therefore, we are amending § 93.436(a)(1) and (b)(1) to prohibit explicitly the importation of pregnant bovines from BSE minimal-risk regions. Similarly, we are amending § 93.419(c) to prohibit the importation of pregnant sheep and goats from Canada (at this time the only country listed as a BSE minimal-risk region). As we have been requiring since the January 2005 final rule was implemented, certificates accompanying bovines, sheep, and goats imported from Canada must state that the animals covered by the certificate are not pregnant.

Definition of Camelids

In the preamble of the January 2005 final rule, we stated that we were adding a definition of *camelid* to § 93.400 to mean all species in the family *Camelidae*, including camels, llamas, alpacas, guanacos, and vicunas. However, in the regulatory text of our rule, we inadvertently neglected to include guanacos in the definition of *camelid*. In this document, we are correcting that oversight by adding guanacos to the definition of *camelid* in § 93.400.

Pet Food and Similar Commodities

Paragraphs (a)(1) and (a)(2) of § 95.4 contain lists of commodities that are prohibited importation from regions listed in § 94.18(a) unless certain conditions are met. The regions listed in § 94.18(a) include regions in which BSE is known to exist (listed in § 94.18(a)(1)), regions that present an undue risk of introducing BSE into the United States (listed in § 94.18(a)(2)), and BSE minimal-risk regions (listed in § 94.18(a)(3)).

The lists of prohibited items in § 95.4(a)(1) and (a)(2) include processed animal protein, tankage, offal, and tallow other than tallow derivatives, unless, in the opinion of the Administrator, the tallow cannot be used in feed. Also listed are glands and unprocessed fat tissue derived from ruminants, and derivatives of glands from ruminants, as well as processed fats and oils, and derivatives of processed animal protein, tankage, and offal, regardless of the animal species from which the material was derived.

Further, § 95.4(a)(3) specifies that products containing any of the materials listed above are prohibited importation from regions listed in § 94.18(a). In § 95.4(f) and (g) of the January 2005 final rule, however, we added exceptions to the prohibitions set forth in § 95.4(a) for tallow and offal imported from a BSE minimal-risk region, provided certain risk-mitigating conditions are met.

However, § 95.4(a)(3), read literally, appears to prohibit the importation of products containing any of the materials listed in § 95.4(a)(1) or (2), even those products containing materials that are allowed to be imported from BSE minimal-risk regions. Specifically, the wording in § 95.4(a)(3) prohibits the importation of ''[p]roducts containing any of the items listed in paragraphs (a)(1) and (a)(2) of this section,'' and does not go on to acknowledge that § 95.4(a) allows for certain exceptions for items from a BSE minimal-risk region. Our intention, however, was to prohibit the importation of only those products containing any items that themselves are prohibited importation under § 95.4(a)(1) and (2). To make clear our intent, we are rewording § 95.4(a)(3) so that it prohibits the importation of ''products containing any of the items prohibited importation under paragraphs (a)(1) and (a)(2) of this section.''

List of Subjects

9 CFR Part 93

Animal diseases, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements.

9 CFR Part 95

Animal feeds, Hay, Imports, Livestock, Reporting and recordkeeping requirements, Straw, Transportation.

■ Accordingly, 9 CFR parts 93 and 95 are corrected by making the following technical amendments:

PART 93—IMPORTATION OF CERTAIN ANIMALS, BIRDS, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS

■ 1. The authority citation for part 93 continues to read as follows:

Authority: 7 U.S.C. 1622 and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

■ 2. Section 93.400 is amended by revising the definition of *camelid* to read as follows:

§ 93.400 Definitions.

* * * * *

Camelid. All species of the family *Camelidae*, including camels, guanacos, llamas, alpacas, and vicunas.

* * * * *

■ 3. Section 93.405 is amended as follows:

■ a. By revising the section heading to read as set forth below.

■ b. In paragraph (a), by removing the words ''§§ 93.418(a), 93.419(a), 93.423(c), and 93.428(d),'' and by adding in their place the words ''§§ 93.423(c) and 93.428(d),''.

■ c. By revising paragraph (a)(4), the introductory text to paragraph (b)(1), and paragraph (c)(2) to read as set forth below.

§ 93.405 Health certificate for ruminants.

(a) * * *

(4) If the ruminants are bovines, sheep, or goats from regions listed as BSE minimal-risk regions in § 94.18(a)(3) of this subchapter, the certificate must also include the name and address of the importer; the species, breed, number or quantity of ruminants to be imported; the purpose of the importation; individual ruminant identification, which includes the eartag required under §§ 93.419(c) and 93.436(a)(3) and (b)(4) of this subchapter, and any other identification present on the animal, including registration number, if any; a description of the ruminant, including age, color, and markings, if any; region of origin; the address of or other means of identifying the premises of origin and any other premises where the ruminants resided immediately prior to export, including the State or its equivalent, the municipality or nearest city, or an equivalent method, approved by the Administrator, of identifying the location of the premises, and the specific physical location of the feedlot or recognized slaughtering establishment where the ruminants are to be moved after importation; the name and address of the exporter; the port of embarkation in the foreign region; and the mode of transportation, route of travel, and port of entry in the United States.

(b) *Goats.* (1) In addition to the statements required by paragraph (a) of this section, the certificate accompanying goats from any part of the world, except for goats imported from Canada for immediate slaughter, must state:

* * * * *

(c) * * *

(2) In addition, except for sheep imported from Canada for immediate slaughter, the certificate accompanying sheep intended for importation from

any part of the world except Australia and New Zealand must state that the sheep have not been in any flock nor had contact with sheep or goats that have been in any flock or herd where scrapie has been diagnosed or suspected during the 5 years immediately prior to shipment.

* * * * *

■ 4. Section 93.418 is amended as follows:

■ a. By revising paragraphs (a) and (b)(2)(i), the introductory text of paragraph (b)(2)(ii), and paragraphs (c)(2)(i) and (c)(2)(iii) to read as set forth below.

■ b. By removing paragraph (d).

§ 93.418 Cattle from Canada.

(a) *Health certificates.* Cattle intended for importation from Canada must be accompanied by a certificate issued in accordance with § 93.405(a). The certificate must state that the cattle have been inspected and were found to be free from any evidence of communicable disease and that, as far as can be determined, they have not been exposed to any such disease during the preceding 60 days. Cattle found unqualified upon inspection at the port of entry will be refused entry into the United States.

(b) * * *

(2) * * *

(i) The cattle are imported for immediate slaughter in accordance with § 93.420; or

(ii) The cattle are imported for movement to a feedlot and then to slaughter and the certificate accompanying the cattle shows, in addition to the information required under § 93.405, the breed of the animal, and:

* * * * *

(c) * * *

(2) * * *

(i) The cattle are imported for immediate slaughter in accordance with § 93.420;

* * * * *

(iii) The cattle are imported for movement to a feedlot and then to slaughter and the certificate accompanying the cattle shows, in addition to the information required under § 93.405, the breed of the animal, and:

(A) That the cattle are from a brucellosis certified-free herd, province, or territory; or

(B) The date and place the cattle were last tested for brucellosis; that the cattle were found negative for brucellosis on such test; and that such test was performed within 30 days preceding the arrival of the cattle at the port of entry; or

(C) That the female cattle under 18 months of age were vaccinated against brucellosis in accordance with Canadian regulations; the date of such vaccination; the dosage of vaccine used; and the age of each animal on the date of vaccination.

■ 5. Section 93.419 is amended as follows:

■ a. By revising paragraph (a) and the introductory text of paragraph (c) to read as set forth below.

■ b. By removing paragraph (d)(2).

■ c. By redesignating paragraphs (d)(3) through (d)(8) as paragraphs (d)(2) through (d)(7), respectively.

■ d. In newly redesignated paragraph (d)(2), by removing the words ''paragraph (d)(8)'' and adding in their place the words ''paragraph (d)(7)'', and by removing the words ''paragraph (d)(2)'' and adding in their place the words ''paragraph (c)''.

■ e. In newly redesignated paragraph (d)(5), by removing the words ''paragraph (d)(2)'' and adding in their place the words ''paragraph (c)''.

§ 93.419 Sheep and goats from Canada.

(a) Sheep and goats intended for importation from Canada must be accompanied by a certificate issued in accordance with § 93.405.

* * * * *

(c) Any sheep or goats imported from Canada must not be pregnant, must be less than 12 months of age when imported into the United States and when slaughtered, must be from a flock or herd subject to a ruminant feed ban equivalent to the requirements established by the U.S. Food and Drug Administration at 21 CFR 589.2000, and must be individually identified by an official Canadian Food Inspection Agency eartag, applied before the animal's arrival at the port of entry into the United States, that is determined by the Administrator to meet standards equivalent to those for official eartags in the United States as defined in § 71.1 of this chapter and to be traceable to the premises of origin of the animal. No person may alter, deface, remove, or otherwise tamper with the individual identification while the animal is in the United States or moving into or through the United States, except that the identification may be removed at the time of slaughter. The animals must be accompanied by the certification issued in accordance with § 93.405 that states, in addition to the statements required by § 93.405, that the conditions of this paragraph have been met. Additionally, for sheep and goats imported for other than immediate slaughter, the certificate must state that the conditions of paragraph (d)(1) of this section have been met. For sheep and goats imported for immediate slaughter, the certificate must also state that:

* * * * *

■ 6. Section 93.436 is amended as follows:

■ a. By revising paragraph (a)(1) to read as set forth below.

■ b. By redesignating paragraphs (a)(3) through (a)(6) as paragraphs (a)(4) through (a)(7), respectively.

■ c. By adding a new paragraph (a)(3) to read as set forth below.

■ d. By revising newly redesignated paragraph (a)(4) to read as set forth below.

■ e. By revising paragraph (b)(1) to read as set forth below.

§ 93.436 Ruminants from regions of minimal risk for BSE.

(a) * * *

(1) The bovines must be less than 30 months of age and must not be pregnant when imported into the United States and when slaughtered;

* * * * *

(3) Each bovine must be individually identified by an official eartag of the country of origin, applied before the animal's arrival at the port of entry into the United States, that is determined by the Administrator to meet standards equivalent to those for official eartags in this chapter and to be traceable to the premises of origin of the animal. No person may alter, deface, remove, or otherwise tamper with the official identification while the animal is in the United States or moving into or through the United States, except that the identification may be removed at the time of slaughter;

(4) The bovines must be accompanied by a certificate issued in accordance with § 93.405 that states, in addition to the statements required by § 93.405, that the conditions of (a)(1) through (a)(3) of this section have been met;

* * * * *

(b) * * *

(1) The bovines must be less than 30 months of age and must not be pregnant when imported into the United States;

* * * * *

PART 95—SANITARY CONTROL OF ANIMAL BYPRODUCTS (EXCEPT CASINGS), AND HAY AND STRAW, OFFERED FOR ENTRY INTO THE UNITED STATES

■ 10. The authority citation for part 95 continues to read as follows:

Authority: 7 U.S.C. 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

■ 11. In § 95.4, paragraph (a)(3) is revised to read as follows:

§ 95.4 Restrictions on the importation of processed animal protein, offal, tankage, fat, glands, certain tallow other than tallow derivatives, and serum due to bovine spongiform encephalopathy.

(a) * * *

(3) Products containing any of the items prohibited importation under paragraphs (a)(1) and (a)(2) of this section.

* * * * *

Done in Washington, DC, this 8th day of March 2006.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 06–2406 Filed 3–13–06; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 352

[Docket No. 05–036C; FDMS No. 2005–0040]

RIN 0583–AD21

Ante-Mortem Inspection of Horses; Correction

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Interim final rule; correction.

SUMMARY: This document corrects the preamble to an interim final rule published in the **Federal Register** on February 8, 2006, amending the Federal meat inspection regulations to provide for a voluntary fee-for-service program under which official establishments that slaughter horses will be able to apply for and pay for ante-mortem inspection. This correction states that the FY 2006 Appropriations Act will be in effect until October 1, 2006 (the first day of FY 2007).

FOR FURTHER INFORMATION CONTACT: Lynn Ellen Dickey, PhD, Director, Regulations and Petitions Policy Staff, Office of Policy, Program, and Employee Development, Food Safety and Inspection Service, 300 12th Street, SW., Room 112 Cotton Annex Building, Washington, DC 20250–3700, (202) 720–5627.

Correction

In the interim final rule, entitled Ante-Mortem Inspection of Horses (FSIS docket number 05–036IF), beginning on page 6337 in the issue of February 8, 2006, make the following correction, in the **SUPPLEMENTARY INFORMATION** section. On page 6339 in the 3rd column, revise the first sentence of the second paragraph to read as follows:

''The FY 2006 Appropriations Act will be in effect until October 1, 2006 (the first day of FY 2007).''

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 correction, FSIS will announce it on-line through the FSIS Web page located at *http://www.fsis.usda.gov/regulations_&_policies/2006_Interim_&_Final_Rules_Index/index.asp.*

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 e-mail subscription service which 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 across 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 account.

Done at Washington, DC, on March 8, 2006.

Barbara J. Masters,

Administrator.

[FR Doc. 06–2418 Filed 3–13–06; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22697; Directorate Identifier 2004–SW–46–AD; Amendment 39–14509; AD 2006–06–01]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model EC 155B and B1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for the specified Eurocopter France (ECF) model helicopters that requires inspecting an electrical cable bundle for wear. If wear is present, the AD requires installing an airworthy cable bundle and modifying the routing of the electrical cable bundles. This amendment is prompted by reports of a short circuit in the wiring, which led to failure of the normal and emergency landing gear operation modes. The actions specified by this AD are intended to prevent interference of the wiring with the structure resulting in an electrical short circuit, failure of the landing gear to extend, and an emergency landing.

DATES: Effective April 18, 2006.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 18, 2006.

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

Examining the Docket

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

FOR FURTHER INFORMATION CONTACT: Jorge Castillo, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations and Policy Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5127, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend 14 CFR part 39 to include an AD for the specified ECF

model helicopters was published in the **Federal Register** on October 17, 2005 (70 FR 199). The action proposed to require inspecting an electrical cable bundle for wear. If wear is present, the AD proposed installing an airworthy cable bundle and modifying the routing of the electrical cable bundles.

A correction to that proposal was published in the **Federal Register** on January 20, 2006 (71 FR 3248). That action corrected the docket number throughout the proposal changing it from FAA–2005–22696 to FAA–2005–22697.

The Direction Generale de l'Aviation Civile (DGAC), the airworthiness authority for France, notified the FAA that an unsafe condition may exist on ECF Model EC 155 helicopters. The DGAC advises of the occurrence of a short circuit that occurred in the wiring of panel 12 Alpha making the landing gear inoperative.

ECF has issued Alert Service Bulletin No. 24A011 (ASB), dated March 11, 2004, subsequently revised on May 14, 2004, which specifies checking the condition of the wiring and modifying its routing to preclude the risk of interference and associated damage. The May 14, 2004, revision to the ASB also specifies preventing any interference of the wiring with the head of the vent line attaching clamp by replacing wiring kit 365A0739C28.71 with wiring kit 365A0739C28.72. The DGAC classified these ASBs as mandatory and issued AD No. F–2004–057 R1 dated July 21, 2004, to ensure the continued airworthiness of these helicopters in France.

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

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for correcting the docket number from FAA–2005–22696 to FAA–2005–22697. Also, we have expanded the contact address in paragraph (b) in the body of the AD to provide more information to the public. These changes will neither increase the economic burden on any operator nor increase the scope of this AD.

We estimate that this AD will affect 7 helicopters of U.S. registry. It will take about 16 work hours to inspect and modify the wiring per helicopter at an average labor rate of $65 per work hour. Required parts and material will cost about $240. Based on these figures, we estimate the total cost impact of the AD on U.S. operators to be $8,960, assuming that all of the helicopters are modified.

Regulatory Findings

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

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

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

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

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

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

Authority for This Rulemaking

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2006–06–01 Eurocopter France: Amendment 39–14509. Docket No. FAA–2005–22697, Directorate Identifier 2004–SW–46–AD.

Applicability

Model EC 155B and B1 helicopters, certificated in any category.

Compliance

Required as indicated, unless accomplished previously.

To prevent interference of the wiring with the structure resulting in an electrical short circuit, failure of the landing gear to extend, and an emergency landing, accomplish the following:

(a) Within 50 hours time-in-service (TIS),

(1) Inspect the wiring of panel 12 Alpha (wiring) electrical cable bundle for wear. If wear is present, replace the worn cable bundle with an airworthy cable bundle by following the Accomplishment Instructions, paragraphs 2.A.1, 2.B.1., and 2.B.2 of Eurocopter Alert Service Bulletin EC155 No. 24A011, Revision 1, dated May 14, 2004 (ASB).

Note 1: Aircraft Maintenance Manual (AMM): Tasks 24.00.00.911 and 32–30–00–721 and Standard Practices Manual (MTC) Work Cards 20.02.01.415, 20.06.01.310, 20.06.01.406, and 20.02.06.409 pertain to the subject of this AD.

(2) Modify the routing of the electrical wiring (MOD 0739C28) and replace spreaders and spacers by following the Accomplishment Instructions, paragraph 2.B.3. through 2.B.9. of the ASB.

(b) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Rotorcraft Directorate, Regulations and Policy Group, FAA, ATTN: Jorge Castillo, Aviation Safety Engineer, Fort Worth, Texas 76193–0111, telephone (817) 222–5127, fax (817) 222–5961 for information about previously approved alternative methods of compliance.

(c) Special flight permits will not be issued.

(d) Inspect and modify the routing of the electrical wiring and replace any electrical parts in accordance with the specified portions of Eurocopter Alert Service Bulletin EC155 No. 24A011, Revision 1, dated May 14, 2004. The Director of the Federal Register approved this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. Copies may be inspected at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(e) This amendment becomes effective on April 18, 2006.

Note 2: The subject of this AD is addressed in Direction Generale de l'Aviation Civile (France) AD F–2004–057 R1, dated July 21, 2004.

Issued in Fort Worth, Texas, on February 23, 2006.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 06–2357 Filed 3–13–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM06–13–000; Order No. 674]

Conditions for Public Utility Market-Based Rate Authorization Holders

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule: clarification.

SUMMARY: This document clarifies a correction that was published in the **Federal Register** on March 7, 2006. That action amended an effective date for a Final Rule that published in the **Federal Register** on February 27, 2006. The correction document referenced the wrong **Federal Register** page number.

DATES: *Effective Date:* February 27, 2006.

FOR FURTHER INFORMATION CONTACT: Frank Karabetsos, Office of General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8133, *Frank.Karabetsos@ferc.gov.*

SUPPLEMENTARY INFORMATION: In FR Doc. 06–2155, published in the **Federal Register** on March 7, 2006 (71 FR 11304), the correction language cited the wrong page number for the original **Federal Register** document. FR Doc. 06–2155 is clarified and corrected as follows:

On page 11304, column 1, under **SUPPLEMENTARY INFORMATION**, change ''(71 FR 9698)'' to ''(71 FR 9695)'' and ''On page 9698 * * *'' to ''On page 9695''.

Magalie R. Salas,

Secretary.

[FR Doc. 06–2404 Filed 3–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Sulfamerazine, Sulfamethazine, and Sulfaquinoxaline Powder

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Alpharma Inc. The NADA provides revised labeling for a soluble powder containing sulfamerazine, sulfamethazine, and sulfaquinoxaline used in drinking water of chickens and turkeys as an aid in the control of coccidiosis and acute fowl cholera.

DATES: The rule is effective March 14, 2006.

FOR FURTHER INFORMATION CONTACT: Dianne T. McRae, Center for Veterinary Medicine (HFV–104), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0161, e-mail: *dianne.mcrae@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Alpharma Inc., One Executive Drive, Fort Lee, NJ 07024, filed NADA 100–094 for POULTRYSULFA (sulfamerazine, sulfamethazine, and sulfaquinoxaline) Antimicrobial Soluble Powder, an over-the-counter product used in the drinking water of chickens and turkeys as an aid in the control of coccidiosis and acute fowl cholera. The NADA relies on the National Academy of Sciences/National Research Council (NAS/NRC), Drug Efficacy Study Group's (DESI) effectiveness evaluation and subsequent FDA conclusions. The findings were published in the **Federal Register** of July 5, 1984 (49 FR 27543).

Using the official analytical method of detection, residues of sulfamethazine and sulfamerazine in edible tissues co-elute and cannot be quantified individually. There are no products containing only sulfamerazine approved for use in chickens or turkeys. Therefore, a tolerance for sulfamerazine residues in edible tissues of chickens or turkeys is not established at this time.

Products that comply with the NAS/NRC findings and FDA's conclusions regarding those findings are eligible for immediate copying under the Generic Animal Drug and Patent Term Restoration Act (GADPTRA) (see the eighth in a series of policy letters issued to facilitate implementation of GADPTRA that published in the **Federal Register** of August 21, 1991 (56 FR 41561), available online at *http://www.fda.gov/cvm/Documents/8thltr.doc*).

The NADA is approved as of February 2, 2006, and part 520 (21 CFR part 520) is amended by adding new § 520.2218 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

FDA has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

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 520

Animal drugs.

■ 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 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 2. Add § 520.2218 to read as follows:

§ 520.2218 Sulfamerazine, sulfamethazine, and sulfaquinoxaline powder.

(a) *Specifications*. Each 195-gram (g) packet of powder contains 78 g sulfamerazine, 78 g sulfamethazine, and 39 g sulfaquinoxaline.

(b) *Sponsor*. See No. 046573 in § 510.600(c) of this chapter.

(c) *Related tolerances*. See §§ 556.670 and 556.685 of this chapter.

(d) *Conditions of use*—(1) *Chickens*—(i) *Amounts and indications for use*—(A) As an aid in the control of coccidiosis caused by *Eimeria tenella* and *E. necatrix* susceptible to sulfamerazine, sulfamethazine, and sulfaquinoxaline: provide medicated water (0.4 percent solution) for 2 to 3 days, then plain water for 3 days, then medicated water (0.25 percent solution) for 2 days. If bloody droppings appear, repeat at 0.25 percent level for 2 more days. Do not change litter.

(B) As an aid in the control of acute fowl cholera caused by *Pasteurella multocida* susceptible to sulfamerazine, sulfamethazine, and sulfaquinoxaline: provide medicated water (0.4 percent solution) for 2 to 3 days. If disease recurs, repeat treatment.

(ii) *Limitations*. Make fresh solution daily. Do not treat chickens within 14 days of slaughter for food. Do not medicate chickens producing eggs for human consumption.

(2) *Turkeys*—(i) *Amounts and indications for use*—(A) As an aid in the control of coccidiosis caused by *Eimeria meleagrimitis* and *E. adenoeides* susceptible to sulfamerazine, sulfamethazine, and sulfaquinoxaline: provide medicated water (0.25 percent solution) for 2 days, then plain water for 3 days, then medicated water (0.25 percent solution) for 2 days, then plain water for 3 days, then medicated water (0.25 percent solution) for 2 days. Repeat if necessary. Do not change litter.

(B) As an aid in the control of acute fowl cholera caused by *Pasteurella multocida* susceptible to sulfamerazine, sulfamethazine, and sulfaquinoxaline: provide medicated water (0.4 percent solution) for 2 to 3 days. If disease recurs, repeat treatment.

(ii) *Limitations*. Make fresh solution daily. Do not treat turkeys within 14 days of slaughter for food. Do not medicate turkeys producing eggs for human consumption.

Dated: February 23, 2006.

David E. Wardrop, Jr.,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 06–2396 Filed 3–13–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9255]

RIN 1545–BF31

Agent for a Consolidated Group With Foreign Common Parent

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains temporary regulations under section 1502 that provide the IRS with the authority to designate a domestic member of the consolidated group as a substitute agent to act as the sole agent for the group where a foreign entity is the common parent. The regulations affect corporations that join in the filing of a consolidated Federal income tax return where the common parent of the consolidated group is a foreign entity that is treated as a domestic corporation pursuant to section 7874(b) of the Internal Revenue Code (Code) or as the result of a section 953(d) election. The text of these temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective March 14, 2006.

Applicability Dates: These regulations apply to taxable years for which the due date (without extensions) for filing returns is after March 14, 2006. The applicability of these regulations will expire on or before March 9, 2009.

FOR FURTHER INFORMATION CONTACT: Stephen R. Cleary, (202) 622–7750, (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

Section 1504(b)(3) of the Internal Revenue Code of 1986 (Code) excludes foreign corporations from the definition of ''includible corporation.'' As a result, a foreign entity generally cannot be a member of a consolidated group. In certain cases, section 7874 treats a foreign entity as a domestic corporation and section 953(d) allows a foreign insurance company to make an election to be treated as a domestic corporation. As a result, a foreign entity could be the common parent or a subsidiary of a consolidated group if it is treated as a domestic corporation under either section 7874(b) or section 953(d).

Under § 1.1502–77(a)(1)(i) of the regulations, the common parent for a consolidated return year is generally the sole agent (agent for the group) that is authorized to act in its own name with respect to all matters relating to the tax liability for that consolidated return year for each member of the group, and any successor of a member (as defined in § 1.1502–77(a)(1)(iii)). The common parent's agency for a consolidated return year generally continues until the common parent ceases to exist, regardless of whether any subsidiaries in that year cease to be members of the group, whether the group files a consolidated return in any later year, or whether the common parent ceases to be the common parent or a member of the group in a later year. Section 1.1502–77(d) provides rules for designating a substitute agent if the common parent's existence terminates.

The IRS and Treasury Department believe that it may not always be practical or efficient for tax administration to have a foreign entity act as the agent for the group. Accordingly, where a foreign entity is the common parent because it is treated as a domestic corporation by reason of section 7874 or a section 953(d) election (a Foreign Common Parent), the temporary regulations provide the IRS with the authority to designate a domestic member of the group to be the sole agent (a Domestic Substitute Agent) even though the group's common parent continues in existence.

These temporary regulations provide flexibility in the method of communication the IRS may use to designate a Domestic Substitute Agent, allowing notification by mail or by faxed transmission. In addition, these regulations provide specificity for the determination of the effective date of the designation of a Domestic Substitute Agent: the designation is effective on the earliest of the 14th day following the date of a mailing, the 4th day following a faxed transmission, or the date the Commissioner receives written confirmation of the designation by a duly authorized officer of the designated agent, within the meaning of section 6062.

Special Analyses

It has been determined that these temporary regulations are not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has been determined, pursuant to 5 U.S.C. 553(b)(B), that good cause exists for dispensing with the notice and public comment procedures and that, pursuant to 5 U.S.C. 553(d)(3), good cause exists to dispense with a delayed effective date. The regulations are necessary to allow the IRS to avoid potentially serious tax administration problems that may arise when a foreign entity is the agent for a consolidated group, and to provide immediate guidance to taxpayers regarding the IRS' authority to designate a substitute agent for the group in such a case. For applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6), refer to the Special Analysis section of the Notice of Proposed Rulemaking published in the Proposed Rules section in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Stephen R. Cleary of the Office of Associate Chief Counsel (Corporate). Other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding entries in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *
Section 1.1502–77T also issued under 26 U.S.C. 1502 * * *

■ **Par. 2.** Section 1.1502–77 is amended by adding and reserving paragraph (i) and adding paragraph (j) to read as follows:

§ 1.1502–77 Agent for the group.

* * * * *

(i)[Reserved]

(j) *Designation by Commissioner if common parent is treated as a domestic corporation under section 7874 or section 953(d)* [Reserved]. For further guidance, see § 1.1502–77T(j).

■ **Par. 3.** Section 1.1502–77T is added to read as follows:

§ 1.1502–77T Agent for the group (temporary).

(a) through (i) [Reserved]. For further guidance see § 1.1502–77(a) through (i).

(j) *Designation by Commissioner if common parent is treated as a domestic corporation under section 7874 or section 953(d)*—(1) *In general.* If the common parent is an entity created or organized under the law of a foreign country and is treated as a domestic corporation by reason of section 7874 (or regulations thereunder) or a section 953(d) election (a Foreign Common Parent), the Commissioner may at any time, with or without a request from any member of the group, designate another member of the group to act as the agent for the group (a Domestic Substitute Agent) for any taxable year for which the due date (without extensions) for filing returns is after March 14, 2006 and the Foreign Common Parent would otherwise be the agent for the group. For each such year, the Domestic Substitute Agent will be the sole agent for the group even though the Foreign Common Parent remains in existence. The Foreign Common Parent ceases to be the agent for the group when the Commissioner's designation of a Domestic Substitute Agent becomes effective. The Commissioner may designate a Domestic Substitute Agent for the term of a single taxable year, multiple years, or on a continuing basis.

(2) *Domestic Substitute Agent.* The Domestic Substitute Agent, by designation or by succession, shall be a domestic corporation described in § 1.1502–77(d)(1)(i)(A) (determined without regard to section 7874, a section 953(d) election, section 269B, or section 1504(d)).

(3) *Designation by the Commissioner.* The Commissioner will notify the Domestic Substitute Agent in writing by mail or faxed transmission of the designation. The Domestic Substitute Agent's designation is effective on the earliest of the 14th day following the date of a mailing, the 4th day following a faxed transmission, or the date the Commissioner receives written confirmation of the designation by a duly authorized officer of the Domestic Substitute Agent (within the meaning of section 6062). The Domestic Substitute Agent must give notice of its designation to the Foreign Common Parent and each corporation that was a member of the group during any part of any consolidated return year for which the Domestic Substitute Agent will be the agent. A failure of the Domestic Substitute Agent to notify the Foreign Common Parent or any member of the group does not invalidate the designation. The Commissioner will send a copy of the notification to the Foreign Common Parent, and if applicable, to any Domestic Substitute Agent the designation replaces; a failure to send a copy of the notification does not invalidate the designation.

(4) *Term of agency*—(i) *In general.* If the Commissioner designates a Domestic Substitute Agent for a taxable year, the Domestic Substitute Agent will remain the agent for such year until the group ceases to exist or the Domestic Substitute Agent ceases to exist, ceases to be a member of the group, is replaced by a successor, or is replaced by the Commissioner. This designee remains the agent for such year regardless of whether one or more corporations that were members of the group during any part of such year cease to be members of the group, whether the group files a consolidated return for any subsequent year, or, except as provided by paragraphs (j)(4)(iv)(B) and (j)(4)(v) of this section, whether the group remains in existence with a new common parent in any subsequent year.

(ii) *Agency of Domestic Substitute Agent upon termination of the group.* If the Domestic Substitute Agent is the agent for the group for a year in which the group terminates, the Domestic Substitute Agent shall be the agent for that taxable year (and any prior taxable year for which it is the agent for the group) so long as the Domestic Substitute Agent continues its corporate existence unless it is replaced by a successor or a new designee by the Commissioner.

(iii) *Replacement of § 1.1502–77(d)(1) agent.* If, pursuant to § 1.1502–77(d)(1), the common parent of the group designates a Foreign Common Parent as the agent for the group for any taxable year, the Commissioner may, at any time, designate a Domestic Substitute Agent to replace the Foreign Common Parent, even if the Commissioner approved the terminating common parent's designation.

(iv) *Group continues with a new common parent*—(A) *Year the new common parent becomes the common parent.* If subsequent to a transaction to which section 7874 applies or a section 953(d) election, the group remains in existence with a new common parent and such new common parent is a domestic corporation (determined without regard to section 7874, a section 953(d) election, or section 269B), such new common parent will become the

agent for the group with respect to the entire consolidated return year (including the portion of the year preceding the date on which the new common parent became the common parent)) and the former Domestic Substitute Agent will no longer be the agent for the group for any part of that year.

(B) *Years preceding the year the new common parent becomes the common parent.* If after the Commissioner's designation of a Domestic Substitute Agent the group remains in existence with a new common parent, and such new common parent is a domestic corporation (determined without regard to section 7874, a section 953(d) election, or section 269B), the Commissioner may designate the new common parent as the agent for the group for any of the group's prior taxable years (for which the due date (without extensions) for filing returns is after March 14, 2006) in which the new common parent was a member of the group. For this purpose, the new common parent is treated as having been a member of the group for any taxable year it is primarily liable for the group's income tax liability.

(v) *Replacement of Domestic Substitute Agent by the Commissioner.* The Commissioner may at any time, with or without a request from any member of the group, designate a replacement for a Domestic Substitute Agent (or a successor to such agent).

(5) *Deemed § 1.1502–77(d) designation*—(i) *Section 1.1502–78 adjustments.* If the Commissioner designates a Domestic Substitute Agent under this paragraph (j), it will be treated as a designation of a substitute agent under § 1.1502–77(d) for the purposes of § 1.1502–78.

(ii) *Default Substitute Agent.* If the Domestic Substitute Agent goes out of existence and has a single successor that is eligible to be a Domestic Substitute Agent, such successor becomes the Domestic Substitute Agent and is treated as a default substitute agent under § 1.1502–77(d)(2). See § 1.1502–77(d)(4) regarding the consequences of the successor's failure to notify the Commissioner of its status as a default substitute agent. The default substitute agent shall use procedures in section 9 of Rev. Proc. 2002–43 (2002–2 C.B. 99) or a corresponding provision of a successor revenue procedure for notification. (See § 601.601(d)(2)(ii) of this chapter.)

(6) *Request that IRS designate a Domestic Substitute Agent*—(i) *Original designation.* If the common parent of the group is a Foreign Common Parent, and the IRS has not designated a Domestic Substitute Agent, one or more members of the group may request the IRS to make a designation for taxable years for which the due date (without extensions) for filing returns is after March 14, 2006. Such request is deemed to be a request under § 1.1502–77(d)(3)(i). Members of the group shall use the procedures in section 10 of Rev. Proc. 2002–43 (2002–2 C.B. 99) or a corresponding provision of a successor revenue procedure for this purpose. (See § 601.601(d)(2)(ii) of this chapter.)

(ii) *Request that IRS replace a previously designated substitute agent.* If the IRS designates a Domestic Substitute Agent pursuant to this paragraph (j), one or more members of the group may request that the IRS replace the designated Domestic Substitute Agent with another member (or successor to another member). Such a request is deemed to be a request pursuant to § 1.1502–77(d)(3)(ii). Members of the group shall use the procedures in section 11 of Rev. Proc. 2002–43 (2002–2 C.B. 99) or a corresponding provision of a successor revenue procedure for this purpose. (See § 601.601(d)(2)(ii) of this chapter.)

(7) *Effective Date.* This paragraph (j) applies to taxable years for which the due date (without extensions) for filing returns is after March 14, 2006. The applicability of this paragraph (j) expires on or before March 9, 2009.

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

Approved: March 9, 2006.

Eric Solomon,

Acting Deputy Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 06–2438 Filed 3–9–06; 4:15 pm]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[TD 9253]

RIN 1545–AY92

Revisions to Regulations Relating to Withholding of Tax on Certain U.S. Source Income Paid to Foreign Persons and Revisions of Information Reporting Regulations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations relating to the withholding of tax under sections 1441 and 1442 on certain U.S. source income paid to foreign persons and related requirements governing collection, deposit, refunds, and credits of withheld amounts under sections 1461 through 1463. Additionally, this document contains final regulations under sections 6049 and 6114. These regulations affect persons making payments of U.S. source income to foreign persons and foreign persons claiming benefits under a U.S. income tax treaty.

DATES: *Effective date:* These regulations are effective March 14, 2006. The removal of § 1.1441–1(e)(4)(vii)(G) is effective as of January 1, 2001.

FOR FURTHER INFORMATION CONTACT: Ethan Atticks, (202) 622–3840 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in this final rule have been previously reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–1484.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

In Treasury Decision 8734 (1997–2 C.B. 109 [62 FR 53387]), the Treasury Department and the IRS issued comprehensive regulations under chapter 3 (sections 1441–1464) and subpart B of Part III of Subchapter A of chapter 61 (sections 6041 through 6050T) of the Internal Revenue Code (Code). Those regulations were amended by TD 8804 (1999–1 C.B. 793 [63 FR 72183]), TD 8856 (2000–1 C.B. 298 [64 FR 73408]), TD 8881 (2000–1 C.B. 1158 [65 FR 32152]), and TD 9023 (2002–2 C.B. 955 [67 FR 70310]) (collectively the current regulations). The current regulations are generally effective as of January 1, 2001.

In Notice 2001–4 (2001–1 C.B. 267), Notice 2001–11 (2001–1 C.B. 464), and

Notice 2001–43 (2001–2 C.B. 72), the Treasury Department and the IRS announced the intention to amend the current regulations under sections 1441, 6049 and 6114 to address the matters discussed in those notices.

On March 30, 2005, the IRS and Treasury published a notice of proposed rulemaking (REG–125443–01, 2005–16 I.R.B. 912) in the **Federal Register** (70 FR 16189) (hereinafter the proposed regulations). The proposed regulations contained provisions to implement certain changes announced in those notices and other changes.

No public hearing regarding the proposed regulations was requested or held. However, certain written comments were received. After consideration of the comments, the proposed regulations are adopted as revised by this Treasury decision.

Summary of Comments

These final regulations finalize the provisions of the proposed regulations with only two areas of modification. The comments received and the modifications made in response to those comments are described below.

A. Taxpayer Identification Number (TIN) Requirement for Certain Foreign Grantor Trusts

Section 1.1441–1(e)(4)(vii)(G) provides that a TIN must be stated on a withholding certificate from a person representing to be a foreign grantor trust with 5 or fewer grantors. Generally, if no TIN is provided, the withholding certificate is considered invalid. See § 1.1441–1(e)(2)(ii).

The proposed regulations eliminated this TIN requirement for withholding certificates provided by such persons to qualified intermediaries (QIs), but retained it for withholding certificates provided by such persons to other withholding agents if the certificate was executed on or before December 31, 2003.

Commentators requested that these final regulations adopt the provisions of the proposed regulations that remove the TIN requirement but with an effective date that applies to certificates executed and provided to all withholding agents, not just QIs, on or after January 1, 2001, the effective date of the current regulations. The commentators state that the retroactive effective date for withholding certificates provided to the other withholding agents is consistent with the IRS and Treasury's recognition that the TIN requirement in the current regulations is not serving to enhance enforcement objectives. Further, the commentators state that for administrative reasons the effective dates should be consistent whether or not the withholding certificate is provided to a QI or other withholding agent. The IRS and Treasury agree with this comment. Accordingly, under these final regulations, a withholding certificate executed on or after January 1, 2001, and provided to a QI or other withholding agent by a person representing to be a foreign grantor trust with five or fewer grantors does not need to state a TIN for such certificate to be valid.

B. Reporting of Treaty-Based Return Positions

Section 301.6114–1(a) provides that, if a taxpayer takes a return position that a tax treaty overrules or modifies any provision of the Code and thereby effects a reduction of any tax at any time, the taxpayer must disclose that return position, either on a statement attached to the return or on a return filed for the purpose of making such disclosure. When applicable, § 301.6114–1(d) generally requires a taxpayer to attach Form 8833, Treaty Based Return Position Disclosure Under Section 6114 or 7701(b), to its U.S. Federal income tax return. Section 301.6114–1(b) states that reporting is required unless it is expressly waived and provides a nonexclusive list of particular positions for which reporting is required. Section 301.6114–1(c) then provides a list of specific exceptions from the general reporting requirements of § 301.6114–1(a) and (b).

The proposed regulations provided that reporting under § 301.6114–1(b)(4)(ii) is required only for the positions specifically described in paragraphs (b)(4)(ii)(A) and (B), or (C) or (D) of that section. Further, the proposed regulations provided that reporting under § 301.6114–1(b)(4)(ii)(D) is waived for taxpayers that are not individuals or States and that receive amounts of income subject to withholding that do not exceed $10,000 in the aggregate for the taxable year. See Prop. Reg. § 301.6114–1(c)(1)(i), and (7).

Commentators suggested that the $10,000 threshold applicable to taxpayers that are not individuals or States should be increased to $500,000, the threshold amount for reporting under § 301.6114–1(b)(4)(ii)(C) (addressing payments to a related foreign person where benefits are claimed under a treaty that contains a limitation on benefits article). The commentators noted that entities typically have substantially higher levels of investment as compared to individuals and therefore a higher threshold is warranted. The commentators concluded that the administrative burden placed on these entities by the regulations is not appropriate when considering the benefit to the government by the disclosure. As a result, the commentators believed that the exception should be modified.

In addition, the commentators suggested that reporting be waived for pension funds and certain other persons required to report under § 301.6114–1(b)(4)(ii)(D), which requires reporting whenever a treaty imposes ''any condition'' in addition to a person's residence in the treaty country for entitlement to treaty benefits. The commentators stated that because, for example, an income tax treaty may condition a pension fund's entitlement to a reduced rate of taxation on dividends on the pension fund not being engaged in a trade or business, and because a pension fund rarely will violate such a condition, from a practical standpoint the sole requirement for entitlement to treaty benefits is the residence of the pension fund. Therefore, the commentators suggested that requiring the pension fund to file an income tax return and make a treaty based disclosure of its position imposes an unnecessary administrative burden. Accordingly, the commentators believed that it was appropriate to interpret the regulations such that the trade or business requirement described above with respect to pension funds is not ''any condition'' described in § 301.6114–1(b)(4)(ii)(D). To clarify this point, the commentators requested that the final regulations waive reporting for pension funds.

Commentators also requested that § 301.6114–1(c)(6), which waives reporting for amounts required to be reported under section 6038A on a Form 5472, ''Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business (under sections 6038A and 6038(c) of the Internal Revenue Code),'' to the extent permitted under the form or accompanying instructions, be activated by including such permission in the form or instructions.

The IRS and Treasury considered the comments discussed above, as well as the general bases for requiring reporting under section 6114. The IRS and Treasury agree that reporting under section 6114 should not be required in certain circumstances where the payment is properly reported on Form 1042–S, ''Foreign Person's U.S. Source Income Subject to Withholding,'' and the withholding agent is a U.S. person,

or a foreign person that has entered into an agreement that provides for IRS audit. Thus, in response to the comments described above, the following amendments are made to the waiver provisions of § 301.6114–1(c).

First, rather than activating the exception for amounts required to be reported under section 6038A on Form 5472, paragraph (c)(6) of the regulations is revised to replace this provision regarding Form 5472 with a provision waiving reporting for amounts properly reported on Form 1042–S by a withholding agent that is a reporting corporation within the meaning of section 6038A(a). Second, a new paragraph (c)(7) is added to provide that reporting is waived for amounts properly reported on Form 1042–S by a withholding agent that is a U.S. financial institution, a QI, or a withholding foreign partnership (WP) or withholding foreign trust (WT) if the beneficial owner is a direct account holder of the U.S. financial institution or QI or a direct beneficiary or owner of the WP or WT. Third, a new paragraph (c)(8) is added which replaces the provision in the proposed regulations (see Prop. Reg. § 301.6114–1(c)(7)) waiving reporting for taxpayers that are not individuals or States and that receive amounts of income subject to withholding that do not exceed the $10,000 threshold. New paragraph (c)(8) contains a waiver for taxpayers that are not individuals or States that receive amounts that have been properly reported on Form 1042–S, do not exceed $500,000, and are not received through an intermediary or flow-through entity.

Notwithstanding the discussion above, the final regulations provide that the waivers from reporting in paragraph (c)(6), (7) and (8) do not apply to the extent that reporting is specifically required under the instructions to Form 8833.

Finally, these final regulations clarify that reporting under section 301.6114–1(b)(4)(ii) is required only for the positions specifically described in paragraphs (b)(4)(ii)(A) and (B), or (C) or (D).

Effect on Other Documents

Sections (V)(C), (D), and (E) of Notice 2001–4 (2001–1 C.B. 267), Notice 2001–11 (2001–1 C.B. 464), and Sections 2 and 3 of Notice 2001–43 (2001–2 C.B. 72), are superseded as of March 14, 2006.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and, because the regulations do not impose a new collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the proposed regulations preceding these regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these proposed regulations is Ethan Atticks, Office of Associate Chief Counsel (International). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR parts 1 and 301 are amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read, in part, as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 1.1441–1 is amended as follows:

■ 1. Paragraph (b)(2)(iv)(A) is revised.

■ 2. Paragraph (b)(3)(iii)(E) is added.

■ 3. Paragraph (c)(30) is added.

■ 4. Paragraph (e)(4)(vii)(G) is removed and paragraph (e)(4)(vii)(H) and (I) are redesignated as paragraph (e)(4)(vii)(G) and (H) respectively.

The revisions and additions read as follows:

§ 1.1441–1 Requirement for the deduction and withholding of tax on payments to foreign persons.

* * * * *

(b) * * *

(2) * * *

(iv) *Payments to a U.S. branch of certain foreign banks or foreign insurance companies*—(A) *U.S. branch treated as a U.S. person in certain cases.* A payment to a U.S. branch of a foreign person is a payment to a foreign person. However, a U.S. branch described in this paragraph (b)(2)(iv)(A) and a withholding agent (including another U.S. branch described in this paragraph (b)(2)(iv)(A)) may agree to treat the branch as a U.S. person for purposes of withholding on specified payments to the U.S. branch. Notwithstanding the preceding sentence, a withholding agent making a payment to a U.S. branch treated as a U.S. person under this paragraph (b)(2)(iv)(A) shall not treat the branch as a U.S. person for purposes of reporting the payment made to the branch. Therefore, a payment to such U.S. branch shall be reported on Form 1042–S under § 1.1461–1(c). Further, a U.S. branch that is treated as a U.S. person under this paragraph (b)(2)(iv)(A) shall not be treated as a U.S. person for purposes of the withholding certificate it may provide to a withholding agent. Therefore, the U.S. branch must furnish a U.S. branch withholding certificate on Form W–8 as provided in paragraph (e)(3)(v) of this section and not a Form W–9. An agreement to treat a U.S. branch as a U.S. person must be evidenced by a U.S. branch withholding certificate described in paragraph (e)(3)(v) of this section furnished by the U.S. branch to the withholding agent. A U.S. branch described in this paragraph (b)(2)(iv)(A) is any U.S. branch of a foreign bank subject to regulatory supervision by the Federal Reserve Board or a U.S. branch of a foreign insurance company required to file an annual statement on a form approved by the National Association of Insurance Commissioners with the Insurance Department of a State, a Territory, or the District of Columbia. In addition, a financial institution organized in a possession of the United States will be treated as a U.S. branch for purposes of this paragraph (b)(2)(iv)(A). The Internal Revenue Service (IRS) may approve a list of U.S. branches that may qualify for treatment as a U.S. person under this paragraph (b)(2)(iv)(A) (see § 601.601(d)(2) of this chapter). See § 1.6049–5(c)(5)(vi) for the treatment of U.S. branches as U.S. payors if they make a payment that is subject to reporting under chapter 61 of the Internal Revenue Code. Also see § 1.6049–5(d)(1)(ii) for the treatment of U.S. branches as foreign payees under chapter 61 of the Internal Revenue Code.

* * * * *

(3) * * *

(iii) * * *

(E) *Certain payments for services.* A payment for services is presumed to be made to a foreign person if—

(*1*) The payee is an individual;

(*2*) The withholding agent does not know, or have reason to know, that the payee is a U.S. citizen or resident;

(*3*) The withholding agent does not know, or have reason to know, that the income is (or may be) effectively connected with the conduct of a trade or business within the United States; and

(*4*) All of the services for which the payment is made were performed by the payee outside of the United States.

* * * * *

(c) * * *

(30) *Possessions of the United States.* For purposes of the regulations under chapters 3 and 61 of the Internal Revenue Code, *possessions of the United States* means Guam, American Samoa, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands.

* * * * *

Par. 3. Section 1.1441–3 is amended by revising paragraphs (c)(3) and (e)(2) to read as follows:

§ 1.1441–3 Determination of amounts to be withheld.

* * * * *

(c) * * *

(3) *Special rules in the case of distributions from a regulated investment company*—(i) *General rule.* If the amount of any distributions designated as being subject to section 852(b)(3)(C) or 5(A), or 871(k)(1)(C) or (2)(C), exceeds the amount that may be designated under those sections for the taxable year, then no penalties will be asserted for any resulting underwithholding if the designations were based on a reasonable estimate (made pursuant to the same procedures as described in paragraph (c)(2)(ii)(A) of this section) and the adjustments to the amount withheld are made within the time period described in paragraph (c)(2)(ii)(B) of this section. Any adjustment to the amount of tax due and paid to the IRS by the withholding agent as a result of underwithholding shall not be treated as a distribution for purposes of section 562(c) and the regulations thereunder. Any amount of U.S. tax that a foreign shareholder is treated as having paid on the undistributed capital gain of a regulated investment company under section 852(b)(3)(D) may be claimed by the foreign shareholder as a credit or refund under § 1.1464–1.

(ii) *Reliance by intermediary on reasonable estimate.* For purposes of determining whether a payment is a distribution designated as subject to section 852(b)(3)(C) or (5)(A), or 871(k)(1)(C) or (2)(C), a withholding agent that is not the distributing regulated investment company may, absent actual knowledge or reason to know otherwise, rely on the designations that the distributing company represents have been made in accordance with paragraph (c)(3)(i) of this section. Failure by the withholding agent to withhold the required amount due to a failure by the regulated investment company to reasonably estimate the required amounts or to properly communicate the relevant information to the withholding agent shall be imputed to the distributing company. In such a case, the IRS may collect from the distributing company any underwithheld amount and subject the company to applicable interest and penalties as a withholding agent.

* * * * *

(e) * * *

(2) *Payments in foreign currency.* If the amount subject to withholding tax is paid in a currency other than the U.S. dollar, the amount of withholding under section 1441 shall be determined by applying the applicable rate of withholding to the foreign currency amount and converting the amount withheld into U.S. dollars on the date of payment at the spot rate (as defined in § 1.988–1(d)(1)) in effect on that date. A withholding agent making regular or frequent payments in foreign currency may use a month-end spot rate or a monthly average spot rate. In addition, such a withholding agent may use the spot rate on the date the amount of tax is deposited (within the meaning of § 1.6302–2(a)), provided that such deposit is made within seven days of the date of the payment giving rise to the obligation to withhold. A spot rate convention must be used consistently for all non-dollar amounts withheld and from year to year. Such convention cannot be changed without the consent of the Commissioner. The U.S. dollar amount so determined shall be treated by the beneficial owner as the amount of tax paid on the income for purposes of determining the final U.S. tax liability and, if applicable, claiming a refund or credit of tax.

* * * * *

■ **Par. 4.** In § 1.1441–6, paragraph (b)(1) is revised to read as follows:

§ 1.1441–6 Claim of reduced withholding under an income tax treaty.

* * * * *

(b) *Reliance on claim of reduced withholding under an income tax treaty*—(1) *In general.* The withholding imposed under section 1441, 1442, or 1443 on any payment to a foreign person is eligible for reduction under the terms of an income tax treaty only to the extent that such payment is treated as derived by a resident of an applicable treaty jurisdiction, such resident is a beneficial owner, and all other requirements for benefits under the treaty are satisfied. See section 894 and the regulations thereunder to determine whether a resident of a treaty country derives the income. Absent actual knowledge or reason to know otherwise, a withholding agent may rely on a claim that a beneficial owner is entitled to a reduced rate of withholding based upon an income tax treaty if, prior to the payment, the withholding agent can reliably associate the payment with a beneficial owner withholding certificate, as described in § 1.1441–1(e)(2), that contains the information necessary to support the claim, or, in the case of a payment of income described in paragraph (c)(2) of this section made outside the United States with respect to an offshore account, documentary evidence described in paragraphs (c)(3), (4), and (5) of this section. See § 1.6049–5(e) for the definition of payments made outside the United States and § 1.6049–5(c)(1) for the definition of offshore account. For purposes of this paragraph (b)(1), a beneficial owner withholding certificate described in § 1.1441–1(e)(2)(i) contains information necessary to support the claim for a treaty benefit only if it includes the beneficial owner's taxpayer identifying number (except as otherwise provided in paragraph (c)(1) of this section and § 1.1441–6(g)) and the representations that the beneficial owner derives the income under section 894 and the regulations thereunder, if required, and meets the limitation on benefits provisions of the treaty, if any. The withholding certificate must also contain any other representations required by this section and any other information, certifications, or statements as may be required by the form or accompanying instructions in addition to, or in place of, the information and certifications described in this section. Absent actual knowledge or reason to know that the claims are incorrect (and subject to the standards of knowledge in § 1.1441–7(b)), a withholding agent may rely on the claims made on a withholding certificate or on documentary evidence. A withholding agent may also rely on the information contained in a withholding statement provided under § 1.1441–1(e)(3)(iv) and 1.1441–5(c)(3)(iv) and (e)(5)(iv) to determine whether the appropriate statements regarding section 894 and

limitation on benefits have been provided in connection with documentary evidence. If the beneficial owner is related to the person obligated to pay the income, within the meaning of section 267(b) or 707(b), the withholding certificate must also contain a representation that the beneficial owner will file the statement required under § 301.6114–1(d) of this chapter (if applicable). The requirement to file an information statement under section 6114 for income subject to withholding applies only to amounts received during the taxpayer's taxable year that, in the aggregate, exceed $500,000. See § 301.6114–1(d) of this chapter. The Internal Revenue Service (IRS) may apply the provisions of § 1.1441–1(e)(1)(ii)(B) to notify the withholding agent that the certificate cannot be relied upon to grant benefits under an income tax treaty. See § 1.1441–1(e)(4)(viii) regarding reliance on a withholding certificate by a withholding agent. The provisions of § 1.1441–1(b)(3)(iv) dealing with a 90-day grace period shall apply for purposes of this section.

* * * * *

■ **Par. 5.** Section 1.6049–5 is amended as follows:

■ 1. Paragraph (c)(1) is revised.

■ 2. Paragraphs (c)(5)(i), (ii), (iii), (iv), (v) and (vi) are redesignated as paragraphs (c)(5)(i)(A), (B), (C), (D), (E), and (F), respectively.

■ 3. A new heading is added to paragraph (c)(5)(i).

■ 4. New paragraph (c)(5)(ii) is added.

The revisions and additions read as follows:

§ 1.6049–5 Interest and original issue discount subject to reporting after December 31, 1982.

* * * * *

(c) *Applicable rules*—(1) *Documentary evidence for offshore accounts and for possessions accounts.* A payor may rely on documentary evidence described in this paragraph (c)(1) instead of a beneficial owner withholding certificate described in § 1.1441–1(e)(2)(i) in the case of a payment made outside the United States to an offshore account, in the case of a payment made to a U.S. possessions account or, in the case of broker proceeds described in § 1.6045–1(c)(2), in the case of a sale effected outside the United States (as defined in § 1.6045–1(g)(3)(iii)(A)). For purposes of this paragraph (c)(1), an *offshore account* means an account maintained at an office or branch of a U.S. or foreign bank or other financial institution at any location outside the United States (*i.e.*, other than in any of the fifty States or the District of Columbia) and outside of possessions of the United States. Thus, for example, an account maintained in a foreign country at a branch of a U.S. bank or of a foreign subsidiary of a U.S. bank is an offshore account. For purposes of this paragraph (c)(1), a *U.S. possessions account* means an account maintained at an office or branch of a U.S. or foreign bank or other financial institution located within a possession of the United States. For the definition of a payment made outside the United States, see paragraph (e) of this section. A payor may rely on documentary evidence if the payor has established procedures to obtain, review, and maintain documentary evidence sufficient to establish the identity of the payee and the status of that person as a foreign person (including, but not limited to, documentary evidence described in § 1.1441–6(c)(3) or (4)); and the payor obtains, reviews, and maintains such documentary evidence in accordance with those procedures. A payor maintains the documents reviewed by retaining the original, certified copy, or a photocopy (or microfiche or similar means of record retention) of the documents reviewed and noting in its records the date on which and by whom the document was received and reviewed. Documentary evidence furnished for the payment of an amount subject to withholding under chapter 3 of the Internal Revenue Code must contain all of the information that is necessary to complete a Form 1042-S for that payment. A payor may also rely on documentary evidence associated with a flow-through withholding certificate for payments treated as made to foreign partners of a nonwithholding foreign partnership, as defined in § 1.1441–1(c)(28), the foreign beneficiaries of a foreign simple trust, as defined in § 1.1441–1(c)(24), or foreign owners of a foreign grantor trust, as defined in § 1.1441–1(c)(26), even though the partnership or trust account is maintained in the United States.

* * * * *

(5) * * * (i) *Definition.* * * *

(ii) *Reporting by U.S. payors in U.S. possessions.* U.S. payors are not required to report on Form 1099 income that is from sources within a possession of the United States and that is exempt from taxation under section 931, 932, or 933, each of which sections exempts certain income from sources within a possession of the United States paid to a bona fide resident of that possession. For purposes of this paragraph (c)(5)(ii), a U.S. payor may treat the beneficial owner as a bona fide resident of the possession of the United States from which the income is sourced if, prior to payment of the income, the U.S. payor can reliably associate the payment with valid documentation that supports the claim of residence in the possession of the United States from which the income is sourced. This paragraph (c)(5)(ii) shall not apply if the U.S. payor has actual knowledge or reason to know that the documentation is unreliable or incorrect or that the income does not satisfy the requirements for exemption under section 931, 932, or 933. For the rules determining whether income is from sources within a possession of the United States, see section 937(b) and the regulations thereunder.

* * * * *

PART 301—-PROCEDURE AND ADMINISTRATION

■ **Par. 6.** The authority citation for part 301 continues to read, in part, as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 7.** In § 301.6114–1 is amended as follows:

■ 1. Paragraphs (c)(1)(i) through (c)(1)(vii) are redesignated as paragraphs (c)(1)(ii) through (c)(1)(viii), respectively.

■ 2. New paragraph (c)(1)(i) is added.

■ 3. Paragraph (c)(6) is revised.

■ 4. Paragraphs (c)(7) and (8) are added.

The additions and revision read as follows:

§ 301.6114–1 Treaty-based return positions.

* * * * *

(c) * * * (1) * * *

(i) For amounts received on or after January 1, 2001, reporting under paragraph (b)(4)(ii) is waived, unless reporting is specifically required under paragraphs (b)(4)(ii)(A) and (B) of this section, paragraph (b)(4)(ii)(C) of this section, or paragraph (b)(4)(ii)(D) of this section;

* * * * *

(6)(i) For taxable years ending after December 31, 2004, except as provided in paragraph (c)(6)(ii) of this section, reporting under paragraph (b)(4)(ii) of this section is waived for amounts received by a related party, within the meaning of section 6038A(c)(2), from a withholding agent that is a reporting corporation, within the meaning of section 6038A(a), and that are properly reported on Form 1042–S.

(ii) Paragraph (c)(6)(i) of this section does not apply to any amounts for which reporting is specifically required under the instructions to Form 8833.

(7)(i) For taxable years ending after December 31, 2004, except as provided

in paragraph (c)(7)(iv) of this section, reporting under paragraph (b)(4)(ii) of this section is waived for amounts properly reported on Form 1042–S (on either a specific payee or pooled basis) by a withholding agent described in paragraph (c)(7)(ii) of this section if the beneficial owner is described in paragraph (c)(7)(iii) of this section.

(ii) A withholding agent described in this paragraph (c)(7)(ii) is a U.S. financial institution, as defined in § 1.1441–1(c)(5) of this chapter, a qualified intermediary, as defined in § 1.1441–1(e)(5)(ii) of this chapter, a withholding foreign partnership, as defined § 1.1441–5(c)(2)(i) of this chapter, or a withholding foreign trust, as defined in § 1.1441–5(e)(5)(v) of this chapter.

(iii) A beneficial owner described in this paragraph (c)(7)(iii) of this section is a direct account holder of a U.S. financial institution or qualified intermediary, a direct partner of a withholding foreign partnership, or a direct beneficiary or owner of a simple or grantor trust that is a withholding foreign trust. A beneficial owner described in this paragraph (c)(7)(iii) also includes an account holder to which a qualified intermediary has applied section 4A.01 or 4A.02 of the qualified intermediary agreement, contained in Revenue Procedure 2000–12 (2000–1 C.B. 387), (as amended by Revenue Procedure 2003–64, (2003–2 C.B. 306); Revenue Procedure 2004–21 (2004–1 C.B. 702); Revenue Procedure 2005–77 (2005–51 I.R.B. 1176) (see § 601.601(b)(2) of this chapter) a partner to which a withholding foreign partnership has applied section 10.01 or 10.02 of the withholding foreign partnership agreement, and a beneficiary or owner to which a withholding foreign trust has applied section 10.01 or 10.02 of the withholding foreign trust agreement, contained in Revenue Procedure 2003–64, (2003–2 C.B. 306), (as amended by Revenue Procedure 2004–21 (2004–1 C.B. 702); Revenue Procedure 2005–77 (2005–51 I.R.B. 1176); (see § 601.601(b)(2) of this chapter).

(iv) Paragraph (c)(7)(i) of this section does not apply to any amounts for which reporting is specifically required under the instructions to Form 8833.

(8)(i) For taxable years ending after December 31, 2004, except as provided in paragraph (c)(8)(ii) of this section, reporting under paragraph (b)(4)(ii) of this section is waived for taxpayers that are not individuals or States and that receive amounts of income that have been properly reported on Form 1042–S, that do not exceed $500,000 in the aggregate for the taxable year and that are not received through an account with an intermediary, as defined in § 1.1441–1(c) (13), or with respect to interest in a flow-through entity, as defined in § 1.1441–1(c)(23), (ii) The exception contained in paragraph (c)(8)(i) of this section does not apply to any amounts for which reporting is specifically required under the instructions to Form 8833.

* * * * *

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

Approved: February 27, 2006.

Eric Solomon,

Acting Deputy Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 06–2443 Filed 3–13–06; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9254]

RIN 1545–BB25

Guidance Under Section 1502; Suspension of Losses on Certain Stock Dispositions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final rule and removal of temporary regulations.

SUMMARY: This document contains final regulations under section 1502 of the Internal Revenue Code of 1986. The regulations apply when a member of a consolidated group transfers subsidiary stock at a loss. They also apply when a member holds loss shares of subsidiary stock and the subsidiary ceases to be a member of the group. These regulations finalize § 1.1502–35T without substantive change.

DATES: *Effective Date:* These regulations are effective March 9, 2006.

Applicability Date: For dates of applicability, see §§ 1.1502–21(h)(8), 1.1502–32(h)(6), 1.1502–35(f), and 1.1502–35(j).

FOR FURTHER INFORMATION CONTACT: Theresa Abell (202) 622–7700 or Martin Huck (202) 622–7750 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–1828.

The collection of information in these regulations is in §§ 1.1502–35(c), 1.1502–35(c)(5)(iii), and 1.1502–35(g)(3). This information is required by the IRS to verify compliance with section 1502 of the Code. This information will be used to determine whether the amount of tax has been calculated correctly. The collection of information is required to properly determine the amount permitted to be taken into account as a loss. The respondents are corporations filing consolidated returns. The collection of information is required to obtain a benefit.

Estimated average annual burden per respondent and/or recordkeeper: 2 hours.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Management and Budget, Attn: Desk Officer for the Department of Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP, Washington, DC 20224.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number.

Books or records relating to the collection of information must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

On September 19, 1991, the IRS and Treasury Department published § 1.1502–20 (the loss disallowance rule, or LDR). See TD 8364, 56 FR 47379. The LDR addressed two problems arising in the consolidated return context: the circumvention of *General Utilities* repeal and the duplication of loss.

On July 6, 2001, in *Rite Aid Corp.* v. *United States*, 255 F.3d 1357 (Fed. Cir. 2001), the Court of Appeals for the Federal Circuit held that the duplicated loss provisions of the LDR were an invalid exercise of regulatory authority. In response to the court's decision, the IRS and Treasury Department promulgated two regulations to replace the LDR. The first, § 1.337(d)–2T (temporary *General Utilities* regulation),

was published on March 12, 2002, to address the circumvention of *General Utilities* repeal. See TD 8984, 67 FR 11034. The second, § 1.1502–35T, was published on March 14, 2003, to address the inappropriate duplication of loss. See TD 9048, 68 FR 12287. TD 9048 also included certain related provisions promulgated under §§ 1.1502–21T and 1.1502–32T.

Comments and Explanation of Revisions

On March 3, 2005, the temporary *General Utilities* regulation was adopted without substantive change as final regulation § 1.337(d)–2. See TD 9187, 70 FR 10319. The preamble in TD 9187 states that the IRS and Treasury Department are continuing to study the issues and intend to publish proposed regulations adopting an alternative approach to addressing the circumvention of *General Utilities* repeal.

In response to the promulgation of § 1.337(d)–2 (in both its temporary and final form) and § 1.1502–35T, practitioners have provided many comments on the operation and effect of the rules contained therein. The IRS and Treasury Department have studied, and continue to study, the comments and the issues addressed in both regulations. As a result, the IRS and Treasury Department intend to publish proposed regulations that address both the circumvention of *General Utilities* repeal and the inappropriate duplication of loss in a single integrated regulation. The IRS and Treasury Department intend to publish the proposed regulations in the near term.

Until those proposed regulations are published as final or temporary regulations, however, the circumvention of *General Utilities* repeal will continue to be addressed by § 1.337(d)–2 and the duplication of loss will continue to be addressed by the rules of § 1.1502–35T. Accordingly, this Treasury decision adopts the rules of § 1.1502–35T (as in effect on February 1, 2006) as final regulation § 1.1502–35. The final regulations do not change the rules of the temporary regulations substantively. They do, however, modify certain examples in the temporary regulations to reflect the enactment of section 362(e)(2). These modifications do not change the operation of the regulations or address the application of section 362(e)(2) to transactions between members of a consolidated group. The final regulations also correct an error in Example 2 in paragraph (g)(5) of the proposed regulations. This Treasury decision also adopts, without substantive change, the related provisions in §§ 1.1502–21T and 1.1502–32T as final regulations.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that these regulations will primarily affect affiliated groups of corporations that have elected to file consolidated returns, which tend to be larger businesses. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, the NPRM and the temporary regulation preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal authors of these regulations are Theresa Abell and Martin Huck of the Office of Associate Chief Counsel (Corporate). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding entries in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.1502–21(b)(1) and (b)(3)(v) also issued under 26 U.S.C. 1502. * * *

Section 1.1502–32(a)(2), (b)(3)(iii)(C), (b)(3)(iii)(D), and (b)(4)(vi) also issued under 26 U.S.C. 1502. * * *

Section 1.1502–35 also issued under 26 U.S.C. 1502. * * *

■ **Par. 2.** Section 1.1502–21 is amended by:

■ 1. Removing the language ''§ 1,1502–21T'' from paragraph (b)(1) and adding the language ''§ 1.1502–21'' in its place.

■ 2. Revising paragraphs (b)(3)(v) and (h)(8). The revisions read as follows.

§ 1.1502–21 Net operating losses.

* * * * *

(b) * * *

(3) * * *

(v) *Losses treated as expired under § 1.1502–35(f)(1).* No loss treated as expired by § 1.1502–35(f) may be carried over to any consolidated return year of the group.

* * * * *

(h) * * *

(8) *Losses treated as expired under § 1.1502–35(f)(1).* Paragraph (b)(3)(v) of this section is effective for losses treated as expired under § 1.1502–35(f) on and after March 10, 2006. For rules regarding losses treated as expired before March 10, 2006, see § 1.1502–21T(h)(8) as contained in 26 CFR part 1 in effect on January 1, 2006.

§ 1.1502–21T [Amended]

■ **Par. 3.** Section 1.1502–21T is amended by removing paragraphs (b)(3)(v) and (h)(8).

■ **Par. 4.** Section 1.1502–32 is amended by revising paragraphs (a)(2), (b)(3)(iii)(C) and (D), (b)(4)(vi), and (h)(6) to read as follows:

§ 1.1502–32 Investment adjustments.

(a) * * *

(1) * * *

(2) *Application of other rules of law.* The rules of this section are in addition to other rules of law. See, *e.g.*, section 358 (basis determinations for distributees), section 1016 (adjustments to basis), § 1.1502–11(b) (limitations on the use of losses), § 1.1502–19 (treatment of excess loss accounts), § 1.1502–31 (basis after a group structure change), and § 1.1502–35 (additional rules relating to stock loss, including losses attributable to worthlessness and certain dispositions not followed by a separate return year). P's basis in S's stock must not be adjusted under this section and other rules of law in a manner that has the effect of duplicating an adjustment. For example, if pursuant to § 1.1502–35(c)(3) and paragraph (b)(3)(iii)(C) of this section the basis in stock is reduced to take into account a loss suspended under § 1.1502–35(c)(1), such basis shall not be further reduced to take into account such loss, or a portion of such loss, if any, that is later allowed pursuant to § 1.1502–35(c)(5). See also paragraph (h)(5) of this section for basis reductions applicable to certain former subsidiaries.

* * * * *

(b) * * *

(3) * * *

(iii) * * *

(C) *Loss suspended under § 1.1502–35(c).* Any loss suspended pursuant to § 1.1502–35(c) is treated as a noncapital, nondeductible expense incurred during the taxable year that includes the date of the disposition to which such section applies. See § 1.1502–35(c)(3). Consequently, the basis of a higher-tier member's stock of P is reduced by the suspended loss in the year it is suspended.

(D) *Loss disallowed under § 1.1502–35(g)(3)(iii).* Any loss or deduction the use of which is disallowed pursuant to § 1.1502–35(g)(3)(iii) (other than a loss or deduction described in § 1.1502–35(g)(3)(i)(B)(*11*)), and with respect to which no waiver described in paragraph (b)(4) of this section is filed, is treated as a noncapital, nondeductible expense incurred during the taxable year that such loss would otherwise be absorbed. See § 1.1502–35(g)(3)(iv).

* * * * *

(4) * * *

(vi) *Special rules in the case of certain transactions subject to § 1.1502–35.* If a member of a consolidated group transfers stock of a subsidiary and such stock has a basis that exceeds its value immediately before such transfer or a subsidiary is deconsolidated and any stock of such subsidiary owned by members of the group immediately before such deconsolidation has a basis that exceeds its value, all members of the group are subject to the provisions of § 1.1502–35(b), which generally require a redetermination of members' basis in all shares of subsidiary stock.

* * * * *

(h) * * *

(6) *Loss suspended under § 1.1502–35(c) or disallowed under § 1.1502–35(g)(3)(iii).* Paragraphs (a)(2), (b)(3)(iii)(C), (b)(3)(iii)(D) and (b)(4)(vi) of this section are applicable on and after March 10, 2006. For rules applicable before March 10, 2006, see § 1.1502–32T(h)(6) as contained in 26 CFR part 1 in effect on January 1, 2006.

* * * * *

§ 1.1502–32T [Removed]

■ **Par. 5.** Section 1.1502–32T is removed.

■ **Par. 6.** Section 1.1502–35 is added to read as follows:

§ 1.1502–35 Transfers of subsidiary stock and deconsolidations of subsidiaries.

(a) *Purpose.* The purpose of this section is to prevent a group from obtaining more than one tax benefit from a single economic loss. The provisions of this section shall be construed in a manner consistent with that purpose and in a manner that reasonably carries out that purpose.

(b) *Redetermination of basis on certain nondeconsolidating transfers of subsidiary stock and on certain deconsolidations of subsidiaries*—(1) *Redetermination of basis on certain nondeconsolidating transfers of subsidiary stock.* Except as provided in paragraph (b)(3)(i) of this section, if, immediately after a transfer of stock of a subsidiary that has a basis that exceeds its value, the subsidiary remains a member of the group, then the basis in each share of subsidiary stock owned by each member of the group shall be redetermined in accordance with the provisions of this paragraph (b)(1) immediately before such transfer. All of the members' bases in the shares of subsidiary stock immediately before such transfer shall be aggregated. Such aggregated basis shall be allocated first to the shares of the subsidiary's preferred stock that are owned by the members of the group immediately before such transfer, in proportion to, but not in excess of, the value of those shares at such time. After allocation of the aggregated basis to all shares of the preferred stock of the subsidiary pursuant to the preceding sentence, any remaining basis shall be allocated among all common shares of subsidiary stock held by members of the group immediately before the transfer, in proportion to the value of such shares at such time.

(2) *Redetermination of basis on certain deconsolidations of subsidiaries*—(i) *Allocation of reallocable basis amount.* Except as provided in paragraph (b)(3)(ii) of this section, if, immediately before a deconsolidation of a subsidiary, any share of stock of such subsidiary owned by a member of the group has a basis that exceeds its value, then the basis in each share of the subsidiary's stock owned by each member of the group shall be redetermined in accordance with the provisions of this paragraph (b)(2) immediately before such deconsolidation. The basis in each share of the subsidiary's stock held by members of the group immediately before the deconsolidation that has a basis in excess of value at such time shall be reduced, but not below such share's value, in a manner that, to the greatest extent possible, causes the ratio of the basis to the value of each such share to be the same; provided, however, that the aggregate amount of such reduction shall not exceed the reallocable basis amount (as computed pursuant to paragraph (b)(2)(ii) of this section). Then, to the extent of the reallocable basis amount, the basis of each share of the preferred stock of the subsidiary that are held by members of the group immediately before the deconsolidation shall be increased, but not above such share's value, in a manner that, to the greatest extent possible, causes the ratio of the basis to the value of each such share to be the same. Then, to the extent that the reallocable basis amount does not increase the basis of shares of preferred stock of the subsidiary pursuant to the third sentence of this paragraph (b)(2)(i), such amount shall increase the basis of all common shares of the subsidiary's stock held by members of the group immediately before the deconsolidation in a manner that, to the greatest extent possible, causes the ratio of the basis to the value of each such share to be the same.

(ii) *Calculation of reallocable basis amount.* The reallocable basis amount shall equal the lesser of—

(A) The aggregate of all amounts by which, immediately before the deconsolidation, the basis exceeds the value of a share of subsidiary stock owned by any member of the group at such time; and

(B) The total of the subsidiary's (and any predecessor's) items of deduction and loss, and the subsidiary's (and any predecessor's) allocable share of items of deduction and loss of all lower-tier subsidiaries, that were taken into account in computing the adjustment under § 1.1502–32 to the bases of shares of stock of the subsidiary (and any predecessor) held by members of the group immediately before the deconsolidation, other than shares that have bases in excess of value immediately before the deconsolidation.

(3) *Exceptions to application of redetermination rules.* (i) Paragraph (b)(1) of this section shall not apply to a transfer of subsidiary stock if—

(A) During the taxable year of such transfer, in one or more fully taxable transactions, the members of the group dispose of all of the shares of the subsidiary stock that they own immediately before the transfer, other than the shares the transfer of which would otherwise trigger the application of paragraph (b)(1) of this section, to a person or persons that are not members of the group;

(B) During the taxable year of such transfer, the members of the group are allowed a worthless stock loss under section 165(g) (taking into account the provisions of § 1.1502–80(c)) with respect to all of the shares of subsidiary stock that they own immediately before the transfer, other than the shares the transfer of which would otherwise

trigger the application of paragraph (b)(1) of this section; or

(C) Such transfer is to a member of the group and section 332 (provided the stock is transferred to an 80-percent distributee), section 351, section 354, or section 361 applies to such transfer.

(ii) Paragraph (b)(2) of this section shall not apply to a deconsolidation of a subsidiary if—

(A) During the taxable year of such deconsolidation, in one or more fully taxable transactions, the members of the group dispose of all of the shares of the subsidiary stock that they own immediately before the deconsolidation to a person or persons that are not members of the group;

(B) Such deconsolidation results from a fully taxable disposition, to a person or persons that are not members of the group, of some of the shares of the subsidiary, and, during the taxable year of such deconsolidation, the members of the group are allowed a worthless stock loss under section 165(g) with respect to all of the shares of the subsidiary stock that they own immediately after the deconsolidation;

(C) The members of the group are allowed a worthless stock loss under section 165(g) with respect to all of the shares of the subsidiary stock that they own immediately before the deconsolidation;

(D) The deconsolidation of the subsidiary results from the deconsolidation of a higher-tier subsidiary and, immediately after the deconsolidation of the subsidiary, none of the stock of the subsidiary is owned by a group member; or

(E) The deconsolidation of the subsidiary results from a termination of the group.

(4) *Special rule for lower-tier subsidiaries.* If, immediately after a transfer of subsidiary stock or a deconsolidation of a subsidiary, a lower-tier subsidiary some of the stock of which is owned by the subsidiary is a member of the group, then, for purposes of applying this paragraph (b), the subsidiary shall be treated as having transferred its stock of the lower-tier subsidiary. This principle shall apply to stock of subsidiaries that are owned by such lower-tier subsidiary.

(5) *Stock basis adjustments for higher-tier stock.* The basis adjustments required under this paragraph (b) result in basis adjustments to higher-tier member stock. The adjustments are applied in the order of the tiers, from the lowest to highest. For example, if a common parent owns stock of a subsidiary that owns stock of a lower-tier subsidiary and the subsidiary recognizes a loss on the disposition of a portion of its shares of the lower-tier subsidiary stock, the common parent must adjust its basis in its subsidiary stock under the principles of § 1.1502–32 to reflect the adjustments that the subsidiary must make to its basis in its stock of the lower-tier subsidiary.

(6) *Ordering rules.* (i) The rules of this paragraph (b) apply after the rules of § 1.1502–32 are applied.

(ii) The rules of this paragraph (b) apply before the rules of § 1.337(d)–2 and paragraphs (c) and (f) of this section are applied.

(iii) This paragraph (b) (and any resulting basis adjustments to higher-tier member stock made pursuant to paragraph (b)(5) of this section) applies to redetermine the basis of stock of a lower-tier subsidiary before this paragraph (b) applies to a higher-tier member of such lower-tier subsidiary.

(c) *Loss suspension*—(1) *General rule.* Any loss recognized by a member of a consolidated group with respect to the disposition of a share of subsidiary stock shall be suspended to the extent of the duplicated loss with respect to such share of stock if, immediately after the disposition, the subsidiary is a member of the consolidated group of which it was a member immediately prior to the disposition (or any successor group).

(2) *Special rule for lower-tier subsidiaries.* This paragraph (c)(2) applies if neither paragraph (c)(1) nor (f) of this section applies to a member's disposition of a share of stock of a subsidiary (the departing member), a loss is recognized on the disposition of such share, and the departing member owns stock of one or more other subsidiaries (a remaining member) that is a member of such group immediately after the disposition. In that case, such loss shall be suspended to the extent the duplicated loss with respect to the departing member stock disposed of is attributable to the remaining member or members.

(3) *Treatment of suspended loss.* For purposes of the rules of § 1.1502–32, any loss suspended pursuant to paragraph (c)(1) or (c)(2) of this section is treated as a noncapital, nondeductible expense of the member that disposes of subsidiary stock, incurred during the taxable year that includes the date of the disposition of stock to which paragraph (c)(1) or (c)(2) of this section applies. See § 1.1502–32(b)(3)(iii)(C). Consequently, the basis of a higher-tier member's stock of the member that disposes of subsidiary stock is reduced by the suspended loss in the year it is suspended.

(4) *Reduction of suspended loss*—(i) *General rule.* The amount of any loss suspended pursuant to paragraphs (c)(1) and (c)(2) of this section shall be reduced, but not below zero, by the subsidiary's (and any successor's) items of deduction and loss, and the subsidiary's (and any successor's) allocable share of items of deduction and loss of all lower-tier subsidiaries, that are allocable to the period beginning on the date of the disposition that gave rise to the suspended loss and ending on the day before the first date on which the subsidiary (or any successor) is not a member of the group of which it was a member immediately prior to the disposition (or any successor group), and that are taken into account in determining consolidated taxable income (or loss) of such group for any taxable year that includes any date on or after the date of the disposition and before the first date on which the subsidiary (or any successor) is not a member of such group; provided, however, that such reduction shall not exceed the excess of the amount of such items over the amount of such items that are taken into account in determining the basis adjustments made under § 1.1502–32 to stock of the subsidiary (or any successor) owned by members of the group. The preceding sentence shall not apply to items of deduction and loss to the extent that the group can establish that all or a portion of such items was not reflected in the computation of the duplicated loss with respect to the subsidiary on the date of the disposition of stock that gave rise to the suspended loss.

(ii) *Operating rules*—(A) *Year in which deduction or loss is taken into account.* For purposes of paragraph (c)(4)(i) of this section, a subsidiary's (or any successor's) deductions and losses are treated as taken into account when and to the extent they are absorbed by the subsidiary (or any successor) or any other member. To the extent that the subsidiary's (or any successor's) deduction or loss is absorbed in the year it arises or is carried forward and absorbed in a subsequent year (*e.g.*, under section 172, 465, or 1212), the deduction is treated as taken into account in the year in which it is absorbed. To the extent that a subsidiary's (or any successor's) deduction or loss is carried back and absorbed in a prior year (whether consolidated or separate), the deduction or loss is treated as taken into account in the year in which it arises and not in the year in which it is absorbed.

(B) *Determination of items that are allocable to the post-disposition, pre-deconsolidation period.* For purposes of paragraph (c)(4)(i) of this section, the determination of whether a subsidiary's

(or any successor's) items of deduction and loss and allocable share of items of deduction and loss of all lower-tier subsidiaries are allocable to the period beginning on the date of the disposition of subsidiary stock that gave rise to the suspended loss and ending on the day before the first date on which the subsidiary (or any successor) is not a member of the consolidated group of which it was a member immediately prior to the disposition (or any successor group) is determined pursuant to the rules of § 1.1502–76(b)(2), without regard to § 1.1502–76(b)(2)(ii)(D), as if the subsidiary ceased to be a member of the group at the end of the day before the disposition and filed separate returns for the period beginning on the date of the disposition and ending on the day before the first date on which it is not a member of such group.

(5) *Allowable loss*—(i) *General rule.* To the extent not reduced under paragraph (c)(4) of this section, any loss suspended pursuant to paragraph (c)(1) or (c)(2) of this section shall be allowed, to the extent otherwise allowable under applicable provisions of the Internal Revenue Code and regulations thereunder, on a return filed by the group of which the subsidiary was a member on the date of the disposition of subsidiary stock that gave rise to the suspended loss (or any successor group) for the taxable year that includes the day before the first date on which the subsidiary (and any successor) is not a member of such group or the date the group is allowed a worthless stock loss under section 165(g) (taking into account the provisions of § 1.1502–80(c)) with respect to all of the subsidiary stock owned by members.

(ii) *No tiering up of certain adjustments.* No adjustments shall be made to a member's basis of stock of a subsidiary (or any successor) for a suspended loss that is taken into account under paragraph (c)(5)(i) of this section. See § 1.1502–32(a)(2).

(iii) *Statement of allowed loss.* Paragraph (c)(5)(i) of this section applies only if the separate statement required under this paragraph (c)(5)(iii) is filed with, or as part of, the taxpayer's return for the year in which the loss is allowable. The statement must be entitled ''ALLOWED LOSS UNDER § 1.1502–35(c)(5)'' and must contain the name and employer identification number of the subsidiary the stock of which gave rise to the loss.

(6) *Special rule for dispositions of certain carryover basis assets.* If—

(i) A member of a group recognizes a loss on the disposition of an asset other than stock of a subsidiary;

(ii) Such member's basis in the asset disposed of was determined, directly or indirectly, in whole or in part, by reference to the basis of stock of a subsidiary and, at the time of the determination of the member's basis in the asset disposed of, there was a duplicated loss with respect to such stock of the subsidiary; and

(iii) Immediately after the disposition, the subsidiary is a member of such group, then such loss shall be suspended pursuant to the principles of paragraphs (c)(1) and (c)(2) of this section to the extent of the duplicated loss with respect to such stock at the time of the determination of basis of the asset disposed of. Principles similar to those set forth in paragraphs (c)(3), (c)(4), and (c)(5) of this section shall apply to a loss suspended pursuant to this paragraph (c)(6).

(7) *Coordination with loss deferral, loss disallowance, and other rules*—(i) *In general.* Loss recognized on the disposition of subsidiary stock or another asset is subject to redetermination, deferral, or disallowance under other applicable provisions of the Internal Revenue Code and regulations thereunder, including sections 267(f) and 482. Paragraphs (c)(1), (c)(2), and (c)(6) of this section do not apply to a loss that is disallowed under any other provision. If loss is deferred under any other provision, paragraphs (c)(1), (c)(2), and (c)(6) of this section apply when the loss would otherwise be taken into account under such other provision. However, if an overriding event described in paragraph (c)(7)(ii) of this section occurs before the deferred loss is taken into account, paragraphs (c)(1), (c)(2), and (c)(6) of this section apply to the loss immediately before the event occurs, even though the loss may not be taken into account until a later time.

(ii) *Overriding events.* For purposes of paragraph (c)(7)(i) of this section, the following are overriding events—

(A) The stock ceases to be owned by a member of the consolidated group;

(B) The stock is canceled or redeemed (regardless of whether it is retired or held as treasury stock); or

(C) The stock is treated as disposed of under § 1.1502–19(c)(1)(ii)(B) or (c)(1)(iii).

(8) *Application.* This paragraph (c) shall not be applied in a manner that permanently disallows a deduction for an economic loss, provided that such deduction is otherwise allowable. If the application of any provision of this paragraph (c) results in such a disallowance, proper adjustment may be made to prevent such a disallowance. Whether a provision of this paragraph (c) has resulted in such a disallowance is determined on the date on which the subsidiary (or any successor) the disposition of the stock of which gave rise to a suspended stock loss is not a member of the group or the date the group is allowed a worthless stock loss under section 165(g) (taking into account the provisions of § 1.1502–80(c)) with respect to all of such subsidiary stock owned by members. Proper adjustment in such cases shall be made by restoring the suspended stock loss immediately before the subsidiary ceases to be a member of the group or the group is allowed a worthless stock loss under section 165(g) (taking into account the provisions of § 1.1502–80(c)) with respect to all of such subsidiary stock owned by members, to the extent that its reduction pursuant to paragraph (c)(4) of this section had the result of permanently disallowing a deduction for an economic loss.

(9) *Ordering rule.* The rules of this paragraph (c) apply after the rules of paragraph (b) of this section and § 1.337(d)–2 are applied.

(d) *Definitions*—(1) *Disposition* means any event in which gain or loss is recognized, in whole or in part.

(2) *Deconsolidation* means any event that causes a subsidiary to no longer be a member of the consolidated group.

(3) *Value* means fair market value.

(4) *Duplicated loss*—(i) *In general.* Duplicated loss is determined immediately after a disposition and equals the excess, if any, of—

(A) The sum of—

(*1*) The aggregate adjusted basis of the subsidiary's assets other than any stock that subsidiary owns in another subsidiary;

(*2*) Any losses attributable to the subsidiary and carried to the subsidiary's first taxable year following the disposition; and

(*3*) Any deductions of the subsidiary that have been recognized but are deferred under a provision of the Internal Revenue Code (such as deductions deferred under section 469); over

(B) The sum of—

(*1*) The value of the subsidiary's stock; and

(*2*) Any liabilities of the subsidiary that have been taken account for tax purposes.

(ii) *Special rules.* (A) The amounts determined under paragraph (d)(4)(i) (other than amounts described in paragraph (d)(4)(i)(B)(1)) of this section with respect to a subsidiary include its allocable share of corresponding amounts with respect to all lower-tier subsidiaries. If 80 percent or more in value of the stock of a subsidiary is

acquired by purchase in a single transaction (or in a series of related transactions during any 12-month period), the value of the subsidiary's stock may not exceed the purchase price of the stock divided by the percentage of the stock (by value) so purchased. For this purpose, stock is acquired by purchase if the transferee is not related to the transferor within the meaning of sections 267(b) and 707(b)(1), using the language ''10 percent'' instead of ''50 percent'' each place that it appears, and the transferee's basis in the stock is determined wholly by reference to the consideration paid for such stock.

(B) The amounts determined under paragraph (d)(4)(i) of this section are not applied more than once to suspend a loss under this section.

(5) *Predecessor and successor.* A predecessor is a transferor of assets to a transferee (the successor) in a transaction—

(i) To which section 381(a) applies;

(ii) In which substantially all of the assets of the transferor are transferred to members in a complete liquidation;

(iii) In which the successor's basis in assets is determined (directly or indirectly, in whole or in part) by reference to the transferor's basis in such assets, but the transferee is a successor only with respect to the assets the basis of which is so determined; or

(iv) Which is an intercompany transaction, but only with respect to assets that are being accounted for by the transferor in a prior intercompany transaction.

(6) *Successor group.* A surviving group is treated as a successor group of a consolidated group (the terminating group) that ceases to exist as a result of—

(i) The acquisition by a member of another consolidated group of either the assets of the common parent of the terminating group in a reorganization described in section 381(a)(2), or the stock of the common parent of the terminating group; or

(ii) The application of the principles of § 1.1502–75(d)(2) or (3).

(7) *Preferred stock, common stock.* Preferred stock and common stock shall have the meanings set forth in § 1.1502–32(d)(2) and (3), respectively.

(8) *Higher-tier.* A subsidiary is *higher-tier* with respect to a member if or to the extent investment basis adjustments under § 1.1502–32 with respect to the stock of the latter member would affect investment basis adjustments with respect to the stock of the former member.

(9) *Lower-tier.* A subsidiary is *lower-tier* with respect to a member if or to the extent investment basis adjustments under § 1.1502–32 with respect to the stock of the former member would affect investment basis adjustments with respect to the stock of the latter member.

(e) *Examples.* For purposes of the examples in this section, unless otherwise stated, all groups file consolidated returns on a calendar-year basis, the facts set forth the only corporate activity, all transactions are between unrelated persons, and tax liabilities are disregarded. In addition, all transactions described in section 362(a) are completed before October 22, 2004, and therefore are not subject to section 362(e)(2). The principles of paragraphs (a) through (d) of this section are illustrated by the following examples:

Example 1. Nondeconsolidating sale of preferred stock of lower-tier subsidiary—(i) *Facts.* P owns 100 percent of the common stock of each of S1 and S2. S1 and S2 each have only one class of stock outstanding. P's basis in the stock of S1 is $100 and the value of such stock is $130. P's basis in the stock of S2 is $120 and the value of such stock is $90. P, S1, and S2 are all members of the P group. S1 and S2 form S3. In Year 1, in transfers to which section 351 applies, S1 contributes $100 to S3 in exchange for all of the common stock of S3 and S2 contributes an asset with a basis of $50 and a value of $20 to S3 in exchange for all of the preferred stock of S3. S3 becomes a member of the P group. In Year 3, in a transaction that is not part of the plan that includes the contributions to S3, S2 sells the preferred stock of S3 for $20. Immediately after the sale, S3 is a member of the P group.

(ii) *Application of basis redetermination rule.* Because S2's basis in the preferred stock of S3 exceeds its value immediately prior to the sale and S3 is a member of the P group immediately after the sale, all of the P group members' bases in the stock of S3 is redetermined pursuant to paragraph (b)(1) of this section. Of the group members' total basis of $150 in the S3 stock, $20 is allocated to the preferred stock, the fair market value of the preferred stock on the date of the sale, and $130 is allocated to the common stock. S2's sale of the preferred stock results in the recognition of $0 of gain/loss. Pursuant to paragraph (b)(5) of this section, the redetermination of S1's and S2's bases in the stock of S3 results in adjustments to P's basis in the stock of S1 and S2. In particular, P's basis in the stock of S1 is increased by $30 to $130 and its basis in the stock of S2 is decreased by $30 to $90.

Example 2. Deconsolidating sale of common stock—(i) *Facts.* In Year 1, in a transfer to which section 351 applies, P contributes Asset A with a basis of $900 and a value of $200 to S in exchange for one share of S common stock (CS1). In Years 2 and 3, in successive but unrelated transfers to which section 351 applies, P transfers $200 to S in exchange for one share of S common stock (CS2), Asset B with a basis of $300 and a value of $200 in exchange for one share of S common stock (CS3), and Asset C with a basis of $1000 and a value of $200 in exchange for one share of S common stock (CS4). In Year 4, S sells Asset A for $200, recognizing $700 of loss that is used to offset income of P recognized during Year 4. As a result of the sale of Asset A, the basis of each of P's four shares of S common stock is reduced by $175. Therefore, the basis of CS1 is $725. The basis of CS2 is $25. The basis of CS3 is $125, and the basis of CS4 is $825. In Year 5 in a transaction that is not part of a plan that includes the Year 1 contribution, P sells CS4 for $200. Immediately after the sale of CS4, S is not a member of the P group.

(ii) *Application of basis redetermination rule.* Because P's basis in each of CS1 and CS4 exceeds its value immediately prior to the deconsolidation of S, P's basis in its shares of S common stock is redetermined pursuant to paragraph (b)(2) of this section. Pursuant to paragraph (b)(2)(ii) of this section, the reallocable basis amount is $350 (the lesser of $1150, the gross loss inherent in the stock of S owned by P immediately before the sale, and $350, the aggregate amount of S's items of deduction and loss that were previously taken into account in the computation of the adjustment to the basis of the stock of S that P did not hold at a loss immediately before the deconsolidation). Pursuant to paragraph (b)(2)(i) of this section, first, P's basis in CS1 is reduced from $725 to $600 and P's basis in CS4 is reduced from $825 to $600. Then, the reallocable basis amount increases P's basis in CS2 from $25 to $250 and P's basis in CS3 from $125 to $250. P recognizes $400 of loss on the sale of CS4. The loss suspension rule does not apply because S is no longer a member of the P group. Thus, the loss is allowable at that time.

Example 3. Nondeconsolidating sale of common stock—(i) *Facts.* In Year 1, P forms S with a contribution of $80 in exchange for 80 shares of the common stock of S, which at that time represents all of the outstanding stock of S. S becomes a member of the P group. In Year 2, P contributes Asset A with a basis of $50 and a value of $20 in exchange for 20 shares of the common stock of S in a transfer to which section 351 applies. In Year 4, in a transaction that is not part of the plan that includes the Year 2 contribution, P sells the 20 shares of the common stock of S that it acquired in Year 2 for $20. Immediately after the Year 4 stock sale, S is a member of the P group. At the time of the Year 4 stock sale, S has $80 and Asset A. In Year 5, S sells Asset A, the basis and value of which have not changed since its contribution to S. On the sale of Asset A for $20, S recognizes a $30 loss. The P group cannot establish that all or a portion of the $30 loss was not reflected in the calculation of the duplicated loss of S on the date of the Year 4 stock sale. The $30 loss is used on the P group return to offset income of P. In Year 6, P sells its remaining S common stock for $80.

(ii) *Application of basis redetermination and loss suspension rules.* Because P's basis in the common stock sold exceeds its value immediately prior to the sale and S is a member of the P group immediately after the sale, P's basis in all of the stock of S is redetermined pursuant to paragraph (b)(1) of this section. Of P's total basis of $130 in the S common stock, a proportionate amount is

allocated to each of the 100 shares of S common stock. Accordingly, $26 is allocated to the common stock of S that is sold and $104 is allocated to the common stock of S that is retained. On P's sale of the 20 shares of the common stock of S for $20, P recognizes a loss of $6. Because the sale of the 20 shares of common stock of S does not result in the deconsolidation of S, under paragraph (c)(1) of this section, that loss is suspended to the extent of the duplicated loss with respect to the shares sold. The duplicated loss with respect to the shares sold is $6. Therefore, the entire $6 loss is suspended.

(iii) *Effect of subsequent asset sale on stock basis.* Of the $30 loss recognized on the sale of Asset A, $24 is taken into account in determining the basis adjustments made under § 1.1502–32 to the stock of S owned by P. Accordingly, P's basis in its S stock is reduced by $24 from $104 to $80.

(iv) *Effect of subsequent asset sale on suspended loss.* Because P cannot establish that all or a portion of the loss recognized on the sale of Asset A was not reflected in the calculation of the duplicated loss of S on the date of the Year 4 stock sale and such loss is allocable to the period beginning on the date of the Year 4 disposition of the S stock and ending on the day before the first date on which S is not a member of the P group and is taken into account in determining consolidated taxable income (or loss) of the P group for a taxable year that includes a date on or after the date of the Year 4 disposition and before the first date on which S is not a member of the P group, such asset loss reduces the suspended loss pursuant to paragraph (c)(4) of this section. The amount of such reduction, however, cannot exceed $6, the excess of the amount of such loss, $30, over the amount of such loss that is taken into account in determining the basis adjustment made to the stock of S owned by P, $24. Therefore, the suspended loss is reduced to zero.

(v) *Effect of subsequent stock sale.* P recognizes $0 gain/loss on the Year 5 sale of its remaining S common stock. No amount of suspended loss remains to be allowed under paragraph (c)(5) of this section.

Example 4. Nondeconsolidating sale of common stock of lower-tier subsidiary—(i) *Facts.* In Year 1, P forms S1 with a contribution of $200 in exchange for all of the common stock of S1, which represents all of the outstanding stock of S1. In the same year, S1 forms S2 with a contribution of $80 in exchange for 80 shares of the common stock of S2, which at that time represents all of the outstanding stock of S2. S1 and S2 become members of the P group. In the same year, S2 purchases Asset A for $80. In Year 2, S1 contributes Asset B with a basis of $50 and a value of $20 in exchange for 20 shares of the common stock of S2 in a transfer to which section 351 applies. In Year 4, S1 sells the 20 shares of the common stock of S2 that it acquired in Year 2 for $20. Immediately after the Year 4 stock sale, S2 is a member of the P group. At the time of the Year 4 stock sale, the bases and values of Asset A and Asset B are unchanged. In Year 5, S2 sells Asset B for $45, recognizing a $5 loss. The P group cannot establish that all or a portion of the $5 loss was not reflected in the calculation of the duplicated loss of S2 on the date of the Year 4 stock sale. The $5 loss is used on the P group return to offset income of P. In Year 6, S1 sells its remaining S2 common stock for $100.

(ii) *Application of basis redetermination and loss suspension rules.* Because S1's basis in the S2 common stock sold exceeds its value immediately prior to the sale and S2 is a member of the P group immediately after the sale, S1's basis in all of the stock of S2 is redetermined pursuant to paragraph (b)(1) of this section. Of S1's total basis of $130 in the S2 common stock, a proportionate amount is allocated to each of the 100 shares of S2 common stock. Accordingly, a total of $26 is allocated to the common stock of S2 that is sold and $104 is allocated to the common stock of S2 that is retained. On S1's sale of the 20 shares of the common stock of S2 for $20, S1 recognizes a loss of $6. Because the sale of the 20 shares of common stock of S2 does not result in the deconsolidation of S2, under paragraph (c)(1) of this section, that loss is suspended to the extent of the duplicated loss with respect to the shares sold. The duplicated loss with respect to the shares sold is $6. Therefore, the entire $6 loss is suspended. Pursuant to paragraph (c)(3) of this section and § 1.1502–32(b)(3)(iii)(C), the suspended loss is treated as a noncapital, nondeductible expense incurred by S1 during the tax year that includes the date of the disposition of stock to which paragraph (c)(1) of this section applies. Accordingly, P's basis in its S1 stock is reduced from $200 to $194.

(iii) *Effect of subsequent asset sale on stock basis.* Of the $5 loss recognized on the sale of Asset B, $4 is taken into account in determining the basis adjustments made under § 1.1502–32 to the stock of S2 owned by S1. Accordingly, S1's basis in its S2 stock is reduced by $4 from $104 to $100 and P's basis in its S1 stock is reduced by $4 from $194 to $190.

(iv) *Effect of subsequent asset sale on suspended loss.* Because P cannot establish that all or a portion of the loss recognized on the sale of Asset B was not reflected in the calculation of the duplicated loss of S2 on the date of the Year 4 stock sale and such loss is allocable to the period beginning on the date of the Year 4 disposition of the S2 stock and ending on the day before the first date on which S2 is not a member of the P group and is taken into account in determining consolidated taxable income (or loss) of the P group for a taxable year that includes a date on or after the date of the Year 3 disposition and before the first date on which S2 is not a member of the P group, such asset loss reduces the suspended loss pursuant to paragraph (c)(4) of this section. The amount of such reduction, however, cannot exceed $1, the excess of the amount of such loss, $5, over the amount of such loss that is taken into account in determining the basis adjustment made to the stock of S2 owned by members of the P group, $4. Therefore, the suspended loss is reduced to $5.

(v) *Effect of subsequent stock sale.* In Year 6, when S1 sells its remaining S2 stock for $100, it recognizes $0 gain/loss. Pursuant to paragraph (c)(5) of this section, the remaining $5 of the suspended loss is allowed on the P group's return for Year 5 when S1 sells its remaining S2 stock.

Example 5. Deconsolidating sale of subsidiary owning stock of another subsidiary that remains in group—(i) *Facts.* In Year 1, P forms S1 with a contribution of Asset A with a basis of $50 and a value of $20 in exchange for 100 shares of common stock of S1 in a transfer to which section 351 applies. Also in Year 1, P and S1 form S2. P contributes $80 to S2 in exchange for 80 shares of common stock of S2. S1 contributes Asset A to S2 in exchange for 20 shares of common stock of S2 in a transfer to which section 351 applies. In Year 3, in a transaction that is not part of a plan that includes the Year 1 contributions, P sells its 100 shares of S1 common stock for $20. Immediately after the Year 3 stock sale, S2 is a member of the P group. At the time of the Year 3 stock sale, S1 owns 20 shares of common stock of S2, and S2 has $80 and Asset A. In Year 4, S2 sells Asset A, the basis and value of which have not changed since its contribution to S2. On the sale of Asset A for $20, S2 recognizes a $30 loss. That $30 loss is used on the P group return to offset income of P. In Year 5, P sells its S2 common stock for $80.

(ii) *Application of basis redetermination and loss suspension rules.* Pursuant to paragraph (b)(4) of this section, because immediately before P's transfer of S1 stock S1 owns stock of S2 (another subsidiary of the same group) that has a basis that exceeds its value, paragraph (b) of this section applies as if S1 had transferred its stock of S2. Because S2 is a member of the group immediately after the transfer of the S1 stock, the group member's basis in the S2 stock is redetermined pursuant to paragraph (b)(1) of this section immediately prior to the sale of the S1 stock. Of the group members' total basis of $130 in the S2 stock, $26 is allocated to S1's 20 shares of S2 common stock and $104 is allocated to P's 80 shares of S2 common stock. Pursuant to paragraph (b)(5) of this section, the redetermination of S1's basis in the stock of S2 results in an adjustment to P's basis in the stock of S1. In particular, P's basis in the stock of S1 is decreased by $24 to $26. On P's sale of its 100 shares of S1 common stock for $20, P recognizes a loss of $6. Because S1 is not a member of the P group immediately after P's sale of the S1 stock, paragraph (c)(1) of this section does not apply to suspend such loss. However, because P recognizes a loss with respect to the disposition of the S1 stock and S1 owns stock of S2 (which is a member of the P group immediately after the disposition), paragraph (c)(2) of this section does apply to suspend up to $6 of that loss, an amount equal to the amount by which the duplicated loss with respect to the stock of S1 sold is attributable to S2's adjusted basis in its assets, loss carryforwards, and deferred deductions.

(iii) *Effect of subsequent asset sale on stock basis.* Of the $30 loss recognized on the sale of Asset A, $24 is taken into account in determining the basis adjustments made under § 1.1502–32 to the stock of S2 owned by P. Accordingly, P's basis in its S2 stock is reduced by $24 from $104 to $80.

(iv) *Effect of subsequent asset sale on suspended loss.* Because P cannot establish that all or a portion of the loss recognized on the sale of Asset A was not reflected in the calculation of the duplicated loss of S2 on the date of the Year 3 stock sale and such loss is allocable to the period beginning on the date of the Year 3 deemed disposition of the S2 stock and ending on the day before the first date on which S2 is not a member of the P group and is taken into account in determining consolidated taxable income (or loss) of the P group for a taxable year that includes a date on or after the date of the Year 3 deemed disposition and before the first date on which S2 is not a member of the P group, such asset loss reduces the suspended loss pursuant to paragraph (c)(4) of this section. The amount of such reduction, however, cannot exceed $6, the excess of the amount of such loss, $30, over the amount of such loss that is taken into account in determining the basis adjustment made to the stock of S2 owned by P, $24. Therefore, the suspended loss is reduced to zero.

(v) *Effect of subsequent stock sale.* P recognizes $0 gain/loss on the Year 5 sale of its remaining S2 common stock. No amount of suspended loss remains to be allowed under paragraph (c)(5) of this section.

Example 6. Loss recognized on asset with basis determined by reference to stock basis of subsidiary—(i) *Facts.* In Year 1, P forms S with a contribution of $80 in exchange for 80 shares of common stock of S which at that time represents all of the outstanding stock of S. S becomes a member of the P group. In Year 2, P contributes Asset A with a basis of $50 and a value of $20 in exchange for 20 shares of common stock of S in a transfer to which section 351 applies. In Year 4, in a transaction that is not part of a plan that includes the Year 1 and Year 2 contributions, P contributes the 20 shares of S common stock it acquired in Year 2 to PS, a partnership, in exchange for a 20 percent capital and profits interest in a transaction described in section 721. Immediately after the contribution to PS, S is a member of the P group. In Year 5, P sells its interest in PS for $20, recognizing a $30 loss.

(ii) *Application of basis redetermination rule upon nonrecognition transfer.* Because P's basis in the S common stock contributed to PS exceeds its value immediately prior to the transfer and S is a member of the P group immediately after the transfer, P's basis in all of the S stock is redetermined pursuant to paragraph (b)(1) of this section. Of P's total basis of $130 in the common stock of S, a proportionate amount is allocated to each share of S common stock. Accordingly, $26 is allocated to the S common stock that is contributed to PS and, under section 722, P's basis in its interest in PS is $26.

(iii) *Application of loss suspension rule on disposition of asset with basis determined by reference to stock basis of subsidiary.* P recognizes a $6 loss on its disposition of its interest in PS. Because P's basis in its interest in PS was determined by reference to the basis of S stock and at the time of the determination of P's basis in its interest in PS such S stock had a duplicated loss of $6, and, immediately after the disposition, S is a member of the P group, such loss is suspended to the extent of such duplicated loss. Principles similar to those of paragraphs (c)(3), (c)(4), and (c)(5) of this section shall apply to such suspended loss.

(f) *Worthlessness not followed by separate return years.* Notwithstanding any other provision in the regulations under section 1502, if a member of a group (the claiming group) treats stock of a subsidiary as worthless under section 165 (taking into account the provisions of § 1.1502–80(c)) and, on the day following the last day of the claiming group's taxable year in which the worthless stock deduction is claimed, the subsidiary (or its successor, determined without regard to paragraphs (d)(5)(iii) and (iv) of this section) is a member of a group that includes any corporation that, during that taxable year, was a member of the claiming group (other than a lower-tier subsidiary of the subsidiary) or is a successor (determined without regard to paragraphs (d)(5)(iii) and (iv) of this section) of such a member, then all losses treated as attributable to the subsidiary under the principles of § 1.1502–21(b)(2)(iv) shall be treated as expired as of the beginning of the day following the last day of the claiming group's taxable year in which the worthless stock deduction is claimed. In addition, notwithstanding any other provision in the regulations under section 1502, if a member recognizes a loss with respect to subsidiary stock and on the following day the subsidiary is not a member of the group and does not have a separate return year, then all losses treated as attributable to the subsidiary under the principles of § 1.1502–21(b)(2)(iv) shall be treated as expired as of the beginning of the day following the last day of the group's taxable year in which the stock loss is claimed. For purposes of this paragraph (f), the determination of the losses attributable to the subsidiary shall be made after computing the taxable income of the group for the taxable year in which the group treats the stock of the subsidiary as worthless or the subsidiary liquidates and after computing the taxable income for any taxable year to which such losses may be carried back. The loss treated as expired under this paragraph (f) shall not be treated as a noncapital, nondeductible expense under § 1.1502–32(b)(2)(iii). This paragraph (f) applies to worthlessness determinations and liquidations that occur on or after March 10, 2006. For rules applicable to worthless determinations and liquidations before March 10, 2006, see § 1.1502–35T(f)(1) and (2) as contained in 26 CFR part 1 in effect on January 1, 2006.

(g) *Anti-avoidance rules*—(1) *Transfer of share without a loss in avoidance.* If a share of subsidiary stock has a basis that does not exceed its value and the share is transferred with a view to avoiding application of the rules of paragraph (b) of this section prior to the transfer of a share of subsidiary stock that has a basis that does exceed its value or a deconsolidation of a subsidiary, the rules of paragraph (b) of this section shall apply immediately prior to the transfer of stock that has a basis that does not exceed its value.

(2) *Transfers of loss property in avoidance.* If a member of a consolidated group contributes an asset with a basis that exceeds its value to a partnership in a transaction described in section 721 or a corporation that is not a member of such group in a transfer described in section 351, such partnership or corporation contributes such asset to a subsidiary in a transfer described in section 351, and such contributions are undertaken with a view to avoiding the rules of paragraph (b) or (c) of this section, adjustments must be made to carry out the purposes of this section.

(3) *Anti-loss reimportation*—(i) *Application.* This paragraph (g)(3) applies if—

(A) A member of a group recognizes and is allowed a loss on the disposition of a share of stock of a subsidiary with respect to which there is a duplicated loss; and

(B) Within the 10-year period beginning on the date the subsidiary (or any successor) ceases to be a member of such group—

(*1*) The subsidiary (or any successor) again becomes a member of such group (or any successor group) when the subsidiary (or any successor) owns any asset that has a basis in excess of value at such time and that was owned by the subsidiary (or any successor) on the date of a disposition of stock of such subsidiary (or any successor) and that had a basis in excess of value on such date;

(*2*) The subsidiary (or any successor) again becomes a member of such group (or any successor group) when the subsidiary (or any successor) owns any asset that has a basis in excess of value at such time and that has a basis that reflects, directly or indirectly, in whole or in part, the basis of any asset that was owned by the subsidiary on the date of a disposition of stock of such subsidiary (or any successor) and that had a basis in excess of value on such date;

(*3*) In a transaction described in section 381 or section 351, any member

of such group (or any successor group) acquires any asset of the subsidiary (or any successor) that was owned by the subsidiary (or any successor) on the date of a disposition of stock of such subsidiary (or any successor) and that had a basis in excess of its value on such date, or any asset that has a basis that reflects, directly or indirectly, in whole or in part, the basis of any asset that was owned by the subsidiary (or any successor) on the date of a disposition of stock of such subsidiary (or any successor) and that had a basis in excess of its value on such date, and, immediately after the acquisition of such asset, such asset has a basis in excess of its value;

(*4*) The subsidiary (or any successor) again becomes a member of such group (or any successor group) when the subsidiary (or any successor) has a liability (within the meaning of section 358(h)(3)) that it had on the date of a disposition of stock of such subsidiary (or any successor) and such liability will give rise to a deduction;

(*5*) In a transaction described in section 381 or section 351, any member of such group (or any successor group) assumes a liability (within the meaning of section 358(h)(3)) that was a liability of the subsidiary (or any successor) on the date of a disposition of stock of such subsidiary (or any successor);

(*6*) The subsidiary (or any successor) again becomes a member of such group (or any successor group) when the subsidiary (or any successor) has any losses or deferred deductions that were losses or deferred deductions of the subsidiary (or any successor) on the date of a disposition of stock of such subsidiary (or any successor);

(*7*) The subsidiary (or any successor) again becomes a member of such group (or any successor group) when the subsidiary (or any successor) has any losses or deferred deductions that are attributable to any asset that was owned by the subsidiary (or any successor) on the date of a disposition of stock of such subsidiary (or any successor) and that had a basis in excess of value on such date;

(*8*) The subsidiary (or any successor) again becomes a member of such group (or any successor group) when the subsidiary (or any successor) has any losses or deferred deductions that are attributable to any asset that had a basis that reflected, directly or indirectly, in whole or in part, the basis of any asset that was owned by the subsidiary (or any successor) on the date of a disposition of stock of such subsidiary (or any successor) and that had a basis in excess of value on such date;

(*9*) The subsidiary (or any successor) again becomes a member of such group (or any successor group) when the subsidiary (or any successor) has any losses or deferred deductions that are attributable to a liability (within the meaning of section 358(h)(3)) that it had on the date of a disposition of stock of such subsidiary (or any successor);

(*10*) Any member of such group (or any successor group) succeeds to any losses or deferred deductions of the subsidiary (or any successor) that were losses or deferred deductions of the subsidiary (or any successor) on the date of a disposition of stock of such subsidiary (or any successor), that are attributable to any asset that was owned by the subsidiary (or any successor) on the date of a disposition of stock of such subsidiary (or any successor) and that had a basis in excess of value on such date, that are attributable to any asset that had a basis that reflected, directly or indirectly, in whole or in part, the basis of any asset that was owned by the subsidiary (or any successor) on the date of a disposition of stock of such subsidiary (or any successor) and that had a basis in excess of value on such date, or that are attributable to a liability (within the meaning of section 358(h)(3)) of the subsidiary (or any successor) on the date of a disposition of stock of such subsidiary (or any successor); or

(*11*) Any losses or deferred deductions of the subsidiary (or any successor) that were losses or deferred deductions of the subsidiary (or any successor) on the date of a disposition of stock of such subsidiary (or any successor), that are attributable to any asset that was owned by the subsidiary (or any successor) on the date of a disposition of stock of such subsidiary (or any successor) and that had a basis in excess of value on such date, that are attributable to any asset that had a basis that reflected, directly or indirectly, in whole or in part, the basis of any asset that was owned by the subsidiary (or any successor) on the date of a disposition of stock of such subsidiary (or any successor) and that had a basis in excess of value on such date, or that are attributable to a liability (within the meaning of section 358(h)(3)) of the subsidiary (or any successor) on the date of a disposition of stock of such subsidiary (or any successor) are carried back to a pre-disposition taxable year of the subsidiary.

(ii) *Operating rules.* (A) For purposes of paragraph (g)(3)(i)(B) of this section, assets shall include stock and securities and the subsidiary (or any successor) shall be treated as having its allocable share of losses and deferred deductions of all lower-tier subsidiaries and as owning its allocable share of each asset of all lower-tier subsidiaries.

(B) For purposes of paragraphs (g)(3)(i)(B)(*6*), (*7*), (*8*), and (*9*) of this section, unless the group can establish otherwise, if the subsidiary (or any successor) again becomes a member of such group (or any successor group) at a time when the subsidiary (or any successor) has any losses or deferred deductions, such losses and deferred deductions shall be treated as losses or deferred deductions that were losses or deferred deductions of the subsidiary (or any successor) on the date of a disposition of stock of such subsidiary (or any successor), losses or deferred deductions that are attributable to assets that were owned by the subsidiary (or any successor) on the date of a disposition of stock of such subsidiary (or any successor) and that had bases in excess of value on such date, losses or deferred deductions that are attributable to assets that had bases that reflected, directly or indirectly, in whole or in part, the bases of assets that were owned by the subsidiary (or any successor) on the date of a disposition of stock of such subsidiary (or any successor) and that had bases in excess of value on such date, or losses or deferred deductions attributable to a liability (within the meaning of section 358(h)(3)) of the subsidiary (or any successor) on the date of a disposition of stock of such subsidiary (or any successor).

(C) For purposes of paragraph (g)(3)(i)(B)(*10*) of this section, unless the group can establish otherwise, if a member of such group (or any successor group) succeeds to any losses or deferred deductions of the subsidiary (or any successor), such losses and deferred deductions shall be treated as losses or deferred deductions that were losses or deferred deductions of the subsidiary (or any successor) on the date of a disposition of stock of such subsidiary (or any successor), losses or deferred deductions that are attributable to assets that were owned by the subsidiary (or any successor) on the date of a disposition of stock of such subsidiary (or any successor) and that had bases in excess of value on such date, losses or deferred deductions that are attributable to assets that had bases that reflected, directly or indirectly, in whole or in part, the bases of assets that were owned by the subsidiary (or any successor) on the date of a disposition of stock of such subsidiary (or any successor) and that had bases in excess of value on such date, or losses or deferred deductions attributable to a liability (within the meaning of section 358(h)(3)) of the subsidiary (or any

successor) on the date of a disposition of stock of such subsidiary (or any successor).

(D) For purposes of paragraph (g)(3)(i)(B)(*11*) of this section, unless the group can establish otherwise, if any losses or deferred deductions of the subsidiary (or any successor) are carried back to a pre-disposition taxable year of the subsidiary, such losses and deferred deductions shall be treated as losses or deferred deductions that were losses or deferred deductions of the subsidiary (or any successor) on the date of a disposition of stock of such subsidiary (or any successor), losses or deferred deductions that are attributable to assets that were owned by the subsidiary (or any successor) on the date of a disposition of stock of such subsidiary (or any successor) and that had a basis in excess of value on such date, losses or deferred deductions that are attributable to assets that had bases that reflected, directly or indirectly, in whole or in part, the bases of assets that were owned by the subsidiary (or any successor) on the date of a disposition of stock of such subsidiary (or any successor) and that had a basis in excess of value on such date, or losses or deferred deductions that are attributable to a liability (within the meaning of section 358(h)(3)) of the subsidiary (or any successor) on the date of a disposition of stock of such subsidiary (or any successor).

(iii) *Loss disallowance.* If this paragraph (g)(3) applies, then, to the extent that the aggregate amount of loss recognized by members of the group (and any successor group) on dispositions of the subsidiary stock was attributable to a duplicated loss of such subsidiary that was allowed, such group (or any successor group) will be denied the use of—

(A) Any loss recognized that is attributable to, directly or indirectly, an asset that was owned by the subsidiary (or any successor) on the date of a disposition of stock of such subsidiary (or any successor) and that had a basis in excess of value on such date, to the extent of the lesser of the loss inherent in such asset on the date of a disposition of the stock of the subsidiary (or any successor) and the loss inherent in such asset on the date of the event described in paragraph (g)(3)(i)(B) of this section that gives rise to the application of this paragraph (g)(3);

(B) Any loss recognized that is attributable to, directly or indirectly, an asset that has a basis that reflects, directly or indirectly, in whole or in part, the basis of any asset that was owned by the subsidiary (or any successor) on the date of a disposition of stock of such subsidiary (or any successor) and that had a basis in excess of its value on such date, to the extent of the lesser of the loss inherent in the asset that was owned by the subsidiary (or any successor) on the date of a disposition of stock of such subsidiary (or any successor) the basis of which is reflected, directly or indirectly, in whole or in part, in the basis of such asset on the date of the disposition and the loss inherent in such asset on the date of the event described in paragraph (g)(3)(i)(B) of this section that gives rise to the application of this paragraph (g)(3);

(C) Any loss or deduction that is attributable to a liability described in paragraph (g)(3)(i)(B)(*4*) or (*5*) of this section; and

(D) Any loss or deduction described in paragraph (g)(3)(i)(B)(*6*), (*7*), (*8*), (*9*), (*10*), or (*11*) of this section, provided that a loss or deferred deduction described in paragraph (g)(3)(i)(B)(*11*) of this section shall be allowed to be carried forward to a post-disposition taxable year of the subsidiary.

(iv) *Treatment of disallowed loss.* For purposes of § 1.1502–32(b)(3)(iii), any loss or deduction the use of which is disallowed pursuant to paragraph (g)(3)(iii) of this section (other than a loss or deduction described in paragraph (g)(3)(i)(B)(*11*) of this section), and with respect to which no waiver described in § 1.1502–32(b)(4) is filed, is treated as a noncapital, nondeductible expense incurred during the taxable year that such loss would otherwise be absorbed.

(4) *Avoidance of recognition of gain.* (i) If a transaction is structured with a view to, and has the effect of, deferring or avoiding the recognition of gain on a disposition of stock by invoking the application of paragraph (b)(1) of this section to redetermine the basis of stock of a subsidiary, and the stock loss that gives rise to the application of paragraph (b)(1) of this section is not significant, paragraphs (b) and (c) of this section shall not apply.

(ii) If a transaction is structured with a view to, and has the effect of, deferring or avoiding the recognition of gain on a disposition of stock by invoking the application of paragraph (b)(2) of this section to redetermine the basis of stock of a subsidiary, and the duplicated loss of the subsidiary that is reflected in stock of the subsidiary owned by members of the group immediately before the deconsolidation is not significant, paragraphs (b) and (c) of this section shall not apply.

(5) *Examples.* For purposes of the examples in this section, all transactions described in section 362(a) are completed before October 22, 2004, and therefore are not subject to section 362(e)(2). The principles of this paragraph (g) are illustrated by the following examples:

Example 1. Transfers of property in avoidance of basis redetermination rule—(i) *Facts.* In Year 1, P forms S with a contribution of $100 in exchange for 100 shares of common stock of S which at that time represents all of the outstanding stock of S. S becomes a member of the P group. In Year 2, P contributes 20 shares of common stock of S to PS, a partnership, in exchange for a 20 percent capital and profits interest in a transaction described in section 721. In Year 3, P contributes Asset A with a basis of $50 and a value of $20 to PS in exchange for an additional capital and profits interest in PS in a transaction described in section 721. Also in Year 3, PS contributes Asset A to S and P contributes an additional $80 to S in transfers to which section 351 applies. In Year 4, S sells Asset A for $20, recognizing a loss of $30. The P group uses that loss to offset income of P. In Year 5, P sells its entire interest in PS for $40, recognizing a loss of $30.

(ii) *Analysis.* Pursuant to paragraph (g)(2) of this section, if P's contributions of S stock and Asset A to PS were undertaken with a view to avoiding the application of the basis redetermination or the loss suspension rule, adjustments must be made such that the group does not obtain more than one tax benefit from the $30 loss inherent in Asset A.

Example 2. Transfers effecting a reimportation of loss—(i) *Facts.* In Year 1, P forms S with a contribution of Asset A with a value of $100 and a basis of $120, Asset B with a value of $50 and a basis of $70, Asset C with a value of $90 and a basis of $100 in exchange for all of the common stock of S and S becomes a member of the P group. In Year 2, in a transaction that is not part of a plan that includes the contribution, P sells the stock of S for $240, recognizing a loss of $50. At such time, the bases and values of Assets A, B, and C have not changed since their contribution to S. In Year 3, S sells Asset A, recognizing a $20 loss. In Year 3, S merges into M in a reorganization described in section 368(a)(1)(A). In Year 8, P purchases all of the stock of M for $300. At that time, M has a $10 net operating loss. In addition, M owns Asset D, which was acquired in an exchange described in section 1031 in connection with the surrender of Asset B. Asset C has a value of $80 and a basis of $100. Asset D has a value of $60 and a basis of $70. In Year 9, P has operating income of $100 and M recognizes $20 of loss on the sale of Asset C. In Year 10, P has operating income of $50 and M recognizes $50 of loss on the sale of Asset D.

(ii) *Analysis.* P's $50 loss on the sale of S stock is entirely attributable to duplicated loss. Therefore, pursuant to paragraph (g)(3) of this section, assuming the P group cannot establish otherwise, M's $10 net operating loss is treated as attributable to assets that were owned by S on the date of the disposition and that had bases in excess of value on such date. Without regard to any

other limitations on the group's use of M's net operating loss, the P group cannot use M's $10 net operating loss pursuant to paragraph (g)(3)(iii)(D) of this section. Pursuant to paragraph (g)(3)(iv) of this section and § 1.1502–32(b)(3)(iii)(D), such loss is treated as a noncapital, nondeductible expense of M incurred during the taxable year that it would otherwise be absorbed, namely in Year 9. In addition, the P group is denied the use of $10 of the loss recognized on the sale of Asset C. Finally, the P group is denied the use of $10 of the loss recognized on the sale of Asset D. Pursuant to paragraph (g)(3)(iv) of this section and § 1.1502–32(b)(3)(iii)(D), each such disallowed loss is treated as a noncapital, nondeductible expense of M incurred during the taxable year that includes the date of the disposition of the asset with respect to which such loss was recognized.

Example 3. Transfers to avoid recognition of gain—(i) *Facts.* P owns all of the stock of S1 and S2. The S2 stock has a basis of $400 and a value of $500. S1 owns 50% of the stock of the S3 common stock with a basis of $150. S2 owns the remaining 50% of the S3 common stock with a basis of $100 and a value of $200 and one share of S3 preferred stock with a basis of $10 and a value of $9. P intends to sell all of its S2 stock to an unrelated buyer. P, therefore, engages in the following steps to dispose of S2 without recognizing a substantial portion of the built-in gain in S2. First, P causes a recapitalization of S3 in which S2's S3 common stock is exchanged for new S3 preferred shares. P then sells all of its S2 stock. Immediately after the sale of the S2 stock, S3 is a member of the P group.

(ii) *Analysis.* Pursuant to paragraph (b)(4) of this section, because S2 owns stock of S3 (another subsidiary of the same group) and, immediately after the sale of the S2 stock, S3 is a member of the group, then for purposes of applying paragraph (b) of this section, S2 is deemed to have transferred its S3 stock. Because S3 is a member of the group immediately after the transfer of the S2 stock and the S3 stock deemed transferred has a basis in excess of value, the group member's basis in the S3 stock is redetermined pursuant to paragraph (b)(1) of this section immediately prior to the sale of the S2 stock. Pursuant to paragraph (b)(1) of this section, the total basis of S3 stock held by members of the P group is allocated first to the S3 preferred shares, up to their value of $209, and then to the remaining shares of S3 common held by S1. S2's aggregate basis in the S3 preferred stock is increased from $110 to $209. This increase tiers up and increases P's basis in the S2 stock from $400 to $499. Accordingly, P will recognize only $1 of gain on the sale of its S2 stock. However, because the recapitalization of S3 was structured with a view to, and has the effect of, avoiding the recognition of gain on a disposition of stock by invoking the application of paragraph (b) of this section, paragraph (g)(4)(i) of this section applies. Accordingly, paragraph (b) of this section does not apply upon P's disposition of the S2 stock and P recognizes $100 of gain on the disposition of the S2 stock.

(h) *Application of other anti-abuse rules.* The rules of this section do not preclude the application of anti-abuse rules under other provisions of the Internal Revenue Code and regulations thereunder.

(i) [Reserved].

(j) *Effective date.* This section, except for paragraph (g)(3) of this section, applies with respect to stock transfers, deconsolidations of subsidiaries, determinations of worthlessness, and stock dispositions on or after March 10, 2006. For rules applicable before March 10, 2006, see § 1.1502–35T(j) as contained in 26 CFR part 1 in effect on January 1, 2006.

§ 1.1502–35T [Removed]

■ **Par. 7.** Section 1.1502–35T is removed.

■ **Par. 8.** For each section listed in the table remove the language in the ''Remove'' column and add in its place the language in the ''Add'' column as set forth below:

Section	Remove	Add
§ 1.267(f)–1(k)	§ 1.1502–35T	§ 1.1502–35
§ 1.597–4(g)(2)(v)	§ 1.1502–35T	§ 1.1502–35
§ 1.1502–11(b)(3)(ii)(c)	§ 1.1502–35T	§ 1.1502–35
§ 1.1502–12(r)	§ 1.1502–35T	§ 1.1502–35
§ 1.1502–15(b)(2)(iii)	§ 1.1502–35T	§ 1.1502–35
§ 1.1502–21(b)(1)	§ 1.1502–35T(f)(1)	§ 1.1502–35(f)
§ 1.1502–32(b)(3)(iii)(B)	§ 1.1502–35T	§ 1.1502–35
§ 1.1502–80(c)	§ 1.1502–35T	§ 1.1502–35
§ 1.1502–80T(c)	§ 1.1502–35T	§ 1.1502–35
§ 1.1502–91(h)(2)	§ 1.1502–35T	§ 1.1502–35

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

■ **Par. 9.** The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

■ **Par. 10.** In § 602.101, paragraph (b) is amended by removing the entry for § 1.1502–35T and adding an entry to the table in numerical order to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.1502–35	1545–1828
* * * * *	

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

Approved: March 7, 2006.

Eric Solomon,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 06–2411 Filed 3–9–06; 11:31 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of the Secretary

31 CFR Part 10

Practice Before the Internal Revenue Service

CFR Correction

In Title 31 of the Code of Federal Regulations, parts 0 to 199, revised as of July 1, 2005, on page 178, part 10 is corrected by reinstating § 10.53 to read as follows:

§ 10.53 Receipt of information concerning practitioner.

(a) *Officer or employee of the Internal Revenue Service.* If an officer or employee of the Internal Revenue Service has reason to believe that a practitioner has violated any provision

of this part, the officer or employee will promptly make a written report to the Director of Practice of the suspected violation. The report will explain the facts and reasons upon which the officer's or employee's belief rests.

(b) *Other persons.* Any person other than an officer or employee of the Internal Revenue Service having information of a violation of any provision of this part may make an oral or written report of the alleged violation to the Director of Practice or any officer or employee of the Internal Revenue Service. If the report is made to an officer or employee of the Internal Revenue Service, the officer or employee will make a written report of the suspected violation to the Director of Practice.

(c) *Destruction of report.* No report made under paragraph (a) or (b) of this section shall be maintained by the Director of Practice unless retention of such record is permissible under the applicable records control schedule as approved by the National Archives and Records Administration and designated in the Internal Revenue Manual. The Director of Practice must destroy such reports as soon as permissible under the applicable records control schedule.

(d) *Effect on proceedings under subpart D.* The destruction of any report will not bar any proceeding under subpart D of this part, but precludes the Director of Practice's use of a copy of such report in a proceeding under subpart D of this part.

[FR Doc. 06–55512 Filed 3–13–06; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52

[EPA–R08–OAR–2005–CO–0002; FRL–8044–4]

Clean Air Act Approval and Promulgation of Air Quality Implementation Plan Revision for Colorado; Long-Term Strategy of State Implementation Plan for Class I Visibility Protection; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: On January 24, 2006 (71 FR 3773), EPA published a direct final rule to approve a revision updating the Long-Term Strategy of the State Implementation Plan (SIP) for Class I Visibility Protection, which was submitted by the Governor of Colorado with a letter dated March 24, 2005. The direct final action was published without prior proposal because EPA anticipated no adverse comments. EPA stated in the direct final rule that if we received adverse comments by February 23, 2006, the direct final rule would be withdrawn and would not take effect. EPA subsequently received timely adverse comments. Therefore, the direct final rule is being withdrawn and the comments will be addressed in a subsequent final rule based on the proposed rule also published on January 24, 2006 (71 FR 3796). EPA will not institute a second comment period on this action.

DATES: The direct final rule published on January 24, 2006 (71 FR 3773) is withdrawn as of March 14, 2006.

FOR FURTHER INFORMATION CONTACT: Amy Platt, Air and Radiation Program (8P–AR), Environmental Protection Agency, Region 8, 999 18th Street, Suite 200, Denver, Colorado 80202–2466, (303) 312–6449, *Platt.Amy@epa.gov.*

List of Subjects in 40 CFR Part 52

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

Dated: March 2, 2006.

Kerrigan G. Clough,

Acting Regional Administrator, Region 8.

PART 52—[AMENDED]

§ 52.320 [Amended]

■ Accordingly, the addition of 40 CFR 52.320(c)(108) (which published in the **Federal Register** on January 24, 2006 at 71 FR 3773) is withdrawn as of March 14, 2006.

[FR Doc. 06–2395 Filed 3–13–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region 2 Docket No. EPA–R02–OAR–2004–NJ–0001, FRL–8040–4]

Approval and Promulgation of Implementation Plans; Reasonably Available Control Technology for Oxides of Nitrogen for a Specific Source in the State of New Jersey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency is approving a revision to the State Implementation Plan (SIP) for ozone submitted by the State of New Jersey. This SIP revision consists of a source-specific reasonably available control technology (RACT) determination for controlling oxides of nitrogen from the cogeneration facility operated by Schering Corporation. This action approves of the source-specific RACT determination that was made by New Jersey in accordance with provisions of its regulation to help meet the national ambient air quality standard for ozone. The intended effect of this action is to approve source-specific emission limitations required by the Clean Air Act.

DATES: *Effective Date:* This rule will be effective April 13, 2006.

ADDRESSES: EPA has established a docket for this action under Regional Material in EDocket (RME) Docket ID Number EPA–R02–OAR–2004–NJ–0001. All documents in the docket are listed in the Regional Material in EDocket (RME) index at *http://docket.epa.gov/rmepub/,* once in the system, select ''quick search,'' then key in the appropriate RME Docket identification number. Publicly available docket materials are available either electronically in Regional Material in EDocket or in hard copy at the Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866. Copies of the documents relevant to this action are also available for public inspection during normal business hours, by appointment at the Air and Radiation Docket and Information Center, Environmental Protection Agency, Room B–108, 1301 Constitution Avenue, NW., Washington, DC; and the New Jersey Department of Environmental Protection, Office of Air Quality Management, Bureau of Air Pollution Control, 401 East State Street, CN027, Trenton, New Jersey 08625.

FOR FURTHER INFORMATION CONTACT: Richard Ruvo, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–4014 (*ruvo.richard@epa.gov*).

SUPPLEMENTARY INFORMATION:

I. What Action Is EPA Taking Today?

EPA is approving a revision to the New Jersey State Department of Environmental Protection's (New Jersey's) ozone State Implementation Plan (SIP) submitted on March 31, 2005. This SIP revision relates to New Jersey's source-specific reasonably available

control technology (RACT) determination for controlling oxides of nitrogen (NO_X) from the Schering Corporation's (Schering) heat recovery steam generator (HRSG) with duct burner for the cogeneration facility located in Union, New Jersey. The reader is referred to the proposed rulemaking on this action (July 1, 2005, 70 FR 38068) for additional details.

II. What Comments Were Received and What Is EPA's Response?

EPA's July 1, 2005 proposed rule provided a 30-day public comment period. During this period, EPA received two comment letters on the proposal to approve New Jersey's NO_X RACT determination. EPA's response immediately follows a summary of each public comment.

Comments: Schering submitted a comment letter which provided a chronology of events regarding the operation and regulatory status of the HRSG. Schering's letter requested approval to operate the HRSG in the same manner that EPA and New Jersey approved Schering to operate a similar HRSG at the same cogeneration facility in 1998.

Response: By submitting the source-specific RACT determination to New Jersey and EPA for review and approval, Schering in essence has already formally made the request to operate the HRSG in a way similar to another unit at the facility. Therefore, EPA is satisfying Schering's request by proceeding with this action on the source-specific SIP revision.

Comments: A concerned citizen commented EPA is doing nothing to make New Jersey's air cleaner. The comments were not directed at Schering as a specific source or at any specific NO_X emission limitation at Schering. In addition, the comments did not include any supporting information or justification on how EPA can make the air cleaner.

Response: EPA acknowledges the citizen's support for clean air. However, no specific information or supporting justification relevant to the NO_X RACT determination for Schering was provided for EPA to reconsider the proposed approval. For the reasons in this section, and in the July 1, 2005 proposal, EPA is approving the NO_X emission limitation for Schering, consistent with the RACT requirements of the Clean Air Act. With respect to the citizen's comment that EPA is doing nothing to clean the air in New Jersey, EPA is championing a host of programs including the Clean Air Interstate Rule, the Clean Air Mercury Rule, and diesel retrofit programs for trucks and buses. These and other programs, in cooperation with the State of New Jersey, will help to clean the air and to meet the national ambient air quality standards in New Jersey and across the country.

III. What Are EPA's Conclusions?

EPA has determined New Jersey's SIP revision for New Jersey's NO_X RACT determination for Schering's HRSG with duct burner is consistent with New Jersey's NO_X RACT regulation and EPA's guidance. EPA has determined that the NO_X emission limits identified in New Jersey's Conditions of Approval document represents RACT for Schering's HRSG with duct burner. More specifically, EPA approves the current Conditions of Approval document which includes an alternative emission limit for the HRSG/duct burner when operating in the fresh air fired mode and when firing natural gas. The limit will be the lower of 0.17 lbs/MMBtu, or 115% of the average of three one-hour stack tests, each performed over a consecutive 60-minute period. Accordingly, EPA is approving the New Jersey SIP revision for an alternative RACT emission limit determination for Schering's HRSG with duct burner.

IV. Statutory and Executive Order Reviews

Statutory and Executive Order Reviews Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). Under

section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 15, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 22, 2006.

Alan J. Steinberg,

Regional Administrator, Region 2.

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

PART 52—[AMENDED]

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

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

Subpart FF—New Jersey

■ 2. Section 52.1570 is amended by adding new paragraph (c)(80) to read as follows:

§ 52.1570 Identification of plan.

* * * * *

(c) * * *

(80) Revision to the New Jersey State Implementation Plan (SIP) for ozone concerning the control of nitrogen oxides from the Schering Corporation's CoGEN II cogeneration facility located in Union County submitted by the New Jersey Department of Environmental Protection (NJDEP), dated March 31, 2005.

(i) Incorporation by reference:

(A) Conditions of Approval, Alternative Maximum Emission Rate For NO_X, Schering Corporation, Union, Union County, New Jersey facility identification number 40084 approved March 9, 2005.

[FR Doc. 06–2428 Filed 3–13–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R09–OAR–2006–0041; FRL–8045–1]

Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; State of Arizona; Particulate Matter of 10 Microns or Less; Finding of Attainment for Yuma Nonattainment Area; Determination Regarding Applicability of Certain Clean Air Act Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action under the Clean Air Act to determine that the Yuma nonattainment area in Arizona has attained the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}). This determination is based upon monitored air quality data for the PM_{10} NAAQS during the years 1998–2000. EPA also finds that the Yuma area is currently in attainment of the PM_{10} NAAQS, and based on this finding, EPA is determining that certain Clean Air Act requirements are not applicable for so long as the Yuma area continues to attain the PM_{10} NAAQS.

DATES: This rule is effective on May 15, 2006, without further notice, unless EPA receives adverse comments by April 13, 2006. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA-R09-OAR–2006–0041, by one of the following methods:

(1) Federal eRulemaking portal: *http://www.regulations.gov.* Follow the on-line instructions.

(2) E-mail: *rosen.rebecca@epa.gov.*

(3) Mail or deliver: Rebecca Rosen (AIR–2), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through the *www.regulations.gov* or e-mail. *www.regulations.gov* is an anonymous access system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: The index to the docket for this action is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Rebecca Rosen, EPA Region IX, (415) 947–4152, *rosen.rebecca@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we,'' ''us,'' or ''our'' are used, we mean the Environmental Protection Agency (EPA).

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I. Background

A. What National Ambient Air Quality Standards (NAAQS) Are Considered in Today's Finding?

Particulate matter with an aerodynamic diameter of less than or equal to 10 micrometers (PM_{10}) is the subject of this action. The NAAQS are limits for certain ambient air pollutants set by EPA to protect public health and welfare. PM_{10} is among the ambient air

pollutants for which EPA has established a health-based standard.

PM_{10} causes adverse health effects by penetrating deep into the lungs, aggravating the cardiopulmonary system. Children, the elderly, and people with asthma and heart conditions are the most vulnerable.

On July 1, 1987 (52 FR 24634), EPA revised the NAAQS for particulate matter with an indicator that includes only those particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers. See 40 CFR 50.6. The 24-hour primary PM_{10} standard is 150 micrograms per cubic meter μg/m³ with no more than one expected exceedance per year. The annual primary PM_{10} standard is 50 μg/m³ as an annual arithmetic mean. The secondary PM_{10} standards, promulgated to protect against adverse welfare effects, are identical to the primary standards.

B. What Is the Designation and Classification of This PM_{10} Nonattainment Area?

Upon enactment of the 1990 Clean Air Act Amendments (CAA or ''Act''), PM_{10} areas meeting the requirements of either (i) or (ii) of section 107(d)(4)(B) of the Act were designated nonattainment for PM_{10} by operation of law and classified ''moderate.'' These areas included all former Group I PM_{10} planning areas identified in 52 FR 29383 (August 7, 1987) and further clarified in 55 FR 45799 (October 31, 1990), and any other areas violating the NAAQS for PM_{10} prior to January 1, 1989 (many of these areas were identified by footnote 4 in the October 31, 1990 **Federal Register** document). A **Federal Register** notice announcing the areas designated nonattainment for PM_{10} upon enactment of the 1990 Act Amendments, known as ''initial'' PM_{10} nonattainment areas, was published on March 15, 1991 (56 FR 11101). A subsequent **Federal Register** document correcting some of these areas was published on August 8, 1991 (56 FR 37654). These nonattainment designations and moderate area classifications were codified in 40 CFR part 81 in a **Federal Register** document published on November 6, 1991 (56 FR 56694). All other areas in the nation not designated nonattainment at enactment were designated unclassifiable (see section 107(d)(4)(B)(iii) of the Act).

The Yuma planning area was listed by EPA as a Group I area (see 52 FR 29383, August 7, 1987) and was designated nonattainment for PM_{10} by operation of law and classified ''moderate.'' In accordance with section 189(a)(2) of the CAA, Arizona was to submit a state implementation plan (SIP) by November 15, 1991 demonstrating attainment of the PM_{10} standards by December 31, 1994 for the Yuma area.[1]

C. How Do We Make Attainment Determinations?

Pursuant to sections 179(c)(1) and 188(b)(2) of the Act, we have the responsibility of determining within six months of the applicable attainment date whether, based on air quality data, PM_{10} nonattainment areas attained the NAAQS by that date. The ''applicable attainment date'' is December 31, 1994 for areas, such as Yuma, that were designated as ''moderate'' nonattainment for PM_{10} by operation of law under the 1990 Amended Act. Determinations under section 179(c)(1) of the Act are to be based upon an area's ''air quality as of the attainment date.'' Section 188(b)(2) is consistent with this requirement.

Generally, we will determine whether an area's air quality meets the PM_{10} NAAQS for purposes of section 179(c)(1) and 188(b)(2) based upon data gathered at established state and local air monitoring stations (SLAMS) and national air monitoring stations (NAMS) in the nonattainment area and entered into the EPA's Air Quality System (AQS) database. Data entered into the AQS has been determined to meet federal monitoring requirements (see 40 CFR 50.6; 40 CFR part 50, appendix J; 40 CFR part 53; 40 CFR part 58, appendices A and B) and may be used to determine the attainment status of areas. We will also consider air quality data from other air monitoring stations in the nonattainment area provided that the stations meet the federal monitoring requirements for SLAMS. All data are reviewed to determine the area's air quality status in accordance with our guidance at 40 CFR part 50, Appendix K.

Attainment of the annual PM_{10} standard is achieved when the annual arithmetic mean PM_{10} concentration over a three-year period is equal to or less than 50 μg/m³. Attainment of the 24-hour standard is determined by calculating the expected number of days in a year with PM_{10} concentrations greater than 150 μg/m³. The 24-hour standard is attained when the expected number of days per year with levels above 150 μg/m³ (averaged over a three-year period) is less than or equal to one. Three consecutive years of air quality data are necessary to show attainment of the 24-hour and annual standards for PM_{10}. See 40 CFR part 50 and appendix K. A complete year of air quality data, as referred to in 40 CFR part 50 Appendix K, includes all 4 calendar quarters with each quarter containing data from at least 75 percent of the scheduled sampling days.[2]

II. What Is the Basis for EPA's Determination That the Yuma Nonattainment Area Has Attained the PM_{10} NAAQS?

The Yuma PM_{10} nonattainment area is located in the lower Colorado River Valley in the southwestern portion of Yuma County. The PM_{10} nonattainment area consists of 456 square miles, which is roughly eight percent of the land area of Yuma County (5,500 square miles). Yuma County is located in the southwestern portion of Arizona that borders California and Mexico. The cities of Yuma and Somerton are the largest population centers in the Yuma PM_{10} nonattainment area. The city of Yuma, the county seat, is located below the convergence of the Gila and Colorado Rivers on the far western side of the PM_{10} nonattainment area. The city of Somerton is located in the southwestern portion of the PM_{10} nonattainment area. Agriculture is the primary industry in Yuma County. The Arizona Department of Economic Security predicts that Yuma County's population is expected to increase by 37.5 percent from 138,025 in 2000 to 189,783 in 2015.[3] Approximately one-half of the county's year-round population resides in the city of Yuma. During the winter, Yuma County's population increases significantly due to seasonal residents.

The Yuma PM_{10} nonattainment area has one SLAMS monitor operated by the Arizona Department of Environmental Quality (ADEQ). This monitor was located at the Yuma County Juvenile Center in the city of Yuma from 1988 until the second quarter of 2002, after which time it was relocated to the nearby Yuma County Courthouse, which is also located in the city of Yuma. ADEQ measures ambient (24-hour-average) PM_{10} concentrations in Yuma at a frequency of once every six days.

Table 1 summarizes the PM_{10} data collected in Yuma from 1992–2005 and reported by ADEQ to the AQS database. Table 1 also indicates which years had

[1] Arizona submitted a moderate area plan for the Yuma area on November 14, 1991; EPA found this plan to be incomplete on May 14, 1992. Arizona submitted a revised plan for Yuma on July 12, 1994. EPA found the revised plan to be complete but has not taken action on it.

[2] However, as explained in more detail in the following section of this notice, EPA guidelines allow for data substitution only under circumstances where data capture is at least 50 percent but less than 75 percent.

[3] Arizona Department of Economic Security, 2006.

four complete quarters of data (including any allowable data substitution [4]), making the data from that year eligible for use in determining whether the area has attained the PM_{10} NAAQS, if that year is followed by two consecutive years also with four complete quarters of data. As shown in Table 1, no exceedances of the 24-hour PM_{10} NAAQS of 150 μg/m³ were measured in Yuma during the 1992–1994 period and the annual-average PM_{10} concentrations measured during that period were well below the corresponding standard of 50 Fg/m³. However, even with allowable data substitution, the data capture for Yuma was not sufficient for the 1992–1994 period to allow us to make a finding of attainment for the applicable attainment date of December 31, 1994.

TABLE 1.—SUMMARY OF 24 HOUR AND ANNUAL PM_{10} CONCENTRATIONS (μG/M³) FOR YUMA, 1992–2005 [1]

	Year													
	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
Highest 24-hour-average	62	65	66	75	103	108	112	100	132	[2] 150	125	127	114	86
Annual average	29.0	33.9	37.3	41.5	52.1	42.4	39.7	36.7	[3] 54.3	41.2	51.8	38.1	45.0	30.8
Four complete quarters?	Yes	Yes	No	Yes	Yes	No	Yes	Yes	Yes	No	Yes	Yes	Yes	[4] NA

[1] The data summary in Table 1 includes substituted data and was analyzed according to the "Guideline on Exceptions to Data Requirements for Determining Attainment of Particulate Matter Standards." See footnote 4. The fourth quarter in 1994, the second quarter in 1997, and the first and fourth quarters in 2001 were not eligible for data substitution. The incomplete data from these quarters was included in the calculation of the annual average for each of these years.

[2] The highest measured 24-hour-average concentration in 2001 was 150 μg/m³, which is equal to the 24-hour PM_{10} NAAQS, but which is not considered an "exceedance." Under EPA regulations, an exceedance of the 24-hour-average standard represents concentrations of 155 μg/m³ or greater. See 40 CFR 50, appendix K.

[3] Data substitution results in a conservative estimate of the annual average. See footnote 4. For example, the annual average for 2000 of 54.3 μg/m³ would be reduced to 42.3 μg/m³ if data substition was not used. The method of data substitution was used to calculate annual averages for 1993–1997, 2000–2002, and 2004.

[4] We have received AQS data from ADEQ through September 30, 2005. States are required to report data to AQS on a rolling basis and have until 90 days from the end of a given quarter to submit quality-assured monitoring data into AQS. See 40 CFR 58.28.

NA: Not Applicable.

Like the 1992–1994 period, the series of three-year periods immediately following 1992–1994 also show no exceedances of the PM_{10} NAAQS but an incomplete data set in 1997 prevents us from making an attainment finding until 1998–2000, the first three-year period after the applicable attainment date with sufficient data capture to make an attainment finding consistent with 40 CFR Part 50, Appendix K.

As noted above, the 24-hour PM_{10} standard is attained when the expected number of days per year with levels above 150 μg/m³ (averaged over a three-year period) is less than or equal to one. When we apply data substitution per the above-referenced guideline for the period 1998–2000, we find no exceedances of the 24-hour PM_{10} NAAQS for the 1998–2000 period and thus the expected number of days per year with levels above 150 μg/m³ (averaged over that three-year period) is zero. As such, pursuant to sections 179(c)(1) and 188(b)(2) of the Act, we find that Yuma has attained the 24-hour PM_{10} NAAQS. Since 2000, there is one year (2001) in which four complete quarters of data are not available, but because the data from the most recent three-year period (2002–2004) are complete and show no exceedances,[5] and because the latest available information for 2005 also reveals no exceedances, we conclude that Yuma is currently in attainment of the 24-hour PM_{10} NAAQS.

Also as noted above, attainment of the annual PM_{10} standard is achieved when the annual arithmetic mean PM_{10} concentration over a three-year period is equal to or less than 50 μg/m³. Review of the data for calendar years 1998–2000 reveals an arithmetic average of 43.6 μg/m³. As such, pursuant to sections 179(c)(1) and 188(b)(2) of the Act, we find that Yuma has attained the annual PM_{10} NAAQS. As noted previously, the data set for year 2001 is not complete, but the data from the most recent complete three-year period (2002–2004) show that Yuma is currently in attainment of the annual PM_{10} NAAQS.

III. What Are the Applicable Planning Requirements for the Yuma Nonattainment Area as a Result of EPA's Attainment Determination?

The air quality planning requirements for moderate PM_{10} nonattainment areas, such as the Yuma nonattainment area, are set out in part D, subparts 1 and 4 of title I of the Act. We have issued guidance in a General Preamble [6] describing how we will review SIPs and SIP revisions submitted under title I of the Act, including those containing moderate PM_{10} nonattainment area SIP provisions.

In nonattainment areas where monitored data demonstrates that the NAAQS have already been achieved, EPA has determined that certain requirements of part D, subparts 1 and 2 of title I of the Act (with respect to 1-hour ozone) do not apply. Therefore, we do not require certain submissions for an area that has attained the NAAQS. These include reasonable further progress (RFP) requirements, attainment demonstrations and contingency measures, because these provisions have the purpose of helping achieve attainment of the NAAQS.

[4] The regulatory requirement for data capture in 40 CFR part 50, Appendix K, is 75 percent on a quarterly basis. According to the "Guideline on Exceptions to Data Requirements for Determining Attainment of Particulate Matter Standards" (see EPA document 450/4–87–005, April 1987), when data capture is at least 50 percent but less than 75 percent, data may be substituted for the missing data. Per the above-referenced guideline, monitoring data from the same quarter in any one of the years used to determine attainment may be substituted for missing PM_{10} data. The maximum PM_{10} value that was observed in that quarter over the last three years is substituted for missing scheduled sampling days.

[5] On August 18, 2002, ADEQ measured 170 μg/m³, 24-hour-average, at the Yuma monitoring station; however, EPA concurred with ADEQ on the exclusion of this data from design value calculations due to a high wind event that occurred on that date. ADEQ has prepared a Natural Events Action Plan (NEAP) in response to that event. The NEAP includes the development and implementation of Best Available Control Measures (BACM) for anthropogenic PM_{10} sources that contributed to the event.

[6] "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990" (57 FR 13498, April 16, 1992, as supplemented 57 FR 18070, April 28, 1992).

This interpretation of the CAA is known as the Clean Data Policy and is the subject of two EPA memoranda. EPA also finalized the statutory interpretation set forth in the policy in a final rule, 40 CFR 51.918, as part of its ''Final Rule to Implement the 8-hour Ozone National Ambient Air Quality Standard—Phase 2'' (Phase 2 Final Rule). *See* discussion in the preamble to the rule at 70 FR 71612, 71645–46 (November 29, 2005). EPA believes that the legal bases set forth in detail in our Phase 2 Final Rule, our May 10, 1995 memorandum from John S. Seitz, entitled ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,'' and our December 14, 2004 memorandum from Stephen D. Page entitled ''Clean Data Policy for the Fine Particle National Ambient Air Quality Standards'' are equally pertinent to the interpretation of provisions of subparts 1 and 4 applicable to PM_{10}. Our interpretation that an area that is attaining the standards is relieved of obligations to demonstrate RFP and to provide an attainment demonstration and contingency measures pursuant to part D of the CAA, pertains whether the standard is PM_{10}, ozone or $PM_{2.5}$.[7]

It has been EPA's longstanding interpretation that the general provisions of part D, subpart 1 of the Act (sections 171 and 172) do not require the submission of SIP revisions concerning RFP for areas already attaining the ozone NAAQS because the stated purpose of RFP is to ensure attainment by the applicable date. 57 FR at 13564. EPA believes the same reasoning applies to the PM_{10} provisions of part D, subpart 4. CAA section 189(c)(1), applicable to PM_{10} nonattainment areas, states that revisions shall contain milestones which are to be achieved until the area is redesignated to attainment, such milestones are designed to show reasonable further progress ''toward attainment by the applicable date,'' as defined by section 171. Thus, it is clear that once the area has attained the standard, no further milestones are necessary or meaningful.

With respect to the attainment demonstration requirements of section 189(a)(1)(B) an analogous rationale leads to the same result. CAA section 189(a)(1)(B), requires that the plan provide for ''a demonstration (including air quality modeling) that the [SIP] will provide for attainment by the applicable attainment date * * *'' As with the RFP requirements, if an area is already monitoring attainment of the standards, EPA believes there is no need for an area to make a further submission containing additional measures to achieve attainment. This is also consistent with the interpretation of the section 172(c) requirements provided by EPA in the General Preamble (57 at 13564), the December 14, 2004 memorandum, and the section 182(b) and (c) requirements set forth in the May 10, 1995 memorandum.

Other SIP submission requirements are linked with these attainment demonstration and RFP requirements, and similar reasoning applies to them. These requirements include the contingency measure requirements of section 172(c)(9) and 182(c)(9). We have interpreted the contingency measure requirements of section 172(c)(9) and 182(c)(9) as no longer applying when an area has attained the standard because those ''contingency measures are directed at ensuring RFP and attainment by the applicable date.'' (57 FR at 13564); May 10, 1995 memorandum at 5–6.

Here, as in both our Phase 2 Final Rule and ozone and $PM_{2.5}$ clean data memoranda, we emphasize that the suspension of a requirement to submit SIP revisions concerning these RFP, attainment demonstration, contingency, and other related requirements exists only for as long as a nonattainment area continues to monitor attainment of the standard. If such an area experiences a violation of the NAAQS, the basis for the requirements being suspended would no longer exist. Therefore, should EPA at some future time determine that an area that had clean data, but which has not yet been redesignated as attainment for a NAAQS, has violated the relevant standard, the State would again be required to submit the pertinent CAA requirements for the area.

With respect to the Yuma PM_{10} nonattainment area, based on the finding made herein that Yuma is currently in attainment of the PM_{10} NAAQS and based on the rationale given above, we have determined that the part D, subpart 4 obligations to provide an attainment demonstration pursuant to section 189(a)(1)(B), the RFP provisions established by section 189(c)(1), and the attainment demonstration, RFP and contingency measure provisions of part D, subpart 1 contained in section 172 of the Act are not applicable for so long as the Yuma area continues to monitor attainment of the PM_{10} NAAQS. If measurements of ambient PM_{10} concentrations in the Yuma area reveal a violation of the PM_{10} NAAQS, then the State of Arizona would again be required to submit the pertinent CAA requirements for this nonattainment area.[8]

IV. EPA's Final Action

Based on quality-assured data meeting the requirements of 40 CFR part 50, appendix K, we find that the Yuma, Arizona nonattainment area has attained the PM_{10} NAAQS. This action is a finding of attainment under sections 179(c)(1) and 188(b)(2) of the Clean Air Act and not a redesignation to attainment under CAA section 107(d)(3) because we have not yet approved a maintenance plan meeting the requirements of section 175A of the CAA or determined that the area has met the other CAA requirements for redesignation. The classification and designation status in 40 CFR part 81 will remain moderate nonattainment for this area until such time as Arizona meets the CAA requirements for redesignation of the Yuma PM_{10} area to attainment.

EPA also finds that, because the Yuma ''moderate'' nonattainment area is currently in attainment of the PM_{10} NAAQS, the following CAA requirements are not applicable for so long as the area continues to attain the PM_{10} NAAQS: the part D, subpart 4 obligations to provide an attainment demonstration pursuant to section 189(a)(1)(B), the RFP provisions established by section 189(c)(1), and the attainment demonstration, RFP and contingency measure provisions of part D, subpart 1 contained in section 172 of the Act.

We are publishing this rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in the proposed rules section

[7] Three U.S. Circuit Courts of Appeals have upheld EPA rulemakings applying its interpretation of subparts 1 and 2 with respect to ozone. *Sierra Club* v. *EPA,* 99 F.3d 1551 (10th Cir. 1996); *Sierra Club* v. *EPA,* 375 F.3d 537 (7th Cir. 2004); *Our Children's Earth Foundation* v. *EPA,* No. 04–73032 (9th Cir. June 28, 2005) (memorandum opinion).

[8] Note, however, that on January 17, 2006, EPA published proposed revisions to the NAAQS for particulate matter. *See http://www.epa.gov/fedrgstr/EPA-AIR/2006/January/Day-17/.* The proposed revisions address two categories of particulate matter: fine particles which are particles 2.5 micrometers in diameter and smaller; and ''inhalable coarse'' particles which are particles between 2.5 and 10 micrometers ($PM_{10-2.5}$). Upon finalization of a primary 24-hour standard for $PM_{10-2.5}$, EPA proposes to revoke the current 24-hour PM_{10} standard in all areas of the country except in areas where there is at least one monitor located in an urbanized area (as defined by the U.S. Bureau of the Census) with a minimum population of 100,000 that violates the current 24-hour PM_{10} standard based on the most recent three years of data. In addition, EPA proposes to revoke the current annual PM_{10} standard upon finalization of a primary 24-hour standard for $PM_{10-2.5}$.

of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal should adverse comments be filed. This action will be effective May 15, 2006, without further notice unless the EPA receives relevant adverse comments by April 13, 2006.

If we receive such comments, then we will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. We will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on May 15, 2006 and no further action will be taken on the proposed rule.

V. Statutory and Executive Order Reviews

Under Executive Order 12866 (*58 FR 51735*, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (*66 FR 28355,* May 22, 2001). This action merely makes a determination based on air quality data and does not impose any additional requirements. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule does not impose any additional enforceable duty, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (*65 FR 97249,* November 9, 2000). This action also does not have federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (*64 FR 43255,* August 10, 1999). This action merely makes a determination based on air quality data and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (*62 FR 19885,* April 23, 1997), because it is not economically significant.

The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 15, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

40 CFR Part 81

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

Dated: March 1, 2006.

Wayne Nastri,

Regional Administrator, Region IX.

[FR Doc. 06–2430 Filed 3–13–06; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

Frequency Allocations and Radio Treaty Matters

CFR Correction

In Title 47 of the Code of Federal Regulations, parts 0 to 19, revised as of October 1, 2005, on page 474, § 2.1 is corrected by adding the following definitions to read as follows:

§ 2.1 Terms and definitions.

* * * * *

Harmful Interference. Interference which endangers the functioning of a radionavigation service or of other safety services or seriously degrades, obstructs, or repeatedly interrupts a radiocommunication service operating in accordance with [the ITU] Radio Regulations. (CS)

High Altitude Platform Station (HAPS). A station located on an object at an altitude of 20 to 50 km and at a specified, nominal, fixed point relative to the Earth. (RR)

* * * * *

[FR Doc. 06–55513 Filed 3–13–06; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 060216044–6044–01; I.D. 030906A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 630 of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the B season allowance of the 2006 total allowable catch (TAC) of pollock for Statistical Area 630 of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 10, 2006, through 1200 hrs, A.l.t., August 25, 2006.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The B season allowance of the 2006 TAC of pollock in Statistical Area 630 of the GOA is 1,861 metric tons (mt) as established by the 2006 and 2007 harvest specifications for groundfish of the GOA (71 FR 10870, March 3, 2006). In accordance with § 679.20(a)(5)(iv)(B) the Administrator, Alaska Region, NMFS (Regional Administrator), hereby decreases the B season pollock allowance by 811 mt, the amount the A season allowance of the pollock TAC in Statistical Area 630 was exceeded. Therefore, the revised B season allowance of the pollock TAC in Statistical Area 630 is therefore 1,050 mt (1,861 mt minus 811 mt).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the B season allowance of the 2006 TAC of pollock in Statistical Area 630 of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 0 mt, and is setting aside the remaining 1,050 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 630 of the GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of pollock in Statistical Area 630 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 8, 2006.

The AA also finds good cause to waive the 30 day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: March 9, 2006.

Alan D. Risenhoover,

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

[FR Doc. 06–2440 Filed 3–9–06; 2:50 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 060216044–6044–01; I.D. 030906B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 610 of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the B season allowance of the 2006 total allowable catch (TAC) of pollock for Statistical Area 610 of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 14, 2006, through 1200 hrs, A.l.t., August 25, 2006.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The B season allowance of the 2006 TAC of pollock in Statistical Area 610 of the GOA is 4,210 metric tons (mt) as established by the 2006 and 2007 harvest specifications for groundfish of the GOA (71 FR 10870, March 3, 2006).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the A season allowance of the 2006 TAC of pollock in Statistical Area 610 of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 4,160 mt, and is setting aside the remaining 50 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 610 of the GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of pollock in Statistical Area 610 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 8, 2006. The AA also finds good cause to waive the 30 day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: March 9, 2006.

Alan D. Risenhoover,

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

[FR Doc. 06–2439 Filed 3–9–06; 2:50 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 697

[Docket No. 010413093–6056–04; I.D. 032301C]

RIN 0648–AP18

Atlantic Coastal Fisheries Cooperative Management Act Provisions; American Lobster Fishery

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

ACTION: Final rule.

SUMMARY: NMFS amends regulations to modify the management measures applicable to the Federal American lobster (*Homarus americanus*) fishery. This action is in response to recommendations by the Atlantic States Marine Fisheries Commission (Commission) in Addenda II and III to Amendment 3 of the Interstate Fishery Management Plan for American Lobster (ISFMP). The lobster management measures are intended to increase protection to American lobster broodstock throughout the stock's range, and will apply to lobsters harvested in one or more of seven Lobster Conservation Management Areas (LCMA). In addition, NMFS will clarify existing Federal lobster regulations. To allow adequate time to modify lobster trap gear to meet new gear configuration requirements, the effective date of actions identified in this final rule is May 1, 2006.

DATES: Effective May 1, 2006.

ADDRESSES: Copies of the American lobster Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) prepared for this regulatory action are available upon request from Harold Mears, Director, State, Federal and Constituent Programs Office, NMFS, One Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Robert Ross, NMFS, Northeast Region, (978) 281–9234, fax (978) 281–9117.

SUPPLEMENTARY INFORMATION:

Statutory Authority

These final regulations modify Federal lobster conservation management measures in the Exclusive Economic Zone (EEZ) under the authority of section 803(b) of the Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Act), 16 U.S.C. 5101 *et seq.*, which states that, in the absence of an approved and implemented Fishery Management Plan under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*) and, after consultation with the appropriate Fishery Management Council(s), the Secretary of Commerce may implement regulations to govern fishing in the EEZ, i.e., from 3 to 200 nautical miles (nm) offshore. These regulations must be (1) compatible with the effective implementation of an ISFMP developed by the Commission and (2) consistent with the national standards set forth in section 301 of the Magnuson-Stevens Act.

Purpose and Need for Management

American lobster are managed within the framework of the Commission. The Commission is a deliberative body comprised of representatives both from the Atlantic coastal states and the Federal Government. The Commission serves to develop fishery conservation and management strategies for certain coastal species and coordinates the efforts of the states and Federal Government toward concerted sustainable ends. The Commission decides upon a management strategy, then forwards that strategy to the states and Federal Government along with a recommendation that the states and Federal Government take action (e.g., enact regulations) in furtherance of this strategy.

The Commission reports that American lobster (*Homarus americanus*) experience high fishing mortality rates and are growth overfished throughout their range (U.S./Canada border to Cape Hatteras, North Carolina). Overfishing is a rate of removal that is too high and, if continued, the removals would not be sustainable. Growth overfishing, under the Commission ISFMP, means that most lobsters are harvested at or just above the legal minimum size and the maximum yield is not produced because of high fishing mortality on these smaller lobsters. In March 2000, the Commission issued an American lobster stock assessment report that concluded that the resource is growth overfished. That assessment was further evaluated by an external peer review, which took place during May 2000. The stock assessment external peer review concluded that fishing rates are unacceptably high, recruitment overfishing is occurring, and that a precautionary approach in management of the resource is warranted to sustain future viability of the lobster fishery. Recruitment overfishing, under the Commission ISFMP, means that the number of new lobsters available to the fishery each year is reduced by high fishing mortality rates. Since most egg production is from recruits and the first molt group above the minimum legal size, a decline in recruitment would lead to a decline in egg production. The Peer Review Report provided several management recommendations on the implications of the stock assessment report, including recommendations to address increasing lobster mortality and to rebuild stocks. The Commission completed an updated and peer reviewed American lobster stock assessment in late 2005. Results of the assessment and peer review recommendations are being evaluated at this time by the Commission. Based on the peer reviewed stock assessment information currently available, measures identified in this regulatory action will not be contrary to the updated assessment results.

The Commission has developed a plan to end the overfishing and has requested assistance from the Federal Government in the form of compatible Federal regulations. The Atlantic Coastal Act directs the Federal Government to support the management efforts of the Commission. Additionally, to the extent the Federal Government seeks to regulate a Commission species, those Federal regulations must be compatible with the Commission plan. The measures in this regulatory action respond to: the biological need to address increasing lobster mortality and to rebuild stocks; the practical need to have uniform state and Federal regulations; and, the legal need to support the Commission plan in complementary fashion.

Background

The Commission set forth the foundation of its American lobster fishery management plan in Amendment 3 to the ISFMP (Amendment 3) in December 1997. The Federal Government issued compatible regulations that complemented Amendment 3 in December 1999. The Amendment 3 regulations established assorted measures to directly, even if preliminarily, address overfishing (e.g., trap caps and minimum gauge sizes). Amendment 3 created seven lobster

management areas and established industry led lobster management teams that make recommendations for future measures to end overfishing. Examples of such more specific measures were set forth in Amendment 3 addenda: measures to limit future access to LCMAs 3, 4, and 5 in Addendum I to Amendment 3 (Addendum I) (Commission approved August 1999—compatible Federal regulations enacted March 2003); measures to increase protection of the American lobster broodstock described in this final rule as recommended in Addendum II to Amendment 3 (Addendum II) (Commission approved February 2001); and Addendum III to Amendment 3 (Addendum III) (Commission approved February 2002); and, measures to control fishing effort being analyzed in a separate rulemaking action recommended in Addendum IV to Amendment 3 (Addendum IV) (Commission approved December 2003), Addendum V to Amendment 3 (Addendum V) (Commission approved March 2004), Addendum VI to Amendment 3 (Addendum VI) (Commission approved February 2005), and Addendum VII to Amendment 3 (Addendum VII) (Commission approved November 2005).

Protection of broodstock lobsters is one of the overarching objectives in the Commission's lobster management plan. Although Addendum II pre-dates Addendum III, both addenda involve protections designed to increase the abundance of broodstock lobsters and thereby increase egg production. The Commission's recommendations to implement the broodstock measures in Addenda II and III form the basis of the measures described in this final rule. Broodstock protective measures specified in this regulatory action, and in Addenda II and III, are the following: increase in the minimum legal gauge size in LCMAs 2, 3, 4, 5, and the Outer Cape; increase in the size of escape vents on lobster traps in LCMAs 2, 3, 4, 5, and the Outer Cape; implementation of a maximum legal gauge size for female lobsters in LCMA 4 and 5; require mandatory V-notching of female lobsters carrying eggs in LCMA 1 and in LCMA 3 above the 42° 30′ North latitude line; and require a zero tolerance definition of V-notched female lobsters in LCMA 1.

In response to the Commission's Addendum II recommendations, NMFS published an advanced notice of proposed rulemaking (ANPR) in the **Federal Register** on May 24, 2001 (66 FR 28726). The agency responded to the Commission's Addendum III by filing in the **Federal Register** an ANPR and a notice of intent (NOI) to prepare an environmental impact statement (EIS) on September 5, 2002 (67 FR 56801). This notice declared NMFS' intention to combine the Addendum II and Addendum III rulemakings because the Addenda involved similar subject matter—namely management measures designed to protect brood lobster stock. Addenda II and III, however, also contain numerous other effort control management measures, such as a trap transferability program for the Outer Cape Management Area and a mandatory so-called ''choose and use'' program for LCMA 3 fishers that would require qualified permit holders to permanently designate LCMA 3 when renewing Federal lobster permits each year. Because these control measures are so intimately a part of the subsequently developed Commission's Addenda IV, V, VI, and VII, NMFS determined that those effort control programs in Addenda II and III be analyzed contemporaneously with the Addenda IV–VII measures in a forthcoming EIS. Accordingly, NMFS published its ANPR along with an NOI to address these lobster fishing effort control measures in a **Federal Register** notice dated May 10, 2005 (70 FR 24995).

While the measures in this final rule address Commission recommendations for gauge increases and escape vent size increases as scheduled through 2005 in Addenda II and III to Amendment 3 of the ISFMP, these same addenda also call for additional broodstock management measures that have yet to be implemented by NMFS. These include four additional 1/32 inch (0.08 cm) gauge increases that would result in a 3 1/2 inch (8.89 cm) minimum gauge size requirement for LCMA 3 and the Outer Cape by July 1, 2008; escape vent size increases in LCMA 3 and the Outer Cape to 2 1/16 inches X 5 3/4 inches rectangular (5.24 cm X 14.61 cm) or two circular vents at 2 11/16 inches diameter (6.83 cm) by July 1, 2008; and an increase to the escape vent size in LCMA 1 to 2 inches X 5 3/4 inches rectangular (5.08 cm X 14.61 cm) or two circular vents at 2 5/8 inches (6.67 cm) in diameter by July 1, 2007. In response to the Commission's recommendations to implement additional broodstock management measures, on December 13, 2005, NMFS published an ANPR (70 FR 73717), announcing its intention to evaluate additional measures deemed necessary to further increase protection of the American lobster broodstock recommended by the Commission in Addenda II and III. Therefore, measures in this final rule will implement specified lobster broodstock measures from Addenda II and III. The other two separate regulatory actions stated above will evaluate: the effort control measures specified in Addenda II–VII; and the additional broodstock measures deemed necessary to further increase protection of the American lobster broodstock specified in Addenda II and III.

At present, most states have issued their complementary Addenda II and III regulations, but the Federal Government has not. As a result, there is presently a regulatory incongruence with the Commission's American lobster ISFMP, at least insofar as it pertains to the broodstock measures identified in Addenda II and III. Most Federal lobster permit holders also hold a state lobster license, and they must abide by the ISFMP measures by virtue of their state license, even if the same restrictions have not yet been placed on their Federal permit. Measures in this final rule will primarily impact Federal lobster permit holders from states that have not implemented all measures in the Commission's ISFMP. Generally, the exception to state coverage of all lobster ISFMP measures, under the Commission's ISFMP, is for states that are classified as *de minimis* states. Certain states located at the southern end of the range can qualify for *de minimis* status under the Commission's lobster ISFMP if a given state's declared annual landings, averaged over a 2-year period, amount to less than 40, 000 lbs (18,144 kg) of American lobster. While *de minimis* states are required to promulgate all coastwide measures contained in Amendment 3, many of the area-specific management measures, including the broodstock measures specified in this final rule, are not required to be implemented by the *de minimis* states under the Commission's lobster ISFMP. However, Federal lobster regulations apply to all Federal lobster permit holders, including permit holders residing in and landing in *de minimis* states. Four states (North Carolina, Virginia, Delaware, and Maryland) are classified under the Commission's lobster ISFMP as *de minimis* states in 2005. Based on the analysis completed for this action, approximately ten percent of current Federal lobster permit holders are from *de minimis* states or reside in states that may not have fully implemented all Commission ISFMP management measures.

Comments and Responses

The proposed rule for this regulatory action was published in the **Federal Register** on September 2, 2005 (70 FR 52346); comments were solicited until

October 17, 2005, and a total of 41 public comments were received by NMFS during the 45-day public comment period. Of the total comments received, 20 comments were from recreational divers in the mid-Atlantic that opposed implementation of a maximum carapace size requirement in Areas 4 and 5 on recreational divers. Respondents in opposition to the maximum carapace size restriction on recreational divers also questioned the biological benefits of protecting large lobsters. Seven respondents requested a public hearing on the proposed measures or an extension to the public comment period. Seven respondents requested NMFS immediately implement additional minimum gauge increases, from 3 ⅜ inches (8.57 cm) to 3 ½ inches (8.89 cm), for Area 3 as proposed in the ISFMP. Six respondents supported the proposed rule measures identified in the preferred alternatives. All comments were carefully considered. Specific questions, concerns, and opposition to elements of the proposed rule, are more thoroughly addressed in this section.

Comment 1: Twenty comments were received in opposition to the imposition of a maximum carapace size requirement in Areas 4 and 5 on recreational divers, two respondents opposed any exemptions for recreational divers, and one respondent stated that Federal regulations should allow an exemption for the recreational dive sector to possess 1 or 2 large female lobsters in excess of the maximum size specified for Area 4 and Area 5. Many of the comments in opposition cited that a prohibition on large lobsters had a chilling effect on one of the principal lobster diving incentives—i.e., the thrill in seeking a trophy sized lobster.

Response: The agency believes this final rule provides biological protection for lobster brood stock while acknowledging the issues brought forward by the diving community in its commentary. As a preliminary matter, this final rule allows for divers to catch trophy sized lobsters, although not without limitation as had existed before this final rule. Specifically, the maximum size prohibition set forth in this final rule does not pertain to male lobsters. (See Response No. 9 for additional explanation and detail). Additionally, this final rule sets a one maximum size female bag limit for divers.

The agency maintains that a one maximum size female bag limit will not impact the biological objectives of this final rule or the Commission ISFMP because the agency believes that few trophy sized females are present for catch by divers, and/or that few would actually be harvested by divers. The agency maintains, however, that the best available information suggests a measurable harvest of lobster by the dive sector. (See Response No. 8 for additional detail and information). And, although the vast majority of that increased harvest undoubtedly involves lobsters below the maximum size, the agency believes that this final rule's bag limit guards against further expansion of effort, particularly on lobster brood stock.

Comment 2: Seven respondents from the recreational dive sector requested NMFS hold public hearings on the proposed rule and/or requested an extension to the public comment period to address the proposed implementation of a maximum carapace size requirement in Areas 4 and 5 on the recreational dive sector.

Response: NMFS believes the 45-day public comment period provided in the proposed rule was an adequate period of time to allow for interested parties to acquire all necessary supporting documents, and provide written comments. The draft EA and proposed rule were available in hard copy format, the proposed rule was available on the **Federal Register** website *http://www.gpoaccess.gov/fr/index.html*, and both documents were available on the NMFS Northeast Region web site at *www.nero.noaa.gov*. In addition, written notice was provided to all Federal lobster permit holders, all state fishery agencies from Maine to North Carolina, and all interested parties that registered on the Northeast Region website to receive information on American lobster. NMFS allowed comments on this Proposed rule to be sent to the Northeast Region in writing, via email to the E-comment mailbox called *Lob0305@noaa.gov*, via fax to (978) 281–9117, or via the Federal E-Rulemaking Portal at www.regulations.gov. Further, the majority of the commentary received was, in fact, from the recreational dive sector, which suggests that the sector did, in fact, have notice. The agency does not believe that a further hearing or an extension of the comment period were necessary to allow public participation in this rulemaking.

Comment 3: Seven respondents requested NMFS immediately announce in the **Federal Register** its intent to begin rulemaking to implement additional minimum carapace size increases from 3 ⅜ inches (8.57 cm) to 3 ½ inches (8.89 cm), by 2008, for Area 3 as proposed in the Commission's ISFMP.

Response: Originally, additional gauge increases, up to 3 ½ inches (8.89 cm), were included in the ISFMP for implementation only if it was determined that they were necessary for conservation. However, by the time the Commission determined that the measures were, in fact, necessary, (the Commission determined the states had to implement these ''as necessary'' measures by July 1, 2005), NOAA Fisheries had already begun this rulemaking. Accordingly, NOAA Fisheries undertook consideration of the ''if necessary'' issues in a new rulemaking announced on December 13, 2005 (70 FR 73717).

Although present Federal and state gauge regulations may differ at this time, the regulations do not conflict. Specifically, Federal regulations at 50 CFR 697.3 state that ''The regulations in this part do not preempt more restrictive state laws, or state enforcement of more restrictive state laws.'' Accordingly, NMFS expects that states with more restrictive gauge and vent regulations should be able to enforce those regulations because the Federal Government has expressly stated that it has not preempted the field relative to more restrictive gauge and vent sizes. In this particular instance, dual state/Federal permit holders would be able to comply with both state and Federal regulations by complying with the more restrictive state regulation, and indeed a state might so enforce such compliance. The ''more restrictive'' regulatory concept embodied in 50 CFR 697.3 becomes especially germane in situations where the Federal Government is in the process of creating compatible regulations in response to Commission recommendations. Federal rulemaking, with the numerous statutory obligations attendant thereto, can be a far more time consuming process than rulemaking at the state level. Accordingly, states are often able to promulgate regulations in response to Commission regulations quicker than the Federal Government. Thus, the Federal regulation at 50 CFR 697.3 provides a degree of regulatory stability during the Federal rulemaking inter period.

Comment 4: Six respondents supported specific management measures recommended by the Commission and specified in the Proposed rule, including: the vent size increase to be compatible with the proposed gauge increase; the mandatory v-notch and v-notch definition in Area 3; and the Area 3 and Area 5 overlap boundary. In addition, these respondents supported additional Commission recommendations associated with fishing effort control, including an individual transferable

trap program and a proposal to require Area 3 permit holders to designate (i.e. ''choose and use'') Area 3 on their Federal permits when renewing Federal permits each year. The respondents proposed that, if a permit holder did not choose Area 3, then that permit holder would be prohibited from designating Area 3 on the vessel permit in future years. In that event, the permit would still retain its Area 3 qualification, and each successive owner would be given the opportunity to either permanently designate Area 3 or drop the Area 3 designation for the duration of possession of the qualified permit.

Response: NMFS, in this final rule, will implement the lobster minimum size increases and escape vent size increases in lobster conservation management areas (Areas) 2, 3, 4, 5 and the Outer Cape Management Area; implement a maximum carapace size in Area 4 and Area 5, except for recreational divers; mandatory v-notching of egg-bearing female lobster in Area 1 and in the Gulf of Maine portion of Area 3; a zero tolerance definition of v-notching in Area 1; and a 5–mile (8–km) overlap zone along the common boundary of Area 3 and Area 5, as specified in the proposed rule. In response to the additional Commission recommendations associated with fishing effort control, including the individual transferable trap program and the choose and use proposal, NMFS published its ANPR along with an NOI to address these lobster fishing effort control measures in a **Federal Register** notice dated May 10, 2005 (70 FR 24995). Therefore, measures proposed in this action would implement specified lobster broodstock measures from Addenda II and III, and a separate rulemaking will evaluate the effort control measures specified in Addenda II–VII.

Comment 5: Five respondents supported, and one respondent opposed the proposed rule measure to exempt lobster trap gear retrieval by a substitute vessel from provisions of the exempted fishing regulations when a federally permitted vessel is inoperable or mechanically impaired. The comment in opposition did not state a rationale for that opposition.

Response: NMFS, in this final rule, will exempt lobster trap gear retrieval by a substitute vessel from provisions of the exempted fishing regulations when a federally permitted vessel is inoperable or mechanically impaired. This action will merely reiterate already existing agency policy and will allow the vessel owner to retrieve trap gear in a timely manner that may otherwise be lost to adverse weather conditions or other mobile gear operating in the same area. In addition, since current MMPA requirements prohibit leaving fixed gear in the water for longer than 30 days, this exemption will allow permit holders to retrieve their trap gear more expeditiously, while providing benefits to protected resources by avoiding the potential for up to a 60-day administrative delay imposed by exempted fishing requirements.

Comment 6: Four respondents stated that NMFS provided no data to show that protection of large lobsters would benefit the lobster population, or that large female lobsters are good egg-bearers.

Response: NMFS referred to several scientific studies in section 4.2 of the EA completed for this action that state the importance of large lobsters to the broodstock population. The studies in the EA note that predation pressures seem related to size and habitat. Mortality due to predation decreases as the lobster grows, and larger lobsters greater than 4 inches carapace length (10.2 cm) may be immune to predation. In addition, scientific studies indicate that larger lobsters produce eggs with greater energy content, and thus may produce larvae with higher survival rates, as well as noting that larger females can spawn twice between molts, making their relative fecundity greater than females within one molt of legal size.

Comment 7: Three respondents stated that the restrictions proposed in this action are not stringent enough.

Response: The cooperative state and Federal approach to American lobster management is not predicated upon a single measure, nor is it contained within a single document. Rather, the structure is based on facilitating ongoing adaptive management with necessary elements implemented over time. The Commission set forth the foundation of its American Lobster fishery management plan in Amendment 3 in December 1997. The Federal Government issued compatible regulations that complemented Amendment 3 in December 1999. The Amendment 3 regulations established assorted measures to directly, even if preliminarily, address overfishing (e.g., trap caps and minimum gauge sizes). Examples of such more specific measures were recently set forth in the following Amendment 3 addenda: measures to limit future access to Areas 3, 4, and 5 in Addendum I (Commission approved August 1999—compatible Federal regulations enacted March 2003); measures to increase protection of the American lobster broodstock described in this action as recommended in Addendum II (Commission approved February 2001) and Addendum III (Commission approved February 2002); and measures to control fishing effort being analyzed in a separate rulemaking action recommended in Addendum III, Addendum V (Commission approved March 2004), Addendum VI (Commission approved February 2005), and Addendum VII (Commission approved November 2005). NMFS announced its intent to continue compatible rulemaking on the above referenced fishing effort control measures in a **Federal Register** Notice of intent to prepare an environmental impact statement dated May 10, 2005 (70 FR 24495).

Comment 8: Three respondents stated that NMFS exceeded Commission recommendations to the Federal Government to implement compatible regulations by including recreational divers in the maximum size prohibitions specified for Area 4 and Area 5.

Response: Although there is limited quantitative information on the volume of lobster harvested by the recreational sector, survey information collected by the State of New Jersey in 2000 indicated that recreational divers harvested over 17,000 legal lobsters during approximately 37,000 dives on wrecks and artificial reefs. Assuming each legal lobster harvested by recreational divers weighed approximately 1.25 lbs (0.57 kg)—a generally applicable weight for lobsters caught at the minimum size—these divers accounted for approximately 2.4 percent of all lobsters landed in NJ in 2000. This volume of harvest by recreational divers approximates the historic non-trap harvest of lobsters by commercial fishing vessels, a segment of the industry that has bycatch limits in place. Since, based on the most recent stock assessment, the American lobster resource is growth overfished and overfishing is continuing in Area 4 and Area 5, NMFS feels the imposition of broodstock management measures on recreational users, and commercial non-trap fishing vessels is appropriate.

Comment 9: Three respondents stated that NMFS should revise the regulatory text specified in the proposed rule associated with the maximum size prohibition specified for Area 4 and Area 5, to specify the prohibition applies only to female lobsters.

Response: NMFS notes this oversight and agrees. The Commission's recommendation and subsequent Federal analysis of impacts as provided in the draft EA and preamble to the proposed rule clearly specified the

maximum size prohibition specified for Area 4 and Area 5 is intended to apply only to female lobsters. This final rule corrects the error by revising the regulatory text in the final rule associated with the maximum size prohibition specified for Area 4 and Area 5 to specify this maximum size measure applies only to female lobsters.

Comment 10: One respondent stated that lobster management measures should be consistent in all Areas. One respondent stated that Federal regulations should protect both male and female large lobsters in Area 4 and Area 5, one respondent stated that Federal regulations should require a larger minimum carapace size in Area 1, and one respondent stated that Federal regulations should require a maximum size in Areas 2, 3, and the Outer Cape.

Response: NMFS acknowledges the complexities associated with differing management measures amongst management areas. The agency further acknowledges that uniformity and standardization amongst management areas would simplify some of these complexities. The agency, however, has to balance the utility in having a uniform management scheme against its obligation to support a Commission management program that has, as two of its objectives, the maintenance of flexible regional programs and maintenance of existing social and cultural features of the industry wherever possible. Both such objectives form the foundation of the area management scheme established in Amendment 3 to the Commission's ISFMP. This final rule seems to achieve balance. It simplifies overall lobster management, thereby facilitating enforcement, by making Federal lobster regulations more consistent with existing state regulations. Yet, the rule remains supportive of the area management construct set forth in the ISFMP by acknowledging that lobster biology and industry practices differ throughout the vast range of this fishery, and thus, a ''one-size-fits-all'' approach, although potentially easier to enforce (but only if all states endorsed such an approach—if some states made their regulations uniform, but others did not, then enforcement might actually become more complicated) might undermine the objectives of area management.

Comment 11: Two respondents stated that NMFS should stop drafting new regulations, and instead, NMFS should uphold and enforce current regulations.

Response: NMFS understands that enforcement is a significant component to effective management, and further that broad based industry support and enhanced compliance with both state and Federal lobster regulations is a key benefit resulting from active industry involvement in the development of area-specific management measures under the Commission LCMT process.

Comment 12: One respondent supported, and one respondent opposed the 5–mile (8–km) overlap area between Areas 3 and 5. The comment in opposition did not state a rationale for that opposition.

Response: Lobster management in the southern end of the range is complicated by a number of factors, including distinct seasonality, limited abundance of lobsters, reliance on multiple mixed fisheries, and the similarity between finfish traps and fishing methods used to harvest American lobster. With the Federal implementation of a historical participation based limited entry program for continued access to Area 3, effective March 27, 2003 (68 FR 14902), those lobster fishers in Area 5 fishing near the boundary with Area 3 were disadvantaged. Specifically, a requirement to document annual lobster landings in excess of 25,000 lbs (11,340 kg) to qualify for continued access to Area 3 was deemed problematic for Area 5 lobster fishers, because resource availability is variable at the southern end of the range. Following discussions between the LCMTs 3 and 5 to address these issues, the Commission, in Addendum III, proposed a 5–mile (8–km) overlapping boundary zone between Areas 3 and 5 and recommended that the Federal Government implement regulations consistent therewith. In the environmental assessment completed for this action, an evaluation of the environmental consequences indicated that a 5–mile (8–km) overlapping boundary zone between Areas 3 and 5 would more effectively mitigate the impacts for those lobster fishers in Area 5 fishing near the boundary with Area 3 that were disadvantaged, yet result in no significant adverse impacts to the lobster resource, protected resources, or the habitat.

Comment 13: One respondent stated that imposition of a maximum size restriction on possession of female lobsters in Areas 4 and 5 would necessitate educating recreational users to ensure they can distinguish between a male and female lobster and identify the dividing line between Area 4 and 5.

Response: NMFS agrees that imposition of the maximum size restriction on possession of female lobsters in Areas 4 and 5 would necessitate educating recreational users to ensure they can distinguish between a male and female lobster and identify the dividing line between Area 4 and 5. However, the impact of the maximum size requirement is likely to be mitigated to an unknown degree by providing a one maximum carapace size female bag limit per recreational diver in Areas 4 and 5. In addition, information is available—Federal regulations at 50 CFR 697.18 contain management area information, including a chart and corresponding latitude and longitude coordinates for each of the seven lobster Areas. NMFS also maintains a website containing information on Federal lobster regulations, including information on each of the seven lobster Areas at: *http://www.nero.noaa.gov/StateFedOff/*. NMFS agrees that the ability to distinguish between male and female lobsters harvested in Areas 4 and 5 is more problematic. NMFS will provide information on the American lobster website to effectively distinguish between male and female lobsters, and copies of this information can be obtained from the Director, State, Federal and Constituent Programs Office—see **ADDRESSES**.

Changes from the Proposed Rule

The proposed rule included a regulatory measure to prohibit the possession of a female lobster with a carapace size in excess of 5 ¼ inches (13.34 cm) in LCMA 4 and 5 ½ inches (13.97 cm) in LCMA 5. Many scientists believe that lobster can be a long-lived species, up to and over 50 years of age, and can achieve weights of 40 pounds (18 kg) or more. It is further believed by many scientists that bigger lobsters are more successful breeders and produce more eggs. For that reason, maximum size gauge restrictions on lobster can improve egg production by prohibiting harvest of the bigger, and potentially, better breeding lobsters, forcing their return to the sea and allowing further reproduction. A majority of the public comments on the proposed rule were provided by the recreational dive community, and they voiced opposition to the imposition on recreational divers of a maximum carapace size requirement in LCMAs 4 and 5. Many of the comments in opposition cited that a prohibition on large lobsters would have a chilling effect on one of the principal lobster diving incentives—i.e., the thrill in seeking a trophy-sized lobster.

Based upon public comment and additional information provided by the recreational dive community in the mid-Atlantic, NMFS has determined that it would be appropriate to allow recreational divers to harvest one female

lobster in excess of the maximum size in LCMAs 4 and 5. The agency believes the final rule provides biological protection for lobster brood stock while acknowledging the issues brought forward by the diving community in its commentary. The final rule allows for divers to catch trophy-sized lobsters, although not without limitation as had existed before this final rule. Specifically, consistent with the Commission recommendations, the maximum size prohibition set forth in the final rule does not pertain to male lobsters in LCMAs 4 and 5. Additionally, the final rule allows recreational divers to harvest one female lobster in excess of the maximum size in LCMAs 4 and 5. The agency maintains that a one maximum size female bag limit will not impact the biological objectives of the rule or the Commission ISFMP because the agency believes that few trophy-sized females are present for catch by divers, and/or that few would actually be harvested by divers. The agency maintains, however, that the best available information suggests a measurable harvest of lobster by the dive sector. Additional information, provided by representatives of the recreational dive community from a survey of New Jersey's recreational wreck and artificial reef fisheries conducted in 2000 by the State of New Jersey, indicated that recreational divers harvested over 17,000 legal lobsters during approximately 37,000 dives on wrecks and artificial reefs. Assuming each legal lobster harvested by recreational divers weighed approximately 1.25 lbs (0.6 kilograms)—a generally applicable weight for lobsters caught at the minimum size—these divers accounted for approximately 2.4 percent of all lobsters landed in NJ in 2000. This volume of harvest by recreational divers approximates the historic non-trap harvest of lobsters by commercial fishing vessels, a segment of the industry that has bycatch limits in place. Although the vast majority of that increased harvest undoubtedly involves lobsters below the maximum size, the agency believes that this final rule's bag limit guards against further expansion of effort, particularly on lobster brood stock.

Revisions Implemented by This Action

This Federal lobster management action will implement the following specific management measures, as described here.

Modify Egg Production Schedule

The American lobster resource is considered overfished when the fishing mortality rate (F) results in a reduction in estimated egg production per harvestable lobster to 10 percent (F10 percent) or less of a non-fished population. In other words, lobsters are considered overfished when harvest so reduces the amount of lobsters remaining in the water that the remaining lobsters can produce no more than 10 percent of the eggs that an unfished population would produce. If lobsters are overfished—i.e., the remaining uncaught lobsters are so few that they can only produce as a group 10 percent of the number of eggs that an unfished population would collectively produce, then the present Commission lobster plan recommends that managers act to restore egg production to 10 percent or greater by a date certain, presently December 31, 2005.

Originally, in Addendum I, the Commission targeted a rough deadline (December 31, 2005) by which they hoped to end overfishing. In so doing, the Commission used the best available stock information, but admittedly dated information, to extrapolate out an egg production schedule—a time line with interim objectives—that would meet the targeted deadline of December 31, 2005. The Commission acknowledged, however, that the Addendum I schedule and target deadline would need to be adjusted in later addenda following the peer reviewed stock assessment conducted in 2000.

The May 2000 the peer-reviewed American lobster stock assessment confirmed that overfishing of American lobster stocks is occurring throughout the species' range. Based upon the year 2000 stock assessment, the Commission revised its target deadline to end overfishing to December 31, 2008. Accordingly, the Commission, in Addendum II and its recommendations to the Federal Government, revised the schedule for increasing egg production to account for updated information on the status of the stock. Although the Commission completed an updated and peer reviewed stock assessment in November 2005, the results of the assessment and peer review recommendations are being evaluated at this time by the Commission. However, a preliminary review by NMFS indicates measures identified in this action, including the revision to the overfishing timeline, will not be contrary to the 2005 assessment results.

This Federal action will revise and extend the egg production schedule timeline by three years, from December 31, 2005, to December 31, 2008. Accordingly, this Federal action announces the revision to the timeline to restore egg production in each of the management areas to 10 percent or greater of the egg production of an unfished population (i.e., the present overfishing definition) by December 31, 2008. This action is recommended by the Commission.

Increased Minimum Harvest Size in LCMAs 2, 3, 4, 5, and the Outer Cape

One key Addendum II broodstock management measure was to increase the minimum legal harvest size of American lobster from 3 ¼ inches to 3 ⅜ inches (8.26 cm to 8.57 cm) carapace length in certain LCMAs. The carapace is the unsegmented body shell of the American lobster. Carapace length is the straight line measurement from the rear of the eye socket parallel to the center line of the carapace to the posterior edge of the carapace. Many scientists believe that many lobsters are harvested before they have had an opportunity to reproduce. Hence, increasing the minimum legal size of lobster would force fishers to throw back lobsters at the present legal minimum size, allowing those lobsters an additional season to remain in the water, mature and reproduce. Accordingly, increasing the minimum carapace length or minimum gauge size will protect a larger number of mature female American lobsters, the broodstock, and increase egg production by allowing reproduction in a sector of the population that many believe has heretofore been harvested before reaching maturity.

Addendum II includes a series of minimum gauge size increases in state and Federal waters of LCMAs 2, 3, 4, 5, and the Outer Cape, but not LCMA 1 and LCMA 6 (Long Island Sound). By approving Addendum II, the states agreed to implement annual Area-specific gauge increases beginning December 31, 2001. NMFS received a recommendation from the Commission to implement complementary Federal measures for Federal waters of LCMAs 2, 4, 5, and the Outer Cape, as well as in LCMA 3 (comprised entirely of Federal waters). Specifically, the minimum allowable harvest size of American lobster in state waters of LCMAs 2, 4, 5, and the Outer Cape increased 1/32 inches (0.08 cm) annually until 2004 to an ultimate minimum size of 3 ⅜ inches (8.57 cm), except for the *de minimis* states and the State of Maine. The Commission recommends that the gauge increases in Federal waters of LCMA 2, 4, 5, and the Outer Cape, as well as in LCMA 3 increase to an ultimate minimum size of 3 ⅜ inches (8.57 cm).

This Federal management measure will implement a single ⅛ inch (0.32

cm) increase in the Federal minimum allowable harvest size of American lobster in LCMAs 2, 3, 4, 5, and the Outer Cape. The lobster minimum size increase would result in a change of the current minimum harvest size from 3 ¼ inches to 3 ⅜ inches (8.26 cm to 8.57 cm) in LCMAs 2, 3, 4, 5, and the Outer Cape. LCMA 1 and LCMA 6 would retain the current minimum harvest size of 3 ¼ inches (8.26 cm). Although a 4-year phased in Federal implementation of the 3 3/8–inch (8.57–cm) minimum harvest size in LCMAs 2, 3, 4, 5, and the Outer Cape is technically the Commission's recommendation, as specified in a letter dated February 13, 2001, due to the passage of time and compatible state regulations currently at 3 ⅜ inches (8.57 cm) minimum harvest size, it likely no longer represents the Commission's preference.

Modify Size of Lobster Trap Escape Vents in LCMAs 2, 3, 4, 5, and the Outer Cape

Lobster trap escape vents are another management measure designed to increase egg production. Conceptually, escape vents are holes intentionally placed in the trap that are large enough to allow sublegal lobsters caught in a trap to exit, yet be small enough to prevent legal sized lobsters from escaping.

Addendum II called for an increase in the rectangular escape vent minimum size from 1 15⁄16 inches by 5 ¾ inches (4.92 cm by 14.61 cm) to 2 inches by 5 ¾ inches (5.08 cm by 14.61 cm). These recommendations were made to the Federal Government in a letter dated February 13, 2001, and are consistent with and follow the Commission's recommended increase in the minimum harvest size of American lobster from the current minimum harvest size of 3 ¼ inches to 3 ⅜ inches (8.26 cm to 8.57 cm). As with the increased minimum gauge size, the Commission recommended that the increase in the trap escape vent size apply only to lobster trap gear fished in state and Federal waters of LCMAs 2, 3, 4, 5, and the Outer Cape, but not LCMA 1 and LCMA 6. An increase in the size of the escape vent opening by 1⁄16 inch (0.16 cm), by requiring at least one rectangular escape vent with an unobstructed opening not less than 2 inches by 5 ¾ inches (5.08 cm by 14.61 cm) per trap, or at least two circular escape vents per trap measuring 2 ⅝ inches (6.67 cm) in diameter, was evaluated by the Commission's Lobster Technical Committee and determined to provide the maximum escapement of sublegal lobsters under 3 ⅜ inches (8.57 cm), which is consistent with 100 percent retention of legal lobsters.

This Federal management measure will implement a single 1⁄16–inch (0.16–cm) increase in the Federal minimum lobster trap rectangular escape vent opening of lobster traps in LCMAs 2, 3, 4, 5, and the Outer Cape. The increase will require at least one rectangular escape vent with an unobstructed opening not less than 2 inches by 5 ¾ inches (5.08 cm by 14.61 cm) per trap or at least two circular escape vents per trap measuring 2 ⅝ inches (6.67 cm) in diameter. At the current time, Federal regulations require that all lobster trap gear must have a rectangular escape vent with an unobstructed opening not less than 1 15⁄16 inches by 5 ¾ inches (4.92 cm by 14.61 cm) or two circular escape vents with unobstructed openings not less than 2 7⁄16 inches (6.19 cm) in diameter. LCMA 1 and LCMA 6 will retain the current Federal rectangular and circular lobster trap escape vent requirements.

Require Mandatory V-Notching in LCMA 1 and in LCMA 3 above the 42°30′ North Latitude Line

Mandatory v-notching is another management measure designed to increase egg production. V-notching is a process wherein a lobster fisher cuts a v-shaped notch into the flipper in the tail of an egg-bearing female lobster. Any subsequent lobster fisher catching that v-notched lobster must return it to the sea. As such, v-notching is a management measure designed to specifically protect the female lobster broodstock. At present, there is no Federal requirement to cut a v-shaped notch into the flipper in the tail of an egg-bearing female lobster, although Federal regulations currently prohibit possession of female lobsters possessing a v-notch. The Commission has recommended that the Federal Government require mandatory v-notching for all Federal vessels fishing in LCMA 1 and in LCMA 3 above the 42°30′ North latitude line.

This Federal management measure will require all Federal lobster fishers with LCMA 1 permits to v-notch all egg bearing lobsters and will mandate all Federal permit holders fishing in LCMA 3 above the 42°30′ North latitude line to v-notch all egg-bearing female lobsters. There will be no requirement to v-notch all egg-bearing female lobsters in LCMAs 2, 4, 5, 6, the Outer Cape or LCMA 3 below the 42°30′ North latitude line.

Implement Zero Tolerance V-Notching in LCMA 1

Zero tolerance v-notching of female lobsters relates both to the interpretation of what constitutes a v-notch and the limited latitude that the government will grant a violator possessing a v-notched lobster. Commission guidelines, as well as state and Federal regulations, prohibit the harvesting of v-notched lobsters. Prior to Addendum III, however, the ISFMP, and current Federal regulations for all LCMAs, provided only one definition of what constituted a v-notched lobster, i.e., the Commission and current Federal regulations defined ''v notch'' as being a straight-sided cut, without setal hairs, at least ¼ inch (0.64 cm) in depth and tapering to a point. In contrast, lobster fishers from Maine had long considered a v-shaped notch to be a cut 'of any size' in the flipper next to and to the right of the center flipper, and Maine State regulations prohibited possession based on that more restrictive definition. Possessors of v-notched lobsters outside of Maine State waters in LCMA 1, often argued that a clearly v-notched lobster was legal to possess because the v-notch was less than ¼ inch (0.64 cm) or that the cut was not obviously straight sided. Maine argued that its definition ensured protection of female lobsters beyond the first molt, since after the first molt, possession was prohibited if there was a notch of any size discernable. The Commission, in Addendum III, supported and approved recommendations that sought to define ''v-notch'' in LCMA 1 as being a v-shaped notch of any size in the flipper next to and to the right of the center flipper as viewed from the rear of the female lobster. The Commission recommended that the Federal regulations be amended consistent therewith.

This Federal management measure will amend the Federal v-notch definition to include a second, so called zero tolerance definition of a v-notched lobster to mean a v-shaped notch of any size in the flipper next to and to the right of the center flipper as viewed from the rear of the female lobster in all of LCMA 1. Federal regulations will retain the current definition of a v-notched lobster in all other LCMAs (LCMAs 2, 3, 4, 5, 6, and the Outer Cape), as being a straight-sided cut, without setal hairs, at least ¼ inch (0.64 cm) in depth and tapering to a point.

Implement a Maximum Harvest Size in LCMA 4 and LCMA 5

Another management measure designed to protect lobster broodstock is

the implementation of a maximum harvest size for lobster. A maximum size gauge restriction on lobster can improve egg production by prohibiting harvest of bigger, and potentially, better breeding lobsters, forcing their return to the sea and allowing further reproduction. In Amendment 3, the Commission set a 5–inch (12.7–cm) maximum gauge size (carapace length) on all male and female lobsters caught in LCMA 1. The Amendment 3 recommendations have already been incorporated into Federal law. The Commission, in Addendum III, called for a 5 ¼–inch (13.34–cm) maximum gauge size on all female lobsters harvested in LCMA 4, and a 5 ½–inch (13.97–cm) maximum gauge size on all female lobsters harvested in LCMA 5. The Commission requested that the Federal Government implement compatible maximum gauge size regulations in LCMAs 4 and 5.

This Federal management measure will amend Federal lobster regulations to set a maximum size restriction for possession of female lobsters in LCMA 4 and LCMA 5. This measure will prohibit the possession of a female lobster with a carapace size in excess of 5 ¼ inches (13.34 cm) for Federal permit holders fishing in, or electing to fish in LCMA 4 and will prohibit the possession of a female lobster with a carapace size in excess of 5 ½ inches (13.97cm) for Federal permit holders fishing in, or electing to fish in LCMA 5. However, based on public comment and additional information provided by the recreational dive community, NMFS has determined that it would be appropriate to allow recreational divers to harvest one female lobster in excess of the maximum size in LCMAs 4 and 5 (for additional information on this determination, see Changes from the proposed rule).

Establish a Overlap Zone Between LCMA 3 and LCMA 5

Lobster management in the southern end of the range is complicated by a number of factors, including distinct seasonality, limited abundance of lobsters, reliance on multiple mixed fisheries, and the similarity between finfish traps and fishing methods used to harvest American lobster. With the approval of Addendum I and the establishment of a historical participation based limited entry program for continued access to LCMA 3, those lobster fishers in LCMA 5 fishing near the boundary with LCMA 3 were impacted. Specifically, a requirement to document annual lobster landings in excess of 25,000 lbs to qualify for continued access to LCMA 3 was deemed problematic for LCMA 5 lobster fishers, because resource availability is variable at the southern end of the range. The Commission, in Addendum III, proposed a 5–mile (8–km) overlapping boundary zone between LCMAs 3 and 5, extending in to LCMA 3 along the length of the eastern most border of LCMA 5 for 5 miles (8 km), and recommended that the Federal Government implement regulations consistent therewith.

This Federal management action will establish a 5–mile (8–km) overlapping boundary zone between LCMAs 3 and 5, extending along the length of the eastern most border of LCMA 5 for 5 miles (8 km) in to LCMA 3. Federal lobster vessels in possession of an LCMA 5 lobster permit, but not an LCMA 3 permit, will not be bound by LCMA 3 regulations within the overlap zone. Federal lobster vessels in possession of an LCMA 3 permit, but not an LCMA 5 permit, will not be bound by LCMA 5 regulations within the overlap zone. Federal lobster vessels in possession of an LCMA 3 and LCMA 5 permit will be required to comply with the most restrictive regulations applicable within the overlap zone.

The New LCMA 3/LCMA 5 coordinates are as follows:

Current Coordinates		New Overlap Coordinates	
Point:	Latitude (°N)/Longitude (°W)	Point:	Latitude (°N)/Longitude (°W)
V	39°50′ 73°01′	V1	39°50′ 72°55′
X	38°39.5′ 73°40′	X1	38°38.2′ 73°33.8′
Y	38°12′ 73°55′	Y1	38°10.4′ 73°49′
Z	37°12′ 74°44′	Z1	37°10.6′ 74°38′
ZA	35°34′ 74°′	ZA1	35°31.9′ 74°45.5′
ZB	35°14.5′ 75°31′	ZB1	35°14.5′ 75°19.3′

From point V, current coordinates extending out to new overlap coordinates, back to point ZB.

Clarify Existing Regulations

These measures attempt to clarify existing Federal lobster regulations and will: allow a change in the LCMA designations upon sale or transfer of a fishing vessel with a Federal lobster permit, or within 45 days of the permit's effective date; clearly reference other laws and regulations applicable to Federal lobster permit holders; clearly prohibit hauling or possession of lobster trap gear belonging to another vessel; and, exempt lobster trap gear retrieval from provisions of the exempted fishing regulations by a substitute vessel if a federally permitted vessel is inoperable or mechanically impaired.

Allow a Change in the LCMA Designations

Current Federal regulations at 50 CFR 697.4(a)(7)(iv) prohibit a Federal lobster permit owner from changing the permit's lobster management area designations during the fishing year. In other words, lobster fishers have yearly flexibility to designate new or different LCMAs when they renew their annual permit, but upon making that designation, fishers are bound by that choice for the remainder of the fishing year. This measure was designed in large part to close a potential regulatory loophole. That is, Federal regulations at § 697.4(a)(7)(v) mandate that permits with multiple LCMA designations must abide by ''...the most restrictive management measures in effect for any one of the specified areas, regardless of the area being fished, for the entire fishing year.'' Individuals, however, could circumvent this most restrictive provision if they were allowed to drop or add LCMA permit designations based on the seasonal availability of the resource, or if management measures within a certain management area became more or less restrictive during the year.

Although the restriction on changing LCMA designations was designed to prevent speculative add/drop fishing practices, it was not intended to apply to vessel sales and transfers or unintended errors in the permit category selection noted upon issuance or renewal of a vessel permit. For example, the current regulation specifically allows a change in permit LCMA designation for a replacement vessel. The term ''replacement vessel,'' however, could be interpreted narrowly

as pertaining to a vessel that replaces a former vessel for reasons other than the sale of that former vessel (e.g., the former vessel being permanently or temporarily decommissioned due to damage or engine trouble, etc.). Accordingly, the present regulatory text has confused some lobster fishers as to their ability to re-designate LCMAs upon the sale and receipt of a new vessel and permit. Furthermore, the existing regulatory text could be interpreted narrowly to prevent a correction to either a new vessel application or permit renewal, if an error occurs in the permitting process. This new rule change will allow a re-designation of the vessel permit LCMA category upon sale or transfer of a vessel with a lobster permit. This new rule change will allow permit holders, upon initial receipt of a new or renewed permit, one opportunity to request a change in the permit LCMA category if requested within 45 days of the effective date of the vessel's permit. If such a request is not received within 45 days of the effective date of the vessel's permit, the vessel owner may not request a change in the permit category for the duration of the fishing year. NMFS believes the 45 day time period to be sufficiently limited to prevent speculative add/drop fishing practices. Furthermore, the provision for one opportunity to change categories, if requested within 45 days, will bring lobster permitting procedures in line with existing procedures currently in place for other Northeast vessel permit practices.

This Federal action will clarify the existing regulations to specifically allow a lobster fisher to re-designate LCMAs on a newly purchased permit, a transferred permit, or within 45 days of the effective date of the vessel permit.

Clearly Reference Other Pertinent Federal Laws

Presently, lobster regulations are issued under the Atlantic Coastal Act in Title 50 of the Code of Federal Regulations, Part 697—Atlantic Coastal Fisheries Cooperative Management. Federal lobster permits, however, are also held subject to conditions contained in acts other than the Atlantic Coastal Act and regulatory parts other than part 697. Although there are clear links in part 697 to these other conditions, the pathway could be stated more plainly. For example, lobster permit conditions are stated in and through the regulation at 50 CFR 697.4(b)—Vessel Permits and Trap Tags: Conditions. According to § 697.4(b), a Federal lobster permit is held conditionally, subject to the permit holder abiding by all state and local laws, as well as ''... the requirements of this part,'' which itself is regulatory parlance for ''subject to the requirements of Title 50 of the Code of Federal Regulations, Part 697—Atlantic Coastal Fisheries Cooperative Management. Included in ''this part'' (i.e., part 697) is § 697.3—Relation to Other Federal and State Laws. Within Section § 697.3 is reference to and incorporation of §§ 307 through 311 of the Magnuson-Stevens Act, which generally relate to enforcement. Also within § 697.3 is a statement incorporating by reference 50 CFR 600.705–Relation to Other Laws, which sets forth other pertinent Federal laws that Federal lobster permit holders must abide by, including those regulations in Part 229—Authorization For Commercial Fisheries Under the Marine Mammal Protection Act of 1972. Still further, within part 229 are lobster restrictions pertaining to gear, time and area that are designed to benefit marine mammals. Thus, gear, time and area restrictions specified within part 229 are conditions of a Federal lobster permit held under § 697.4(b), although it requires multiple steps to make the connection and could be written in more direct fashion.

This Federal action will clarify the existing regulations to more directly reference lobster permit conditions that exist outside of part 697. The agency will amend § 697.4(b)-Conditions to include a direct statement that lobster permit holders are subject to the laws and regulations administered by NOAA, including the Endangered Species Act, the Marine Mammal Protection Act and the gear, time and area restrictions thereunder, as well as the enforcement provisions of the Magnuson Stevens Act. The agency will also amend § 697.7–Prohibitions to track the newly added text in § 697.4(b)-Conditions.

Prohibit the Hauling or Possession of Another's Gear

Current Federal regulations at 50 CFR 697.7(c)(1)(viii) generally prohibit permit holders from possessing or hauling improperly identified lobster trap gear. According to Federal regulations at 50 CFR 697.21, lobster trap gear is improperly identified if the trap is not properly tagged to identify the vessel possessing or hauling it. In other words, a vessel may only possess or haul its own gear and not gear tagged to another. Other lobster regulations also address this gear possession/hauling prohibition but again do so in similarly circuitous, even if clear, fashion. For example, 50 CFR 697.7(1)(c)(vii) prohibits hauling and possession of traps above a permit holder's trap limit, and 50 CFR 697.7(c)(xii) prohibits possession of a lobster trap tag issued to another vessel. Accordingly, hauling and possession of another vessel's lobster gear is presently prohibited but stating that prohibition more directly might reduce the perception of confusion on the issue. This Federal action will clarify the existing regulations to more directly state the present prohibition against the hauling and possession of another's lobster trap gear.

Exempt Gear Retrieval from Exempted Fishing Regulations

Federal lobster regulations, specified at 50 CFR 697.22—Exempted fishing, allow the Regional Administrator to exempt any person or vessel from Federal lobster regulations for the conduct of exempted fishing beneficial to the management of the American lobster, weakfish, Atlantic striped bass, Atlantic sturgeon, or horseshoe crab resources or fisheries, pursuant to the provisions of § 600.745. However, since administrative compliance the exempted fishing procedures may require up to 60 days to complete, a narrow interpretation of the exempted fishing regulations could significantly delay the ability of a Federal permit holder to retrieve lobster trap gear if a Federal vessel is inoperable or mechanically-impaired.

With this Federal action, NMFS will modify 50 CFR 697.22 to allow the Regional Administrator for the Northeast Region, or the Director of the Office of Sustainable Fisheries, as appropriate, to authorize a substitute vessel to haul ashore the lobster trap gear of an inoperable or mechanically-impaired federally permitted lobster vessel without having to engage in the exempted fishing process outlined at 50 CFR 600.745—Exempted fishing. This revision will allow NMFS to more expeditiously address pressing needs than is currently provided in the regulations.

Corrections

In addition to the measures described here, the following change will correct an inaccurate reference in the regulations at § 697.21—Gear identification and marking, escape vent, maximum trap size, and ghost panel requirements. Specifically, § 697.21(f) references enforcement action and seizure and disposition authority by reference to ''part 219 of this title''. Part 219 of this title has been superceded, and the authority for enforcement action now resides at 15 CFR part 904. NMFS will revise § 697.21(f) to reference the

correct authority to enforce seizure and disposition as follows: Enforcement action. Unidentified, unmarked, unvented, improperly vented American lobster traps, or, beginning May 1, 2000, any untagged American lobster traps, or any lobster traps subject to the requirements and specifications of § 697.21, which fail to meet such requirements and specifications may be seized and disposed of in accordance with the provisions of 15 CFR part 904.

Classification

The Regional Administrator has determined that this Federal regulatory action is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866.

This final rule does not contain policies with Federalism implications as that term is defined in E.O. 13132.

NMFS prepared a final regulatory flexibility analysis (FRFA) for this action as required by section 603 of the Regulatory Flexibility Act (RFA). The FRFA describes the economic impact that this final rule will have on small entities. The FRFA incorporates the initial regulatory flexibility analysis (IRFA), a summary of the significant issues raised by the public comments in response to the IRFA, and NMFS responses to those comments, and a summary of the analyses completed to support the action. The IRFA was summarized in the proposed rule (70 FR 52346, September 2, 2005) and is thus not repeated here. A copy of the IRFA, RIR, and the EA prepared for this action are available from the Northeast Regional Office (see **ADDRESSES**). A description of the action, why it is being considered, and the legal basis for this action are contained in the **SUMMARY** section of the preamble and in the preamble to this final rule.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides''. The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a letter to permit holders that also serves as a small entity compliance guide (the guide) was prepared. Copies of this final rule are available from the Northeast Regional Office (see **ADDRESSES**), and the guide will be sent to all holders of permits for the American lobster fishery as part of a permit holder letter. The guide and this final rule will be available upon request.

Summary of the Significant Issues Raised by the Public Comments

A total of 41 comments were received during the public comment period of the proposed rule. Significant issues raised by the public comments, a summary of the assessment of the Agency of such issues, and a statement of changes made, are addressed in the preamble of this final rule (see Comments and Responses, and Changes from the Proposed Rule).

Description of and Estimate of the Number of Small Entities to Which the Final Rule Will Apply

This action would potentially affect any vessel in the Northeast region that holds a Federal limited access lobster permit. During fishing year 2003, a total of 3,217 limited access lobster permits were issued to Northeast region permitted vessels. Based on the Small Business Administration's (SBA) size standard of $3.5 million in gross sales, all of these vessels would be considered small entities as the maximum earnings for any given vessel was less than half of this standard.

While the number of permitted vessels represents the universe of vessels that may be affected, an assessment of impacts needs to distinguish between this universe and the number of vessels that are actually participating in the lobster fishery. Unfortunately the precise number of participating vessels is not known with certainty since lobster permit holders are not subject to mandatory reporting. Specifically, less than half of all vessels using trap gear (the primary gear used on the fishery) were subject to mandatory reporting. Based on 2003 dealer records, while 62 percent of these vessels subject to mandatory reporting reported landings, only 18 percent (361 vessels) reported landing lobster. Applying this proportion to the total number of permit holders would result in an estimate of 582 participating vessels. Alternatively, where it was possible to identify Federal permit holders, comparing the number of vessels eligible to purchase trap tags to the number of vessels that actually did purchase trap tags in 2003 indicates that about 46 percent of Federal permit holders using trap gear participate in the EEZ fishery. Applying this number to the total number or permit holders results in an estimate of almost 1,500 participating vessels; an estimate that seems more likely than that based on activity reports but is still subject to uncertainty.

Active participation by the lobster industry through the state and Commission management process does help mitigate the impacts of Federal lobster management regulations on small entities. Lobster regulatory impacts to Federal small entities are mitigated under the Commission Lobster ISFMP most effectively through the LCMTs and Area-specific management programs. Through the Commission LCMT process, active industry involvement in the local management programs ensure measures have more support from the small entities in each LCMA, and management measures are more likely to be appropriate for each LCMA than a coastwide measure without local support. The flexibility of the Commission adaptive management program through the use of conservation equivalent measures by the Commission can be used to effectively implement resource conservation measures that most effectively mitigate the cumulative impacts on small entities. As explained in the preamble, the broodstock measures in this final rule are in response to recommendations by the Commission to implement measures in Addenda II and III to the ISFMP. Implementation of these Federal regulations will: compliment state regulations; mitigate regulatory discrepancies between state and Federal lobster broodstock measures; facilitate industry understanding of and compliance with uniform area-specific measures; and, enhance enforcement of lobster regulations.

To clarify current Federal lobster regulations NMFS will: allow a change in the LMCA designations of a fishing vessel with a Federal lobster permit upon sale, transfer, or within 45 days of the permit's effective date; clearly reference other laws and regulations applicable to Federal lobster permit holders; clearly prohibit hauling or possession of lobster trap gear belonging to another vessel; and, exempt lobster trap gear retrieval from provisions of the exempted fishing regulations by a substitute vessel if a Federally permitted vessel is inoperable or mechanically impaired. Clarification of these measures are intended to mitigate the social and economic impacts to Federal lobster permit holders and ensure impacted small entities can more clearly interpret Federal lobster permit transfer procedures; clearly and succinctly identify other laws and regulations applicable to Federal lobster permit holders; clearly understand hauling and

possession of another vessel's lobster gear is presently prohibited; and, mitigate impacts that may result from administrative delays, if exempted fishing regulations are required, when retrieving trap gear by a substitute vessel if a Federally permitted vessel is inoperable or mechanically impaired.

There is no reporting and recordkeeping requirements resulting from this action.

List of Subjects in 50 CFR Part 697

Fisheries, Fishing.

Dated: March 8, 2006.

James W. Balsiger,

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

■ For the reasons set out in the preamble, 50 CFR chapter VI, part 697, is amended as follows:

PART 697—ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT

■ 1. The authority citation for part 697 continues to read as follows:

Authority: 16 U.S.C. 5101 *et seq.*

■ 2. In § 697.2, the definition of ''V-shaped notch'' is removed; the definition of ''Standard v-shaped notch'' and ''Zero tolerance v-shaped notch'' are added in alphabetical order to read as follows:

§ 697.2 Definitions.

* * * * *

Standard V-shaped notch means a straight-sided triangular cut, without setal hairs, at least ¼ inch (0.64 cm) in depth and tapering to a point.

* * * * *

Zero tolerance V-shaped notch means a v-shaped notch of any size, with or without straight sides, with or without setal hairs.

■ 3. In § 697.3, paragraph (b) is revised to read as follows:

§ 697.3 Relation to other Federal and state laws.

* * * * *

(b) The relation of this part to other laws is further set forth in § 600.705 of this chapter and would include all regulations and statues administered by the National Oceanic and Atmospheric Administration (NOAA), including, but not limited to the regulations in this part issued pursuant to the ACFCMA, the regulations at 50 CFR part 229 issued pursuant to the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA) , and the regulations at 50 CFR part 648 issued pursuant to the Magnuson-Stevens Act.

* * * * *

■ 4. In § 697.4, paragraphs (a)(7)(iv) and (b) are revised to read as follows:

§ 697.4 Vessel permits and trap tags.

* * * * *

(a) * * *

(7) * * *

(iv) Once a vessel has been issued a lobster management area designation certificate or limited access American lobster permit specifying the lobster EEZ management areas in which the vessel may fish, no changes to the EEZ management areas specified may be made for such vessel for the remainder of the fishing year. There are two exceptions to this re-designation restriction:

(A) Vessels that have been bought, transferred, or become a replacement vessel for another qualified vessel may request re-designation of the EEZ management areas within 45 days of the effective date of the vessel's permit; and

(B) All vessels will have one opportunity to request a correction in permit category, if such request is made in writing to the Regional Administrator within 45 days of the effective date of the vessel's permit.

* * * * *

(b) *Condition.* Vessel owners who apply for a Federal limited access American lobster permit under this section must agree, as a condition of the permit, that the vessel and vessel's fishing, catch, and pertinent gear (without regard to whether such fishing occurs in the EEZ or landward of the EEZ, and without regard to where such fish or gear are possessed, taken, or landed), are subject to all requirements of this part, as well as gear, time, and area restrictions issued or set forth in other parts, including, but not limited to, 50 CFR parts 229 and 648. The vessel and all such fishing, catch, and gear shall remain subject to all applicable state or local requirements. If a requirement of this part and a management measure required by state or local law differ, any vessel owner permitted to fish in the EEZ must comply with the more restrictive requirement.

■ 5. In § 697.7, paragraphs (c)(1)(i) and (c)(1)(v) are revised and paragraphs (c)(1)(xxvii) through (c)(1)(xxix) are added to read as follows:

§ 697.7 Prohibitions.

* * * * *

(c) * * *

(1) * * *

(i) Retain on board, land, or possess at or after landing, whole American lobsters that fail to meet the minimum carapace length standard specified in § 697.20(a). All American lobsters will be subject to inspection and enforcement action, up to and including the time when a dealer receives or possesses American lobsters for a commercial purpose.

* * * * *

(v) *V-notch.* (A) Retain on board, land, or possess any zero tolerance v-notched female American lobster when fishing in or electing to fish in EEZ Nearshore Lobster Management Area 1.

(B) Retain on board, land, or possess any standard v-notched female American lobster when fishing in or electing to fish in the EEZ Nearshore Management Area 2, 4, 5, 6, and the Outer Cape Lobster Management Area or the EEZ Offshore Management Area 3.

* * * * *

(xxvii) Possess, deploy, fish with, haul, harvest lobster from, or carry aboard a vessel trap gear issued to another vessel.

(xxviii) Fail to comply with any gear, time, or area restriction in this part or, as is explained in § 697.3 and § 697.4(b), fail to comply with any gear, time, or area regulation set forth in any other regulatory part, including part 229 and part 648.

(xxix) Retain on board, land, or possess at or after landing, whole American lobsters that exceed the maximum carapace length standard specified in § 697.20(b). All American lobsters will be subject to inspection and enforcement action, up to and including the time when a dealer receives or possesses American lobsters for a commercial purpose.

* * * * *

■ 6. In § 697.18, paragraph (f) is revised to read as follows:

§ 697.18 Lobster management areas.

* * * * *

(f) EEZ Nearshore Management Area 5. EEZ Nearshore Management Area 5 is defined by the area, including state and Federal waters that are near-shore in the southern Mid-Atlantic, bounded by straight lines connecting the following points, in the order stated:

Point	Latitude	Longitude
W	39°50′N.	74°09′W.
V1	39°50′N.	72°55′W.
X1	38°38.2′N.	73°33.8′W.
Y1	38°10.4′N.	73°49′W.
Z1	37°10.6′N.	74°38′W.
ZA1	35°31.9′N.	74°45.5′W.
ZB1	35°14.5′N.	75°19.3′W.
ZB	35°14.5′N.	75°31′W.

From Point ''ZB'', along the coasts of North Carolina, Virginia, Maryland, Delaware, New Jersey back to Point ''W''.

* * * * *

■ 7. Section 697.20 is revised to read as follows:

§ 697.20 Size, harvesting and landing requirements.

(a) *Minimum carapace length.* (1) The minimum carapace length for all American lobsters harvested in or from the EEZ Nearshore Management Area 1or the EEZ Nearshore Management Area 6 is 3 ¼ inches (8.26 cm).

(2) The minimum carapace length for all American lobsters landed, harvested, or possessed by vessels issued a Federal limited access American lobster permit fishing in or electing to fish in the Nearshore Management Area 1 or the EEZ Nearshore Management Area 6 is 3 ¼ inches (8.26 cm).

(3) The minimum carapace length for all American lobsters harvested in or from the Nearshore Management Area 2, 4, 5, and the Outer Cape Lobster Management Area or the Offshore Management Area 3 is 3 ⅜ inches (8.57 cm).

(4) The minimum carapace length for all American lobsters landed, harvested, or possessed by vessels issued a Federal limited access American lobster permit fishing in or electing to fish in the EEZ Nearshore Management Area 2, 4, 5, and the Outer Cape Lobster Management Area or the EEZ Offshore Management Area 3 is 3 ⅜ inches (8.57 cm).

(5) No person may ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any whole live American lobster that is smaller than the minimum size specified in paragraph (a) in this section.

(b) *Maximum carapace length.* (1) The maximum carapace length for all American lobster harvested in or from the EEZ Nearshore Management Area 1 is 5 inches (12.7 cm).

(2) The maximum carapace length for all American lobster landed, harvested, or possessed by vessels issued a Federal limited access American lobster permit fishing in or electing to fish in the EEZ Nearshore Management Area 1 is 5 inches (12.7 cm).

(3) The maximum carapace length for all female American lobster harvested in or from the EEZ Nearshore Management Area 4 is 5 ¼ inches (13.34 cm), except as provided in paragraph (b)(7) of this section.

(4) The maximum carapace length for all female American lobster landed, harvested, or possessed by vessels issued a Federal limited access American lobster permit fishing in or electing to fish in the EEZ Nearshore Management Area 4 is 5 ¼ inches (13.34 cm), except as provided in paragraph (b)(7) of this section.

(5) The maximum carapace length for all female American lobster harvested in or from the EEZ Nearshore Management Area 5 is 5 ½ inches (13.97 cm), except as provided in paragraph (b)(7) of this section.

(6) The maximum carapace length for all female American lobster landed, harvested, or possessed by vessels issued a Federal limited access American lobster permit fishing in or electing to fish in the EEZ Nearshore Management Area 5 is 5 ½ inches (13.97 cm), except as provided in paragraph (b)(7) of this section.

(7) In the EEZ Nearshore Management Area 4 and EEZ Nearshore Management Area 5, recreational fishing vessels and divers engaged in recreational fishing, regardless of the platform from which they dive, are allowed to possess one female American lobster per fishing trip in excess of the maximum carapace length specified in paragraphs (b)(3) through (b)(6) of this section.

(c) *Mutilation.* (1) Subject to the rebuttable presumption in § 697.7(c)(3), no person may remove meat or any body appendage from any American lobster harvested in or from the EEZ before, or at the time of landing, or have in possession any American lobster part other than whole lobsters, up to the time when a dealer first receives or possesses American lobster.

(2) Subject to the rebuttable presumption in § 697.7(c)(3), no owner, operator or person aboard a vessel issued a Federal American lobster permit may remove meat or any body appendage from any American lobster before or at the time of landing, or have in possession any American lobster part other than whole lobsters, up to the time when a dealer first receives or possesses American lobster.

(d) *Berried females.* (1) Any berried female harvested in or from the EEZ must be returned to the sea immediately. If any berried female is harvested in or from the EEZ Nearshore Management Area 1, or in or from the EEZ Offshore Management Area 3 above 42°30′, it must be v-notched before being returned to the sea immediately.

(2) Any berried female harvested or possessed by a vessel issued a Federal limited access American lobster permit must be returned to the sea immediately. If any berried female is harvested in or from the EEZ Nearshore Management Area 1, or in or from the EEZ Offshore Management Area 3 above 42°30′, it must be v-notched before being returned to the sea immediately.

(3) No vessel, or owner, operator or person aboard a vessel issued a Federal limited access American lobster permit may possess any berried female.

(4) No person may possess, ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any berried female as specified in paragraph (d) of this section.

(e) *Removal of eggs.* (1) No person may remove, including, but not limited to, the forcible removal and removal by chemicals or other substances or liquids, extruded eggs attached to the abdominal appendages from any female American lobster.

(2) No owner, operator or person aboard a vessel issued a Federal limited access American lobster permit may remove, including but not limited to, the forcible removal, and removal by chemicals or other substances or liquids, extruded eggs attached to the abdominal appendages from any female American lobster.

(3) No person may possess, ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any whole live American lobster that bears evidence of the removal of extruded eggs from its abdominal appendages as specified in paragraph (e) of this section.

(f) *Spearing.* (1) No person may spear any American lobster in the EEZ.

(2) No person on a vessel issued a Federal lobster license may spear a lobster.

(3) No person may harvest or possess any American lobster which has been speared in the EEZ.

(4) No person on a vessel issued a Federal lobster license may harvest or possess any American lobster which has been speared.

(5) No person may possess, ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any American lobster which has been speared.

(g) *V-notched females.* (1) No person may possess any female lobster possessing a zero tolerance v-shaped notch harvested in or from the EEZ Nearshore Management Area 1.

(2) No vessel, owner, or operator issued a Federal limited access American lobster permit fishing in or electing to fish in EEZ Nearshore Management Area 1 may land, harvest, or possess any female lobster possessing a zero tolerance v-shaped notch.

(3) No person may possess any female lobster possessing a standard v-shaped notch harvested in or from the EEZ Nearshore Management Area 2, 4, 5, 6, and the Outer Cape Lobster Management Area or the EEZ Offshore Management Area 3 may possess.

(4) No vessel, owner, or operator issued a Federal limited access American lobster permit fishing in or

electing to fish in EEZ Nearshore Management Area 2, 4, 5, 6, and the Outer Cape Lobster Management Area or the EEZ Offshore Management Area 3 may land, harvest, or possess any female lobster possessing a standard v-shaped notch.

■ 8. In § 697.21, paragraphs (c) and (f) are revised to read as follows:

§ 697.21 Gear identification and marking, escape vent, maximum trap size, and ghost panel requirements.

* * * * *

(c) *Escape vents.* (1) All American lobster traps deployed or possessed in the EEZ Nearshore Management Area 1 or the EEZ Nearshore Management Area 6 or, deployed or possessed by a person on or from a vessel issued a Federal limited access American lobster permit fishing in or electing to fish in the EEZ Nearshore Management Area 1 or the EEZ Nearshore Management Area 6, must include either of the following escape vents in the parlor section of the trap, located in such a manner that it will not be blocked or obstructed by any portion of the trap, associated gear, or the sea floor in normal use:

(i) A rectangular portal with an unobstructed opening not less than 1 15/16 inches (4.92 cm) by 5 3/4 inches (14.61 cm);

(ii) Two circular portals with unobstructed openings not less than 2 7/16 inches (6.19 cm) in diameter.

(2) All American lobster traps deployed or possessed in the EEZ Nearshore Management Area 2, 4, 5, and the Outer Cape Lobster Management Area or the EEZ Offshore Management Area 3, or, deployed or possessed by a person on or from a vessel issued a Federal limited access American lobster permit fishing in or electing to fish in the EEZ Nearshore Management Area 2, 4, 5, and the Outer Cape Lobster Management Area or the EEZ Offshore Management Area 3, must include either of the following escape vents in the parlor section of the trap, located in such a manner that it will not be blocked or obstructed by any portion of the trap, associated gear, or the sea floor in normal use:

(i) A rectangular portal with an unobstructed opening not less than 2 inches (5.08 cm) x 5 3/4 inches (14.61 cm);

(ii) Two circular portals with unobstructed openings not less than 2 5/8 inches (6.67 cm) in diameter.

(3) The Regional Administrator may, at the request of, or after consultation with, the Commission, approve and specify, through a technical amendment of this final rule, any other type of acceptable escape vent that the Regional Administrator finds to be consistent with paragraph (c) of this section.

* * * * *

(f) *Enforcement action.* Unidentified, unmarked, unvented, improperly vented American lobster traps, or, beginning May 1, 2000, any untagged American lobster traps, or any lobster traps subject to the requirements and specifications of § 697.21, which fail to meet such requirements and specifications may be seized and disposed of in accordance with the provisions of 15 CFR part 904.

* * * * *

■ 9. In § 697.22, paragraph (c) is added as follows:

§ 697.22 Exempted fishing.

* * * * *

(c) The Regional Administrator, or the Director, as appropriate, may authorize a substitute vessel to haul ashore the lobster trap gear of an inoperable or mechanically-impaired federally permitted lobster vessel without having to engage in the exempted fishing process as specified in this section.

[FR Doc. 06–2441 Filed 3–13–06; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 71, No. 49
Tuesday, March 14, 2006

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

FARM CREDIT ADMINISTRATION

12 CFR Parts 611, 619, 620, 621, 624, 627, and 630

RIN 3052–AC11

Organization; Definitions; Disclosure to Shareholders; Accounting and Reporting Requirements; Regulatory Accounting Practices; Title IV Conservators, Receivers, and Voluntary Liquidations; and Disclosure to Investors in System-Wide and Consolidated Bank Debt Obligations of the Farm Credit System

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA, we, or our) is proposing to amend our disclosure and reporting regulations for Farm Credit System (System) institutions by clarifying and enhancing existing disclosures and reporting to System shareholders and investors. The rule would provide ''real time'' disclosures to shareholders, investors, and the public by accelerating the time period for filing annual and quarterly reports. The Federal Farm Credit Banks Funding Corporation (Funding Corporation) would have to adopt policies and procedures for issuing interim reports, improving the timely and accurate distribution of System-wide financial information. The proposed rule would also enhance financial accuracy certifications in periodic reports for all System institutions, requiring the Funding Corporation and larger System institutions (with over $500 million in assets) to review and report on internal controls. Further, the proposed rule would create a regulatory section on the independence of external auditors, adding restrictions on non-audit services and conflicts of interest, as well as requiring auditor rotation.

DATES: You may send comments on or before June 12, 2006.

ADDRESSES: Comments may be sent by electronic mail to *reg-comm@fca.gov*, through the Pending Regulations section of our Web site at *http://www.fca.gov*, or through the Government-wide *http://www.regulations.gov* portal. You may also send written comments to Gary Van Meter, Deputy Director, Office of Regulatory Policy, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090, or by facsimile transmission to (703) 734–5784.

You may review copies of all comments we receive at our office in McLean, Virginia, or from our Web site at *http://www.fca.gov.* Once you are in the Web site, select ''Legal Info,'' and then select ''Public Comments.'' We will show your comments as submitted, but for technical reasons we may omit items such as logos and special characters. Identifying information you provide, such as phone numbers and addresses, will be publicly available. However, we will attempt to remove electronic-mail addresses to help reduce Internet spam.

FOR FURTHER INFORMATION CONTACT: Tong-Ching Chang, Associate Director, Office of Regulatory Policy, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4414, TTY (703) 883–4434, or Laura D. McFarland, 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 proposed rule are to:

- Update our financial disclosure and reporting requirements for System institutions by incorporating recent changes in industry practices;
- Augment existing reporting timeframes with ''real time disclosure'' principles to improve shareholders, investors, and public access to material financial information for informed investment decisionmaking;
- Strengthen the independence of System financial audits;
- Streamline the financial reporting certification requirements to make them easier to understand and use; and
- Enhance shareholders' and investors' understanding of, and confidence in, the System's operations through improved transparency.

II. Background

The Farm Credit Amendment Act of 1985 (1985 Amendments)[1] added provisions to the Farm Credit Act of 1971, as amended (Act),[2] requiring FCA to regulate the disclosure and reporting practices of System institutions. The 1985 Amendments require each System institution to prepare and publish annual financial reports to its shareholders as prescribed by us. The 1985 Amendments also require that annual reports contain financial statements prepared in accordance with generally accepted accounting principles (GAAP) and be audited by an independent public accountant. To implement the 1985 Amendments, we issued regulations at part 620—Disclosure to Shareholders and part 621—Accounting and Reporting Requirements. These regulations establish the requirements for financial reports from Farm Credit banks and associations. When developing part 620, we primarily relied on the disclosure and reporting requirements of the Securities and Exchange Commission (SEC) in existence at the time, adapting SEC requirements to the cooperative nature and unique structure of the System before issuing the rule. Part 621 contains requirements that System institutions adhere to GAAP when preparing financial disclosures and reports to shareholders, as well as establishes accounting and performance requirements for classification of high-risk assets and loan performance. This part of our regulations also requires each institution's financial statements and related disclosures be audited annually by a qualified public accountant (auditor).

In 1994, we extended the requirements of part 621 to the Funding Corporation and issued additional disclosure and reporting requirements at part 630 for System-wide reporting to investors. When developing part 630, we incorporated many of the System practices in use at the time, especially with regard to the Funding Corporation's disclosure and reporting practices. Our regulations on the System-wide reporting responsibilities of the Funding Corporation, contained in part 630, additionally address the maintenance of internal controls over

[1] Pub. L. 99–205, Dec. 23, 1985.
[2] Pub. L. 92–181, Dec. 10, 1971.

System-wide financial disclosures and reporting.

Our existing regulations require each System institution to prepare annual and quarterly reports, making quarterly reports available to shareholders but requiring distribution of annual reports. Our regulations identify the minimum informational requirements of the reports and include general prohibitions against making incomplete, inaccurate, or misleading disclosures. Our existing regulations also set forth reporting timeframes and signatory requirements for periodic reports. We adopted these regulations to enhance the integrity of the System's published financial reports and to ensure full and adequate disclosure to shareholders and other investors in System obligations. The regulations were intended to ensure that System institutions provide timely and reliable financial information to multiple audiences, including borrowers, shareholders, investors and the public.

Our reporting and disclosure regulations at part 620 and 630 were last comprehensively revised in 1991 (56 FR 29412, June 27, 1991) and 1994 (59 FR 46742, September 12, 1994), respectively. At the time, the rules were considered comprehensive up-to-date financial disclosure and reporting requirements. However, public sector disclosure and reporting practices have recently undergone significant changes that we believe necessitate updates to our regulations.

In the course of developing this proposed rule, we looked extensively at the disclosure and reporting practices of publicly traded companies, reporting changes of the Federal Deposit Insurance Corporation (FDIC) and other federal banking regulatory agencies, and the financial reporting and disclosure provisions of the Sarbanes-Oxley Act of 2002 (Sarbanes-Oxley) and the SEC implementing regulations.[3] We also considered studies and public statements of individuals and organizations with knowledge and expertise in financial disclosure and reporting practices. Throughout this process we evaluated the proposed changes to our rules against our role as the safety and soundness regulator of the System and the System's cooperative structure.

We believe transparency in System operations strengthens board and management accountability to System shareholders and increases investor confidence in the accuracy of System financial disclosures and reports. We believe all the proposed changes in this rule will ensure that shareholders in the System and investors in System-wide obligations continue to receive material and relevant information about the financial condition and results of operations of individual System institutions and of the entire System on a combined basis.

III. Comments Received

We received comments on our existing regulations prior to developing these proposed rules. The comments were in an August 9, 2005, letter from the Funding Corporation on behalf of System institutions. The letter recommended we issue regulations that were flexible in application, rather than detailed and prescriptive. The letter further explained that judgment is an important element in determining the appropriate financial reporting and disclosure treatments in accordance with GAAP as well as rapid changes in the current financial reporting environment. The Funding Corporation attached to the letter a list of recommended regulation changes.

We evaluated the recommendations in recognition of existing law and policy considerations, other regulator's disclosure rules, the differences in size and complexity among System institutions, and the cooperative nature of the System. We address the recommendations falling within the scope of this proposed rule, incorporating those achieving one or more of the stated objectives. The other recommendations will be considered for future rulemaking.

IV. Section-by-Section Analysis

A. Definition of Qualified Public Accountant [New § 619.9270 and § 621.2(i)]

We propose to move the existing definition of qualified public accountant from § 621.2(i) to part 619 to clarify that it applies to all our rules. In addition, we propose to further explain the meaning of ''independent'' in the definition. We are proposing that a qualified public accountant is not independent if he or she functions in the role of management, audits his or her own work, or serves as an advocate for the System audit client. We believe the proposed change facilitates preventing fundamental conflicts of interest between the qualified public accountant and a System institution. An external auditor who assumes or carries out the responsibility of providing a justification for a particular accounting practice in use by the client serves in an advocacy role. Supporting the appropriate use of any accounting practice is clearly the responsibility of the client's management. When an external auditor assumes or carries out this responsibility, conflicts arise that compromise who is held responsible for the accounting practices used to present the financial statements. The client should be held responsible, not the auditor. We believe this prohibition against external auditors serving in an advocacy role will prevent such conflicts and ensure System management's understanding that they are solely responsible for the accounting practices in use by their institution.

The proposed § 619.9270 would apply the definition of qualified public accountant to all our regulations, unless otherwise noted. We also propose clarifying that we mean a qualified public accountant when using the term ''external auditor.'' In conformance with this proposed change, we propose removing the § 621.2(i) definition reference in §§ 611.1250(a)(3), 611.1255(a)(3), 620.5(m)(1), and 630.20(l).

B. Certification and Submission of Financial Reports [§§ 620.2, 620.3, 627.2785(d), 630.3, 630.4 and 630.5]

We propose removing the requirement contained in §§ 620.2(a) and 630.3(h) that multiple copies of reports be sent to us. We also propose removing the specificity of where reports are sent from §§ 620.2(a), 630.3(f) and 630.3(h). We believe these changes will reduce an administrative burden on the System and allow flexibility in reporting locations.

We also propose moving Farm Credit banks' and associations' financial report certification requirements from § 620.2(b) and (c) to § 620.3. We propose amendments to the certification requirements to establish separate components for signatory, certification of financial accuracy, and internal controls. A similar amendment is proposed to move the parallel requirements for the System-wide report from § 630.3(h) to § 630.5. We explain these changes more fully below.

We propose conforming technical changes to require all reports, regardless of the recipient, to comply with §§ 620.3 and 630.5. We also propose technical changes to § 630.20(h) and (i) to correct cross references to the regulatory sections containing report availability and signatures.

1. Signatures on Financial Reports [§§ 620.3(b) and 630.5(b)]

The proposed rule would move the signature requirements of § 620.2(b) to § 620.3(b) and change them to require the Chief Executive Officer (CEO), the

[3] Pub. L. 107–204, July 30, 2002.

Chief Financial Officer (CFO), and a board member sign all financial reports. The rule would require that the officer responsible for preparing financial reports must sign when an institution has no formally identified CFO. The rule would also require that the board member signing the report be formally designated by the entire board as the responsible signatory, with authority to sign as the representative of each individual board member. The rule would keep the existing requirement that if any of the signatories refused to sign a report, the person and reason for the refusal must be disclosed in the report. We also propose moving the System-wide report signature requirements from § 630.3(h) to § 630.5(b), with similar proposed changes to the signatory requirements for the System-wide report. We do not propose including the CFO's signature designation for System-wide reports, instead we propose that an officer in charge of preparing the financial reports be one of the signatories. We make this distinction out of consideration for the fact that the Funding Corporation does not attribute or designate its CFO as the official responsible for preparation of the System's report to investors. We believe adding the CFO or responsible financial officer to the list of individuals signing financial reports would be appropriate given that this officer is most closely associated with the preparation of the financial reports. Moreover, this requirement is consistent with the industry practices of public companies.

Our proposed changes would require a board member signing the report to be formally designated by the entire board as the responsible signatory, with authority to sign as the representative of each individual board member. This would apply the existing quarterly reporting requirements to annual reports, no longer requiring the entire board sign the annual report. We believe the proposed change simplifies the process for obtaining signatures by reducing the burden on System institutions in obtaining every board member's signature for the annual report and makes the signatory requirements for all reports submitted to the FCA consistent.

2. Certification of Financial Reports Accuracy [§§ 620.3(c), 620.5, 630.4 and 630.5(c)]

The proposed rule would require those officers and directors signing periodic reports to certify the financial accuracy of the reports. The rule would move the existing certification requirements of § 620.2(b) to § 620.3(c) and add a requirement that the signatories state in the certification that they have reviewed the reports. The rule would also require the certification to be included in all reports, regardless of who is the recipient. The rule would keep the existing requirement that if any of the signatories refused to certify a report, the person and reason for the refusal must be disclosed in the report. We are proposing these same changes to the certification requirements for System-wide reports, moving them from § 630.3(h) to § 630.5(c).

We believe having the signatories state they reviewed the report they are signing enhances shareholder and investor confidence in the institution's financial reporting procedures by clearly establishing management's and board's responsibility for the accuracy of the published reports. We believe that such a certification of financial accuracy is considered valuable by shareholders and investors and is in line with the industry practices of disclosures to shareholders of public companies.

As a conforming technical change, we are proposing to remove § 620.5(m)(2), which requires signatures and certifications on financial statements. The proposed changes to § 620.3 would make this requirement unnecessary. For the same reason, we propose removing the requirement in § 630.4(c)(5) for banks to provide a separate certification to the Funding Corporation. We instead propose replacing § 630.4(c)(5) with a requirement that reporting submissions to the Funding Corporation comply with proposed § 620.3. We propose adding a requirement in redesignated § 630.4(c)(1) that financial information provided by associations to their funding bank comply with proposed § 620.3.

3. Assessment of Internal Controls [§§ 620.3(d) and 630.5(d)]

We are proposing the addition of an internal controls assessment to the periodic reports of those institutions with total assets over $500 million as of the end of the previous fiscal year. The rule would require these institutions to report that internal controls are in place and reviewed during the reporting period, stating that the results of the review were reported to the board of directors. The rule would also require the internal controls assessment to contain a statement on the conclusions reached from the review. The proposed rule does not specify who must conduct the review, leaving that to the institution's discretion. We are proposing similar requirements for the Funding Corporation in a new § 630.5(d) with an additional requirement involving the external auditor that is discussed in section IV.A.4. of this preamble.

We believe this assessment provision will enhance the objectives of § 618.8430, which requires each Farm Credit institution's board of directors to adopt an internal control policy that includes adoption of internal audit and control procedures that evidence responsibility for review and maintenance of comprehensive and effective internal controls. We also believe the assessment provision is valuable to disclose to System shareholders, investors, and potential investors that the larger System institutions' internal control procedures are periodically reviewed. Management's responsibility for creating and maintaining adequate internal controls over financial reporting and their assessment of the effectiveness of those controls serves to enhance the quality of reporting, identify prospective damaging practices within the institution, and increase shareholder and investor confidence in the reports. To mitigate any perceived burden for smaller institutions, the proposed regulation would provide an exemption for institutions with assets at or below $500 million, a practice analogous to exemptions currently permitted by the SEC for smaller institutions under its oversight.

We are not proposing prescriptive requirements for the conduct of the internal controls assessment. We believe practices for the conduct of an internal controls assessment are evolving, thus the proposed rule would allow System institutions the flexibility to change the conduct of their internal controls assessment as industry practices evolve. Nevertheless, we would expect the assessments made for the annual reports to include a fairly comprehensive review of the internal controls over the preparation of the financial information and disclosures contained in those reports. We would expect each quarterly assessment to be more limited, focusing more on testing changes to the internal controls that have occurred since the completion of the comprehensive annual assessment. We encourage System institutions to follow good judgment in the determination of the scope and conduct of the assessments.

Since most institutions already plan to prepare such assessments in conjunction with the preparation of the System's report to investors; we do not believe our proposal would be overly burdensome. Various members of the System have informed us that most System associations will provide an internal controls certification to their

funding bank and the banks will provide an internal controls certification on a district-wide basis to the Funding Corporation as a means of facilitating the implementation of an internal control certification process on a System-wide basis for the report to investors.

4. Auditor Attestation of System-Wide Internal Controls [§ 630.5(d)]

We propose adding in § 630.5(d) a requirement for the Funding Corporation to obtain from its external auditor an attestation of, and a report on, the effectiveness of management's internal control systems and procedures for the financial reporting of the System-wide combined financial statements. The attestation must be included in the annual report to investors. We patterned this proposed requirement after section 404 of Sarbanes-Oxley to enhance the transparency and maintain investor confidence in System-issued debt obligations. We believe that an attestation provision in the System-wide report to investors would provide the users an independent source as to the status of internal controls used in the preparation of the System-wide report. We believe this independent assurance serves as an essential external control of the preparation of the System's financial report to investors.

We are not proposing an attestation provision at the bank and association level because an external auditor attestation of internal controls at the System-wide level will accomplish, at substantially less cost, many of the same objectives as an attestation requirement at the association and bank level. Further, the Funding Corporation informed us that it already has plans to require its external auditor to review the System-wide internal controls assessment and provide an attestation report for inclusion in the System-wide annual report, which should also reduce any burden this proposed provision may create.

C. Timing of Periodic Reports to Shareholders and Investors

1. Annual and Quarterly Report Filing Deadlines [§§ 620.4(a), 620.10(a) and 630.3(a)]

We propose reducing to 40 calendar days both the existing 60-day System-wide quarterly reporting deadline and the 45-day Farm Credit bank and association quarterly reporting deadline. We also propose that all annual reports be filed within 75 calendar days of the end of an institution's fiscal year, instead of the existing 90-day deadline. We believe significant technological advances have occurred in the last 10 years that have both increased the market's demand for more timely information and improved the ability of institutions to capture, process, and disseminate this information. We also believe accelerating the time to report the financial condition of a System institution to shareholders, investors, and the general public improves information flow and facilitates shareholder and investor decisionmaking.

We considered proposing further reductions in filing deadlines based on those used by SEC-accelerated filers [4] and the practices of most corporate and financial entities, but viewed our proposed timeframe as appropriate considering the cooperative nature and structure of the System. We also considered the fact that some System institutions may not have the support structure in place to accommodate shorter timeframes. We recognize that sufficient time must be provided for the System-wide reports to investors because these reports are dependent on information provided from the banks and associations and, as a result, gathering and consolidating this information takes additional time. We consider these proposed timeframes as a reasonable compromise between industry practices and the unique cooperative structure of the System.

2. System-Wide Interim Reports [New § 630.3(a)]

The proposed rule would add a new § 630.3(a)(3), requiring the Funding Corporation to have written policies and procedures in place for disclosing significant events or material changes in System-wide operations occurring after publication of a quarterly or annual System-wide report to investors. The value of System-wide debt is subject to change based on information in the marketplace and, in keeping with section 409 (''real time issuer disclosures'') [5] of Sarbanes-Oxley, we believe it appropriate to propose requiring the Funding Corporation to develop and maintain policies and procedures for the issuance of interim reports on the System-wide financial condition. We would expect the policies and procedures to incorporate appropriate best industry practices, taking into consideration the cooperative nature and unique structure of the System. We determined that, because the value of equity held by System stockholders is not subject to changes based on information disseminated in the marketplace, there was no need to require similar policies and procedures for interim reports from banks and associations. However, we expect System banks and associations to comply with redesignated § 630.4(b) and (c) that requires them to provide information to the Funding Corporation necessary for preparation of reports to System investors.

D. Auditor Independence [§ 621.4(b) and New §§ 621.30, 621.31, and 621.32]

We are proposing new requirements in part 621 to facilitate auditor independence within the System. We are proposing a new subpart F, which would require each System institution ensure the independence of all external auditors conducting the institution's audit by establishing and maintaining policies and procedures governing the engagement of auditors. We believe that the proposed provision will strengthen auditor independence by alleviating circumstances where conflicts of interests may arise or impair an auditor's independence.

As a conforming change, we are proposing to revise § 621.4(b) to require that a qualified public accountant comply with the provisions of the new subpart F of this chapter when retained by a System institution to audit financial reports.

1. Prohibited Non-Audit Services [New § 621.31]

We propose adding a new § 621.31 prohibiting external auditors of System institutions from providing certain non-audit services. Our proposed rule identifies seven specific non-audit services that would be prohibited, including bookkeeping, valuation services, financial information system design, and management services. These prohibited non-audit services are currently recognized within the accounting industry as exposing external auditors to a high risk for conflicts of interest with respect to their audit of a client's financial information. For instance, it is doubtful an auditor can maintain independence in conducting an audit of an information system the auditor helped design and implement. We believe clearly identifying a list of prohibited non-audit services would enhance the independent relationship between System institutions and their external auditors as well as provide stockholders, investors and the general

[4] Accelerated SEC filers must submit annual reports within 60 days of the end of the fiscal year and quarterly reports within 40 days of the quarter's end.

[5] Public companies disclose ''on a rapid and current basis'' material information regarding changes in a company's financial condition or operations.

public assurances that audited reports have not been significantly impacted by auditor conflicts of interest. We consider this especially important in the current business climate, where qualified public accountants are subject to strict conflict-of-interest rules when auditing publicly traded company financial reports. We are also convinced that limitations on non-audit services improve the safety and soundness of System institutions.

As a conforming change, we propose removing from redesignated § 630.4(b)(4) and (c)(2) the requirement that banks and associations include a provision in their audit engagement letters, authorizing the external auditors to respond to questions from funding banks and the Funding Corporation. We consider removal of this provision necessary to conform our rules to the expectations discussed in our proposed financial reporting certification requirements for System institutions. We strongly believe that each bank and association should be able to respond to questions on the contents of their own financial reports. We have proposed certification requirements for System institution officers and directors to state they have reviewed the financial reports and that the reports are accurate. These certifying officials, in order to make the certification, should be able to explain the financial reports to their funding bank or the Funding Corporation. We also believe this requirement must be removed to enable external auditors to comply with our proposed prohibitions on auditor services, including serving as an advocate of an institution.

2. Permitted Non-Audit Services [§§ 620.30, New 621.31 and 630.6]

We propose, in new § 621.31(b), requiring System institutions to obtain their audit committee's approval prior to contracting for permissible non-audit services from the auditor. The proposed rule recognizes that the external auditor may provide additional permissible services than those required to perform a financial statement audit pursuant to generally accepted auditing standards. We believe requiring audit committee approval of non-audit services will help prevent conflicts of interest from arising between the qualified public accountant and management by providing a level of board oversight. We also consider the involvement of an institution's audit committee in the non-audit duties of a qualified public accountant is necessary given the audit committee's responsibility for selecting and hiring an external auditor to perform the institution's financial audit.

The proposed rule would also amend the authorities of the audit committees in § 620.30(d)(2) to specifically include approval of non-audit services and add a new § 630.6(a)(4)(ii)(C) that imposes the same requirement on the System Audit Committee. The proposed rule would also require audit committees to comply with the independent auditor provisions proposed at part 621 and that approved non-audit services be reported in the annual report.

3. Auditor Conflicts of Interest and Rotation [New § 621.32]

We are proposing a new § 621.32 prohibiting a System institution from engaging the audit services of a qualified public accountant if the accountant, an accounting partner or concurring partner, or lead audit team member was an employee, officer or director of the System in the 12 months prior to contracting for audit services. The proposed rule would further prohibit an institution from making employment offers to an external auditor, accounting firm partner, concurring partner, or lead audit team member during the audit, or within 1 year of its conclusion. We believe creating a 1-year ''cooling-off'' period for former professional relationships will preserve the independent judgment of audit staff, helping to ensure it is not impaired, either through appearance or actuality.

We also propose prohibiting a System institution from engaging the audit services of a qualified public accountant, or the lead and reviewing audit partner, after 5 consecutive years of service to that institution. The proposed rule would require the institution ensure the lead audit and reviewing partners assigned to the institution's audit team are rotated out of the audit team for a 5-year ''time-out'' period. After the end of 5 years, the institution would again be authorized to engage the audit services of those audit partners. We believe that requiring the rotation of the lead and reviewing auditing partners after 5 consecutive years provides borrowers, shareholders and investors assurances that a ''fresh look'' is given to the accounting and auditing issues confronting the institution.

We applied the ''time-out'' on an individual institution basis, instead of a System-wide basis, due to the separate status of each institution. We recognize that the System issues System-wide debt and may therefore be viewed by some investors as a single entity, however, each institution has a separate charter and issues individual quarterly and annual reports. It is these reports that the external auditors review, so permitting rotation by institution does not impinge on the independence of the auditor for that institution.

E. Contents of Farm Credit Banks and Associations Periodic Reports [§ 620.5]

1. Description of Property [§ 620.5(b)]

We propose removing the requirement at § 620.5(b) that Farm Credit banks and associations describe, in their annual reports, the terms and condition of agreements involving institution property subject to major encumbrances. The Funding Corporation suggested we delete the last sentence of this section of the rule as it asks for too much information. We have determined the provision is duplicative of requirements contained elsewhere in this section of the rule. However, we remind institutions that our existing regulations require disclosure of additional information necessary to enhance an understanding of the institution's financial condition or to keep the information that has been disclosed from being misleading.

2. Legal Proceedings and Enforcement [§ 620.5(c)]

We propose removing that portion of § 620.5(c)(1) requiring banks and associations to provide filing information on court proceedings, including a description of factual allegations, in annual reports. The Funding Corporation stated that our existing rule goes beyond the scope of GAAP contingency requirements, asking us to remove the last sentence requiring disclosure of information normally not disclosed under GAAP, unless the information was material to an understanding of the litigation.

While we do not agree with the Funding Corporation's reasons for seeking removal of the language, we have identified other reasons for proposing its removal. While the requirements may go beyond the scope of GAAP for disclosure of contingencies, GAAP was never intended to address all disclosure issues. Disclosure of items important to shareholder decisions or determination of an entity's financial condition are reason enough to require disclosures beyond GAAP. Further, our existing requirement to disclose such matters in the narrative portion of the annual report is consistent with the requirements of other regulators. Nevertheless, because this section of our existing rule already requires a brief discussion of material pending legal proceedings, we are proposing the removal of the last sentence of this section. We make this proposal with the

expectation that System institutions understand that the remaining materiality requirement means information must be provided to enable readers to understand a material pending legal proceeding. We also reiterate that System institutions must continue to make the detailed disclosures required in § 620.5(c)(2) for enforcement actions.

3. Selected Financial Data and Management Discussion & Analysis (MD&A) [§ 620.5(f) and (g)]

We propose clarifying in § 620.5(f), (g)(l)(iii)(A) and (g)(l)(iv)(E) that disclosure of selected financial data, loan purchases and sales involving the Federal Agricultural Mortgage Corporation (FAMC), and risk exposure need only be reported if they are material. The Funding Corporation requested we limit certain financial disclosure to material information, remarking that it would be appropriate to have some flexibility as to what is disclosed, as long as all material information is provided. The Funding Corporation stated that a materiality threshold would also eliminate immaterial data from the annual report, such as loan sale disclosures for institutions with smaller transactions. We believe that banks and associations need not disclose information that may not be relevant and meaningful to shareholders and investors. We continue to believe that shareholders and investors have the right to receive material and relevant information that could have an impact on the financial condition and results of operations of an institution and the System. As a related technical amendment, we are proposing to remove the reference in § 620.5(g)(1)(iv)(E) to section 8.7 of the Act because section 8.7 of the Act was repealed.

We also propose removing the required discussion of the adequacy of loan loss allowances for absorbing inherent portfolio risks in § 620.5(g)(l)(iv)(B). The Funding Corporation asked us to remove the last portion of this paragraph of the section to accommodate best practices. We believe this requirement is duplicative of information already provided in this section and should be amended to reflect current best practices. We remind System institutions that we discuss our expectations for disclosures in this area in our April 26, 2004 Bookletter, ''Adequacy of Farm Credit System Institutions' Allowance for Loan Losses and Risk Funds'' (BL–049) and our April 26, 2004 Informational Memorandum, ''Adequacy of Farm Credit System Institutions' Allowance for Loan Losses and Risk Funds.'' BL–049 provides guidance to System institutions on principles for maintenance of an adequate level of the allowances for loan losses (ALL) to ensure prudent risk funds management. BL–049 explains the acceptable minimum criteria to determine the adequacy of an institution's ALL and risk funds, while the companion Informational Memorandum contains more specificity on the ALL analysis through incorporating current best practices. The federal banking regulatory agencies issued similar policy statements intended to clarify their expectations regarding methodologies and documentation support for the ALL and the SEC-issued parallel guidance in a Staff Accounting Bulletin.

4. Fees to Qualified Public Accountants [§ 620.5(l)]

We are proposing a new reporting requirement at § 620.5(l), disclosing the fees paid by System institutions to their qualified public accountants. System institutions would annually report the fees paid for audit, tax, and non-audit services and indicate the audit committee's approval of the non-audit services. We believe disclosing the fees paid to qualified public accountants will improve the shareholders and investors understanding of the services performed and help shareholders and investors assess the independence of the institution's qualified public accountant.

5. Selected Financial Data [§ 630.20(f)]

We propose clarifying that § 630.20(f) requires only material combined financial data for 5 years, not all financial data. The Funding Corporation requested we limit certain financial disclosure to material information. We believe that System-wide reports need not disclose information that may not be relevant and meaningful to investors, potential investors, and the public. The Funding Corporation also asked that we remove the requirement to report all other property owned on a System-wide basis for each of the last 5 fiscal years. We believe the proposed clarification that § 630.20(f) requires only material combined financial data for 5 years be disclosed will address this issue. Thus, we do not propose removing other property owned from the list of financial data. We believe this clarification will not compromise the information provided to investors since the Funding Corporation must still report all additional information necessary to enhance an understanding of the System's financial condition or to keep the information that has been disclosed from being misleading.

F. Miscellaneous and Technical Changes

1. Financial Assistance Corporation [§§ 630.2, 630.4, and 630.20(b)]

We propose removing references to the Financial Assistance Corporation (FAC) from the definition of ''disclosure entity'' in § 630.2(c) and remove §§ 630.4(b) and 630.20(b)(3), which outline the reporting requirements of the FAC. Having fulfilled its statutory responsibilities in accordance with section 6.31 of the Act,[6] the activities of the FAC will be terminated. Since the FAC will no longer exist as a corporate entity, we believe it necessary to remove any reference to the FAC in these regulations.

2. Regulatory Accounting Practices [Part 624]

On October 13, 1988, we adopted part 624 to allow the use of specific regulatory accounting practices (RAP) by Farm Credit institutions and to implement provisions of the Agricultural Credit Act of 1987.[7] Part 624 authorized System institutions to use RAP to defer certain interest costs and portions of the provision for loan losses. The Act and part 624 authorized each institution to defer costs it incurred until the calendar year end 1992. The regulations further allowed System institutions to amortize those costs over a period of not more than 20 years, or until calendar year end 2012. Because no System institution currently uses the provisions of this part, we believe it appropriate to remove part 624, in its entirety.

3. Other Issues Not Resulting in Proposed Changes

We received recommended changes to regulations covered by this rulemaking that we are not making and explain our reasons below.

a. Developments Impacting Earnings and Interest Rates [§ 620.5(a)(4)]

The Funding Corporation asked that we move the § 620.5(a)(4) requirement to discuss the impact of business developments on earnings and interest rates to § 620.5(g), Management Discussion and Analysis (MD&A). The

[6] Under section 6.31 of the Act, the Financial Assistance Corporation and the authority provided to such Corporation by the Act is to terminate on the complete discharge by the Financial Assistance Corporation of its responsibilities under section 6.9(e) and section 6.26, but in no event later than 2 years following the maturity and full payment of all debt obligations issued under section 6.26(a).

[7] *See* 53 FR 40049 (October 13, 1988).

Funding Corporation stated that § 620.5(a)(4) should be used to provide information material to an understanding of the general development of the business, not a discussion on the impact of earnings and interest rates. Existing § 620.5(a)(4) requires a brief discussion of significant developments within the last 5 years that had or could have a material impact on earnings or interest rates to borrowers. If this discussion is integral to the MD&A disclosure as suggested by the Funding Corporation, it may be incorporated by reference in the MD&A section without a regulatory change. Our existing rule at § 620.2(e) clearly states that information in any part of the report may be referenced or incorporated in answer or partial answer to any other item of the report. Section 620.2(h) provides further that each Farm Credit institution shall present its reports in a manner that provides the most meaningful disclosure to shareholders.

b. Business Concentration Disclosure [§ 630.20(a)]

The Funding Corporation asked us to remove the § 630.20(a)(1)(v) requirement for a brief discussion of any business concentrations of more than 10 percent because a table is included in the MD&A setting forth this information. We continue to believe that the information required to be discussed in § 630.20(a)(1)(v) is necessary for the reader to have a complete understanding of the business and customers of the System. Further, the Funding Corporation may refer the reader to the disclosures made in the MD&A in satisfaction of § 630.20(a)(1)(v) without a regulatory change. Our existing rule at § 630.3(e) clearly states that information in any part of the report may be referenced or incorporated in answer or partial answer to any other item of the report. Section 630.3(e) further states that information required by this part may be presented in any order deemed suitable by the Funding Corporation.

c. Reporting on Young, Beginning and Small Farmers [§§ 614.4165(c), 620.5(n) and 630.20(p)]

The Funding Corporation asked us to reduce regulatory burden by restricting the young, beginning and small farmers (YBS) reporting requirement to association annual reports. The Funding Corporation stated that this change would eliminate the need to disclose this information in the annual reports of Farm Credit banks, district-wide reports, and System-wide reports. Additionally, the Funding Corporation asked that part of § 614.4165(c) be deleted, stating that only a description and disclosure of key components and material information in serving YBS farmers should be required.

We are proposing no changes to §§ 620.5(n) and 630.20(p), which require annual reports to shareholders and investors include information on YBS lending activities. Section 4.19 of the Act requires Farm Credit banks to submit an annual report to FCA summarizing the YBS operations and achievements of their affiliated associations. We continue to believe reporting to shareholders and the public on the YBS mission underscores the importance of the System's public purpose mission and the YBS mission, resulting in greater transparency to the public on the System's accomplishment in this area. Further, we do not believe the consolidated YBS reporting requirements impose a regulatory burden on System institutions. The rule requires the banks to include in their annual reports to shareholders a summary report of YBS quantitative data received from their affiliated associations. This quantitative data must already be submitted to us in each bank's annual YBS year-end report so it is not significantly more burdensome for the banks to include this same data in their annual reports to shareholders.

4. Implementation Date

We recognize that some System institutions may have to modify their annual and quarterly reports to satisfy certain provisions of the proposed rule. Therefore, we are proposing a delay in the implementation of the rule. Compliance with all provisions must be achieved by the start of the fiscal year immediately following the effective date of the final rule, unless the start of that fiscal year is within 3 months or less of the effective date. In that case, we propose that full compliance with all provisions be delayed until the start of the next full fiscal year.

V. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), FCA hereby certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. Each of the banks in the Farm Credit 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, Farm Credit System institutions are not ''small entities'' as defined in the Regulatory Flexibility Act.

List of Subjects

12 CFR Part 611

Agriculture, Banks, banking, Rural areas.

12 CFR Part 619

Agriculture, Banks, banking, Rural areas.

12 CFR Part 620

Accounting, Agriculture, Banks, banking, Reporting and recordkeeping requirements, Rural areas.

12 CFR Part 621

Accounting, Agriculture, Banks, banking, Reporting and recordkeeping requirements, Rural areas.

12 CFR Part 624

Accounting, Agriculture, Banks, banking, Rural areas.

12 CFR Part 627

Agriculture, Banks, banking, Claims, Rural areas.

12 CFR Part 630

Accounting, Agriculture, Banks, banking, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Rural areas.

For the reasons stated in the preamble, parts 611, 619, 620, 621, 624, 627 and 630 of chapter VI, title 12 of the Code of Federal Regulations are proposed to be amended as follows:

PART 611—ORGANIZATION

1. The authority citation for part 611 continues to read as follows:

Authority: Secs. 1.3, 1.4, 1.13, 2.0, 2.1, 2.10, 2.11, 3.0, 3.2, 3.21, 4.12, 4.15, 4.20, 4.21, 5.9, 5.10, 5.17, 6.9, 6.26, 7.0–7.13, 8.5(e) of the Farm Credit Act (12 U.S.C. 2011, 2013, 2021, 2071, 2072, 2091, 2092, 2121, 2123, 2142, 2183, 2203, 2208, 2209, 2243, 2244, 2252, 2278a–9, 2278b–6, 2279a–2279f–1, 2279aa–5(e)); secs. 411 and 412 of Pub. L. 100–233, 101 Stat. 1568, 1638; secs. 409 and 414 of Pub. L. 100–399, 102 Stat. 989, 1003, and 1004.

Subpart P—Termination of System Institution Status

§ 611.1250 [Amended]

2. In subpart P, § 611.1250(a)(3) is amended by removing the words '', as defined in § 621.2(i) of this chapter'' from the end of the second sentence.

§ 611.1255 [Amended]

2a. Section 611.1255(a)(3) is amended by removing the words '', as defined in § 621.2(i) of this chapter'' from the end of the second sentence.

PART 619—DEFINITIONS

3. The authority citation for part 619 is revised to read as follows:

Authority: Secs. 1.4, 1.7, 2.1, 2.4, 2.11, 3.2, 3.21, 4.9, 5.9, 5.12, 5.17, 5.18, 5.19, 6.22, 7.0, 7.1, 7.6, 7.7, 7.8, 7.12 of the Farm Credit Act (12 U.S.C. 2011, 2015, 2072, 2075, 2092, 2123, 2142, 2160, 2243, 2244, 2252, 2253, 2254, 2278b–2, 2279a, 2279a–1, 2279b, 2279b–1, 2279b–2, 2279f).

4. Amend part 619 by adding a new § 619.9270 to read as follows:

§ 619.9270 Qualified Public Accountant or External Auditor.

A qualified public accountant or external auditor is a person who:

(a) Holds a valid and unrevoked certificate, issued to such person by a legally constituted State authority, identifying such person as a certified public accountant;

(b) Is licensed to practice as a public accountant by an appropriate regulatory authority of a State or other political subdivision of the United States;

(c) Is in good standing as a certified and licensed public accountant under the laws of the State or other political subdivision of the United States in which is located the home office or corporate office of the institution that is to be audited;

(d) Is not suspended or otherwise barred from practice as an accountant or public accountant before the Securities and Exchange Commission (SEC) or any other appropriate Federal or State regulatory authority; and

(e) Is independent of the institution that is to be audited. For the purposes of this definition the term ''independent'' has the same meaning as under the rules and interpretations of the American Institute of Certified Public Accountants (AICPA). At a minimum, an accountant hired to audit a System institution is not independent if he or she functions in the role of management, audits his or her own work, or serves in an advocacy role for the institution.

PART 620—DISCLOSURE TO SHAREHOLDERS

5. The authority citation for part 620 is revised to read as follows:

Authority: Secs. 4.19, 5.9, 5.17, 5.19, 8.11 of the Farm Credit Act (12 U.S.C. 2207, 2243, 2252, 2254, 2279aa–11).

Subpart A—General

6. Amend § 620.2 as follows:

a. Remove paragraphs (b) and (c);

b. Add new paragraph (b);

c. Redesignate paragraphs (d) through (j) as paragraphs (c) through (i), consecutively; and

d. Revise paragraphs (a) and newly redesignated paragraph (c).

The additions and revisions read as follows:

§ 620.2 Preparing and filing the reports.

For the purposes of this part, the following shall apply:

(a) Copies of each report required by this part, including financial statements and related schedules, exhibits, and all other papers and documents that are a part of the report must be sent to the Farm Credit Administration according to our instructions to you. Submissions must comply with the requirements of § 620.3 of this part. The Farm Credit Administration must receive the report within the period prescribed under applicable subpart sections.

(b) The reports must be available for public inspection at the issuing institution and the Farm Credit Administration office with which the reports are filed. Bank reports must also be available for public inspection at each related association office.

(c) The reports sent to shareholders must comply with the requirements of § 620.3 of this part. Shareholders must agree to electronic disclosures of reports required by this part.

* * * * *

7. Revise § 620.3 to read as follows:

§ 620.3 Accuracy of reports and internal controls.

(a) *Prohibition against incomplete, inaccurate, or misleading disclosures.* No institution and no employee, officer, director, or nominee for director of the institution shall make any disclosure to shareholders or the general public concerning any matter required to be disclosed by this part that is incomplete, inaccurate, or misleading. When any such person makes disclosure that, in the judgment of the Farm Credit Administration, is incomplete, inaccurate, or misleading, whether or not such disclosure is made in disclosure statements required by this part, such institution or person shall make such additional or corrective disclosure as is necessary to provide shareholders and the general public with a full and fair disclosure.

(b) *Signatures.* The name and position title of each person signing the report must be printed beneath his or her signature. If any person required to sign the report has not signed the report, the name and position title of the individual and the reasons such individual is unable or refuses to sign must be disclosed in the report. All reports must be dated and signed on behalf of the institution by:

(1) The chief executive officer (CEO);

(2) The chief financial officer (CFO), or if the institution has no CFO, the officer responsible for preparing financial reports; and

(3) A board member formally designated by action of the board to certify reports of condition and performance on behalf of individual board members.

(c) *Certification of financial accuracy.* The report must be certified as financially accurate by the signatories to the report. If any signatory is unable to or refuses to certify the report, the institution must disclose the individual's name and position title and the reasons such individual is unable or refuses to certify the report. At a minimum, the certification must include a statement that:

(1) The signatories have reviewed the report,

(2) The report has been prepared in accordance with all applicable statutory or regulatory requirements, and

(3) The information is true, accurate, and complete to the best of signatories' knowledge and belief.

(d) *Internal controls assessment.* The annual and quarterly reports of those institutions with over $500 million in assets (at the end of the prior fiscal year) must include an assessment of the internal financial controls of the institution. At a minimum, the assessment must:

(1) Affirmatively state internal controls are in place,

(2) Declare the internal controls have been reviewed during the reporting period,

(3) Indicate that the details of the internal controls review were reported to the institution's board of directors, and

(4) Include a conclusion on the effectiveness of the internal controls.

Subpart B—Annual Report to Shareholders

§ 620.4 [Amended]

8. Amend § 620.4(a) by removing the word ''shall'' and adding in its place, the word ''must'; and by removing the reference ''90'' and adding in its place, the reference ''75 calendar''.

9. Amend § 620.5 as follows:

a. Remove the word ''shall'' and add in its place, the word ''must'' in paragraph (a) introductory text;

b. Remove the last sentence in paragraphs (b) and (c)(1);

c. Add the words '', if material'' at the end of paragraph (f) introductory text;

d. Add the word ''material'' before the word ''participation'' in paragraph (g)(1)(iii)(A);

e. Remove the words ''to absorb the risk inherent in the institution's loan

portfolio'' at the end of paragraph (g)(1)(iv)(B);

f. Add the word ''material'' before the word ''obligations'' and before the word ''contributions'' in the first sentence of paragraph (g)(1)(iv)(E) and remove the words ''pursuant to section 8.7 of the Act'' at the end of the first sentence;

g. Revise paragraph (l); and

h. Remove the words '', as defined in § 621.2(i) of this chapter,'' in paragraph (m)(1); remove existing paragraph (m)(2) and redesignate paragraph (m)(3) as new paragraph (m)(2).

The revision reads as follows:

§ 620.5 Contents of the annual report to shareholders.

* * * * *

(l) *Relationship with qualified public accountant.*

(1) If a change or changes in qualified public accountants have taken place since the last annual report to shareholders or if a disagreement with a qualified public accountant has occurred that the institution would be required to report to the Farm Credit Administration under part 621 of this chapter, the information required by § 621.4(c) and (d) of this chapter must be disclosed.

(2) Disclose the total fees, by the category of services provided, paid during the reporting period to the qualified public accountant or accounting firm. At a minimum, identify fees paid for audit services, tax services, and non-audit related services. The types of non-audit services must be identified and indicate audit committee approval of the services.

* * * * *

Subpart C—Quarterly Report

§ 620.10 [Amended]

10. Amend § 620.10(a) by removing the word ''shall'' and adding in its place, the word ''must'' and by removing the reference ''45'' and adding in its place, the reference ''40 calendar''.

Subpart F—Bank and Association Audit and Compensation Committees

11. Amend § 620.30 by adding new paragraphs (d)(2)(iii) and (iv) to read as follows:

§ 620.30 Audit committees.

(d) * * *

(2) * * *

(iii) Give prior approval for any non-audit services performed by the external auditor, except those non-audit services specifically prohibited by FCA regulation; and

(iv) Comply with the auditor independence provisions of part 621 of this chapter.

* * * * *

PART 621—ACCOUNTING AND REPORTING REQUIREMENTS

12. The authority citation for part 621 is revised to read as follows:

Authority: Secs. 5.17, 8.11 of the Farm Credit Act (12 U.S.C. 2252, 2279aa–11); sec. 514 of Pub. L. 102–552.

Subpart A—Purpose and Definitions

13. Amend § 621.2 by removing paragraph (i); and by redesignating paragraph (j) as (i).

Subpart B—General Rules

14. Amend § 621.4 by revising paragraph (b) to read as follows:

§ 621.4 Audit by qualified public accountant.

* * * * *

(b) The qualified public accountant's opinion of each institution's financial statements must be included as a part of each annual report to shareholders. The accountant must comply with the auditor independence provisions of subpart F of this part.

* * * * *

15. Add a new subpart F, consisting of §§ 621.30, 621.31, and 621.32, to read as follows:

Subpart F—Auditor Independence

Sec.
621.30 General.
621.31 Non-audit services.
621.32 Conflicts of interest and rotation.

Subpart F—Auditor Independence

§ 621.30 General.

System institutions must ensure the independence of all qualified public accountants conducting the institution's audit by establishing and maintaining policies and procedures governing the engagement of external auditors. The policies and procedures must incorporate the provisions of this section and § 612.2260 of this chapter.

§ 621.31 Non-audit services.

Non-audit services are any professional services provided by a qualified public accountant during the period of an audit engagement which are not connected to an audit or review of an institution's financial statements.

(a) A qualified public accountant engaged to conduct a System institution's audit may not perform the following non-audit services for that institution:

(1) Bookkeeping,

(2) Financial information systems design,

(3) Appraisal and valuation services,

(4) Actuarial services,

(5) Internal audit outsourcing services,

(6) Management or human resources functions,

(7) Legal and expert services unrelated to the audit, and

(8) Advocating an institution's interests in litigation, regulatory or administrative investigations and proceedings.

(b) A qualified public accountant engaged to conduct a System institution's audit may only perform non-audit services, not otherwise prohibited in this section, if the institution's audit committee pre-approves the services and the services are fully disclosed in the annual report.

§ 621.32 Conflicts of interest and rotation.

(a) *Conflicts of interest.* (1) A System institution may not engage a qualified public accountant to conduct the institution's audit if the accountant uses a partner, concurring partner, or lead member in the audit engagement team who was a director, officer or employee of the System institution within the past year.

(2) A System institution may not make an employment offer to a partner, concurring partner, or lead member serving on the institution's audit engagement team during the audit or within 1 year of the conclusion of the audit engagement.

(b) *Rotation.* Each institution may engage the same lead and reviewing audit partners of a qualified public accountant to conduct the institution's audit for no more than 5 consecutive years. The institution must then require the lead audit and reviewing partners assigned to the institution's audit team to rotate out of the audit team for 5 years. At the end of 5 years, the institution may again engage the audit services of those lead and reviewing audit partners.

PART 624—[REMOVED AND RESERVED]

16. Remove and reserve part 624.

PART 627-—TITLE IV CONSERVATORS, RECEIVERS, AND VOLUNTARY LIQUIDATIONS

17. The authority citation for part 627 continues to read as follows:

Authority: Secs. 4.2, 5.9, 5.10, 5.17, 5.51, 5.58, 5.61 of the Farm Credit Act (12 U.S.C. 2183, 2243, 2244, 2252, 2277a, 2277a–7, 2277a–10).

Subpart C—Conservators and Conservatorships

18. Amend § 627.2785 by revising paragraphs (b) and (d) as follows:

§ 627.2785 Inventory, examination, audit, and reports to stockholders.

* * * * *

(b) The institution in conservatorship shall be examined by the Farm Credit Administration in accordance with section 5.19 of the Act. The institution must also be audited by a qualified public accountant in accordance with part 621 of this chapter.

* * * * *

(d) Each institution in conservatorship must prepare and issue published financial reports in accordance with provisions of part 620 of this chapter, and the certifications and signatures of the board of directors or management provided for in § 620.3 must be provided by the conservator of the institution.

PART 630—DISCLOSURE TO INVESTORS IN SYSTEM-WIDE AND CONSOLIDATED BANK DEBT OBLIGATIONS OF THE FARM CREDIT SYSTEM

19. The authority citation for part 630 continues to read as follows:

Authority: Secs. 5.17, 5.19 of the Farm Credit Act (12 U.S.C. 2252, 2254).

Subpart A—General

20. Amend § 630.2 by revising paragraph (c) to read as follows:

§ 630.2 Definitions.

* * * * *

(c) *Disclosure entity* means any Farm Credit bank and the Federal Farm Credit Banks Funding Corporation (Funding Corporation).

* * * * *

21. Amend § 630.3 by revising paragraphs (a), (f) and (h) as follows:

§ 630.3 Publishing and filing the report to investors.

(a) The disclosure entities shall jointly publish the following reports in order to provide meaningful information pertaining to the financial condition and results of operations of the System to investors and potential investors in FCS debt obligations and other users of the report:

(1) An annual report to investors within 75 calendar days after the end of each fiscal year;

(2) A quarterly report to investors within 40 calendar days after the end of each quarter, except for the quarter that coincides with the end of the fiscal year.

(3) Interim reports, as required by the Funding Corporation's written policies and procedures, disclosing significant events or material changes in information occurring since the most recently published report to investors.

* * * * *

(f) Information in documents prepared for investors in connection with the offering of debt securities issued through the Funding Corporation may be incorporated by reference in the annual and quarterly reports in answer or partial answer to any item required in the reports under this part. A complete description of any offering documents incorporated by reference must be clearly identified in the report (e.g., Federal Farm Credit Banks Consolidated System-wide Bonds and Discount Notes—Offering Circular issued on [insert date]). Offering documents incorporated by reference in either an annual or quarterly report prepared under this part must be filed with the Farm Credit Administration according to our instructions to you either prior to or at the time of submission of the report under paragraph (h) of this section. Any offering document incorporated by reference is subject to the delivery and availability requirements set forth in § 630.4(a)(5) and (a)(6).

* * * * *

(h) Complete copies of the report must be filed with the Farm Credit Administration according to our instructions to you. All copies must comply with the requirements of § 630.5 of this part.

22. Amend § 630.4 as follows:

a. Revise paragraph (a)(4);

b. Remove paragraph (b);

c. Redesignate paragraphs (c) and (d) as (b) and (c);

d. Revise newly redesignated paragraphs (b)(4), (b)(5), and (c).

§ 630.4 Responsibilities for preparing the report to investors.

(a) * * *

(4) File the reports with the FCA in accordance with § 630.3(f) and (h) and § 630.5.

* * * * *

(b) * * *

(4) Respond to inquiries from the Funding Corporation relating to preparation of the report.

(5) Certify to the Funding Corporation that all information needed for preparation of the report to investors has been submitted in accordance with the instructions of the Funding Corporation and the information submitted complies with § 620.3.

(c) *Responsibilities of associations.* Each association must:

(1) Provide its related bank with the information necessary to allow the bank to provide accurate and complete information regarding the bank and its related associations to the Funding Corporation for preparation of the report. The financial information provided by the association to its related bank must comply with § 620.3.

(2) Respond to inquiries of the related bank pertaining to preparation of the combined financial data of the association and its related bank.

23. Revise § 630.5 to read as follows:

§ 630.5 Accuracy of reports and internal controls.

(a) *Prohibition against incomplete, inaccurate, or misleading disclosure.* Neither the Funding Corporation, nor any institution supplying information to the Funding Corporation under this part, nor any employee, officer, director, or nominee for director of the Funding Corporation or of such institutions, shall make or cause to be made any disclosure to investors and the general public required by this part that is incomplete, inaccurate, or misleading. When any such institution or person makes or causes to be made disclosure under this part that, in the judgment of the FCA, is incomplete, inaccurate, or misleading, whether or not such disclosure is made in published statements required by this part, such institution or person shall promptly furnish to the Funding Corporation, and the Funding Corporation shall promptly publish, such additional or corrective disclosure as is necessary to provide full and fair disclosure to investors and the general public. Nothing in this section shall prevent the FCA from taking additional actions to enforce this section pursuant to its authority under title V, part C of the Act.

(b) *Signatures.* The name and position title of each person signing the report must be printed beneath his or her signature. If any person required to sign the report has not signed the report, the name and position title of the individual and the reasons such individual is unable or refuses to sign must be disclosed in the report. All reports must be dated and signed on behalf of the Funding Corporation by:

(1) The chief executive officer (CEO);

(2) The officer in charge of preparing financial statements; and

(3) A board member formally designated by action of the board to certify reports of condition and performance on behalf of individual board members.

(c) *Certification of financial accuracy.* The report must be certified as financially accurate by the signatories to

the report. If any signatory is unable to or refuses to certify the report, the institution must disclose the individual's name and position title and the reasons such individual is unable or refuses to certify the report. At a minimum, the certification must include a statement that:

(1) The signatories have reviewed the report,

(2) The report has been prepared in accordance with all applicable statutory or regulatory requirements, and

(3) The information is true, accurate, and complete to the best of signatories' knowledge and belief.

(d) *Internal controls assessment.* (1) Annual and quarterly reports must include an assessment of the internal financial controls of the Funding Corporation over the Report to Investors. At a minimum, an assessment must:

(i) Affirmatively state internal controls are in place,

(ii) Declare the internal controls were reviewed during the reporting period,

(iii) Indicate that the details of the internal controls review were reported to the Funding Corporation's board of directors and the System Audit Committee, and

(iv) Include a conclusion on the effectiveness of internal controls.

(2) The qualified public accountant must, at a minimum, review, attest, and report on whether the internal controls are sufficient to reasonably ensure that the System-wide financial statements published by the Funding Corporation do not contain material misstatements. The accountant's report must be included in the annual report to investors.

24. Amend § 630.6 by revising paragraph (a)(4)(ii) to read as follows:

§ 630.6 Funding Corporation committees.

(a) * * *

(4) * * *

(ii) *External auditors.* The external auditor must report directly to the SAC. The SAC must:

(A) Determine the appointment, compensation, and retention of external auditors issuing System-wide audit reports;

(B) Review the external auditor's work;

(C) Give prior approval for any non-audit services performed by the external auditor, except those non-audit services specifically prohibited by FCA regulation; and

(D) Comply with the auditor independence provisions of part 621 of this chapter.

* * * * *

Subpart B—Annual Report to Investors

25. Amend § 630.20 as follows:

a. Remove paragraph (b)(3); and

b. Revise the introductory text, paragraphs (f) introductory text, (h)(1), (i), (k), and (l) introductory text to read as follows:

§ 630.20 Contents of the annual report to investors.

The annual report must contain the following:

* * * * *

(f) *Selected financial data.* At a minimum, furnish the following combined financial data of the System in comparative columnar form for each of the last 5 fiscal years, if material.

* * * * *

(h) *Directors and management.*

(1) *Board of directors.* Briefly describe the composition of boards of directors of the disclosure entities. List the name of each director of such entities, including the director's term of office and principal occupation during the past 5 years, or state that such information is available upon request pursuant to § 630.4(a)(5) and (a)(6).

(2) * * *

(i) *Compensation of directors and senior officers.* State that information on the compensation of directors and senior officers of System banks is contained in each bank's annual report to shareholders and that the annual report of each bank is available to investors upon request pursuant to § 630.4(a)(5) and (a)(6).

* * * * *

(k) *Relationship with qualified public accountant.*

(1) If a change in the qualified public accountant who has previously examined and expressed an opinion on the System-wide combined financial statements has taken place since the last annual report to investors or if a disagreement with a qualified public accountant has occurred that the Funding Corporation would be required to report to the FCA under part 621 of this chapter, disclose the information required by § 621.4(c) and (d).

(2) Disclose the total fees paid during the reporting period to the qualified public accountant or accounting firm by the category of services provided. At a minimum, identify fees paid for audit services, tax services, and non-audit related services. The types of non-audit services must be identified and indicate audit committee approval of the services.

(l) *Financial statements.* Furnish System-wide combined financial statements and related footnotes prepared in accordance with GAAP, and accompanied by supplemental information prepared in accordance with the requirements of § 630.20(m). The System-wide combined financial statements shall provide investors and potential investors in FCS debt obligations with the most meaningful presentation pertaining to the financial condition and results of operations of the System. The System-wide combined financial statement and accompanying supplemental information shall be audited in accordance with generally accepted auditing standards by a qualified public accountant. The System-wide combined financial statements shall include the following:

* * * * *

Dated: March 8, 2006.

Roland E. Smith,

Secretary, Farm Credit Administration Board.

[FR Doc. 06–2382 Filed 3–13–06; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–387–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), and MD–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain McDonnell Douglas airplane models, that would have required a one-time inspection for chafing or signs of arcing of the wire bundle for the auxiliary hydraulic pump, and other specified and corrective actions, as applicable. This new action revises the proposed rule by proposing that certain airplanes be required to install additional protective sleeving on the upper portion of the auxiliary hydraulic pump wire assembly. The proposed AD results from reports of shorted wires and evidence of arcing on the power cables of the auxiliary hydraulic pump, as well as fuel system reviews conducted by the manufacturer. We are proposing this AD to prevent shorted wires or arcing at the auxiliary hydraulic pump, which could result in loss of auxiliary hydraulic

power, or a fire in the wheel well of the airplane. The proposed actions are also intended to reduce the potential of an ignition source adjacent to the fuel tanks, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

DATES: Comments must be received by April 10, 2006.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–387–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–387–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 or 2000 or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5344; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–387–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–387–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), and MD–88 airplanes, was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on May 2, 2005 (70 FR 22613) (referred to after this as ''the first supplemental NPRM''). The first supplemental NPRM would have required a one-time inspection for chafing or signs of arcing of the wire bundle for the auxiliary hydraulic pump, and other specified and corrective actions, as applicable. The first supplemental NPRM was prompted by reports of shorted wires and evidence of arcing on the power cables of the auxiliary hydraulic pump. That condition, if not corrected, could result in loss of auxiliary hydraulic power, or a fire in the wheel well of the airplane.

Explanation of New Relevant Service Information

Since the issuance of the first supplemental NPRM, Boeing has issued and we have reviewed Boeing Alert Service Bulletin MD80–29A070, Revision 1, dated July 28, 2005. (The first supplemental NPRM refers to Boeing Alert Service Bulletin MD80–29A070, dated August 3, 2004, as the appropriate source of service information for the proposed actions.) Among other things, Revision 1 adds an additional configuration, Configuration 4, which applies to airplanes in Configuration 3 (which are airplanes delivered with 90-degree backshell connector installed) on which the original issue of Boeing Alert Service Bulletin MD80–29A070 was accomplished. The new action for the airplanes in Configuration 4 is installing additional protective sleeving on the upper portion of the auxiliary hydraulic pump wire assembly. We have updated the service bulletin references throughout this second supplemental NPRM to specify Revision 1 of the service bulletin as the acceptable source of service information. We have also revised this second supplemental NPRM to give credit for actions accomplished before the effective date of the AD in accordance with the original issue of the service bulletin, and to require the additional actions specified in Revision 1 for affected airplanes.

Also, Section 2.A., Material Information, of Boeing Alert Service Bulletin MD80–29A070, Revision 1, specifies an increased cost for parts. (The first supplemental NPRM estimates that required parts would cost up to $339.) Thus, we have revised the Cost Impact section of this second supplemental NPRM to specify that required parts could cost up to $524.

Comments

Due consideration has been given to the comments received in response to the first supplemental NPRM.

Request To Address Special Federal Aviation Regulation (SFAR) 88 Findings

One commenter, Boeing, requests that we revise the statement of the unsafe condition in the Summary of the first supplemental NPRM. Boeing points out that the supplemental NPRM does not address the fact that Boeing Alert Service Bulletin MD80–29A070 resulted from the safety assessments conducted under SFAR 88. Boeing observes that

the statement of the unsafe condition in the NPRM and first supplemental NPRM mentions only preventing shorted wires or arcing at the auxiliary hydraulic pump, which could result in loss of auxiliary hydraulic power, or a fire in the wheel well of the airplane. Boeing states that the determination that extra protection was needed for the wire bundle for the auxiliary hydraulic pump where the wire bundle was in close proximity to the center fuel tank was based on the findings of the safety assessments conducted under SFAR 88.

We partially agree with the request. We acknowledge that Boeing Alert Service Bulletin MD80–29A070 is the result of safety assessments conducted by Boeing under SFAR 88. Indeed, this is stated in paragraph 1.C., Reason, of that service bulletin. However, Boeing Alert Service Bulletin MD80–29A068, Revision 02 (which Boeing Alert Service Bulletin MD80–29A070 supersedes but does not cancel, as explained in the first supplemental NPRM) also addresses in-service incidents of arcing of the auxiliary hydraulic pump power cables and electrically shorted wires in the right wheel well. We find that it is appropriate to insert a statement in the Summary of this second supplemental NPRM that indicates that this second supplemental NPRM results from ''reports of shorted wires and evidence of arcing on the power cables of the auxiliary hydraulic pump, as well as fuel system reviews conducted by the manufacturer.'' We have also expanded the statement of the unsafe condition in the Summary and the body of this second supplemental NPRM to state that the proposed actions are also intended to ''reduce the potential of an ignition source adjacent to the fuel tanks, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.''

Request To Clarify Meaning of ''Corrective and Other Specified Actions''

American Airlines (referred to hereafter in this AD as ''AAL''), in a comment submitted through the Air Transport Association of America (ATA), requests that we revise paragraph (a) of the first supplemental NPRM to specifically state the requirements to inspect, repair or replace wires, and modify. AAL declares ''vague'' the statement, ''* * * do all applicable corrective and other specified actions * * *.'' AAL assumes that ''applicable corrective (actions)'' refers to repairing or replacing chafed or damaged wiring, and that ''other specified actions'' refers to installing protective sleeving on the wire bundle, changing the routing of the wiring, and replacing the straight connector backshell with a 90-degree backshell.''

We do not agree that any clarification is needed. The terms ''correction actions'' and ''other specified actions,'' as well as ''related investigative actions,'' are used in many of the ADs we write as a means of clarifying and simplifying the AD requirements. When we use these terms in an AD, the details of these actions are always explained in full in the preamble of the NPRM (or supplemental NPRM), as they were in the first supplemental NPRM, under the heading ''Explanation of New Relevant Service Information.'' We have not changed this second supplemental NPRM in this regard. However, for the convenience of affected operators, we will reiterate the explanation of ''corrective and other specified actions'' that appears in the preamble of the first supplemental NPRM:

''The service bulletin also describes procedures for the following corrective and other specified actions:

- Repairing chafed or damaged wiring, or replacing it with new wiring, as applicable.
- Installing protective sleeving on the wire bundle.
- Changing the routing of the wire bundle for the auxiliary hydraulic pump and adding additional clamps.
- Adding snap tubing on a portion of the wire bundle.
- Replacing the existing connector backshell with a 90-degree backshell, if necessary.''

Clarification of Alternative Method of Compliance (AMOC) Paragraph

We have revised this action to clarify the appropriate procedure for notifying the principal inspector before using any approved AMOC on any airplane to which the AMOC applies.

Conclusion

Since these changes expand the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

Cost Impact

There are approximately 1,063 airplanes of the affected design in the worldwide fleet. We estimate that 732 airplanes of U.S. registry would be affected by this proposed AD, that it would take up to 12 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $65 per work hour. Required parts would cost up to $524 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be up to $954,528, or up to $1,304 per airplane.

For airplanes in Configuration 4, as defined in Boeing Alert Service Bulletin MD80–29A070, Revision 1, it would take approximately 2 work hours to accomplish the proposed additional action, at an average labor rate of $65 per work hour. Required parts would cost approximately $40 per airplane. Based on these figures, the cost impact of this action on an affected airplane is estimated to be $170 per airplane. (We do not know how many airplanes will be in Configuration 4.)

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this 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

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 Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal

would not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 2001–NM–387–AD.

Applicability

Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), and MD–88 airplanes; certificated in any category; as identified in Boeing Alert Service Bulletin MD80–29A070, Revision 1, dated July 28, 2005.

Compliance

Required as indicated, unless accomplished previously. To prevent shorted wires or arcing at the auxiliary hydraulic pump, which could result in loss of auxiliary hydraulic power, or a fire in the wheel well of the airplane; and to reduce the potential of an ignition source adjacent to the fuel tanks, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane; accomplish the following:

One-Time Inspection

(a) For airplanes in Configurations 1 through 3, as defined in Boeing Alert Service Bulletin MD80–29A070, Revision 1, dated July 28, 2005: Within 18 months after the effective date of this AD, do a one-time general visual inspection for chafing or signs of arcing of the wire bundle for the auxiliary hydraulic pump, and do all applicable corrective and other specified actions, in accordance with the Accomplishment Instructions of the service bulletin. Accomplish all applicable corrective actions before further flight after the inspection.

Note 1: For the purposes of this AD, a general visual inspection is: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to ensure visual access to all surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Installation of Additional Wiring Protection

(b) For airplanes in Configuration 4, as defined in Boeing Alert Service Bulletin MD80–29A070, Revision 1, dated July 28, 2005: Within 18 months after the effective date of this AD, install additional protective sleeving on the upper portion of the auxiliary hydraulic pump wire assembly in accordance with the procedures under Configuration 4 in the Accomplishment Instructions of the service bulletin.

Actions Accomplished Previously

(c) Actions accomplished before the effective date of this AD in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin MD80–29A070, dated August 3, 2004, are acceptable for compliance with paragraph (a) of this AD, except that the additional requirements of paragraph (b) of this AD must be done on airplanes in Configuration 4, as defined in Boeing Alert Service Bulletin MD80–29A070, Revision 1, dated July 28, 2005.

Alternative Methods of Compliance

(d)(1) In accordance with 14 CFR 39.19, the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, is authorized to approve alternative methods of compliance for this AD.

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

Issued in Renton, Washington, on March 7, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–3565 Filed 3–13–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24118; Directorate Identifier 2006–NM–034–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model BD–100–1A10 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Bombardier Model BD–100–1A10 airplanes. This proposed AD would require an inspection for signs of arcing or heat damage of the electrical connections of the terminal blocks, ground studs, and the end of the wires and surrounding insulation for the windshield and side window anti-ice systems; and repairing any arced or damaged electrical connection. This proposed AD also would require re-torquing electrical connections of the terminal blocks and ground studs for the windshield and side window anti-ice systems. This proposed AD results from an in-service incident involving smoke and odor in the cockpit. We are proposing this AD to prevent loose electrical connections that could arc and overheat, and cause wiring damage of the windshield and side window anti-ice systems. Such wiring damage could result in smoke and/or fire in the flight compartment.

DATES: We must receive comments on this proposed AD by April 13, 2006.

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

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

Contact Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt

Boulevard, Downsview, Ontario M3K 1Y5, Canada, for service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Wing Chan, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, New York Aircraft Certification Office, FAA, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7311; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2006–24118; Directorate Identifier 2006–NM–034–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, notified us that an unsafe condition may exist on certain Bombardier Model BD–100–1A10 airplanes. TCAA advises that an in-service incident occurred involving smoke and odor in the cockpit. Investigation revealed that the electrical connections for the terminal blocks and ground studs of the windshield and side window anti-ice systems may not have been torqued to the required value during production of certain airplanes. Loose electrical connections, if not corrected, could arc and overheat, which could result in wiring damage of the windshield and side window anti-ice systems and consequent smoke and/or fire in the flight compartment.

Relevant Service Information

Bombardier has issued Alert Service Bulletin A100–30–03, Revision 01, dated December 21, 2005. The service bulletin describes procedures for doing a special check for signs of arcing or heat damage of the electrical connections of the terminal blocks, ground studs, and the ends of the wires and surrounding insulation for the windshield and side window anti-ice systems; and repairing any arced or damaged electrical connection. The service bulletin also describes procedures for re-torquing electrical connections of the terminal blocks and ground studs for the windshield and side window anti-ice systems. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. TCAA mandated the service information and issued Canadian airworthiness directive CF–2006–01, dated January 20, 2006, to ensure the continued airworthiness of these airplanes in Canada.

FAA's Determination and Requirements of the Proposed 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, TCAA has kept the FAA informed of the situation described above. We have examined TCAA's findings, evaluated all pertinent information, and determined that we need to issue an AD for airplanes of this type design that are certificated for operation in the United States.

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

Clarification of the Proposed AD, Service Bulletin, and Canadian Airworthiness Directive

Although the service bulletin specifies a ''special check'' and the Canadian airworthiness directive specifies to ''visually inspect,'' this proposed AD would require a detailed inspection for signs of arcing or heat damage of the electrical connections of the terminal blocks, ground studs, and the ends of the wires and surrounding insulation for the windshield and side window anti-ice systems.

Costs of Compliance

This proposed AD would affect about 31 airplanes of U.S. registry. The proposed actions would take about 4 work hours per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $9,920, or $320 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc.: Docket No. FAA–2006–24118; Directorate Identifier 2006–NM–034–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by April 13, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bombardier Model BD–100–1A10 airplanes, serial numbers 20006 through 20046 inclusive, 20048, 20051, and 20052; certificated in any category.

Unsafe Condition

(d) This AD results from an in-service incident involving smoke and odor in the cockpit. We are issuing this AD to prevent loose electrical connections that could arc and overheat, and cause wiring damage of the windshield and side window anti-ice systems. Such wiring damage could result in smoke and/or fire in the flight compartment.

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, Repair, and Re-Torque

(f) Within 90 days after the effective date of this AD, do the actions specified in paragraphs (f)(1) and (f)(2) of this AD in accordance with the Accomplishment Instructions of Bombardier Alert Service Bulletin A100–30–03, Revision 01, dated December 21, 2005.

(1) Do a detailed inspection for signs of arcing or heat damage of the electrical connections of the terminal blocks, ground studs, and the end of the wires and surrounding insulation for the windshield and side window anti-ice systems. If any sign of arcing or heat damage is detected, before further flight, repair the arced or damaged electrical connection.

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

(2) Re-torque the electrical connections of the terminal blocks and ground studs for the windshield and side window anti-ice systems.

Alternative Methods of Compliance (AMOCs)

(g)(1) 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.

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

Related Information

(h) Canadian airworthiness directive CF–2006–01, issue date January 20, 2006, also addresses the subject of this AD.

Issued in Renton, Washington, on March 3, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–3567 Filed 3–13–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24119; Directorate Identifier 2005–NM–100–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Boeing Model 747 airplanes. This proposed AD would require repetitive mid- and low-frequency eddy current inspections for cracks in the overlapped skin panels in the fuselage skin lap joints in sections 41, 42, 44, and 46, and corrective actions if necessary. This proposed AD is prompted by a report indicating that an operator found multiple small cracks in the overlapped skin panels in the fuselage skin lap joints. We are proposing this AD to detect and correct cracks in the overlapped skin panels, which could join together and result in reduced structural capability in the skin and consequent rapid decompression of the airplane.

DATES: We must receive comments on this proposed AD by April 28, 2006.

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

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

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207.

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov,* or 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–2006–24119; the directorate identifier for this docket is 2005–NM–100–AD.

FOR FURTHER INFORMATION CONTACT: Nicholas Kusz, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6432; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2006–24119; Directorate Identifier 2005–NM–100–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

We have received a report indicating that an operator found multiple small cracks in the overlapped skin panels in the fuselage skin lap joints at stringer (S)–44L between station (STA) 440 and 460, and at S–12R between STA 1870 and STA 1910, on a Boeing Model 747SR series airplane. The operator trimmed out the cracked skins and repaired them in accordance with the structural repair manual. The manufacturer analyzed the trimmed-out skins and found that the cracks were caused by fatigue from cyclic pressurization, flight loads, and ground handling loads. Multiple cracks in the overlapped skin panels could join together. This condition, if not corrected, could result in reduced structural capability in the skin and consequent rapid decompression of the airplane.

The subject area on certain Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, and 747SP series airplanes is almost identical to that on the affected Model 747SR series airplanes. Therefore, those airplanes may be subject to the unsafe condition revealed on the Model 747SR series airplane.

Other Relevant Rulemaking

We have previously issued AD 2004–13–02, amendment 39–13682 (69 FR 35237, June 24, 2004). That AD applies to certain Boeing Model 747–100, –200B, and –200F series airplanes. That AD requires initial and repetitive inspections to find discrepancies in the upper and lower skins of the fuselage lap joints, and repair if necessary. Accomplishing the actions in AD 2004–13–02 terminates certain inspections in this proposed AD for those airplanes.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 747–53A2501, dated March 24, 2005. The service bulletin describes procedures for doing inspections for cracks in the overlapped skin panels in the fuselage skin lap joints in sections 41, 42, 44, and 46. For all airplanes, at most affected lap joint locations, the service bulletin describes procedures for doing repetitive mid-frequency eddy current inspections of the internal surface at the overlapped skin around the bottom row of fasteners in the lap joint.

For airplanes having line numbers 201 and after, the service bulletin describes procedures for doing additional repetitive external surface low-frequency eddy current inspections of the overlapped skin around the bottom row of fasteners at any section 41 lap joint with four rows of fasteners. If cracks are found, the service bulletin states that operators should repair them before further flight. The service bulletin recommends that operators repair the cracks in accordance with the structural repair manual, or get repair data from Boeing. In addition, if the damaged area is more than certain specified limits, the service bulletin recommends that operators write to Boeing for repair instructions, and that the letter include sketches, photographs, and information about any corrosion damage.

For airplanes identified in the service bulletin as Groups 1, 2, 4, and 11 that have line numbers 1 through 200 inclusive, the service bulletin states that the procedures apply only to airplanes that have accumulated between 25,000 and 30,000 total flight cycles. When the airplane has accumulated 30,000 total flight cycles, the service bulletin states that the airplane is subject to the inspection requirements of AD 2004–13–02. The service bulletin recommends that operators of these airplanes that have accumulated 29,000 total flight cycles as of the effective date of the service bulletin do the inspections in accordance with AD 2004–13–02 rather than the inspections in this service bulletin.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between the Proposed AD and the Service Bulletin.''

Differences Between the Proposed AD and the Service Bulletin

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

The service bulletin specifies that you may contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require you to repair those conditions in one of the following ways:

- Using a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization whom we have authorized to make those findings.

These differences have been coordinated with Boeing.

Costs of Compliance

There are about 1,081 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection for Model 747SP series airplanes.	48	$80	$3,840, per inspection cycle	10	$38,400, per inspection cycle.
Inspection for all other Model 747 series airplanes.	68	80	$5,440, per inspection cycle	196	$1,066,240, per inspection cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket No. FAA–2006–24119; Directorate Identifier 2005–NM–100–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this AD action by April 28, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 747–53A2501, dated March 24, 2005.

Unsafe Condition

(d) This AD was prompted by a report indicating that an operator found multiple small cracks in the overlapped skin panels in the fuselage skin lap joints. We are issuing this AD to detect and correct cracks in the overlapped skin panels, which could join together and result in reduced structural capability in the skin and consequent rapid decompression of the airplane.

Compliance

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

Inspections and Corrective Actions: For Airplanes With Line Numbers 1 Through 200 Inclusive

(f) For airplanes with line numbers 1 through 200 inclusive, at the applicable time in paragraph (f)(1) or (f)(2) of this AD: Do the applicable eddy current inspection or inspections for cracks in the overlapped skin panels in the fuselage skin lap joints in sections 41, 42, 44, and 46; and do any applicable corrective actions before further flight. Except as provided by paragraph (f)(1)(ii) of this AD, repeat the applicable inspection or inspections thereafter at intervals not to exceed 3,000 flight cycles. Except as provided by paragraph (h) of this AD, do all actions in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2501, dated March 24, 2005.

(1) Except as provided by paragraph (f)(2) of this AD, do the applicable action in paragraph (f)(1)(i) or (f)(1)(ii) of this AD.

(i) For airplanes that have accumulated fewer than 29,000 total flight cycles as of the effective date of this AD: Before the accumulation of 25,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later, do a mid-frequency eddy current inspection for cracks of the internal surface at the overlapped skin around the bottom row of fasteners in the lap joint.

(ii) For airplanes that have accumulated 29,000 or more total flight cycles, do the inspections in accordance with the requirements of AD 2004–13–02, amendment 39–13682, at the applicable threshold and intervals in that AD. Doing the repeat inspections in accordance with AD 2004–13–02, terminates the repetitive inspection requirements of this AD only for airplanes with line numbers 1 through 200 inclusive.

(2) For airplanes that have had skin panels replaced: Do the eddy current inspections of the replaced overlapped panel prior to the accumulation of 25,000 total flight cycles since panel replacement, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later. Skin panel replacement, along with ongoing inspections in accordance with paragraph (f) of this AD terminates the requirements of paragraphs (a) and (d) of AD 2004–13–02, only for the skin lap sections where the overlapped panel has been replaced.

Inspections and Corrective Actions: For Airplanes With Line Numbers 201 and After

(g) For airplanes with line numbers 201 and after: Before the accumulation of 25,000 total flight cycles, within 1,000 flight cycles after the effective date of this AD, or within 25,000 flight cycles after the time when the overlapped skin was replaced, whichever occurs later, do the applicable inspection in paragraphs (g)(1) and (g)(2) of this AD for cracks in the overlapped skin panels in the fuselage skin lap joints in sections 41, 42, 44, and 46; and do any applicable corrective actions before further flight. Repeat the applicable inspection thereafter at intervals

not to exceed 3,000 flight cycles. Except as provided by paragraph (h) of this AD, do all actions in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2501, dated March 24, 2005.

(1) Do a mid-frequency eddy current inspection for cracks of the internal surface at the overlapped skin around the bottom row of fasteners in the lap joint.

(2) Do a low-frequency eddy current inspection for cracks of the overlapped skin around the bottom row of fasteners at the Section 41 lap joints with four rows of fasteners.

Repair Instructions

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

No Reporting Required

(i) Although Boeing Alert Service Bulletin 747–53A2501, dated March 24, 2005, specifies to submit certain information to the manufacturer, this AD does not include that requirement.

Alternative Methods of Compliance (AMOCs)

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

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

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

Issued in Renton, Washington, on March 3, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–3559 Filed 3–13–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24120; Directorate Identifier 2006–NM–021–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) EMB–120() Airplane Models in Operation

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Empresa Brasileira de Aeronautica S.A. (EMBRAER) EMB–120() airplane models in operation. This proposed AD would require replacing the protective tubes and conduits of the wiring harnesses of the refueling vent and pilot valves with non-conductive hoses; modifying the harness wiring and supports; and rerouting the harnesses to prevent interference with adjacent strobe light connectors; as applicable. This proposed AD results from a fuel system review conducted by the manufacturer. We are proposing this AD to prevent a potential source of ignition near a fuel tank, which, in combination with flammable fuel vapors, could result in a fuel tank explosion.

DATES: We must receive comments on this proposed AD by April 13, 2006.

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

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

Contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil, for service information identified in this proposed AD.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2006–24120; Directorate Identifier 2006–NM–021–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank

systems. As a result of those findings, we issued a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (67 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (''SFAR 88,'' Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 requires certain type design (i.e., type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: single failures, single failures in combination with another latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

The Departmento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, notified us that an unsafe condition may exist on all Empresa Brasileira de Aeronautica S.A. (EMBRAER) EMB–120() airplane models in operation. The DAC advises that a fuel system review conducted by the manufacturer showed that protective tubes and conduits around the wiring harnesses of the refueling vent and pilot valves must be replaced with non-conductive hoses; and that certain rewiring and rerouting of the harnesses are needed to prevent interference with adjacent strobe light connectors. This condition, if not corrected, could result in a potential source of ignition near a fuel tank, which, in combination with flammable fuel vapors, could result in a fuel tank explosion.

Relevant Service Information

EMBRAER has issued Service Bulletin 120–28–0014, Revision 01, dated November 4, 2004. For certain airplanes, Part I of the Accomplishment Instructions of the service bulletin describes procedures for replacing the protective tubes and conduits of the wiring harnesses of the refueling vent and pilot valves with non-conductive hoses; modifying the harness wiring and supports; and rerouting the wiring harnesses. For certain other airplanes, Part II of the Accomplishment Instructions of the service bulletin describes procedures for replacing the protective tubes of the wiring harnesses with non-conductive hoses. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The DAC mandated the service information and issued Brazilian airworthiness directive 2005–12–04, dated January 19, 2006, to ensure the continued airworthiness of these airplanes in Brazil.

FAA's Determination and Requirements of the Proposed AD

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

Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

This proposed AD would affect about 180 airplanes of U.S. registry. The proposed actions would take between 4 and 24 work hours per airplane, at an average labor rate of $65 per work hour. Required parts would cost between $555 and $6,179 per airplane. Based on these figures, which depend upon airplane configuration, the estimated cost of the proposed AD for U.S. operators is between $146,700 and $1,393,020, or between $815 and $7,739 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator,

the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Empresa Brasileira de Aeronautica S.A. (EMBRAER): Docket No. FAA–2006–24120; Directorate Identifier 2006–NM–021–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by April 13, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all EMBRAER Model EMB–120() airplane models in operation, certificated in any category.

Unsafe Condition

(d) This AD results from a fuel system review conducted by the manufacturer. We are issuing this AD to prevent a potential source of ignition near a fuel tank, which, in combination with flammable fuel vapors, could result in a fuel tank explosion.

Compliance

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

Rerouting Harnesses and Replacing Harness Conduits

(f) Within 5,000 flight hours after the effective date of this AD, perform the actions specified in paragraph (f)(1) or (f)(2) of this AD, as applicable, in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 120–28–0014, Revision 01, dated November 4, 2004.

(1) For Group I airplanes as identified in paragraph 1.1.1(a) or for Group II airplanes as identified in paragraph 1.1.1(b) of the service bulletin, as applicable: Modify the supports and wiring of the refueling vent and pilot valves wiring harnesses; reroute the harnesses to prevent interference with adjacent strobe light connectors; and replace the protective tubes and conduits of the harnesses with non-conductive hoses; in accordance with Part I of the Accomplishment Instructions of the service bulletin.

(2) For all remaining airplanes as identified in paragraph 1.1.2 of the service bulletin: Replace the protective tubes of the wiring harnesses of the refueling vent and pilot valves with non-conductive hoses; in accordance with Part II of the Accomplishment Instructions of the service bulletin.

Credit for Prior Revision of Service Information

(g) Actions accomplished before the effective date of this AD in accordance with EMBRAER Service Bulletin 120–28–0014, dated April 19, 2004, are considered acceptable for compliance with the corresponding requirements of this AD.

Alternative Methods of Compliance (AMOCs)

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

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

Related Information

(i) Brazilian airworthiness directive 2005–12–04, dated January 19, 2006, also addresses the subject of this AD.

Issued in Renton, Washington, on March 3, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–3563 Filed 3–13–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24121; Directorate Identifier 2005–NM–248–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–400 and 747–400D Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Boeing Model 747–400 and 747–400D series airplanes. This proposed AD would require replacing specified tie rods of the center overhead stowage bins. This proposed AD results from manufacturer analysis of the overhead storage bin support structure that demonstrated that the capability of certain existing tie rods does not meet emergency landing load requirements. We are proposing this AD to prevent disintegration or detachment of the center overhead stowage bins during an extreme forward load event, which could cause injury to passengers and hinder emergency evacuation procedures.

DATES: We must receive comments on this proposed AD by April 28, 2006.

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

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

Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for the service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Patrick Gillespie, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6429; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2006–24121; Directorate Identifier 2005–NM–248–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that Web site, anyone can find and read the comments in any of our dockets, including the name of the individual

who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov*.

Examining the Docket

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

Discussion

We have received a report that a manufacturer tension test demonstrated that the capability to meet emergency landing load requirements was lower than predicted for some existing tie rods in the support structure of the center overhead stowage bins on certain Model 747–400 airplanes. This condition, if not corrected, could result in disintegration or detachment of the center overhead stowage bins during an extreme forward load event, which could cause injury to passengers and hinder emergency evacuation procedures.

Relevant Service Information

We have reviewed Boeing Special Attention Service Bulletin 747–25–3371, dated July 28, 2005. The service bulletin describes procedures for replacing specified tie rods of the center overhead stowage bins with new, improved tie rods that meet emergency landing load requirements. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. For this reason, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as discussed under ''Difference Between the Proposed AD and Service Bulletin.''

Difference Between the Proposed AD and Service Bulletin

Where Special Attention Service Bulletin 747–25–3371 recommends accomplishing the specified actions within 24 months, we have determined that a compliance time of 60 months will be acceptable. In developing an appropriate compliance time for this AD, we considered the degree of urgency associated with the subject unsafe condition and the average utilization of the affected fleet. In light of these factors, we find that 60 months represents an appropriate interval of time for affected airplanes to continue to operate without compromising safety. We have coordinated this difference with the manufacturer.

Clarification of Applicability

Special Attention Service Bulletin 747–25–3371 identifies certain airplanes as having center overhead stowage bins; however, such an airplane may have received an approved cargo conversion that removed the center overhead stowage bins and tie rods. We have determined that only airplanes identified in the service bulletin that actually have center overhead stowage bins and associated tie rods installed are affected by this proposed AD. We have clarified the applicability of this proposed AD accordingly.

Costs of Compliance

There are about 380 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 62 airplanes of U.S. registry. The proposed actions, depending on whether an airplane has tie rods on both sides or one side only, would take between 2 and 3 work hours per airplane, at an average labor rate of $65 per work hour. Required parts would cost about $1,090 per tie rod replacement kit. Based on these figures, the estimated cost of the proposed AD for U.S. operators is between $75,640 and $147,250, or between $1,220 and $2,375 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket No. FAA–2006–24121; Directorate Identifier 2005–NM–248–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by April 28, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 747–400 and 747–400D series airplanes, certificated in any category; as identified in Boeing Special Attention Service Bulletin 747–25–3371, dated July 28, 2005; equipped with center overhead stowage bins.

Unsafe Condition

(d) This AD results from a report that a manufacturer tension test demonstrated that the capability to meet emergency landing load requirements was lower than predicted for some existing tie rods in the support structure of the center overhead stowage bins on certain Model 747–400 airplanes. We are issuing this AD to prevent disintegration or detachment of the center overhead stowage bins during an extreme forward load event, which could cause injury to passengers and hinder evacuation procedures.

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.

Replace Tie Rods

(f) Within 60 months after the effective date of this AD, replace specified tie rods of the center overhead stowage bins with new, improved tie rods that meet emergency landing load requirements, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 747–25–3371, dated July 28, 2005.

Alternative Methods of Compliance (AMOCs)

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

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

Issued in Renton, Washington, on March 3, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–3560 Filed 3–13–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–164247–05]

RIN 1545–BF30

Agent for a Consolidated Group With Foreign Common Parent

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing regulations that provide the IRS with the authority to designate a domestic member of the consolidated group as a substitute agent to act as the sole agent for the group where a foreign entity is the common parent. These regulations affect corporations that join in the filing of a consolidated Federal income tax return where the common parent of the consolidated group is treated as a domestic corporation pursuant to section 7874(b) of the Internal Revenue Code (Code) or as a result of a section 953(d) election. The text of the temporary regulations also serves as the text of these proposed regulations.

DATES: Written or electronic comments, and a request for a public hearing, must be received by June 12, 2006.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–164247–05), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–164247–05), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically, via the IRS Internet site at *http://www.irs.gov/regs* or via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS–REG–164247–05).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Stephen R. Cleary, (202) 622–7750, concerning submissions of comments, Kelly Banks, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

Temporary Regulations in the Rules and Regulations section of this issue of the **Federal Register** amends 26 CFR part 1 relating to section 1502. The temporary regulations add § 1.1502–77T. The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments.

Special Analysis

It has been determined that this proposed regulation is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It is hereby certified that this proposed regulation will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that the regulation merely grants authority to the IRS to change the agent for the consolidated group, that members of consolidated groups are generally large corporations rather than small businesses, and few small businesses are likely to be members of a consolidated group with a foreign common parent as a result of a transaction subject to section 7874 or a section 953(d) election. Therefore, a regulatory flexibility analysis is not required. Pursuant to section 7805(f) of the Code, these proposed regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department specifically request comments on the clarity of the proposed rules and how they may be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Stephen R. Cleary of the Office of Associate Chief Counsel (Corporate). Other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read, in part, as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.1502–77 is amended by adding paragraph (j) to read as follows:

§ 1.1502–77 Agent for the group.

* * * * *

(j) [The text of the proposed amendment to § 1.1502–77(j) is the same as the text of § 1.1502–77T(j) published elsewhere in this issue of the **Federal Register**.]

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 06–2437 Filed 3–9–06; 4:15 pm]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R09–OAR–2006–0041; FRL–8045–2]

Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; State of Arizona; Particulate Matter of 10 Microns or Less; Finding of Attainment for Yuma Nonattainment Area; Determination Regarding Applicability of Certain Clean Air Act Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing, under the Clean Air Act, to determine that the Yuma nonattainment area in Arizona has attained the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}). This proposed determination is based upon monitored air quality data for the PM_{10} NAAQS during the years 1998–2000. EPA is also proposing to find that the Yuma area is currently in attainment of the PM_{10} NAAQS, and based on this finding, EPA is proposing to determine that certain Clean Air Act requirements are not applicable for so long as the Yuma area continues to attain the PM_{10} NAAQS.

DATES: Any comments on this proposal must arrive by April 13, 2006.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2006–0041, by one of the following methods:

(1) Federal eRulemaking portal: *http://www.regulations.gov.* Follow the on-line instructions.

(2) E-mail: *rosen.rebecca@epa.gov.*

(3) Mail or deliver: Rebecca Rosen (AIR–2), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through the *http://www.regulations.gov* or e-mail. *http://www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: The index to the docket for this action is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Rebecca Rosen, EPA Region IX, (415) 947–4152, *rosen.rebecca@epa.gov.*

SUPPLEMENTARY INFORMATION: This proposal addresses the determination that the Yuma nonattainment area in Arizona has attained the NAAQS for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}). This determination is based upon monitored air quality data for PM_{10} during the years 1998–2000. EPA also proposes to find that the Yuma area is currently attaining the standard, and based on this finding, EPA is proposing to determine that certain requirements that otherwise apply under the Clean Air Act to moderate PM_{10} nonattainment areas, such as the Yuma area, are not applicable for so long as the area continues to attain the PM_{10} NAAQS.

In the Rules and Regulations section of this **Federal Register**, we are taking direct final action to make these determinations because we believe this action is not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive comments, no further activity is planned. For further information on this proposal and the rationale underlying our proposed action, please see the direct final action.

Dated: March 1, 2006.

Wayne Nastri,

Regional Administrator, Region IX.

[FR Doc. 06–2429 Filed 3–13–06; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 102–118

[FMR Case 2005–102–5]

RIN: 3090–AI14

Federal Management Regulation; Transportation Payment and Audit—Use of SF 1113, Public Voucher for Transportation Charges

AGENCY: Office of Governmentwide Policy, General Services Administration (GSA).

ACTION: Proposed rule.

SUMMARY: The General Services Administration proposes to amend the Federal Management Regulation (FMR) to discontinue use of the hard copy, paper construction of Standard Form (SF) 1113, Public Voucher for Transportation Charges, and its memorandum copy, SF 1113–A. Agencies are required to use electronic commerce for receiving bills and paying for transportation and transportation services. By using electronic commerce, the SF 1113 is not needed and is not essential for the transportation service provider to get paid. The FMR and any corresponding documents may be accessed at GSA's website at *http://www.gsa.gov/fmr.*

DATES: *Comment Date:* Comments must be received by May 15, 2006.

ADDRESSES: Submit comments identified by FMR case 2005–102–5 by any of the following methods:

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

• Agency Web Site: *http://www.gsa.gov/fmr.* Click on FMR Proposed Rules, and the FMR case number to submit comments.

• E-mail: *fmrcase.2005-102-5@gsa.gov.* Include FMR case 2005–102–5 in the subject line of the message.

• Fax: 202–501–4067.

• Mail: General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW., Room 4035, ATTN: Laurieann Duarte, Washington, DC 20405.

Instructions: Please submit comments only and cite FMR case 2005–102–5 in all correspondence related to this case. All comments received will be posted without change to *http://www.gsa.gov/fmr,* including any personal information provided. Click on FMR Public Comments.

FOR FURTHER INFORMATION CONTACT: The Regulatory Secretariat, Room 4035, GS Building, Washington, DC 20405, at (202) 208–7312 for information pertaining to status or publication schedules. For clarification of content, contact Ted J. Bembenek, Jr., Office of Governmentwide Policy (MT), at (202) 208–7629. Please cite FMR case 2005–102–5.

SUPPLEMENTARY INFORMATION:

A. Background

As the Government continues to make systematic management improvements across its business lines, use of electronic commerce has become a significant link and critical tool in accomplishing this task. In its role as a Governmentwide policymaker, GSA will use every feasible opportunity to incorporate and promote electronic commerce to the fullest extent of its authority, particularly in relation to the procurement, billing, and payment of transportation services.

In part 102–118 of the Federal Management Regulation (FMR), (41 CFR part 102–118, Transportation Payment and Audit), GSA prescribes Standard Form (SF) 1113 for use by transportation service providers to bill transportation charges to the Government. GSA believes greater efficiencies can be gained for the Government and transportation service providers alike by requiring use of electronic commerce in all areas of transportation. This includes the use of electronic systems for ordering, receiving bills and paying for transportation and transportation services. This requirement will bring the Government closer to achieving a paperless environment and parity with the best business practices used in the private sector. Comments received from an exploratory notice published in the **Federal Register** at 69 FR 36088, June 28, 2004, generally favored the electronic billing of transportation charges.

B. Substantive Changes

This proposed rule discontinues the requirement for use of the paper construction of Standard Form (SF) 1113, Public Voucher for Transportation Charges, and its memorandum copy, SF 1113–A. Agencies are required to use electronic commerce for receiving bills and paying for transportation and transportation services. By using electronic commerce, the SF 1113 is not needed and is not essential for the transportation service provider to get paid. Paper invoices will no longer be received.

C. Executive Order 12866

GSA has determined that this proposed rule is not a significant rule for the purposes of Executive Order 12866 of September 30, 1993.

D. Regulatory Flexibility Act

This proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* A regulatory flexibility analysis has therefore not been prepared.

E. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed rule does not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501 *et seq.*

F. Small Business Regulatory Enforcement Fairness Act

This proposed rule is exempt from Congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Part 102–118

Accounting, Claims, Government property management, Reporting and recordkeeping requirements, Surplus Government property, Transportation.

Dated: February 16, 2006.

John G. Sindelar,

Acting Associate Administrator, Office of Governmentwide Policy.

For the reasons set forth in the preamble, GSA proposes to amend 41 CFR part 102–118 as set forth below:

PART 102–118—TRANSPORTATION PAYMENT AND AUDIT

1. The authority citation for 41 CFR part 102–118 continues to read as follows:

Authority: 31 U.S.C. 3726; and 40 U.S.C. 121(c), and 49 U.S.C. 10721, 13712, and 15504.

2. Revise § 102–118.65 to read as follows:

§ 102–118.65 Is my agency required to use electronic billing for payment and billing of transportation services?

Yes, your agency must use electronic billing for the procurement and billing of transportation services.

§ 102–118.100 [Removed and Reserved]

3. Remove and reserve § 102–118.100.

4. Revise § 102–118.130 to read as follows:

§ 102–118.130 Must my agency use a GBL for express, courier, or small package shipments?

No. However, in using commercial forms, all shipments must be subject to the terms and conditions set forth for the use of a bill of lading for the Government. Any other non-conflicting applicable contracts or agreements between the transportation service provider (TSP) and an agency involving buying transportation services for Government traffic remain binding. When you use GSA's schedule for small package express delivery, the terms and conditions of that contract are binding.

5. Revise § 102–118.195 to read as follows:

§ 102–118.195 What documents must a transportation service provider (TSP) send to receive payment for a transportation billing?

For shipments bought on a transportation document, the transportation service provider (TSP) must submit an original properly certified International Government bill of lading (GBL) or bill of lading. The TSP must submit this package and all supporting documents to the agency paying office.

6. Revise § 102–118.560 to read as follows:

§ 102–118.560 What is the required format that a transportation service provider (TSP) must use to file an administrative claim?

A transportation service provider (TSP) must bill for charges, when deemed necessary by your agency, in the manner prescribed in the ''U.S. Government Freight Transportation Handbook'' or the ''U.S. Government Passenger Transportation Handbook''. To get a copy of these publications, you

may write to: General Services Administration, Federal Supply Service Audit Division (FBA), 1800 F Street, NW., Washington, DC 20405, *www.gsa.gov/transaudits.*

[FR Doc. E6–3578 Filed 3–13–06; 8:45 am]

BILLING CODE 6820–14–S

Notices

Federal Register

Vol. 71, No. 49

Tuesday, March 14, 2006

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Advisory Council on Historic Preservation's Draft ''Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects''

AGENCY: Advisory Council on Historic Preservation.

ACTION: Request for Public Comments on Advisory Council on Historic Preservation's Draft ''Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects''.

SUMMARY: The Advisory Council on Historic Preservation (ACHP) is revisiting its ''Policy Statement Regarding Treatment of Human Remains and Grave Goods,'' adopted in 1988 (1988 Policy). A Task Force composed of ACHP members has drafted a new policy, and invites your views and observations on it. The Task Force will use your comments to finalize the draft policy before presenting it to the full ACHP membership for consideration and possible adoption.

DATES: Submit comments on or before June 28, 2006.

FOR FURTHER INFORMATION CONTACT: Address all comments concerning the draft policy to the Archeology Task Force, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, NW., Suite 809, Washington, DC 20004. Fax (202) 606–8672. Comments may also be submitted by electronic mail to: *archeology@achp.gov.* Please note that all responses become part of the public record once they are submitted to the ACHP. Please refer any questions to Dr. Tom McCulloch at 202–606–8505.

SUPPLEMENTARY INFORMATION:

I. Background

In 1988, the Advisory Council on Historic Preservation (ACHP) adopted the ''Policy Statement Regarding Treatment of Human Remains and Grave Goods'' (1988 Policy) to serve as a guide for Federal agencies when making decisions about burial sites, human remains, and funerary objects encountered during review of Federal undertakings under Section 106 of the National Historic Preservation Act, as amended, 16 U.S.C. 470f (section 106), and its implementing regulations, 36 CFR part 800. The ACHP adopted the policy to guide Federal agencies at a time when no other national consensus or laws on the treatment of human remains and associated funerary objects existed. While the ACHP's 1988 Policy was a useful document for guiding Federal agency decision making, today it no longer reflects the ACHP's position on the treatment of burial sites, human remains, and funerary objects.

Since 1988, new, and changes to existing, Federal laws and regulations have been enacted that affect how human remains and funerary objects are considered and treated. These laws and regulations reflect in part an evolving recognition in law and practice for the special nature of burial sites, human remains, and funerary objects. Native Americans, in large part, framed the public discussion leading to these changes because of what they viewed as a long history of disrespectful treatment and unnecessary disturbance of the remains of their ancestors. This discussion has broadened as all Americans consider the recovery and treatment of human remains in contemporary, modern contexts, such as at the site of the World Trade Center after September 11, 2001.

The 1988 Policy also predates the 1992 amendments to the National Historic Preservation Act (NHPA) and subsequent revised ACHP regulations to implement these amendments. Two of the most significant 1992 amendments to the NHPA (1) affirm that properties of traditional religious and cultural significance to an Indian tribe or Native Hawaiian organization (NHO) can be considered eligible for the National Register of Historic Places, and (2) require Federal agencies to consult, during the Section 106 process, with any Indian tribe or NHO that attaches religious and cultural significance to these properties.

In 1990, Congress passed the Native American Graves Protection and Repatriation Act (NAGPRA). NAGPRA recognizes the interest and rights of Federally-recognized Indian tribes, Native Hawai'ian Organizations and lineal descendants in burial sites located on Federal and tribal land and, with its implementing regulations, mandates the process to be followed if it becomes necessary to excavate Native American or Native Hawai'ian human remains and funerary objects found on these lands. NAGPRA also establishes a mechanism for the repatriation of Native American and Native Hawai'ian cultural items to lineal descendants and culturally affiliated Indian tribes and NHOs.

In addition, Executive Order 13007 (May 24, 1996) requires Federal land managing agencies to accommodate religious practitioners in access to and ceremonial use of Native American sacred sites. It also calls on Federal agencies to avoid adversely affecting the physical integrity of such sacred sites to the extent practicable permitted by law, and not clearly inconsistent with essential agency functions.

In 2004, the ACHP Chairman formed an Archeology Task Force to review its archeology policies and guidance. In 2005, the ACHP members voted unanimously to direct the Task Force to revisit the 1988 Policy. On September 1, 2005, the Task Force moved forward with a request for comment through publication of a set of Working Principles in the Federal Register (70 FR 52066–52068). The ACHP sent this same request for comments directly to all Indian tribes, Native Hawai'ian Organizations, SHPOs, THPOs, and professional archeological and preservation organizations. A total of 76 comments were received at the December 2, 2005, close of the comment period. These comments are posted on the ACHP's Web site at *http://www.achp.gov.*

Based on the comments received, the Task Force concluded that the 1988 Policy should be revised. The Task Force then carefully considered the comments in preparing this draft ''Policy Statement Regarding Burial Sites, Human Remains, and Funerary Objects'' (the draft text is found at the end of this notice). This proposed draft of the ACHP's revised human remains policy is now subject to review, including consultation with Federally-recognized Indian tribes. Please provide

comments on it on or before June 28, 2006.

II. Explanatory Notes on the Draft Policy

Goals of the policy statement

This policy is designed to accomplish several tasks in the context of Section 106 review.

First, this policy offers leadership in resolving how to treat burial sites, human remains, and funerary objects in a respectful and sensitive manner while acknowledging the public interest in the past.

Second, this policy provides guidance to Federal agencies in situations where Federal or State law does not prescribe how burial sites, human remains, and funerary objects are to be handled. Many Federal undertakings, for example, take place on non-Federal and non-tribal land, including privately-owned land, where NAGPRA does not apply.

Third, this policy is not intended to recommend a specific outcome, but rather focuses thinking on what Section 106 participants need to consider in reaching decisions. The policy is not bound by geography, ethnicity, nationality, or religious belief. It applies to the treatment of all burial sites, human remains, and funerary objects encountered during the Section 106 process.

Finally, this policy is designed to guide Federal agencies as they proceed with undertakings that have the potential to encounter and/or disturb burial sites, human remains, and funerary objects.

Scope and Applicability

As the draft policy advocates, Federal agencies should, at the earliest point possible in project development, plan to avoid burial sites, human remains, and funerary objects altogether. When avoidance is not a reasonable course of action, the agency should minimize disturbance to such sites, remains, and objects. The Federal agency should consider removal of the human remains or funerary objects only when these or other alternatives that leave the remains in place cannot be reasonably implemented. It is important to understand that to be considered under section 106, the burial site must be a historic property, meaning either listed on or eligible for inclusion on the National Register of Historic Places. This policy applies throughout the Section 106 process, including during the identification of those historic properties.

In making final decisions about disinterment and treatment, the Federal agency should consult with those who have an interest in the effects of the undertaking on the historic property. Federal agencies should use the consultation process effectively to arrive at mutually satisfactory outcomes. Consultation, defined in the ACHP's regulations as ''seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in the Section 106 review process,'' is the hallmark of the Section 106 process. To meet the regulations' ''reasonable and good faith'' requirement, consultation must begin in the earliest stages of an undertaking, after the Federal agency determines it has an undertaking and prior to decisions about project design, location, or scope.

When the Federal agency decides that human remains or funerary objects must be disturbed, they should be removed completely, with respect and dignity, and dealt with according to the plan developed by the Federal agency, in consultation with others. Under this policy, treatment options may range from immediate repatriation or reburial upon removal from the ground to detailed scientific study. This policy does not endorse any specific treatment, and does not take a position against scientific study of human remains when it is determined to be appropriate after consultation and consideration of other legal authorities that may prescribe a specific outcome.

Relationship of Policy Statement to NAGPRA and Other Federal, Tribal, State, or Local Laws

As policy, its principles and their implementation do not, in any way, change, modify, detract or add to applicable laws including, but not limited to, NAGPRA.

This policy applies to all Federal agencies whose undertakings are subject to review under Section 106 of the NHPA. While Section 106 requires agencies to seek agreement with consulting parties on measures to avoid, minimize, or mitigate adverse effects to historic properties, Section 106 does not prescribe or require a specific outcome. However, in many cases, Federal agencies will find that other Federal, tribal, State, or local laws exist concerning burial sites, human remains, and funerary objects that may be applicable and prescribe a specific outcome. The Federal agency must identify and, as applicable, follow these laws.

For undertakings on Federal and tribal land that encounter Native American or Native Hawai'ian human remains and funerary objects, NAGPRA applies. It is important to reiterate here that the HAGPRA applies. It is important to reiterate here that the NHPA and NAGPRA are separate and distinct laws, with separate and distinct implementing regulations and categories of parties that must be consulted, and that compliance with one law does not mean or equal compliance with the other.

Discussion of Principles

Principle 1: Burial sites, human remains and funerary objects should not be knowingly disturbed unless absolutely necessary, and only after the federal agency has fully considered avoidance and/or preservation in place.

Discussion: As a matter of practice, Federal agencies should avoid burial sites, human remains, and funerary objects as they carry out their undertakings. Avoidance means ensuring that the burial site is not physically disturbed.

If avoidance is not possible, Federal agencies, during consultation, should consider whether there are active steps they may take or implement to preserve the burial sites in place, perhaps through the intentional covering of the affected area, placement of markers, or granting of restrictive or other protective easements. In many cases, preservation in place may mean that the locations of burial sites, human remains, and funerary objects should, to the extent allowed by law not be publicly disclosed. Alternatively, consultation may reveal that preservation in place is not the preferred outcome or treatment. Natural deterioration may be the acceptable or preferred treatment.

Principle 2: Participants in the Section 106 process shall treat all burial sites, human remains and funerary objects with dignity and respect, which is determined through meaningful consultation.

Discussion: Dignity and respect are important concepts. Through meaningful consultation, descendants, culturally affiliated groups, descendant communities, and other parties consulting under Section 106 should discuss and define what constitutes dignity and respect.

Principle 3: Federal agencies are responsible for early and meaningful consultation throughout the Section 106 process.

Discussion: Consultation is at the heart of the Section 106 process. As noted above, consultation involves ''seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in the

Section 106 review process.'' The regulations of the ACHP require that the Federal agency identify consulting parties early in the Section 106 process. Consulting parties include the State Historic Preservation Officer; the Tribal Historic Preservation Officer; Indian tribes and Native Hawai'ian organizations; representatives of local governments; applicants for Federal assistance, permits, licenses, and other approvals; and/or any additional consulting parties, including individuals and organizations with a demonstrated interest in the undertaking due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's effects on historic properties.

The Federal agency must consult with Federally-recognized Indian tribes on a government-to-government basis. Government-to-government consultation recognizes the unique legal relationship of the Federal government with tribal governments as set forth in the Constitution of the United States, treaties, statutes, court decisions, and executive orders and memoranda.

Federal agencies should review the ACHP publication ''Consulting with Indian Tribes in the Section 106 Process'' for guidance. The National Association of Tribal Historic Preservation Officers has also published a document titled ''Tribal Consultation: Best Practices in Historic Preservation,'' found at *http://www.nathpo.org,* designed to assist Federal agencies when preparing for government-to-government consultation with Federally-recognized tribes.

The Federal agency should consider that, in cases where human remains and/or funerary objects must be disturbed, final disposition may involve the identification of additional consulting parties. These potential consulting parties should be identified and included in consultation as early as possible.

The NHPA, the ACHP's regulations, and Presidential Executive Orders set out basic standards and criteria for many of the steps in the consultation process, including:

—How to identify consulting parties (36 CFR 800.3);
—Appropriate documentation needed to support consultation and determine an outcome (what to talk about) (36 CFR 800.11);
—The affirmative obligation to seek consulting parties (36 CFR 800.2(a)(4));
—Federal agency responsibilities for making final decisions (36 CFR 800.2(a));
—That properties of traditional religious and cultural importance to an Indian tribe or NHO may be determined to be eligible for inclusion on the National Register (16 U.S.C. 470a(d)(6)(A));
—The Federal agency has a responsibility to consult with any Indian tribe or NHO that attaches religious and cultural significance to such historic properties (16 U.S.C. 470a(d)(6)(B)); and
—Recognizing the sovereign status of Indian tribes. Executive Order 13175 (November 6, 2000) ''Consultation and Coordination with Indian Tribal Governments'' requires Federal agencies to engage tribes in a government-to-government context.

Principle 4: The policy recognizes that Native Americans are descendants of aboriginal occupants of this country. Federal agencies shall consult with Indian tribes and Native Hawaiian organizations that attach religious and cultural significance to burial sites, human remains, and associated funerary objects, and be cognizant of their expertise in, and religious and cultural connection to, them. Federally recognized tribes are sovereign nations and Federal agencies shall conduct consultation with Indian tribes on a government-to-government basis, as required by law.

Discussion: This principle reiterates requirements found in existing Federal law, regulation and Executive Orders, and is consistent with positions that the ACHP has taken over the years to facilitate enfranchisement and promote broad participation in the Section 106 process.

Principle 5: When human remains or funerary objects must be disinterred, they should be removed carefully, respectfully and in a manner developed in consultation.

Discussion: ''Careful'' disinterment means that when human remains and grave goods must be disinterred, those doing the work should have, or be supervised by people having, appropriate expertise in disinterment techniques of human remains to ensure that in excavating a burial the material is kept as intact as possible and pieces are not left behind.

Depending on agreements reached through the Section 106 consultation process, disinterment may or may not include field recordation, such as field sketches, and the recording of an individuals' age at death, sex, stature, and evidence of disease or trauma. In some instances, such recordation may be so abhorrent to the descendants of the dead that it may be inappropriate to carry it out. Such alterations to standard procedure should be negotiated on a case-by-case basis in the consultation process.

The word ''respectfully'' is self-explanatory: when working with human remains, the Federal agency official should maintain an appropriate deference for the dead and their descendants and descendant communities. The official should also maintain respect for the customs and beliefs of those who may be descended from the deceased, and try to avoid unnecessary conflict with them.

Questions to be addressed in the consultation process may include but not be limited to:

—What kinds of ceremonies (if any) should be performed?;
—Who should remove/handle the remains?;
—What should the remains be placed in?
—What kinds of field analyses, if any, should be performed?
—Should the remains be photographed in situ?;
—Should the remains be cleaned?; and
—What kind of arrangements should be made for disposition of the remains and funerary objects?

Principle 6: The Federal agency official is responsible for making decisions regarding avoidance or treatment of burial sites, human remains and funerary objects based on consultation and appropriate documentation. In reaching a decision, the Federal agency official must comply with applicable Federal, tribal, State, or local law.

Discussion: Encountering burial sites, human remains or funerary objects during the initial efforts to identify historic properties is not unheard of. The ACHP's regulations (at 36 CFR 800.1(c)) state that the Federal agency official may conduct or authorize ''nondestructive planning activities before completing compliance with section 106, provided such actions do not restrict the subsequent consideration of alternatives to avoid minimize, or mitigate the undertaking's adverse effects on historic properties.''

For purposes of section 106, identification efforts should result in an assessment that can be independently evaluated and used to make informed judgments about whether there are properties within the Area of Potential Effect that are listed in or eligible for listing in the National Register of Historic Places. This would typically include basic information on the history and historical importance of the property, its horizontal and vertical boundaries, and its basic nature, condition, and what qualifies it for the

National Register. Hopefully, only a very small sample of the site will require investigation to make such determinations. While it is impossible to define a point applicable in all instances at which testing ends and archeological data recovery begins, a rule of thumb is that adequate testing has been done when a decision about National Register eligibility can be made.

Although early and meaningful consultation is critical to the success of the Section 106 process, at no time may agreements reached through Section 106 consultation contravene applicable Federal, tribal, State, or local law. For undertakings on Federal lands that may encounter burial sites, human remains, and funerary objects regardless of ethnic affiliation but at least 100 years old, the agency is subject to the provisions of the Archeological Resources Protection Act (ARPA). ARPA permits are required for any archeological investigations conducted on Federal land. Further, NAGPRA requires the issuance of an ARPA permit prior to any disturbance of Native American or Native Hawai'ian burials protected by NAGPRA.

When undertakings encounter burial sites, human remains, or funerary objects on State and private lands, State burial laws may apply. Burial laws vary from State to State and the Federal agency must identify and follow these laws when they apply. Section 106 agreement documents should take into account the requirements of any of these applicable laws.

Principle 7: Federal agencies shall, after meaningful consultation, develop plans for the treatment of human remains and funerary objects that may be discovered.

Discussion: the ACHP's Post-review discovery provision (36 CFR § 800.13) requires the Federal agency to carry out several actions: ''make reasonable efforts to avoid, minimize, or mitigate adverse effects to such properties;'' notify consulting parties within 48 hours (including tribes and NHOs that might attach religious and cultural significance to the affected property) of the agency's proposed course of action; take into account comments received within a new 48 hour period, and then ''carry out appropriate actions.'' The ACHP's regulations provide the option of reaching an agreement on how to handle these in the future prior to any discovery.

NAGPRA prescribes a specific course of action when Native American and Native Hawai'ian human remains and funerary objects are discovered on Federal lands in the absence of a plan: cessation of the activity, protection of the material, notification of various parties, consultation on a course of action and its implementation, and then proceed with the activity. Adherence to Principle 7 causes new discoveries to be ''intentional excavations'' under NAGPRA because a plan has already been developed, and can be immediately acted upon without the mandated 30 day cessation of work for ''inadvertent discoveries.''

Principle 8: In cases where the disposition of human remains and funerary objects is not legally prescribed, Federal agencies should proceed following a hierarchy that acknowledges the rights of lineal descendants, Indian tribes, Native Hawai'ian Organizations and other descendent communities.

Discussion: Under the ACHP's regulations, ''descendants'' are not consulting parties by right. However, Federal agencies should recognize a biological or cultural relationship and invite that individual or organization to be a consulting party under the ACHP's' regulations at 36 CFR 800.3(f)(3)). When Federal or state law does not direct disposition of human remains or funerary objects, or when there is disagreement among claimants, the process set out in NAGPRA may be instructive. In NAGPRA, the ''ownership or control'' of human remains and associated funerary objects lie with the following in descending order:

—Specific lineal descendants; then
—Tribe on whose Tribal lands the items were discovered; then
—Tribe with the closest cultural affiliation; and then
—Tribe aboriginally occupying the land, or Tribe with the closest ''cultural relationship'' to the material.

Definitions Used for the Principles:

—*Burial Site:* Any natural or prepared physical location, whether originally below, on, or above the surface of the earth, into which as a part of the death rite or ceremony of a culture, individual human remains are deposited (25 U.S.C. 3001.2(1)).
—*Consultation:* The process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in the Section 106 review process (36 CFR 800.16(f)).
—*Consulting parties:* Persons or groups the Federal agency consults with during the Section 106 process. They may include the State Historic Preservation Officer; the Tribal Historic Preservation Officer; Indian tribes and Native Hawaiian organizations; representatives of local governments; applicants for Federal assistance, permits, license, and other approvals; and/or any additional consulting parties (based on 36 CFR 800.2(c)). Additional consulting parties may include individuals and organizations with a demonstrated interest in the undertaking due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's effects on historic properties (36 CFR 800.2(c)(6)).
—*Disturbance:* Disturbance of burial sites will constitute an adverse effect under Section 106. An adverse effect occurs when ''an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, setting, materials, workmanship, feeling, or association'' (36 CFR 800.5(a)(1)).
—*Federal land:* Lands under a Federal agency's control. Mere Federal funding or permitting of a project does not turn an otherwise non-Federal land into land (*see Abenaki Nation of Mississquoi* v. *Hughes*, 805 F. Supp. 234 (D. Vt. 1992), aff'd, 990 F. 2d 729 (2d Cir. 1993) (where the court found that a Clean Water Act permit issued by the U.S. Army Corps of Engineers did not place the relevant land under Federal ''control'' for NAGPRA purposes).
—*Funerary objects:* ''items that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed intentionally at the time of death or later with or near individual human remains'' (25 U.S.C. 3001(3)(B)).
—*Historic property:* ''Any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. It includes artifacts, records, and remains that are related to and located within such properties, and it includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register of Historic Places criteria'' (36 CFR 800.16(1)).
—*Human remains:* The physical remains of a human body. The term does not include remains or portions of remains that may reasonably be determined to have been freely given or naturally shed by the individual from whose body they were obtained,

such as hair made into ropes or nets (*see* 43 CFR 10.2(d)(1)).

—*Indian Tribe:* ''An Indian tribe, band, nation, or other organized group or community, including a Native village, Regional Corporation or Village Corporation, as those terms are defined in Section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians'' (36 CFR 800.16(m)).

—*NAGPRA:* The Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 *et seq.*)

—*Native Hawai'ian:* Any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawai'i (36 CFR 800.16(s)(2)).

—*Native Hawaiian Organization:* Any organization which serves and represents the interests of Native Hawaiians; has as a primary and stated purpose the provision of services to Native Hawaiians; and has demonstrated expertise in aspects of historic preservation that are significant to Native Hawaiians (36 CFR 800.16(s)).

—*Policy statement:* A formal statement, endorsed by the full ACHP membership, representing the membership's collective thinking about what to consider in reaching decisions about select issues, in this case, human remains and funerary objects encountered in undertakings on Federal, tribal, state, or private lands. Such statments do not have the binding force of law.

—*Preservation in place:* Taking active steps to ensure the preservation of a property.

—*Treatment:* Under Section 106, ''treatments'' are measures developed and implemented through Section 106 agreement documents to avoid, minimize, or mitigate adverse effects to historic properties.

III. Text of the Draft Policy

The following is the text of the draft policy:

Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects

Preamble: When burial sites, human remains, or funerary objects, will be or are likely to be encountered in a project subject to review under Section 106 of the National Historic Preservation Act (Section 106), parties consulting under Section 106 should adhere to the following principles. The treatment and disposition of burial sites, human remains, and funerary objects are a human rights concern to many individuals, tribes, and descendant communities. Accordingly, while frequently the remains encountered in Section 106 review are of significance to Indian tribes and Native Hawai'ian organizations, this policy applies to the treatment of all burial sites, human remains, and funerary objects in the context of compliance with Section 106. This policy is mindful of the values reflected in the guarantee of a burial for every person as expressed in the laws of every State. This policy does not modify, add or detract from the requirements of applicable Federal, tribal, State or local law, such as the Native American Graves Protection and Repatriation Act (NAGPRA).

Principle 1: Burial sites, human remains and funerary objects should not be knowingly disturbed unless absolutely necessary, and only after the Federal agency has fully considered avoidance and/or preservation in place.

Principle 2: Participants in the Section 106 process shall treat all burial sites, human remains and funerary objects with dignity and respect, which is determined through meaningful consultation.

Principle 3: Federal agencies are responsible for early and meaningful consultation throughout the Section 106 process.

Principle 4: The policy recognizes that Native Americans are descendants of aboriginal occupants of this country. Federal agencies shall consult with Indian tribes and Native Hawaiian organizations that attach religious and cultural significance to burial sites, human remains, and associated funerary objects, and be cognizant of their expertise in, and religious and cultural connection to them. Federally recognized tribes are sovereign nations and Federal agencies shall conduct consultation with Indian tribes on a government-to-government basis, as required by law.

Principle 5: When human remains or funerary objects must be disinterred, they should be removed carefully, respectfully and in a manner developed in consultation.

Principle 6: The Federal agency official is responsible for making decisions regarding avoidance or treatment of burial sites, human remains and funerary objects based on consultation and appropriate documentation. In reaching a decision, the Federal agency official must comply with applicable Federal, tribal, State, or local law.

Principle 7: Federal agencies shall, after meaningful consultation, develop plans for the treatment of burial sites, human remains and funerary objects that may be discovered.

Principle 8: In cases where the disposition of human remains and funerary objects is not legally prescribed, Federal agencies should proceed following a hierarchy that acknowledges the rights of lineal descendants, Indian tribes, Native Hawai'ian Organizations and other descendant communities. (End of text of the draft policy)

Authority: 16 U.S.C. 470j.

Dated: March 8, 2006.

John M. Fowler,

Executive Director.

[FR Doc. 06–2390 Filed 3–13–06; 8:45 am]

BILLING CODE 4310–K6–M

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2006–0002]

National Advisory Committee on Microbiological Criteria for Foods

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of public meeting; request for comments.

SUMMARY: This notice announces that the National Advisory Committee on Microbiological Criteria for Foods (NACMCF) will hold public meetings of the full Committee and subcommittees on March 21–24, 2006. The Committee will discuss:

(1) Determination of Cooking Parameters for Safe Seafood for Consumers, (2) Consumer Guidelines for the Safe Cooking of Poultry Products, and (3) Assessment of the Food Safety Importance and Public Health Significance of Mycobacterium avium subspecies paratuberculosis.

DATES: The full Committee will hold an open meeting on Friday, March 24, 2006, 8:30 a.m. to 12 p.m. The Subcommittee on Determination of Cooking Parameters for Safe Seafood for Consumers will hold open meetings on Tuesday and Wednesday, March 21–22, 2006, from 8:30 a.m. to 5 p.m. The Subcommittee on Consumer Guidelines for the Safe Cooking of Poultry Products will hold an open meeting on Wednesday, March 22, 2006, from 8:30 a.m. to 5 p.m. The Subcommittee on Assessment of the Food Safety Importance and Public Health Significance of Mycobacterium avium

subspecies paratuberculosis will hold an open meeting on Thursday, March 23, 2006, from 8:30 a.m. to 5 p.m.

ADDRESSES: The meetings will be held at the Westin Arlington Gateway, 801 N. Glebe Road, Arlington, VA 22203; telephone number 703–717–6200. All documents related to full Committee meetings will be available for public inspection in the Food Safety and Inspection Service (FSIS) Docket Room, 300 12th Street, SW., Room 102, Cotton Annex Building, Washington, DC 20250, between 8:30 a.m. and 4:30 p.m., Monday through Friday, as soon as they become available. The NACMCF documents will also be available on the Internet at *http://www.fsis.usda.gov/regulations/2006_Notices_Index/*.

FSIS will finalize an agenda on or before the meeting dates and post it on the FSIS Internet Web page *http://www.fsis.usda.gov/News/Meetings_&_Events/*.

Also, the official transcripts of the March 2006 full Committee meeting, when they become available, will be kept in the FSIS Docket Room at the above address and will also be posted on *http://www.fsis.usda.gov/About/NACMCF_Meetings/*.

FSIS invites interested persons to submit comments on this notice. Comments may be submitted by any of the following methods:

Federal eRulemaking Portal: This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. FSIS prefers to receive comments through the Federal eRulemaking Portal. Go to *http://www.regulations.gov* and, in the ''Search for Open Regulations'' box, select ''Food Safety and Inspection Service'' from the agency drop-down menu, then click on ''Submit.'' In the Docket ID column, select the FDMS Docket Number FSIS–2006–0002 to submit or view public comments and to view supporting and related materials available electronically.

Mail, including floppy disks or CD–ROM's, and hand-or courier-delivered items: Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 300 12th Street, SW., Room 102, Cotton Annex Building, Washington, DC 20250.

Electronic mail: *fsis.regulationscomments@fsis.usda.gov.* All submissions received must include the Agency name and docket number FSIS–2006–0002. All comments submitted in response to this notice, as well as research and background information used by FSIS in developing this document, will be posted to the regulations.gov Web site. The background information and comments also will be available for public inspection in the FSIS Docket Room at the address listed above between 8:30 a.m. and 4:30 p.m., Monday through Friday.

See the disclaimer section below regarding modifications that may be necessary due to the presentation of the comments.

The mailing address for the contact person below, Karen Thomas, is: Food Safety and Inspection Service, Department of Agriculture, Office of Public Health Science, Aerospace Center, Room 333, 1400 Independence Avenue, SW., Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Persons interested in making a presentation, submitting technical papers, or providing comments should contact Karen Thomas, phone (202) 690–6620, Fax (202) 690–6334, e-mail address: *karen.thomas@fsis.usda.gov,* or at the mailing address above. Persons requiring a sign language interpreter or other special accommodations should notify Ms. Thomas by March 6, 2006.

SUPPLEMENTARY INFORMATION:

Background

The NACMCF was established in 1988, in response to a recommendation of the National Academy of Sciences for an interagency approach to microbiological criteria for foods, and in response to a recommendation of the U.S. House of Representatives Committee on Appropriations, as expressed in the Rural Development, Agriculture, and Related Agencies Appropriation Bill for fiscal year 1988. The Charter for the NACMCF is available for viewing on the FSIS Internet Web page at *http://www.fsis.usda.gov/About/NACMCF_Charter/*.

The NACMCF provides scientific advice and recommendations to the Secretary of Agriculture and the Secretary of Health and Human Services on public health issues relative to the safety and wholesomeness of the U.S. food supply, including development of microbiological criteria and review and evaluation of epidemiological and risk assessment data and methodologies for assessing microbiological hazards in foods. The Committee also provides advice to the Centers for Disease Control and Prevention and the Departments of Commerce and Defense.

Dr. Richard Raymond, Under Secretary for Food Safety, U.S. Department of Agriculture (USDA), is the Committee Chair; Dr. Robert E. Brackett, Director of Food and Drug Administration's Center for Food Safety and Applied Nutrition (CFSAN), is the Vice-Chair; and Gerri Ransom, FSIS, is the Executive Secretariat.

At the meetings the week of March 21–24, 2006 the Committee will discuss:

- The determination of cooking parameters for safe seafood for consumers,
- Consumer guidelines for the safe cooking of poultry products, and
- Assessment of the Food Safety Importance and Public Health Significance of Mycobacterium avium subspecies paratuberculosis.

Documents Reviewed by NACMCF

FSIS intends to make available to the public all materials that are reviewed and considered by NACMCF regarding its deliberations. Generally, these materials will be made available as soon as possible after the full Committee meeting. Further, FSIS intends to make these materials available in both electronic formats on the FSIS Web page, as well as in hard copy format in the FSIS Docket Room. Often, an attempt is made to make the materials available at the start of the full Committee meeting when sufficient time is allowed in advance to do so.

Disclaimer: For electronic copies, all NACMCF documents and comments are electronic conversions from a variety of source formats into HTML that may have resulted in character translation or format errors. Readers are cautioned not to rely on this HTML document. Minor changes to materials in electronic format may be necessary in order to meet the electronic and information technology accessibility standards contained in Section 508 of the Rehabilitation Act in which graphs, charts, and tables must be accompanied by a text descriptor in order for the vision-impaired to be made aware of the content. FSIS will add these text descriptors along with a qualifier that the text is a simplified interpretation of the graph, chart, or table. Portable Document Format (PDF) and/or paper documents of the official text, figures, and tables can be obtained from the FSIS Docket Room.

Copyrighted documents will not be posted on the FSIS Web site, but will be available for inspection in the FSIS Docket Room.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that the public, and in particular minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it on-line through

the FSIS Web page located at *http://www.fsis.usda.gov/regulations/2006_Notices_Index/.*

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 electronic mail subscription service for 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 which 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 across 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 protect their accounts with passwords.

Done at Washington, DC on: March 8, 2006.

Barbara J. Masters,

Administrator.

[FR Doc. 06–2413 Filed 3–13–06; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Wrangell-Petersburg Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Wrangell-Petersburg Resource Advisory Committee (RAC) has announced its next two meetings. The first meeting will take place at 1 p.m. until 5:15 p.m. (or until the conclusion of public testimony) on Friday, April 21, and from 8 a.m. until 2 p.m., Saturday, April 22, 2006, in Petersburg, Alaska. The second meeting will be a teleconference that will be from 1 p.m. until 5 p.m. (or until the conclusion of business) on Tuesday, May 23, 2006. The purpose of these meetings is to review, discuss and potentially recommend for funding proposals received pursuant to Title II, Public Law 106–393, H.R. 2389, the Secure Rural Schools and Community Self-Determination Act of 2000, also called the ''Payments to States'' Act. Public testimony regarding the proposals will also be taken.

DATES: The first meeting will be held commencing at 1 p.m. on Friday, April 21, through 2 p.m., Saturday, April 22, 2006. The second meeting will begin at 1 p.m. on Tuesday, May 23, 2006 and is expected to last until approximately 5 p.m.

ADDRESSES: The April meeting will be held at the Petersburg Lutheran Church Holy Cross House, 407 Fram Street, Petersburg, Alaska. The May teleconference will be hosted at the two local Forest Service offices—in Wrangell, at the Wrangell Ranger District, 525 Bennett Street, and in Petersburg, at the Petersburg Ranger District, 12 N. Nordic Drive. Participants may join the teleconference from any telephone. Please contact either of the designated federal officials below to receive the teleconference number. The April meeting will also have teleconference capability.

FOR FURTHER INFORMATION CONTACT: Mark Hummel, Wrangell District Ranger, P.O. Box 51, Wrangell, AK 99929, phone (907) 874–2323, e-mail *mhummel@fs.fed.us*, or Patty Grantham, Petersburg District Ranger, P.O. Box 1328, Petersburg, AK 99833, phone (907) 772–3871, e-mail *pagrantham@fs.fed.us.* For further information on RAC history, operations, and the application process, a Web site is available at *http://www.fs.fed.us/r10/ro/payments.* Once in the Web site, follow the links to the Wrangell-Petersburg Resource Advisory Committee.

SUPPLEMENTARY INFORMATION: These meetings will focus on the review and discussion of proposals received by the RAC for funding under Title II of the Payments to States legislation (Pub. L. 106–393). New information may be introduced concerning these proposals. New proposals (initial reading) may be discussed at these meetings. The committee may make recommendations for project funding at these meetings. A field trip to review proposals proximate to the Petersburg, Alaska, area may take place. The meetings are open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the committee at that time.

Dated: March 6, 2006.

Forrest Cole,

Forest Supervisor.

[FR Doc. 06–2410 Filed 3–13–06; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

[06–GL–C]

Opportunity To Comment on the Applicants for the Texas Area

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice.

SUMMARY: GIPSA requests comments on the applicants for designation to provide official services in the Texas geographic area previously assigned to Global Grain Inspection Services, Inc. (Global).

DATES: Comments must be received on or before March 29, 2006.

ADDRESSES: Comments must be submitted in writing to USDA, GIPSA, Janet M. Hart, Deputy Director, Compliance Division, STOP 3604, Room 1647–S, 1400 Independence Avenue, SW., Washington, DC 20250–3604. FAX 202–690–2755; e-mail *Janet.M.Hart@usda.gov.* All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart at 202–720–8525, e-mail *Janet.M.Hart@usda.gov.*

SUPPLEMENTARY INFORMATION: This Action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Global advised the Grain Inspection, Packers and Stockyards Administration (GIPSA) that they will cease providing official services on April 9, 2006. GIPSA announced that Global's designation will be canceled effective April 9, 2006, in the February 1, 2006, **Federal Register** (71 FR 5233). GIPSA also asked persons interested in providing official services in the south Texas area to submit an application for designation.

There were three applicants for the south Texas area: a company proposing to do business as Gulf Country Inspection Service, Inc. (Gulf); a

company proposing to do business as InterContinental Grain Inspections, Inc. (InterContinental), a subsidiary of Socit Générale de Surveillance (SGS) North America, Inc.; and South Texas Grain Inspection LLC (South Texas), a proposed organization being formed by the Corpus Christi Grain Exchange, Inc., to function under a trust. Gulf and InterContinental applied for all or part of the area previously assigned to Global. South Texas applied for only the following Counties in Texas: Aransas, Atascosa, Bee, Bexar, Brooks, Calhoun, Cameron, Comal, Dewitt, Duval, Frio, Goliad, Gonzales, Guadalupe, Hidalgo, Jackson, Jim Hogg, Jim Wells, Karnes, Kenedy, Kleberg, LaSalle, Lavaca, Live Oak, Maverick, McMullen, Medina, Nueces, Refugio, San Patricio, Starr, Uvalde, Victoria, Webb, Willacy, Wilson, Zapata, and Zavala. GIPSA is publishing this notice to provide interested persons the opportunity to present comments concerning the applicants. Commenters are encouraged to submit reasons and pertinent data for support or objection to the designation of the applicants. All comments must be submitted to the Compliance Division at the above address. Comments and other available information will be considered in making a final decision. GIPSA will publish notice of the final decision in the **Federal Register**, and GIPSA will send the applicants written notification of the decision.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

James E. Link,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. E6–3538 Filed 3–13–06; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Southern Washington County Watershed Protection Project; Washington County, ID

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Natural Resources Conservation Service Guidelines (7 CFR part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Southern Washington County Watershed Protection Project, Washington County, Idaho.

FOR FURTHER INFORMATION CONTACT: Richard Sims, State Conservationist, Natural Resources Conservation Service, 9173 W. Barnes Dr., Suite C, Boise, Idaho 83709–1574, telephone (208) 378–5700.

SUPPLEMENTARY INFORMATION: The Plan/Environmental Assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national adverse impacts affecting the quality of the human environment. As a result of these findings, Richard Sims, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The Southern Washington County Watershed Protection Project consists of a system of land treatment measures designed to address the problems associated with degradation of ground water quality and surface water quality in the Weiser and Snake Rivers. Benefits will be realized from reduced groundwater contamination by reducing deep leaching of nutrients and pesticides to the Western Snake River Plain Aquifer (Southern Washington County), protection of long-term soil productivity, reduced irrigation-induced erosion and reduced sediment, nutrient, pesticide and pathogen delivery to the Weiser and Snake Rivers and area tributaries. Planned treatment practices include: irrigation system-gated pipe (with surge), micro (drip) irrigation, tail water recovery systems, sprinkler re-nozzle, sprinkler systems, irrigation water management (moisture sensors and meters) and sediment basins. Management practices include: conservation crop rotation, irrigation water management, nutrient management, anionic polyacrylamide PAM erosion control, pest management, prescribed grazing, residue management (mulch till and seasonal), and straw mulch.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the plan/environmental assessment is on file and may be reviewed by contacting Mr. Richard Sims. The FONSI has been sent to various Federal, State, and local agencies, and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the address stated above. No administrative action on the proposal will be initiated until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.)

Dated: March 7, 2006.

Mark Weatherstone,

Acting State Conservationist.

[FR Doc. E6–3545 Filed 3–13–06; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Announcement of Grant Application Deadlines and Funding Levels

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of solicitation of applications.

SUMMARY: USDA Rural Development administers rural utilities programs through the Rural Utilities Service. USDA Rural Development announces its Community Connect Grant Program application window for funding during fiscal year (FY) 2006. In addition, USDA Rural Development announces the minimum and maximum amounts for Community Connect grants applicable for the fiscal year. The Community Connect Grant Program regulations can be found at 7 CFR part 1739, subpart A.

DATES: You may submit completed applications for grants on paper or electronically according to the following deadlines:

- Paper copies must carry proof of shipping *no later* than May 15, 2006 to be eligible for FY 2006 grant funding. Late applications are not eligible for FY 2006 grant funding.
- Electronic copies must be received by May 15, 2006 to be eligible for FY 2006 grant funding. Late applications are not eligible for FY 2006 grant funding.

ADDRESSES: You may obtain application guides and materials for the Community Connect Grant Program via the Internet at the following Web site: *http://www.usda.gov/rus/telecom/commconnect.htm*. You may also request application guides and materials from USDA Rural Development by contacting the appropriate individual listed in section VII of the **SUPPLEMENTARY INFORMATION** section of this notice.

Submit completed paper applications for grants to the USDA Rural Development, 1400 Independence Ave., SW., Room 2844, STOP 1599, Washington, DC 20250–1599. Applications should be marked ''Attention: Director, Broadband Division, Telecommunications Program.''

Submit electronic grant applications at *http://www.grants.gov* (Grants.gov), following the instructions you find on that Web site.

FOR FURTHER INFORMATION CONTACT: Kenneth Kuchno, Director, Broadband Division, Telecommunications, USDA Rural Development, telephone: (202) 690–4673, fax: (202) 690–4389.

SUPPLEMENTARY INFORMATION:

Overview

Federal Agency: Rural Utilities Service.

Funding Opportunity Title: Community Connect Grant Program.

Announcement Type: Initial announcement.

Catalog of Federal Domestic Assistance (CFDA) Number: 10.863.

Dates: You may submit completed applications for grants on paper or electronically according to the following deadlines:

- Paper copies must carry proof of shipping no later than May 15, 2006, to be eligible for FY 2006 grant funding. Late applications are not eligible for FY 2006 grant funding.
- Electronic copies must be received by May 15, 2006, to be eligible for FY 2006 grant funding. Late applications are not eligible for FY 2006 grant funding.

Items in Supplementary Information

I. *Funding Opportunity:* Brief introduction to the Community Connect Grant Program.

II. *Award Information:* Available funds and minimum and maximum amounts.

III. *Eligibility Information:* Who is eligible, what kinds of projects are eligible, what criteria determine basic eligibility.

IV. *Application and Submission Information:* Where to get application materials, what constitutes a completed application, how and where to submit applications, deadlines, items that are eligible.

V. *Application Review Information:* Considerations and preferences, scoring criteria, review standards, selection information.

VI. *Award Administration Information:* Award notice information, award recipient reporting requirements.

VII. *Agency Contacts:* Web, phone, fax, email, contact name.

I. Funding Opportunity

The provision of broadband transmission service is vital to the economic development, education, health, and safety of rural Americans. The purpose of the Community Connect Grant Program is to provide financial assistance in the form of grants to eligible applicants that will provide currently unserved areas, on a ''community-oriented connectivity'' basis, with broadband transmission service that fosters economic growth and delivers enhanced educational, health care, and public safety services. USDA Rural Development will give priority to rural areas that it believes have the greatest need for broadband transmission services, based on the criteria contained herein.

Grant authority will be used for the deployment of broadband transmission service to extremely rural, lower-income communities on a ''community-oriented connectivity'' basis. The ''community-oriented connectivity'' concept will stimulate practical, everyday uses and applications of broadband facilities by cultivating the deployment of new broadband transmission services that improve economic development and provide enhanced educational and health care opportunities in rural areas. Such an approach will also give rural communities the opportunity to benefit from the advanced technologies that are necessary to achieve these goals. Please see 7 CFR 1739, subpart A for specifics.

This notice has been formatted to conform to a policy directive issued by the Office of Federal Financial Management (OFFM) of the Office of Management and Budget (OMB), published in the **Federal Register** on June 23, 2003. This Notice does not change the Community Connect Grant Program regulation (7 CFR 1739, subpart A).

II. Award Information

A. Available Funds. 1. *General.* The Administrator has determined that the following amounts are available for grants in FY 2006 under 7 CFR 1739.2(a).

2. *Grants.* a. $8.9 million is available for grants. Under 7 CFR 1739.2, the Administrator has established a minimum grant amount of $50,000. There is no maximum grant amount for FY 2006.

b. Assistance instrument: USDA Rural Development will execute grant documents appropriate to the project prior to any advance of funds with successful applicants.

B. Community Connect grants cannot be renewed.

Award documents specify the term of each award. Applications to extend existing projects are welcomed (grant applications must be submitted during the application window) and will be evaluated as new applications.

III. Eligibility Information

A. Who Is Eligible for Grants? (See 7 CFR 1739.10.)

1. Only entities legally organized as one of the following are eligible for Community Connect Grant Program financial assistance:

a. An incorporated organization,

b. An Indian tribe or tribal organization, as defined in *25 U.S.C. 450b(b) and (c),*

c. A state or local unit of government,

d. A cooperative, private corporation or limited liability company organized on a for-profit or not-for-profit basis.

2. Individuals are not eligible for Community Connect Grant Program financial assistance directly.

3. Applicants must have the legal capacity and authority to own and operate the broadband facilities as proposed in its application, to enter into contracts and to otherwise comply with applicable federal statutes and regulations.

B. What Are the Basic Eligibility Requirements for a Project?

1. Required matching contributions. Please see 7 CFR 1739.14 for the requirement. Grant applicants must demonstrate a matching contribution, in cash or in kind (new, non-depreciated items), of at least fifteen (15) percent of the total amount of USDA Rural Development financial assistance requested. Matching contributions must be used for eligible purposes of Community Connect grant assistance (see 7 CFR 1739.12).

2. To be eligible for a grant, the Project must (see 7 CFR 1739.11):

a. Serve a Rural Area where Broadband Transmission Service does not currently exist, to be verified by USDA Rural Development prior to the award of the grant;

b. Serve one and only one Community recognized in the latest U.S. Census, which shall encompass any community added through the Count Question Resolution Process, as well as any Census Designated Place. A Community made eligible through the Count Question Resolution Process which lacks Corresponding Per Capita Income (PCI) data must propose, subject to USDA Rural Development acceptance, available substitute PCI data for a geographic area that includes and most replicates the Applicant's proposed Service Area;

Additional communities located in the contiguous areas outside the Community's boundaries that are not

recognized (due to size) in the U.S. Census, can be included in the applicant's proposed Service Area, but must be supported by documentation, acceptable to USDA Rural Development, as to their existence.

c. Deploy Basic Broadband Transmission Service, free of all charges for at least 2 years, to all Critical Community Facilities located within the proposed Service Area;

d. Offer Basic Broadband Transmission Service to residential and business customers within the proposed Service Area; and

e. Provide a Community Center with at least ten (10) Computer Access Points within the proposed Service Area, and make Broadband Transmission Service available therein, free of all charges to users for at least 2 years.

C. See paragraph IV.B of this notice for a discussion of the items that make up a completed application. You may also refer to 7 CFR 1739.15 for completed grant application items.

IV. Application and Submission Information

A. Where To Get Application Information

The application guide, copies of necessary forms and samples, and the Community Connect Grant Program regulation are available from these sources:

1. The Internet: *http://www.usda.gov/rus/telecom/commconnect.htm*, or *http://www.grants.gov*.

2. The USDA Rural Development, Broadband Division, for paper copies of these materials: (202) 690–4673.

B. What Constitutes a Completed Application?

1. Detailed information on each item required can be found in the Community Connect Grant Program regulation and the Community Connect Grant Program application guide. Applicants are strongly encouraged to read and apply both the regulation and the application guide. This Notice does not change the requirements for a completed application for any form of Community Connect Grant Program financial assistance specified in the Community Connect Grant Program regulation. The Community Connect Grant Program regulation and the application guide provide specific guidance on each of the items listed and the Community Connect Grant Program application guide provides all necessary forms and sample worksheets.

2. A completed application must include the following documentation, studies, reports and information in form satisfactory to USDA Rural Development. Applications should be prepared in conformance with the provisions in 7 CFR 1739, subpart A, and applicable USDA regulations including 7 CFR parts 3015, 3016, and 3019. Applicants must use the USDA Rural Development Application Guide for this program containing instructions and all necessary forms, as well as other important information, in preparing their application. Completed applications must include the following:

a. *An Application for Federal Assistance.* A completed Standard Form (SF) 424.

b. *An executive summary of the Project.* The applicant must provide USDA Rural Development with a general project overview.

c. *Scoring criteria documentation.* Each grant applicant must address and provide documentation on how it meets each of the scoring criteria detailed 7 CFR 1739.17.

d. *System design.* The applicant must submit a system design, including, narrative specifics of the proposal, associated costs, maps, engineering design studies, technical specifications and system capabilities, etc.

e. *Scope of work.* The scope of work must include specific activities and services to be performed under the proposal, who will carry out the activities and services, specific time-frames for completion, and a budget for all capital and administrative expenditures reflecting the line item costs for all grant purposes, the matching contribution, and other sources of funds necessary to complete the project.

f. *Community-Oriented Connectivity Plan.* The applicant must provide a detailed Community-Oriented Connectivity Plan.

g. *Financial information and sustainability.* The applicant must provide financial statements and information and a narrative description demonstrating the sustainability of the Project.

h. *A statement of experience.* The applicant must provide a written narrative describing its demonstrated capability and experience, if any, in operating a broadband telecommunications system.

i. *Evidence of legal authority and existence.* The applicant must provide evidence of its legal existence and authority to enter into a grant agreement with the Rural Utilities Service and to perform the activities proposed under the grant application.

j. *Funding commitment from other sources.* If the Project requires additional funding from other sources in addition to the USDA Rural Development grant, the applicant must provide evidence that funding agreements have been obtained to ensure completion of the Project.

k. *Compliance with other federal statutes.* The applicant must provide evidence of compliance with other federal statutes and regulations, including, but not limited to the following:

(i) 7 CFR part 15, subpart A—Nondiscrimination in Federally Assisted Programs of the Department of Agriculture—Effectuation of Title VI of the Civil Rights Act of 1964.

(ii) 7 CFR part 3015—Uniform Federal Assistance Regulations.

(iii) 7 CFR part 3017—Governmentwide Debarment and Suspension (Non-procurement).

(iv) 7 CFR part 3018—New Restrictions on Lobbying.

(v) 7 CFR part 3021—Governmentwide Requirements for Drug-Free Workplace (Financial Assistance).

(vi) Certification regarding Architectural Barriers.

(vii) Certification regarding Flood Hazard Precautions.

(viii) An environmental report, in accordance with 7 CFR 1794.

(ix) Certification that grant funds will not be used to duplicate lines, facilities, or systems providing Broadband Transmission Service.

(x) Federal Obligation Certification on Delinquent Debt.

5. DUNS Number. As required by the OMB, all applicants for grants must now supply a Dun and Bradstreet Data Universal Numbering System (DUNS) number when applying. The SF–424 contains a field for you to use when supplying your DUNS number. Obtaining a DUNS number costs nothing and requires a short telephone call to Dun and Bradstreet. Please see the Community Connect Web site or Grants.gov for more information on how to obtain a DUNS number or how to verify your organization's number.

C. How Many Copies of an Application Are Required?

1. Applications submitted on paper: Submit the original application and two (2) copies to USDA Rural Development.

2. Electronically submitted applications: The additional paper copies for USDA Rural Development are not necessary if you submit the application electronically through Grants.gov.

D. How and Where To Submit an Application

Grant applications may be submitted on paper or electronically.

1. Submitting applications on paper.

a. Address paper applications for grants to the USDA Rural Development, 1400 Independence Ave., SW, Room 2844, STOP 1599, Washington, DC 20250–1599. Applications should be marked ''Attention: Director, Broadband Division, Telecommunications Program.''

b. Paper applications must show proof of mailing or shipping consisting of one of the following:

(i) A legibly dated U.S. Postal Service (USPS) postmark;

(ii) A legible mail receipt with the date of mailing stamped by the USPS; or

(iii) A dated shipping label, invoice, or receipt from a commercial carrier.

c. Due to screening procedures at the Department of Agriculture, packages arriving via the USPS are irradiated, which can damage the contents. USDA Rural Development encourages applicants to consider the impact of this procedure in selecting their application delivery method.

2. Electronically submitted applications.

a. Applications will not be accepted via facsimile machine transmission or electronic mail.

b. Electronic applications for grants will be accepted if submitted through the Federal government's Grants.gov initiative at *http://www.grants.gov.*

c. How to use Grants.gov:

(i) Navigate your Web browser to *http://www.grants.gov.*

(ii) Follow the instructions on that Web site to find grant information.

(iii) Download a copy of the application package.

(iv) Complete the package off-line.

(v) Upload and submit the application via the Grants.gov Web site.

d. Grants.gov contains full instructions on all required passwords, credentialing and software.

e. USDA Rural Development encourages applicants who wish to apply through Grants.gov to submit their applications in advance of the deadline.

f. If a system problem occurs or you have technical difficulties with an electronic application, please use the customer support resources available at the Grants.gov Web site.

g. Clarification for FY 2006: USDA Rural Development clarifies that the definition of ''Critical Community Facilities'' includes the mandatory Community Center, and that operating expenses associated with the Community Center for the first two years of operations are eligible for financial assistance. Moreover, USDA Rural Development clarifies its interpretation of the amount of operating expenses for Critical Community Facilities that are eligible for financial assistance by stating that ''reasonable operating expenses'' shall not exceed $200,000 over two years.

E. Deadlines

1. Paper applications must be postmarked and mailed, shipped, or sent overnight no later than May 15, 2006 to be eligible for FY 2006 grant funding. Late applications are not eligible for FY 2006 grant funding.

2. Electronic grant applications must be received by May 15, 2006 to be eligible for FY 2006 funding. Late applications are not eligible for FY 2006 grant funding.

F. Funding Restrictions

1. *Eligible grant purposes.* Grant funds may be used to finance:

a. The construction, acquisition, or leasing of facilities, including spectrum, to deploy Broadband Transmission Service to all participating Critical Community Facilities and all required facilities needed to offer such service to residential and business customers located within the proposed Service Area;

b. The improvement, expansion, construction, or acquisition of a Community Center that furnishes free access to broadband Internet service, provided that the Community Center is open and accessible to area residents before, during, and after normal working hours and on Saturday or Sunday. Grant funds provided for such costs shall not exceed the greater of five percent (5%) of the grant amount requested or $100,000;

c. End-User Equipment needed to carry out the Project;

d. Operating expenses incurred in providing Broadband Transmission Service to Critical Community Facilities for the first 2 years of operation and in providing training and instruction. Salary and administrative expenses will be subject to review, and may be limited by USDA Rural Development for reasonableness in relation to the scope of the Project; and

e. The purchase of land, buildings, or building construction needed to carry out the Project.

2. *Ineligible grant purposes.*

a. Grant funds may not be used to finance the duplication of any existing Broadband Transmission Service provided by another entity.

b. Facilities financed with grant funds cannot be utilized, in any way, to provide local exchange telecommunications service to any person or entity already receiving such service.

3. Please see 7 CFR 1739.3 for definitions, 7 CFR 1739.12 for eligible grant purposes, and 7 CFR 1739.13 for ineligible grant purposes

V. Application Review Information

A. Criteria

1. Grant applications are scored competitively and subject to the criteria listed below.

2. Grant application scoring criteria (total possible points: 100). See 7 CFR 1739.17 for the items that will be reviewed during scoring and for scoring criteria.

a. The rurality of the Project (up to 40 points);

b. The economic need of the Project's Service Area (up to 30 points); and

c. The ''community-oriented connectivity'' benefits derived from the proposed service (up to 30 points).

B. Review Standards

1. All applications for grants must be delivered to USDA Rural Development at the address and by the date specified in this notice (see also 7 CFR 1739.2) to be eligible for funding. Each application will be reviewed for conformance with the provisions of this part. Applicant may be contacted for additional information or clarification.

2. Incomplete applications as of the deadline for submission will not be considered. If an application is determined to be incomplete, the applicant will be notified in writing and the application will be returned with no further action.

3. Applications conforming with this part will then be evaluated competitively by a panel of USDA Rural Development employees selected by the Administrator of the Rural Utilities Service, and will be awarded points as described in the scoring criteria in 7 CFR 1739.17. Applications will be ranked and grants awarded in rank order until all grant funds are expended.

4. Regardless of the score an application receives, if USDA Rural Development determines that the Project is technically or financially infeasible, USDA Rural Development will notify the applicant, in writing, and the application will be returned with no further action.

C. Selection Process

Grant applications are ranked by final score. USDA Rural Development selects applications based on those rankings, subject to the availability of funds.

VI. Award Administration Information

A. Award Notices

USDA Rural Development recognizes that each funded project is unique, and

therefore may attach conditions to different projects' award documents. USDA Rural Development generally notifies applicants whose projects are selected for awards by faxing an award letter. USDA Rural Development follows the award letter with a grant agreement that contains all the terms and conditions for the grant. An applicant must execute and return the grant agreement, accompanied by any additional items required by the grant agreement.

B. Administrative and National Policy Requirements

The items listed in paragraph IV.B.2.k of this notice, and the Community Connect Grant Program regulation, application guide and accompanying materials implement the appropriate administrative and national policy requirements.

C. Reporting

1. *Performance reporting.* All recipients of Community Connect Grant Program financial assistance must provide annual performance activity reports to USDA Rural Development until the project is complete and the funds are expended. A final performance report is also required; the final report may serve as the last annual report. The final report must include an evaluation of the success of the project. See 7 CFR 1739.19.

2. *Financial reporting.* All recipients of Community Connect Grant Program financial assistance must provide an annual audit, beginning with the first year a portion of the financial assistance is expended. Audits are governed by United States Department of Agriculture audit regulations. Please see 7 CFR 1739.20.

VII. Agency Contacts

A. Web site: *http://www.usda.gov/rus/commconnect.htm.*

The USDA Rural Development's Web site maintains up-to-date resources and contact information for the Community Connect Grant Program.

B. Phone: 202–690–4673

C. Fax: 202–690–4673

D. *Main point of contact:* Kenneth Kuchno, Director, Broadband Division, Telecommunications Program, USDA Rural Development.

Dated: March 2, 2006.

James M. Andrew,

Administrator, Rural Utilities Service.

[FR Doc. E6–3575 Filed 3–13–06; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 9–2006]

Foreign-Trade Zone 149—Freeport, Texas, Expansion of Manufacturing Authority—Subzone 149C, ConocoPhillips, Sweeny, TX

An application has been submitted to the Foreign–Trade Zones Board (the Board) by the Brazos River Harbor Navigation District (Port Freeport), grantee of FTZ 149, requesting authority on behalf of ConocoPhillips (COP), to expand the scope of manufacturing activity conducted under zone procedures within Subzone 149C at the COP oil refinery complex in Sweeny, Texas. The application was submitted pursuant to the provisions of the Foreign–Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on March 6, 2006.

Subzone 149C (205,000 BPD capacity 1,300 employees) was approved by the Board in 1997 for the manufacture of fuel products and certain petrochemical feedstocks and refinery by–products (Board Order 920, 62 FR 51830, October 3, 1997, as amended by Board Order 1116, 65 FR 52696, 8/30/00).

The subzone consists of six sites (2,095 acres) in Brazoria County: *Site 1*—(1,315 acres) main refinery and petrochemical complex located at 6215 Texas State Highway 35 at Farm Market Road 524, south of Sweeny; *Site 2*—(160 acres) Freeport I Terminal and storage facility (1.6 million barrel storage capacity) located at County Road 731, some 28 miles southeast of the refinery; *Site 3*—(183 acres) six crude oil storage tanks (2.4 million barrel capacity) at Jones Creek Terminal located at 6215 State Highway 36, some 17 miles southeast of the refinery; *Site 4:* (34 acres) San Bernard Terminal and storage facility (207,000 barrel capacity), located at County Road 378, 5 miles southeast of the refinery; *Site 5:* (403 acres) Clemens Terminal underground LPG storage (12.8 million barrel capacity), located at County Road 314, 15 miles east of the refinery; and *Site 6:* a six mile, 6'' pipeline that ties into an existing COP pipeline to facilitate the movement of product from the subzone to their customer BASF. The expansion request involves modifications and upgrades to units within the refinery to increase the overall crude distillation capacity of the refinery to 260,000 BPD. No additional feedstocks or products have been requested.

Zone procedures would exempt the increased production from customs duty payments on the foreign products used in its exports. On domestic sales, the company would be able to choose the customs duty rates for certain petrochemical feedstocks (duty–free) by admitting foreign crude oil in non–privileged foreign status. The application indicates that the savings from zone procedures help improve the refinery's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ staff has been appointed examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. Submissions Via Express/Package Delivery Services: Foreign–Trade-Zones Board, U.S. Department of Commerce, Franklin Court Building - Suite 4100W, 1099 14th St. NW., Washington, DC 20005; or

2. Submissions Via the U.S. Postal Service: Foreign–Trade-Zones Board, U.S. Department of Commerce, FCB - Suite 4100W, 1401 Constitution Ave. NW., Washington, DC 20230.

The closing period for their receipt is May 15, 2006. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15–day period (to May 30, 2006).

A copy of the application and accompanying exhibits will be available for public inspection at the Office of the Foreign–Trade Zones Board's Executive Secretary at the first address listed above, and at the U.S. Department of Commerce, Export Assistance Center, 15600 John F. Kennedy Blvd., Suite 530, Houston, TX 77032.

Dated: March 6, 2006.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. E6–3617 Filed 3–13–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–412–801, A–427–801, A–428–801, A–475–801]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, Germany, Italy, and the United Kingdom; Amended Final Results of Antidumping Duty Administrative Reviews Pursuant to Final Court Decisions

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On October 19, 2005, in response to its action in *SNR Roulements et al. v. United States*, Consol. Court No. 97–10–01825, Slip Op. 05–67 (June 13, 2005), the United States Court of International Trade (CIT) affirmed the Department of Commerce's (the Department's) remand redetermination concerning the final assessment rates for the administrative review of the antidumping duty order on antifriction bearings and parts thereof (AFBs) from France. On October 28, 2005, in response to its actions in *NTN Bearing Corp. of America et al. v. United States*, Court No. 97–10–01800 (July 7, 2005), and *FAG Italia S.p.A. et al. v. United States*, Court No. 97–02–00260–S (July 7, 2005), the CIT affirmed the Department's remand redetermination concerning the final assessment rates for the administrative reviews of the antidumping duty orders on AFBs from Germany and Italy. On November 4, 2005, in response to its action in *FAG Kugelfischer Georg Schafer AG et al. v. United States*, Court No. 97–02–00260 (July 7, 2005), the CIT affirmed the Department's remand redetermination concerning the final assessment rates for the administrative reviews of the antidumping duty orders on AFBs from Germany.

On April 27, 2001, the CIT affirmed the Department's remand redetermination with respect to the antidumping duty orders on AFBs from France. See *SKF USA Inc. et al. v. United States*, Consol. Court No. 97–02–00269–S1, Slip. Op. 01–54 (April 27, 2001). On December 21, 2000, the CIT affirmed the Department's remand redetermination with respect to the antidumping duty orders on AFBs from the United Kingdom. See *RHP Bearings Ltd. et al v. United States*, Consol. Court No. 97–02–00217, Slip Op. 00–168 (December 21, 2000). The periods covered by these administrative reviews are May 1, 1994, through April 30, 1995, and May 1, 1995, through April 30, 1996. The merchandise covered by these reviews are ball bearings and parts thereof (BBs), cylindrical roller bearings and parts thereof (CRBs), and spherical plain bearings and parts thereof (SPBs). Because the time period for filing an appeal has expired and there are now final and conclusive court decisions in these actions, we are amending our final results of the reviews and we will instruct U.S. Customs and Border Protection to liquidate entries subject to these reviews.

EFFECTIVE DATE: March 14, 2006.

FOR FURTHER INFORMATION CONTACT: Kristin Case or Richard Rimlinger, AD/CVD Operations, Office 5, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3174 or (202) 482–4477, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 15, 1997, the Department published *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Singapore, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews*, 62 FR 2081 (January 15, 1997), as amended by *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Singapore, and the United Kingdom; Amended Final Results of Antidumping Duty Administrative Reviews*, 62 FR 14391 (March 26, 1997) (collectively *AFBs 6*). On October 17, 1997, the Department published *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews*, 62 FR 54043 (October 17, 1997), as amended by *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom; Amended Final Results of Antidumping Duty Administrative Reviews*, 62 FR 61963 (November 20, 1997) (collectively *AFBs 7*). The periods of review for *AFBs 6* and *AFBs 7* are May 1, 1994, through April 30, 1995, and May 1, 1995, through April 30, 1996, respectively. The classes or kinds of merchandise covered by these reviews are BBs, CRBs, and SPBs.

The *AFBs 6* respondents involved in the litigation are as follows:

* FAG Italia S.p.A. and FAG Bearings Corporation (collectively FAG Italy)
* FAG Kugelfischer Georg Schäfer AG and FAG Bearings Corporation (collectively FAG Germany)
* INA Walzlager Schaeffler KG and INA Bearing Company, Inc. (collectively INA Germany)
* NSK Bearings Europe Ltd. and RHP Bearings Ltd. (collectively NSK/RHP)
* NTN Kugellagerfabrik (Deutschland) GmbH and NTN Bearing Corporation of America (collectively NTN Germany)
* SNR Roulements (SNR France)
* SKF France S.A., Sarma, and SKF USA Inc. (collectively SKF France)
* SKF GmbH and SKF USA Inc. (collectively SKF Germany)
* SKF Industrie S.p.A. and SKF USA Inc. (collectively SKF Italy)

The *AFBs 7* respondents involved in the litigation are as follows:

* FAG Kugelfischer Georg Schäfer AG and FAG Bearings Corporation (collectively FAG Germany)
* INA Walzlager Schaeffler KG and INA Bearing Company, Inc. (collectively INA Germany)
* NTN Kugellagerfabrik (Deutschland) GmbH and NTN Bearing Corporation of America (collectively NTN Germany)
* SNR Roulements (SNR France)
* SKF France S.A., Sarma, and SKF USA Inc. (collectively SKF France)
* SKF GmbH and SKF USA Inc. (collectively SKF Germany)

AFBs 6 from Germany and Italy / AFBs 7 from France and Germany

In each of these proceedings, the Department had completed previous remand redeterminations:

* *FAG Italia, S.p.A. et al. v. United States*, Consol. Court No. 97–02–00260–S, Slip Op. 00–154 (November 21, 2000) (remanding *AFBs 6* with respect to the antidumping duty orders on AFBs from Italy and instructing the Department to: (1) Attempt to match FAG's and SKF's U.S. sales to similar home–market sales before resorting to constructed value (CV); (2) exclude any transactions that were not supported by consideration from FAG's and SKF's U.S. sales databases; (3) include all expenses in ''total United expenses'' in the calculation of ''total expenses'' for FAG's constructed export–price (CEP) profit ratio; (4) remove the circumstance–of- sale adjustment for certain advertising expenses from FAG's normal value (NV); (5) reconsider the decision to calculate SKF's home–market credit–rate expense based upon price and then apply the rate to cost; and (6) re–examine the programming language used to make certain foreign–currency conversions)

* *FAG Kugelfischer Georg Schäfer AG et al. v. United States*, Consol. Court No. 97–02–00260, Slip Op. 01–13 (February

2, 2001) (remanding *AFBs 6* with respect to the antidumping duty orders on AFBs from Germany and instructing the Department to: 1) attempt to match FAG's and SKF's U.S. sales to similar home–market sales before resorting to CV; 2) exclude any transactions that were not supported by consideration from FAG's and SKF's U.S. sales databases; 3) include all expenses in ''total United States expenses'' in the calculation of ''total expenses'' for FAG's and INA's CEP–profit ratio; 4) reconsider the decision to calculate SKF's home–market credit–rate expense based upon price and then apply the rate to cost; and 5) convert certain expenses from the foreign currency in calculating export price and CEP for INA)

* *SNR Roulements et al. v. United States*, Consol. Court No. 97–10–01825, Slip Op. 00–131 (October 13, 2000) (remanding *AFBs 7* with respect to the antidumping duty orders on AFBs from France and instructing the Department to (1) annul all findings and conclusions made pursuant to the duty–absorption inquiry and (2) include all expenses included in ''total United States expenses'' in the calculation of ''total expenses'' for SNR)

* *NTN Bearing Corp. of America et al. v. United States*, Consol. Court No. 97–10–01800, Slip Op. 01–76 (June 22, 2001) (remanding *AFBs 7* with respect to the antidumping duty orders on AFBs from Germany and instructing the Department to: (1) Annul all findings and conclusions made pursuant to the duty–absorption inquiry; (2) attempt to match U.S. sales to similar home–market sales before resorting to CV; (3) reconsider the Department's decision to deny INA's downward home–market billing adjustments; (4) clarify how the Department complied with sections 776 and 782 of the Tariff Act of 1930, as amended (the Act), for using facts available and applying an adverse inference and, if appropriate, give INA the opportunity to remedy or explain any deficiency regarding its alleged sample sales; and (5) include all expenses included in ''total United States expenses'' in the calculation of ''total expenses'' for INA)

Although each remand redetermination involved multiple issues, the Department's methodology for calculating profit for CEP sales was a subject of each remand. Specifically, the CIT directed the Department to include all expenses included in ''total United States expenses'' in the calculation of ''total expenses'' when computing the CEP–profit rate. In each proceeding, the CIT affirmed the Department's remand results in their entirety. See *SNR Roulements et al. v. United States*, Consol. Court No. 97–10–01825, Slip Op. 01–17 (February 23, 2001); *FAG Kugelfischer Georg Schäfer AG et al. v. United States*, Consol. Court No. 97–02–00260, Slip Op. 01–107 (August 20, 2001); *FAG Italia S.p.A. v. United States*, Consol. Court No. 97–02–00260–S, Slip Op. 01–108 (August 20, 2001); *NTN Bearing Corporation of America et al. v. United States*, Consol. Court No. 97–10–01800, Slip Op. 01–136 (November 27, 2001).

The Department appealed the CIT's decisions concerning the Department's CEP–profit calculation methodology. The United States Court of Appeals for the Federal Circuit (CAFC) determined that the CIT had erred in its decision that the Department was required to include imputed credit and inventory carrying costs in ''total expenses'' when they were included in ''total United States expenses.'' The CAFC reversed the CIT and remanded the cases with the instructions that respondents be provided an opportunity to make a showing that their dumping margins were determined wrongly because the Department's use of actual expenses did not account for U.S. credit and inventory carrying costs in the calculation of total expenses. See *SNR Roulements et al. v. United States*, 402 F.3d 1358, 1363 (Fed. Cir. 2005), and *FAG Italia S.p.A. v. United States*, 402 F.3d 1356, 1357 (Fed. Cir. 2005) (consolidated appeal). The CIT remanded the proceedings and directed the Department to allow respondents an opportunity to show that their margins were determined incorrectly because the Department's use of actual expenses did not account for U.S. credit and inventory carrying costs. *SNR Roulements et al. v. United States*, Consol. Court No. 97–10–01825, Slip Op. 05–67 (June 13, 2005); *FAG Kugelfischer Georg Schäfer AG et al. v. United States*, Consol. Court No. 97–02–00260 (July 7, 2005); *FAG Italia S.p.A. et al. v. United States*, Consol. Court No. 97–02–00260–S (July 7, 2005); *NTN Bearing Corporation of America et al. v. United States*, Consol. Court No. 97–10–01800 (July 7, 2005). Because none of the respondents made the required showing, the Department determined that it had used actual expenses as a measure of total expenses in the CEP–profit calculation accurately. In each of the proceedings, the CIT affirmed the remand results. *SNR Roulements et al. v. United States*, Consol. Court No. 97–10–01825, Slip Op. 05–136 (October 19, 2005); *FAG Kugelfischer Georg Schäfer AG et al. v. United States*, Consol. Court No. 97–02–00260, Slip Op. 05–143 (November 4, 2005); *FAG Italia S.p.A. et al. v. United States*, Consol. Court No. 97–02–00260–S, Slip Op. 05–140 (October 28, 2005); *NTN Bearing Corporation of America et al. v. United States*, Consol. Court No. 97–10–01800, Slip Op. 05–141 (October 28, 2005).

AFBs 6 from France

On October 11, 2000, the CIT remanded *AFBs 6* with respect to the antidumping duty orders on AFBs from France to the Department. See *SKF USA Inc. et al. v. United States*, Consol. Court No. 97–02–00269–S1, Slip Op. 00–128 (October 11, 2000). The CIT instructed the Department to: (1) Reconsider its decision to calculate SKF's home–market credit expense based upon price and then apply that rate to cost; (2) exclude any transactions that were not supported by consideration from SKF's U.S. sales database and to adjust the dumping margins accordingly; (3) first attempt to match SKF's U.S. sales to similar home–market sales before resorting to CV; (4) assign the correct level–of-trade code for SKF's export–price sales; (5) determine whether SKF's billing adjustment two is insignificant within the meaning of section 777A of the Act; (6) reconsider the treatment of depreciation expenses incurred in France in calculating CEP for SNR. Subsequently, the CIT affirmed the Department's remand redetermination. *See SKF USA Inc. et al. v. United States*, Consol. Court No. 97–02–00269–S1, Slip. Op. 01–54 (April 27, 2001).

AFBs 6 from the United Kingdom

On May 27, 1997, the CIT granted NSK/RHP's motion for an expedited remand to correct clerical errors and the Department's cross–motion for leave to correct an additional clerical error and remanded *AFBs 6* with respect to the antidumping duty orders on AFBs from the United Kingdom. See *RHP Bearings Ltd. et al. v. United States*, Consol. Court No. 97–02–00217, Slip Op. 97–63 (May 27, 1997). The CIT instructed the Department to: (1) Calculate credit for CV separately by class of merchandise; (2) calculate CV credit by converting the foreign currency values to U.S. dollars only once; (3) correct the programming language so that sales of CRBs were not sampled; (4) include credit insurance when calculating direct selling expenses for cost of production; (5) weight the values for total home–market selling expenses and total home–market movement expenses by a factor of two to establish uniform weighting of home–market expenses; (6) apply the default credit period for those U.S. sales missing payment dates to net selling price; (7) multiply the entered value for

sampled U.S. sales by the weighting factor only once when calculating importer–specific duty rates. Subsequently, the CIT affirmed the Department's remand redetermination. *See RHP Bearings Ltd. et al v. United States*, Consol. Court No. 97–02–00217, Slip Op. 97–90 (July 7, 1997).

On December 16, 1999, the CIT remanded the case and instructed the Department to exclude from NSK/RHP's U.S. sales database any sample transactions that were not supported by consideration and to include imputed inventory carrying costs in the calculation of CEP offset when matching CEP sales to CV. See *RHP Bearings Ltd. et al v. United States*, Consol. Court No. 97–02–00217, Slip Op. 99–134 at 54 (December 16, 1999). Subsequently, the CIT affirmed the Department's remand redetermination. See *RHP Bearings Ltd. et al v. United States*, Consol. Court No. 97–02–00217, Slip Op. 00–168 (December 21, 2000).

As there are now final and conclusive court decisions with respect to the companies affected by these remand orders, we are amending our final results of reviews for these companies. We will instruct U.S. Customs and Border Protection (CBP) to liquidate the relevant entries subject to these reviews in accordance with our remand results.

Amended Final Results of Reviews

We are now amending the final results of the 1994–1995 administrative reviews of the antidumping duty orders on AFBs from France, Germany, Italy, and the United Kingdom to reflect the revised weighted–average margins. We determine that the revised weighted–average margins for the period May 1, 1994, through April 30, 1995, are as follows:[1]

	BBs (%)	CRBs (%)	SPBs (%)
FAG Italy	4.12	--	--
SKF Italy	2.86	--	--
FAG Germany	13.42	22.59	12.08
INA Germany	19.43	18.31	--
SKF Germany	2.33	9.34	6.19
SNR France	4.29	6.36	--
SKF France	5.08	--	--
NSK/RHP—United Kingdom	15.76	15.50	--

Also, we are now amending the final results of the 1995–1996 administrative reviews of the antidumping duty orders on AFBs from Germany to reflect the revised weighted–average margins. We determine that the revised weighted–average margins for the period May 1, 1995, through April 30, 1996, are as follows[2]:

	BBs (%)	CRBs (%)	SPBs (%)
FAG Germany	13.25	19.53	10.32
INA Germany	44.53	20.09	28.62

Accordingly, the Department will determine and CBP will assess appropriate antidumping duties on entries of the subject merchandise produced and/or exported by the affected companies. Individual differences between U.S. price and normal value may vary from the above percentages. The Department will issue assessment instructions to CBP within 15 days of publication of this notice.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 7, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6–3619 Filed 3–13–06; 8:45 am]

BILLING CODE 3510–DS–S

[1] Litigation did not result in any changes to the weighted-average margins for BBs from NTN Germany or SPBs from SKF France.

[2] The subsequent litigation did not result in any changes in the weighted-average margins for NTN Germany, SNR France, SKF France, and SKF Germany.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–836]

Certain Cut–to-Length Carbon–Quality Steel Plate Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On November 7, 2005, the Department of Commerce (the ''Department'') published the preliminary results of the administrative review of the antidumping duty order on certain cut–to-length carbon–quality steel plate products (steel plate) from the Republic of Korea. *See Certain Cut–to-Length Carbon–Quality Steel Plate Products From the Republic of Korea: Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review*, 70 FR 67428 (November 7, 2005) (''*Preliminary Results*''). This review covers one producer/exporter of steel plate. The period of review (POR) is February 1, 2004, through January 31, 2005. Based on our analysis of the comments received, we have made changes to the margin calculation. Therefore, these final results differ from the *Preliminary Results*. The final weighted–average dumping margin for the reviewed firm is listed below in the section entitled ''Final Results of Review.''

EFFECTIVE DATE: March 14, 2006.

FOR FURTHER INFORMATION CONTACT: Malcolm Burke or Magd Zalok, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482–3584 or (202) 482–4162, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 7, 2005, the Department published the *Preliminary Results* in the **Federal Register** and invited interested parties to comment on those results. On December 7, 2005, the Department received a case brief, and a request for a hearing, from the sole respondent, Dongkuk Steel Mill Co., Ltd. (''DSM''). The Department did not receive either a case or rebuttal brief from the petitioners, or other interested parties. DSM withdrew its request for a hearing on December 14, 2005.

Scope of the Order

The products covered by the antidumping duty order are certain hot–rolled carbon–quality steel: (1) Universal mill plates (*i.e.*, flat–rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a nominal or actual thickness of not less than 4 mm, which are cut–to-length (not in coils) and without patterns in relief), of iron or non–alloy-quality steel; and (2) flat–rolled products, hot–rolled, of a nominal or actual thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are cut–to-length (not in coils). Steel products to be included in the scope of the order are of rectangular, square, circular or other shape and of rectangular or non–rectangular cross–section where such non–rectangular cross–section is achieved subsequent to the rolling process (*i.e.*, products which have been ''worked after rolling'') - for example, products which have been beveled or rounded at the edges. Steel products that meet the noted physical characteristics that are painted, varnished or coated with plastic or other non–metallic substances are included within this scope. Also, specifically included in the scope of the order are high strength, low alloy (HSLA) steels. HSLA steels are recognized as steels with micro–alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Steel products to be included in this scope, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: (1) Iron predominates, by weight, over each of the other contained elements, (2) the carbon content is two percent or less, by weight, and (3) none of the elements listed below is equal to or exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 1.50 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.41 percent of titanium, or 0.15 percent of vanadium, or 0.15 percent zirconium. All products that meet the written physical description, and in which the chemistry quantities do not equal or exceed any one of the levels listed above, are within the scope of the order unless otherwise specifically excluded. The following products are specifically excluded from the order: (1) Products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non–metallic substances; (2) SAE grades (formerly AISI grades) of series 2300 and above; (3) products made to ASTM A710 and A736 or their proprietary equivalents; (4) abrasion–resistant steels (i.e., USS AR 400, USS AR 500); (5) products made to ASTM A202, A225, A514 grade S, A517 grade S, or their proprietary equivalents; (6) ball bearing steels; (7) tool steels; and (8) silicon manganese steel or silicon electric steel. Imports of steel plate are currently classified in the HTSUS under subheadings: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7225.40.3050, 7225.40.7000, 7225.50.6000, 7225.99.0090, 7226.91.5000, 7226.91.7000, 7226.91.8000, 7226.99.0000. The HTSUS subheadings are provided for convenience and CBP purposes. The written description of the merchandise covered by the order is dispositive.

Analysis of Comments Received

The issues raised in the case brief are addressed in the Issues and Decision Memorandum to David M. Spooner, Assistant Secretary for Import Administration, from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, dated concurrently herewith (the ''Decision Memorandum''), which is adopted herein, by reference. Attached, as an appendix to this notice, is a list of the comments the Department received from interested parties, all of which are discussed in the Decision Memorandum. The Decision Memorandum is on file in the Central Record Unit, Room B–099 of the Herbert C. Hoover Building, and may be accessed on the Web at *http://ia.ita.doc.gov.*

Changes Since the Preliminary Results

Based on our analysis of the comments received, the Department has revised the calculation of net U.S. price to properly account for credit notes issued to compensate customers for merchandise lost in transit. This revision is further discussed in the Decision Memorandum.

Final Results of Review

As a result of this review, we determine that the following weighted–average dumping margin exists for the period February 1, 2004, through January 31, 2005:

Manufacturer/Exporter	Margin (percent)
Dongkuk Steel Mill Co., Ltd.	0.18 (de minimis)

Assessment

The Department has determined, and U.S. Customs and Border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries, pursuant to 19 CFR § 351.212(b). The Department calculated an importer–specific duty assessment rate on the basis of the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the examined sales. Where the importer–specific assessment rate is above *de minimis*, the Department will instruct CBP to assess the importer–specific rate uniformly on the entered value of all entries of subject merchandise by that importer. The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of the final results of review.

Cash Deposits

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act of 1930, as amended (the ''Act''). In the instant matter: (1) since the dumping margin for DSM is *de minimis* (less than 0.50 percent), no cash deposit will be required for DSM; (2) for previously investigated or reviewed companies not listed above, the cash deposit rate will continue to be the company–specific rate published for the most recent period; (3) if the exporter is not a firm

covered in this review, a prior review, or the less–than-fair–value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the subject merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be the ''all others'' rate of 0.98 percent, which is the ''all others'' rate established in the LTFV investigation, adjusted for the export subsidy rate in the companion countervailing duty investigation. These cash deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review. *See* section 751(a)(2)(C) of the Act.

Notification to Parties

This notice serves as a final reminder to importers of their responsibility under 19 CFR § 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the concomitant assessment of double antidumping duties. This notice is also the only reminder to parties subject to the administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR § 351.305. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

The Department is publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 7, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix

Comments and Responses

1: Treatment of Sales with Negative Dumping Margins

2: Error Related to the Calculation of Net U.S. Price

[FR Doc. E6–3621 Filed 3–13–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–201–802

Gray Portland Cement and Clinker from Mexico: Agreement Between the Office of the United States Trade Representative, The United States Department of Commerce and Secretaria de Economia of Mexico on Trade in Cement

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Office of the United States Trade Representative (USTR) and the United States Department of Commerce (Commerce) have entered into an agreement with the Secretaria de Economia of Mexico pertaining to imports of gray portland cement and clinker from Mexico (Mexican Cement). The Agreement Between the Office of the United States Trade Representative and the Department of Commerce of the United States of America and the Ministry of Economy of the United Mexican States (Secretaria de Economia) on Trade in Cement (Agreement) provides for the settlement or suspension of ongoing litigation before North American Free Trade Agreement (NAFTA) and World Trade Organization (WTO) panels challenging various antidumping duty determinations involving Mexican Cement. In addition, Commerce has agreed to compromise its claims for duties with respect to entries of Mexican Cement not currently in litigation. Finally, the Agreement creates a system whereby Mexican Cement imports will be subject to regional export limits, which will be monitored by both Commerce and Secretaria de Economia through export license and import license systems. The Agreement provides that, if Mexican Cement producers successfully abide by the terms of the Agreement for three years, then the antidumping duty order will be revoked with respect to those producers.

EFFECTIVE DATE: April 3, 2006.

FOR FURTHER INFORMATION CONTACT: Sally C. Gannon, Judith Wey Rudman, or Jonathan Herzog (202) 482–0162, (202) 482–0192, and (202) 482–4271 respectively, Bilateral Agreements Unit, Office of Policy and Negotiations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Scope of Investigation

For a complete description of the subject merchandise of this Agreement, see Section I.L of the Agreement.

Background

On October 23, 1989, Commerce initiated an antidumping duty investigation of Mexican Cement. *See Initiation of Antidumping Duty Investigation; Gray Portland Cement and Clinker from Mexico*, 54 FR 43190 (October 23, 1989). On August 30, 1990, pursuant to the *Final Determination of Sales at Less Than Fair Value; Gray Portland Cement and Clinker from Mexico*, 55 FR 29244 (July 18, 1990), Commerce issued an antidumping duty order (Order) applicable to shipments of Mexican Cement. *See Antidumping Duty Order: Gray Portland Cement and Clinker from Mexico*, 55 FR 35443 (August 30, 1990). Since the issuance of the Order, Commerce has conducted fourteen administrative reviews, initiated a fifteenth administrative review, completed a five-year Sunset Review of the Order, and initiated a second Sunset Review. Several of these proceedings have been challenged before NAFTA and WTO panels: *Gray Portland Cement and Clinker from Mexico: Notice of Final Results of Antidumping Duty Administrative Review*, 63 FR 12764 (March 16, 1998) (*6th Review*), *Gray Portland Cement and Clinker from Mexico: Notice of Final Results of Antidumping Duty Administrative Review*, 65 FR 13943 (March 15, 2000) (*8th Review*), *Gray Portland Cement and Clinker from Mexico: Notice of Final Results of Antidumping Duty Administrative Review*, 66 FR 14889 (March 14, 2001) (*9th Review*), *Gray Portland Cement and Clinker from Mexico: Notice of Final Results of Antidumping Duty Administrative Review*, 67 FR 12518 (March 19, 2002) (*10th Review*), *Gray Portland Cement and Clinker from Mexico: Notice of Final Results of Antidumping Duty Administrative Review*, 68 FR 1816 (January 14, 2003) (*11th Review*), *Gray Portland Cement and Clinker from Mexico: Notice of Final Results of Antidumping Duty Administrative Review*, 68 FR 54203 (September 16, 2003) (*12th Review*), and *Gray Portland Cement and Clinker from Mexico: Notice of Final Results of Antidumping Duty Administrative Review*, 69 FR 77987 (December 29, 2004) (*13th Review*), *Gray Portland Cement and Clinker from Mexico: Notice of Final Results of Antidumping Duty Administrative Review*, 71 FR 2909 (January 18, 2006) (*14th Review*), and Commerce's final determination in *Gray*

Portland Cement and Cement Clinker from Mexico; Final Results of Full Sunset Review, 65 FR 41049 (July 3, 2000) (*2000 Sunset Review*). Furthermore, certain International Trade Commission (ITC) determinations involving Mexican Cement have been challenged before NAFTA panels as well.

On March 6, 2006, USTR, Commerce, and Secretaria de Economia entered into the Agreement. Under its terms, the Agreement settles or suspends the NAFTA litigation of the *6th Review*, *8th Review*, *9th Review*, *10th Review*, *11th Review*, *12th Review*, *13th Review*, *14th Review*, *2000 Sunset Review*, and two challenges involving the ITC. A challenge before the WTO is suspended as well. In addition, the parties requesting the 15th administrative review of Mexican Cement, initiated on September 28, 2005 (*see* 70 FR 56331 (September 28, 2005)), have requested rescission of that review. *See Gray Portland Cement and Clinker From Mexico: Rescission of Antidumping Duty Administrative Review and Compromise of Outstanding Claims* (Publication Pending). Commerce has compromised claims to antidumping duties for entries of Mexican Cement covered by both that review period, as well as entries of subject merchandise that entered the United States from August 1, 2005 through April 2, 2006. Furthermore, the Agreement provides a system whereby, for three years, Mexican exporters of subject merchandise will be subject to specific sub–regional export limits and will be required to obtain, prior to entry, an export license issued by the Government of Mexico. Importers of Mexican Cement will be required to apply for an import license number issued by Commerce. Both a copy of the export license and the import license number must be provided to U.S. Customs and Border Protection when the importer files Customs Form 7501.

As a result of the litigation settlement, a new assessment rate will be applied to all entries of Mexican Cement from Cementos Mexicanos de Mexico, S.A. de C.V. (CEMEX), and GCC Cemento, S.A. de C.V. (and its predecessor–in-interest, Cementos de Chihuahua, S.A. de C.V.) (GCCC), covered by the various NAFTA challenges. Furthermore, a new cash deposit rate of $3.00 per metric ton has been established for all entries from CEMEX and GCCC after the effective date of the Agreement as a result of the settlement of the *14th review*. *See Gray Portland Cement and Clinker from Mexico: Notice of Amended Final Results of Antidumping Duty Administrative Reviews* (Publication Pending).

The duration of the Agreement is three years. If all of the terms of the Agreement are complied with by the interested parties, the Agreement will expire on March 31, 2009, and Commerce will revoke the Order. For further details, please see the Agreement, attached.

Dated: March 6, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

AGREEMENT BETWEEN THE OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE AND THE DEPARTMENT OF COMMERCE OF THE UNITED STATES OF AMERICA AND THE MINISTRY OF ECONOMY OF THE UNITED MEXICAN STATES (SECRETARIA DE ECONOMIA) ON TRADE IN CEMENT

The Office of the United States Trade Representative (''USTR'') and the Department of Commerce (''DOC'') of the United States of America, of the one part, and the Ministry of Economy of the United Mexican States (''Secretaria de Economía'' or ''SE'') of the other part; (hereinafter referred to as the ''Parties'') enter into this Agreement (the ''Agreement''):

Desiring to resolve the numerous trade disputes arising from the Mexican Cement Order and to promote more liberal and stable trade in cement between Mexico and the United States;

Reaffirming the rights, obligations, and undertakings of the United States and Mexico under the North American Free Trade Agreement (''NAFTA'') and the Marrakesh Agreement Establishing the World Trade Organization (''WTO'') (including the Agreement on Implementation of Article VI of the GATT 1994);

Sharing a common interest in liberalizing trade in, and facilitating the cross–border movement of, cement between the territories of the United States and Mexico, consistent with the NAFTA;

Desiring to ensure the satisfactory resolution of a dispute settlement proceeding in the WTO and numerous proceedings under Chapter 19 of the NAFTA relating to the Mexican Cement Order;

Desiring, after a period during which trade in cement would be governed through trade liberalizing measures, to terminate the Mexican Cement Order; and

Noting the trade–liberalizing objectives of the Security and Prosperity Partnership of North America announced by President Fox and President Bush on March 23, 2005;

HAVE AGREED AS FOLLOWS:

I. Definitions

For purposes of this Agreement, the following definitions shall apply:

A. ''Act'' means the United States antidumping law, as contained in Title VII of the Tariff Act of 1930, Sections 731 *et seq.*, 19 U.S.C. Sections 1673, *et seq.*, as amended.

B. ''Circumvention'' means:

1. The exportation of Mexican Cement by a Mexican Cement Producer, any person or enterprise in Mexico, or any person or enterprise outside of Mexico that is, as a matter of fact and law, acting on behalf of a Mexican Cement Producer, to a Sub–region that:
   a. is not accompanied by an Export License;
   b. for which an Import License has not been issued, once the U.S. Import License system has been established; or
   c. exceeds in quantity the Export Limits for any Sub–region or the Export Rights allocated by SE to the producer of that cement; or

2. Shipping from Mexico to the United States, through third countries, Mexican Cement that is unaccompanied by an Export License;

except for any such exports that are inconsequential, inadvertent, or do not substantially frustrate the purposes of this Agreement.

C. ''Date of Export'' means the date on which SE issues an Export License.

D. ''Effective Date'' means April 3, 2006.

E. ''Escrow Accounts'' means the accounts at SunTrust Bank established pursuant to the Escrow Agreement.

F. ''Escrow Agreement'' means the agreement entered into by the individual members of the Southern Tier Cement Committee (''STCC''), Holcim (US) Inc. (''Holcim''), Capitol Aggregates, Ltd. (''Capitol Aggregates''), and the U.S. importers of record of Mexican Cement produced by CEMEX and GCCC, on the date of this Agreement, CEMEX Cement, Inc. (formerly known as Sunbelt Cement, Inc.) (''CEMEX Cement''), Gulf Coast Portland Cement Co. (formerly known as HM Gulf Coast Portland Cement Company)(''Gulf Coast Portland Cement''), and Rio Grande Portland Cement Corp. and its successor, GCC Rio Grande, Inc. (collectively ''GCC Rio Grande''). The Escrow Agreement is attached to this Agreement as Appendix 13.

G. ''Export License'' means the document issued by SE in a given Export Limit Period (containing the information described in Appendix 22) that authorizes an exporter in Mexico to export a certain quantity of Mexican Cement during a given 90 day period specified in the Export License and to a given Sub–region.

H. ''Export Limit'' means the quantity of Mexican Cement permitted to be exported (based upon the Date of Export) under Section III of this Agreement from Mexico to a given Sub–region during a given Export Limit Period.

I. ''Export Limit Period'' means one of the following periods:

First Export Limit Period – The period beginning on April 3, 2006 (the Effective Date) and ending on March 31, 2007.

Second Export Limit Period – The period beginning on April 1, 2007, and ending on March 31, 2008.

Third Export Limit Period – The period beginning on April 1, 2008, and ending on March 31, 2009.

J. ''Export Rights'' means the share of the Export Limit for a given Sub–region and Export Limit Period assigned by SE to a specific Mexican Cement Producer.

K. ''Import License'' means the number generated by the automatic import licensing system established by DOC (based on the information supplied by the U.S. importer of record as described in Appendix 20).

L. ''Mexican Cement'' means gray portland cement and clinker from Mexico. Gray portland cement is a hydraulic cement and the primary component of concrete. Clinker, an intermediate material produced when manufacturing cement, has no use other than being ground into finished cement. Specifically included within the scope of this definition are pozzolanic blended cements and oil well cements. Specifically excluded are white cement and Type ''S'' masonry cement as defined in the DOC's April 25, 1996, scope determination (61 FR 18381). Gray portland cement is currently classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) item number 2523.29 and cement clinker is currently classifiable under HTSUS item number 2523.10. Gray portland cement has also been entered under HTSUS item number 2523.90 as ''other hydraulic cements.'' These HTSUS subheadings are provided for convenience and USCBP purposes; the written definition is controlling for purposes of this Agreement.

M. ''Mexican Cement Order'' means the U.S. antidumping duty order on Mexican Cement issued on August 30, 1990 (55 FR 35443).

N. ''Mexican Cement Producers'' means the producers of Mexican Cement on the Effective Date or at any time while this Agreement is in force, including the Mexican Cement Producers Cementos Mexicanos of Mexico, S.A. de C.V. (''CEMEX''), GCC Cemento, S.A. de C.V. (and its predecessor–in-interest, Cementos de Chihuahua, S.A. de C.V. (''GCCC''), Holcim Apasco, S.A. de C.V. (''Apasco''), Cooperativa Cruz Azul, S.C.L. (''Cruz Azul''), Cementos Moctezuma, S.A. de C.V. (''Moctezuma''), and Lafarge Cementos, S.A. For purposes of this Agreement, CEMEX and GCCC are considered to be unrelated and unaffiliated entities.

O. ''Southern Tier'' means the region of the United States that is comprised of the following states: California, Arizona, New Mexico, Texas, Louisiana, Mississippi, Alabama, and Florida.

P. A ''Sub–region'' means one of the following regions:

''Alabama/Mississippi,'' which comprises the state of Alabama and the state of Mississippi;

''Arizona,'' which comprises the state of Arizona;

''California,'' which comprises the state of California;

''Florida,'' which comprises the state of Florida;

''New Mexico/El Paso,'' which comprises the state of New Mexico and the following counties in the state of Texas: Cochran, Hockley, Lubbock, Yoakum, Terry, Lynn, Gaines, Dawson, Andrews, Martin, El Paso, Hudspeth, Culberson, Reeves, Loving, Winkler, Ector, Midland, Ward, Crane, Upton, Jeff Davis, and Pecos;

''Texas,'' which comprises all of the counties in the state of Texas not included in the ''New Mexico/El Paso'' Sub–region;

''New Orleans,'' which comprises the state of Louisiana; and

''Rest of the United States,'' which comprises all other states, territories, and regions of the United States.

Q. ''Southern Tier Cement Committee'' means the coalition currently comprised of the following companies (including their predecessors and successors in interest): Alamo Cement Co., Arizona Portland Cement, Ash Grove Cement Co., Inc., Ash Grove Texas LP, Buzzi Unicem USA Inc., California Portland Cement Co., Eagle Materials, Inc., Florida Crushed Stone Co., Giant Cement Holding Inc., Hanson Permanente Cement, Lafarge Building Materials, Inc., Lehigh Cement Co., Lafarge North America, Inc., Lehigh Southwest Cement Co., Lone Star Industries, Inc., National Cement Co. of Alabama, National Cement Co. of California, Rinker Materials Corp., Salt River Materials Group, Suwannee American Cement Company, Inc., Texas Industries, Inc., Texas–Lehigh Cement Co., and Titan America LLC.

R. The ''Committee for Fairly Traded Mexican Cement'' means the coalition currently comprised of the following companies (including their predecessors and successors in interest): TXI Riverside Cement Co. and all of the members of the STCC except Ash Grove Cement Co., Inc.; Buzzi Unicem USA Inc.; Eagle Materials, Inc.; Giant Cement Holding Inc.; and Lafarge North America, Inc. This Committee (rather than the STCC) is the party to the sunset proceedings involving the Mexican Cement Order before the DOC and the International Trade Commission (''ITC'') and the related NAFTA panel proceedings.

S. ''United States'' means the customs territory of the United States of America and all foreign trade zones located in the territory of the United States of America.

T. ''USCBP'' means United States Customs and Border Protection.

U. ''1999 Sunset Review'' means the five year review of the Mexican Cement Order under 19 U.S.C. § 1675(c) initiated by DOC in August 1999.

V. ''2005 Sunset Review'' means the five year review of the Mexican Cement Order under 19 U.S.C. § 1675(c) initiated by DOC on October 3, 2005.

II. General Provisions

A. This Agreement shall enter into force on the Effective Date, provided that all of the following events have occurred:

1. SE has established an Export License system for all exports of Mexican Cement to the United States.

2. The parties in the following NAFTA panel proceedings concerning DOC determinations have entered into a settlement agreement and, with the consent of the other parties, DOC has filed a Notice of Motion requesting termination of the Panel reviews, as of the Effective Date, pursuant to Rule 71(2) of the NAFTA Rules of Procedure for Article 1904 Panel Reviews:

In the Matter of Gray Portland Cement and Clinker from Mexico, Secretariat File No. USA–MEX–1998–1904–02 (6th Administrative Review);

In the Matter of Gray Portland Cement and Clinker from Mexico, Secretariat File No. USA–MEX 2000–1904–03 (8th Administrative Review);

In the Matter of Gray Portland Cement and Clinker from Mexico, Secretariat File No. USA–MEX–2001–1904–04 (9th Administrative Review);

In the Matter of Gray Portland Cement and Clinker From Mexico, Secretariat File No. USA–MEX–2002–1904–05 (10th Administrative Review);

In the Matter of Gray Portland Cement and Clinker From Mexico, Secretariat File No. USA–MEX–2003–1904–01 (11th Administrative Review);

In the Matter of Gray Portland Cement and Clinker From Mexico, Secretariat File No. USA–MEX–2003–1904–03 (12th Administrative Review);

In the Matter of Gray Portland Cement and Clinker From Mexico, Secretariat File No. USA–MEX–2004–1904–03 (13th Administrative Review);

In the Matter of Gray Portland Cement and Clinker From Mexico, Secretariat File No. USA–MEX–2006–1904–03 (14th Administrative Review); and

In the Matter of Gray Portland Cement and Clinker From Mexico, Secretariate File No. USA–MEX–2000–1904–05 (DOC Final Results of the 1999 Sunset Review).

The settlement agreement and Notices of Motion are attached to this Agreement as Appendix 1.

3. The ITC has filed, with the consent of CEMEX and GCCC, a Notice of Motion requesting termination of the panel review below, as of the Effective Date, pursuant to Rule 71(2) of the NAFTA Rules of Procedure for Article 1904 Panel reviews:

ITC Dismissal of a Request to Institute a Section 751(b) Review (USA–MEX 2002–1904–01).

The Notice of Motion is attached to this Agreement As Appendix 1.

4. DOC has taken each of the following actions:

a. Issued instructions to USCBP to liquidate entries of Mexican Cement produced by CEMEX or GCCC that were imported by CEMEX Cement, Gulf Coast Portland Cement, and GCC Rio Grande (listed on USCBP Form 4811 designating SunTrust Bank as the agent), at the rate of ten U.S. cents ($0.10) per metric ton, and to refund to the Escrow Accounts the deposits of estimated duties in excess of that rate, with all accrued interest thereon. DOC shall work with USCBP, CEMEX, and GCCC to ensure that all of CEMEX's and GCCC's entries are liquidated pursuant to this provision. These instructions are attached to this Agreement as Appendix 2;

b. Issued instructions to USCBP, pursuant to the settlement of the NAFTA litigation arising from the 14th administrative review of the Mexican Cement Order (*Gray Portland Cement and Clinker from Mexico: Notice of Final Results of Antidumping Duty Administrative Review*, 71 FR 2909 (January 18, 2006)), to change the estimated duty deposit rate for CEMEX and GCCC to three U.S. Dollars ($3.00) per metric ton as of the Effective Date. Copies of these instructions are attached to this Agreement as Appendix 3. DOC shall publish a Notice in the **Federal Register** within 10 days of the Effective Date amending the final results of the 14th administrative review and announcing the new deposit rate. A copy of the Notice is attached to this Agreement as Appendix 4;

c. Signed a determination (the text of which is attached to this Agreement as Appendix 5), that will be published in the **Federal Register** within 10 days of the Effective Date, rescinding, pursuant to 19 C.F.R. § 351.213(d)(1), all administrative reviews of the Mexican Cement Order in progress on the Effective Date; and

d. Suspended the 2005 Sunset Review of the Mexican Cement Order.

5. CEMEX Cement, Gulf Coast Portland Cement, and GCC Rio Grande have each executed an irrevocable power of attorney (all of which are attached to the Agreement in Appendix 6) appointing SunTrust Bank as its attorney–in-fact to take all actions required for receiving and depositing into the Escrow Accounts all refunds pursuant to this Agreement of estimated antidumping duties on Mexican Cement.

6. DOC, CEMEX Cement, Gulf Coast Portland Cement, and GCC Rio Grande have entered into settlement agreements, pursuant to Section 617 of the Tariff Act of 1930, 19 U.S.C. § 1617, that take effect on the Effective Date, providing for the liquidation of all entries of Mexican Cement produced by CEMEX and GCCC entered from August 1, 2004, through April 2, 2006, at the rate of ten U.S. cents ($0.10) per metric ton. These settlement agreements are attached to this Agreement as Appendix 7.

7. The World Trade Organization (WTO) panel in *United States – Anti–Dumping Measures on Cement from Mexico* (WT/DS281) has granted the Government of Mexico's request for suspension of the panel proceedings, pursuant to Article 12.12 of the WTO's Understanding on Rules and Procedures Governing the Settlement of Disputes. The communication from the Chairman of the panel granting this request is attached to this Agreement as Appendix 8.

8. CEMEX, GCCC, and the STCC and its members have filed documents, as appropriate, through their counsel, with DOC (attached to this Agreement as Appendix 9):

a. Withdrawing all outstanding requests for administrative reviews of the Mexican Cement Order under Section 751 of the Act and requesting DOC to rescind all administrative reviews in progress as of the Effective Date;

b. Requesting DOC to lift any suspension of liquidation under 19 U.S.C. § 1516a(g)(5)(C)(i) and 19 C.F.R. § 356.8 in connection with NAFTA panel reviews of DOC administrative reviews concerning all entries of Mexican Cement that entered the United States before the Effective Date; and

c. Requesting DOC to lift the suspension of liquidation instituted by DOC under 19 U.S.C. § 1516a(g)(5)(C)(i) and 19 C.F.R. § 356.8, pursuant to the NAFTA litigation covering the 1999 Sunset Review:

1. of all entries of Mexican Cement that entered the United States before the Effective Date; and

2. of all entries of Mexican Cement covered by any administrative review of such entries during an administrative review period ending after the Effective Date (following the end of the period for requesting that administrative review), so that those entries can be liquidated in accordance with this Agreement (provided that this Agreement remains in force at the time liquidation is ordered).

9. CEMEX, GCCC, and Apasco have each filed an irrevocable letter with DOC (attached to this Agreement as Appendix 10) agreeing, in the event the submitter of the letter has been found to have engaged in Circumvention, to participate in any accelerated changed circumstances review conducted by DOC (pursuant to Paragraph VII.C) to establish a new estimated antidumping duty deposit rate, by:

a. Filing with DOC, within two weeks of receiving a written request, a submission with sufficient information to enable DOC to calculate a weighted–average dumping margin, based on the company's sales in the two most recent quarters;

b. Permitting DOC to verify the submission in Paragraph II.A.9.a;
c. Waiving the company's right to participate in the changed circumstances review, other than by filing with DOC the submission described in Paragraph II.A.9.a and one administrative brief two weeks before DOC's final determination is scheduled to be issued; and
d. Accepting that, if it does not make the submission described in Paragraph II.A.9.a, DOC shall determine the new estimated duty deposit rate on the basis of the facts available to be $42.63 per metric ton (the average of the calculated rates for the 12th and 13th administrative review periods).

10. CEMEX, GCCC, the Committee for Fairly Traded Mexican Cement, and the ITC have obtained from the NAFTA panel reviewing the determination of the ITC in the 1999 Sunset Review a Notice of Suspension of Panel Review, and the ITC has filed a Notice of Motion of Termination of Panel Review (*ITC Sunset Review of the Antidumping Duty Order*, USA–MEX–2000–1904–10) (attached to this Agreement as Appendix 11) that, respectively, will:
a. suspend the Panel proceeding for as long as this Agreement remains in force; and
b. terminate the Panel proceeding upon notification by DOC to the NAFTA Secretariat that DOC has revoked the Mexican Cement Order as to CEMEX and GCCC, or DOC has determined not to revoke the Mexican Cement Order as to CEMEX or GCCC pursuant to Section XI.B. of this Agreement.

11. The Committee for Fairly Traded Mexican Cement, CEMEX, GCCC, and Apasco have filed with the DOC, through their counsel, a letter (attached to this Agreement as Appendix 12):
a. expressing their shared view that, while this Agreement remains in force, the 2005 Sunset Review is neither required nor permitted, and should be suspended; and
b. requesting DOC, if this Agreement has not been terminated before March 31, 2009, to terminate the 2005 Sunset Review on that date.

12. The STCC members, Capitol Aggregates, Holcim, CEMEX Cement, Gulf Coast Portland Cement, and GCC Rio Grande have entered into the Escrow Agreement attached to this Agreement as Appendix 13.

13. The STCC and its members, Holcim, Capitol Aggregates, CEMEX Cement, Gulf Coast Portland Cement, and GCC Rio Grande have each filed with DOC, either themselves or through their counsel, an irrevocable letter (attached to this Agreement as Appendix 14), effective on the Effective Date, stating, as appropriate, that:
a. While this Agreement remains in force, the party submitting the letter will not request any review under Section 751 of the Act of any Mexican Cement Producer that has not engaged in Circumvention. In the event that a Mexican Cement Producer engages in Circumvention, the party submitting the letter reserves the right to request an administrative review and a changed circumstances review only of exports by that Mexican Cement Producer;
b. Provided that this Agreement has not been terminated before March 31, 2009, the party submitting the letter has ''no interest'' in maintaining the Mexican Cement Order after the expiration of this Agreement, except with respect to any Mexican Cement Producer that has substantially exceeded the Export Rights allocated to it by SE for any Sub–region for the Third Export Limit Period; and
c. The party shall not file a petition requesting remedies with respect to Mexican Cement under the Act, the U.S. countervailing duty law, Sections 201–204 of the Trade Act of 1974, as amended, or Sections 301–305 of the Trade Act of 1974, as amended, for the duration of this Agreement and for a period of nine (9) months after this Agreement expires and will oppose any such petition filed by any other person or enterprise during that period.

14. Representatives of SunTrust Bank, the institution responsible for the Escrow Accounts, have completed two copies of Form 5106, and CEMEX Cement, Gulf Coast Portland Cement and GCC Rio Grande have filed such copies of Form 5106 with USCBP, providing Suntrust Bank's addresses for purposes of receipt of refunds and interest payments from USCBP. One copy of Form 5106 will provide an agent's number for the account used by CEMEX Cement and Gulf Coast Portland Cement. The second copy will provide an agent's number for the account used by GCC Rio Grande. These copies are attached to this Agreement as part of Appendix 15.

15. CEMEX Cement, Gulf Coast Portland Cement, and GCC Rio Grande have each filed with USCBP:
a. A Form 4811 for each U.S. port of entry having entries of Mexican Cement that will be covered by a settlement under this Agreement, directing USCBP to send all refunds of estimated antidumping duty deposits pursuant to such a settlement to the importers of record in care of SunTrust Bank (also attached to this Agreement as Appendix 15);
b. A blanket statement of non–reimbursement, pursuant to 19 CFR § 351.402(f)(2), certifying that it has not entered into any agreement or understanding for the payment of all or any part of antidumping duties by the manufacturer, producer, seller or exporter of the subject merchandise (attached to this Agreement as Appendix 16); and
c. A waiver (attached to this Agreement as Appendix 17) of the right under 19 U.S.C. § 1514 to protest the liquidation of the entries subject to this Agreement, other than to contest and correct:
1. the rate at which the entry was liquidated if the rate is other than the rate contained in the DOC instructions;
2. the calculation of the refund; or
3. clerical errors and mistakes of fact, following consultation with both DOC and SE, and agreement by both DOC and SE that the error or mistake is, indeed, clerical in nature or, indeed, a mistake of fact.

16. CEMEX Cement, Gulf Coast Portland Cement and GCCC Rio Grande have each certified to DOC that they have supplied a complete list of all entries covered by the settlement in connection with this Agreement (attached to this Agreement as Appendix 18).

B. The Parties undertake the following obligations once this Agreement has entered into force (provided that this Agreement remains in force):

1. SE shall not issue an Export License to any Mexican Cement Producer that has not filed the letter described in Paragraph II.A.9 of this Agreement.
2. DOC shall publish in the **Federal Register**, within 10 days of the Effective Date, the notice (attached to this Agreement as Appendix 19) describing this Agreement.
3. DOC shall notify SunTrust Bank in writing, within 10 days of the Effective Date, that this Agreement has become effective.
4. DOC shall publish in the **Federal Register**, within 10 days of the Effective Date, the notice (attached to this Agreement as Appendix 5) announcing the termination of all ongoing annual administrative reviews of the Mexican Cement Order.
5. To the extent that DOC does not receive a request for an administrative review of entries subject to the Mexican Cement Order at the close of each

period for requesting such an administrative review, DOC shall order liquidation of all entries under the Mexican Cement Order at the deposit rate in effect upon the date of entry, pursuant to 19 CFR § 351.212. If, while this Agreement is in force, DOC receives a request for an administrative review of entries of Mexican Cement produced or exported by a Mexican Cement Producer, DOC shall conduct that review as required by 19 U.S.C. Section 1675(a). However, DOC intends to settle, under 19 U.S.C. § 1617, the claim for the antidumping duties on the entries covered by the request at the estimated duty deposit rate in effect on the date of entry. In deciding whether to reach such a settlement, DOC shall take into account whether Circumvention has occurred and whether SE has compensated for the Circumvention.

6. Upon request, DOC shall conduct an expedited changed circumstances review to establish a new estimated duty deposit rate for any Mexican Cement exporter (and its affiliated parties) that:

a. had an estimated duty deposit rate under the Mexican Cement Order;
b. did not receive the new estimated duty deposit rate of three U.S. dollars ($3.00) per metric ton referenced in Section II.A.4.b of this Agreement; and
c. exported Mexican Cement to the United States in the year preceding the Effective Date or exports Mexican Cement to the United States while this Agreement remains in force.

7. DOC shall conduct an expedited new shipper review, upon request, of each Mexican exporter and its affiliated parties that:

a. did not have an estimated duty deposit rate established under the Mexican Cement Order;
b. exports Mexican Cement to the United States while this Agreement remains in force; and
c. has satisfied all of the applicable certification requirements of 19 CFR § 351.214(b).

8. DOC shall establish an automatic Import License system for Mexican Cement for the purpose of monitoring the level of imports of Mexican Cement. Once this Import License system is in operation, each importer of record of Mexican Cement will be required to include the U.S. Import License number on the entry summary (or its electronic equivalent) provided to USCBP upon entry into the United States. The list of information required on each Import License application is attached as Appendix 20.

9. DOC shall rely on the representations contained in the letters submitted by STCC, CEMEX, GCCC, Capitol Aggregates, and Holcim, through counsel, referenced in Section II.A.13.b of this Agreement, as the basis for the commitments made by DOC in Sections IX and XI of this Agreement.

10. If this Agreement remains in force on January 2, 2007, SE and USTR shall ensure that their respective governments notify the WTO Dispute Settlement Body, pursuant to Article 3.6 of the WTO Dispute Settlement Understanding, that they have arrived at a mutually agreed solution to the dispute *United States - Anti–Dumping Measures on Cement from Mexico* (WT/DS281).

11. If this Agreement terminates before March 31, 2009, DOC promptly shall resume the 2005 Sunset Review and inform the ITC of the new circumstances.

C. This Agreement is without prejudice to the position of any Party regarding the validity of the Mexican Cement Order or the merits of any litigation related to the Mexican Cement Order.

III. Export Limits and Export Licensing

A. SE shall ensure that no Mexican Cement is exported (based on the Date of Export) from Mexico to the United States in a quantity that exceeds the Export Limits set forth below. SE shall ensure that no Mexican Cement is exported (based on the Date of Export) from Mexico to the United States without an Export License.

1. The Export Limits for Mexican Cement for the First Export Limit Period for each Sub–region shall be:

a. Alabama/Mississippi	55,000 metric tons
b. Arizona	1,250,000 metric tons
c. California	150,000 metric tons
d. Florida	200,000 metric tons
e. New Mexico/El Paso	725,000 metric tons
f. New Orleans	280,000 metric tons
g. Texas	215,000 metric tons
h. Rest of United States	125,000 metric tons
Total	3,000,000 metric tons

2. DOC shall adjust the Export Limit for each Sub–region for the Second and Third Export Limit Periods as follows:

a. Export Limit calculation: DOC shall increase or decrease the Export Limit for the previous Export Limit Period by the percent change (up to 4.5 percent) in apparent consumption of cement in that Sub–region during the most recent 12 months for which data is available at the time DOC makes this calculation, as compared to the previous 12 months (as described in Appendix 21). DOC shall provide to SE, STCC, Holcim, and Capitol Aggregates, no later than 60 days before the beginning of the Second and Third Export Limit Periods, the Export Limits for that period.
b. Adjustment for New Orleans: DOC shall increase the base Export Limit calculated under Paragraph III.A.2.a for New Orleans by 25,000 metric tons and decrease the base Export Limit for the Rest of the United States by 25,000 metric tons. This one–time adjustment to the base Export Limit shall apply to both the Second and Third Export Limit Periods.

3. DOC and SE shall consult, as necessary, regarding whether any of the Export Limits should be increased (after all other adjustments provided for by this Agreement) by a combined total for all Sub–regions of up to 200,000 metric tons in any Export Limit Period, in order to respond to increased U.S. demand for cement in connection with a declaration of a state of emergency as the result of a disaster. DOC shall only accept an application for an Import License from a U.S. importer of record of such additional Mexican Cement that states that the imports will be used for the purpose of disaster relief.

4. SE may carry over to the next Export Limit Period or carry back to the current Export Limit Period up to 8 percent of the Export Limit for each Sub–region (except for Arizona, for which the allowed carry–over or carry–back is 5 per cent). The quantity permitted to be carried over or carried back under this paragraph shall be calculated on the basis of the Export Limit before any

adjustment under Paragraph III.A.2.a (for changes in apparent consumption) or adjustments under Paragraph III.A.2.b (for New Orleans and the Rest of the United States), or any increase under Paragraph III.A.3 with respect to a state of emergency.

B. SE shall allocate Export Rights to Mexican Cement Producers in accordance with the Export Limits specified or calculated under Section III.A., taking into consideration each producer's exports to the United States during the previous five year period. SE shall reserve at least 6 percent by volume of the Export Limit for exports of Mexican Cement Producers which have not previously shipped Mexican Cement to the United States during the last five years.

C. SE shall not issue Export Licenses authorizing the export of a quantity of Mexican Cement to any Sub–region in any half of any Export Limit Period that exceeds 60 percent of the Export Limit for that Sub–region for that Export Limit Period (before any carry forward or carry back adjustments provided for in this Agreement). This provision shall not apply to exports to the Sub–regions of Alabama/Mississippi and the Rest of the United States.

D. SE shall enforce the Export Limits under the Mexican Foreign Trade Law (''Ley de Comercio Exterior'') by establishing an Export License system in accordance with Articles 4III, 5V, 15II, 21, 23 and 24 of that law, and the relevant provisions of the Foreign Trade Law Regulations.

IV. Implementation

A. Under the Export License system, SE shall permit exports (based upon the Date of Export) of Mexican Cement to the United States only when the shipment is accompanied by a valid Export License.

B. Each Export License shall:

1. Contain all of the information set out in Appendix 22 to this Agreement (an official translation in English) and identify the time period for which the Export License is effective. Additional information may be included on the Export License or, if necessary, on a separate page attached to the Export License.

2. Be issued sequentially by each regional office of SE in Mexico and counted against the Export Limit and Export Rights for the relevant Export Limit Period for each Sub–region. Export Licenses shall remain valid for entry into the United States for 90 days. DOC and SE may agree to an extension of the validity of the Export License in extraordinary circumstances.

3. Be issued in the Spanish language.

C. DOC shall require that each importer submit to USCBP, with its entry summary package, a valid Export License. For multiple shipments at multiple ports or multiple entries at one port, the original license shall be presented with the first entry and a copy of the Export License shall be presented with each subsequent entry.

D. DOC shall deduct from the amount authorized on each Export License the quantity of each shipment reported on corresponding Import Licenses for the appropriate Export Limit for the given Sub–region for the Export Limit Period, based on the Date of Export. The validity of an Export License shall not be affected by any subsequent change of an HTSUS number.

E. SE shall take the following measures to ensure compliance with the Export Limits:

1. Ensure that no Mexican Cement is exported from Mexico (based on the Date of Export) for entry into the United States that exceeds the applicable Export Limit for each applicable Sub–region or Export Rights for each Mexican Cement Producer.

2. Ensure that each Mexican Cement Producer certifies, when applying for an Export License, that it will deliver Mexican Cement only to the specified Sub–region for which the Export License is being requested.

3. Ensure that each Mexican Cement Producer that exports Mexican Cement to the United States certifies, when applying for an Export License, that it will provide to SE and DOC a monthly report specifying the date of sale, quantity, the complete name and address (including county) of each affiliated and unaffiliated purchaser to whom Mexican Cement was sold, and the Export License numbers pursuant to which the Mexican Cement that was sold during that month was imported into the United States. This monthly report shall be due 30 days after the end of each month (or the next business day).

4. Permit verification by DOC of all information concerning the enforcement of the Export Limits on an annual basis, to the extent not prohibited by Mexican Law.

V. Market Access

A. SE and DOC are committed to identifying and addressing any barriers to market access that may prevent open and stable trade in cement between the United States and Mexico. SE and DOC promptly and completely shall investigate, as appropriate, any specific allegation, based on evidence, of a market access barrier or an unfair trade or business practice that may prevent cement from the other country from entering its market.

B. SE and DOC, shall, with the support of the Mexican and U.S. cement industries, establish a North American Cement Committee in order to facilitate cement trade between Mexico and the United States. The Parties shall hold the first meeting of the new cement committee within six months of the Effective Date. The committee will analyze possible mechanisms that could promote cement trade between the United States and Mexico, such as:

1. International buyer delegations: Encourage delegations of Mexican buyers/end–users of cement and cement products to participate in major trade shows in the United States, and U.S. buyers/end–users of cement and cement products to participate in major trade shows in Mexico.

2. Technical seminars: Co–host technical seminars at relevant trade shows in Mexico and the United States to discuss new products and to present U.S. producers to the Mexican industry, and Mexican producers to the U.S. industry, respectively.

3. Trade missions: Co–host trade missions to Mexico and the United States of U.S. cement (and related products) producers and Mexican cement (and related products) producers, respectively.

4. Market research and trade leads: Facilitate the collection and dissemination of information on market opportunities for U.S. cement products in Mexico, and Mexican cement products in the United States, including specific trade leads and project opportunities.

C. SE and DOC shall monitor these activities and how they influence the evolution of trade in cement between Mexico and the United States. SE and DOC shall consult on a quarterly basis and discuss any areas where improvement may be made. SE and DOC intend to invite Canada to join the North American Cement Committee.

D. SE shall ensure that any Mexican importer of cement designated by a U.S. cement producer or exporter is permitted to be registered into the Mexican Importers' Registry (''Padron de Importadores'') and the Mexican Importers' Registry for Specific Sectors (Padron de Importadores para Sectores Especificos''), provided that the importer fully complies with the requirements set out under Mexican law. These registration requirements are set forth in Appendix 23 to this

Agreement. In the event that an application for any of these registries is denied, the Mexican importer may request SE to consult with the competent authority. In such case, SE shall inform the importer in writing, within 45 days of the request, of the reasons for which the application was denied.

E. SE shall ensure that the Camara Nacional del Cemento de Mexico (''CANACEM''), CEMEX, GCCC and Apasco each submit a letter to SE (attached to this Agreement as Appendix 24) stating that:
1. It will not interpose an objection with the competent authority in Mexico to an application by any Mexican importer designated by a U.S. cement producer or exporter to be registered into the Mexican Importers' Registry or the Mexican Importers' Registry for Specific Sectors to import U.S. - produced cement.

2. If it files an objection with the competent authority in Mexico to an application for inclusion on either registry filed by a Mexican importer, designated by a U.S. cement producer or exporter to register to import cement produced in a third country, the writer of the letter will provide a copy of the objection to SE.
SE shall ensure that, if CANACEM, CEMEX, GCCC, or Apasco should object to an application for inclusion on either registry as described in subparagraphs (E) (1) and (2), it shall provide DOC with a copy of the objection within 45 days.
F. To the extent that an objection described in Paragraph E above contains confidential information, SE shall ensure that the companies will consult with SE to explain the nature of the confidential information. If possible, SE shall obtain a non–confidential summary of the information and provide that summary to DOC.

VI. Monitoring and Notifications

A. As is necessary and appropriate to monitor the implementation of, and compliance with, this Agreement, SE shall:
1. Within thirty days following the allocation of Export Rights for any Export Limit Period, notify DOC of the quantity allocated to each recipient for each applicable Sub–region. SE also shall inform DOC of any changes in the allocation of Export Rights within 30 days of the date on which such changes become effective, including the allocation of Export Rights for Mexican Cement carry–over or carry–back pursuant to paragraph III.A.4.
2. a. Monitor all exports of Mexican Cement to the United States and deduct the quantity of each such export from the Export Limit identified on the Export License; and
b. Prevent, in coordination with the Mexican General Customs Administration, the exportation of any Mexican Cement not accompanied by an Export License or in a quantity exceeding the quantity shown on the Export License.
3. Collect and provide to DOC information on Export Licenses issued in the format specified in Appendix 25 to this Agreement, including a copy of each Export License issued. This information shall be collected for the six-month period beginning on the Effective Date and each subsequent six-month period and will be provided no later than 60 days following the end of each such six-month period.
4. Collect and provide to DOC information identifying each shipment of Mexican Cement made pursuant to each Export License in the format specified in Appendix 25. This information shall be collected for the six-month period beginning on the Effective Date and each subsequent six-month period and will be provided to DOC no later than 60 days following the end of each such six-month period.
5. Permit DOC to verify all information furnished by SE to DOC under this Agreement to the extent not prohibited by Mexican Law.
B. DOC shall monitor and collect the following information to determine whether there have been imports of Mexican Cement into the United States that may be inconsistent with this Agreement and, to the extent not prohibited by U.S. law, provide this information to representatives of all interested parties to this segment of the DOC proceedings on Mexican Cement (as defined by Section 771(9) of the Act) upon request:
1. U.S. Bureau of the Census data, and other publicly–available data, on a quarterly basis.
2. U.S. Bureau of the Census computerized records that include the quantity and value of each entry. DOC may also request USCBP to provide other specific entry information, such as the identity of the producer/exporter which may be responsible for such sales.
3. Information from the Import License system established under this Agreement.
C. DOC shall release to counsel for the interested parties to this segment of the DOC proceedings on Mexican Cement (as defined by Section 771(9) of the Act) and to counsel for SE all business proprietary information submitted to DOC:
1. under this Agreement, pursuant to this Agreement for Disclosure of, and Access to, Business Proprietary Information (attached to this Agreement as Appendix 26); and
2. during the course of any administrative proceedings relating to Mexican Cement conducted by DOC following the entry into force of this Agreement, pursuant to DOC's regulations and standard procedures governing the release of business proprietary information.

VII. Circumvention

A. The Parties shall take the following measures to address Circumvention:
1. DOC shall investigate any alleged Circumvention that is brought to its attention, both by asking SE to investigate such allegations and by itself gathering relevant information. In such case, DOC shall provide to SE all relevant information, provided that this is not prohibited by U.S. law. DOC shall notify SE of the results of the inquiry within 15 days after the conclusion of the inquiry.
2. SE shall investigate any alleged Circumvention that is brought to its attention. SE shall promptly initiate an inquiry into the alleged Circumvention, and normally complete the inquiry within 45 days. SE shall notify DOC of the results of the inquiry within 15 days after its conclusion.
B. If a Mexican person or enterprise has engaged in Circumvention that results in an Export Limit being exceeded, DOC and SE shall deduct from the Export Limit for the Sub–region and Export Limit Period for which the Export Limit was exceeded (or, if the Export Limit for that Sub–region and Export Limit Period has been filled, the following Export Limit Period) 150 percent of the quantity of Mexican Cement involved. DOC and SE shall notify the other Party of any penalties imposed under this Section within 15 days of their imposition.
C. If there has been Circumvention for which SE has not compensated by reducing the Export Limit for the applicable Sub–region consistent with Paragraph VII.B, DOC may self–initiate an accelerated changed circumstances review (to be completed within 90 days of initiation) of the producer of the Mexican Cement involved in the Circumvention, in order to change the deposit rate applicable to that Mexican Cement Producer. In the event that DOC receives a petition requesting a changed circumstances review of a Mexican Cement Producer as a result of

Circumvention by that producer for which SE has compensated under Paragraph VII.B of this Agreement, DOC will consider the compensation (and penalties imposed upon that producer) material to its decision whether to initiate such a review, and will reflect its consideration of that material factor in its written decision on whether to initiate the review. Should a changed circumstances review be initiated under this provision, SE shall require the Mexican Cement Producer in question to provide to DOC, within two weeks after the date of initiation of the review, all cost and sales data for the two most recently completed quarters, or accept a new deposit rate based on the facts available, in the amount of $42.63 per metric ton (the average of the rates for the 12th and 13th administrative reviews of Mexican Cement).

D. DOC shall require all importers of Mexican Cement into the United States to submit to DOC a written statement, 30 days after the end of every quarter (or on the next business day), listing all entries of such merchandise and certifying that the Mexican Cement imported during that quarter was not obtained under any arrangement in Circumvention. Where DOC has reason to believe that such a certification has been made falsely, DOC shall refer the matter to the United States Department of Homeland Security or the United States Department of Justice for further action, as appropriate.

VIII. Consultations

The Parties shall hold consultations concerning the implementation, operation and enforcement of this Agreement at least once each year during the anniversary month of the Effective Date and upon request by SE, DOC, or USTR. Within six months of the Effective Date, SE and DOC shall consult regarding the information exchanged under this Agreement.

IX. Intentions of the Parties with Respect to Future Unfair Trade Actions and Challenges to this Agreement

For the duration of this Agreement and for nine (9) months after the expiration of this Agreement:

A. DOC shall not self–initiate an investigation under Title VII of the Act, or any successor law, with respect to imports of Mexican Cement. If a petition for such an investigation is filed by a member of the STCC, Holcim, or Capitol Aggregates, DOC shall dismiss the petition, based upon the letters submitted by those parties and referenced in Paragraph II.A.13 of this Agreement.

B. USTR shall not self–initiate an action under Sections 201–204 of the Trade Act of 1974, as amended, or any successor law, with respect to imports of Mexican Cement.

C. USTR shall not self–initiate an investigation under Sections 301–305 of the Trade Act of 1974, as amended, or any successor law, with respect to imports of Mexican Cement.

D. SE shall not initiate an investigation or take action under Titles V or VI of the Mexican Foreign Trade Law, or any successor law, with respect to imports of cement from the United States. If CEMEX, GCCC, or Apasco files with SE a petition for an investigation under Title V of the Mexican Foreign Trade Law, SE shall dismiss the petition, based upon the letter from that producer attached to this Agreement as Appendix 27 or submitted by that producer to SE after the date this Agreement is signed.

X. Violations of this Agreement

The Parties shall not consider a violation of this Agreement as being material unless corresponding to the definition of a material violation or breach contained in the Vienna Convention on the Law of Treaties.

XI. Duration of this Agreement and Revocation of the Order

A. This Agreement shall expire on March 31, 2009, provided that it has not been terminated before that date.

B. Provided that this Agreement has not been terminated before March 31, 2009, DOC shall revoke the Mexican Cement Order on April 1, 2009, for all Mexican Cement Producers that have not exported any Mexican Cement to the United States since August 30, 1990, or that have not exported substantially more than the Export Limits allocated by SE to such producers for any Sub–region for the Third Export Limit Period. The revocation shall be based on the ''no interest'' statements submitted in the letters of Section II.A.13 of this Agreement.

C. Any Party may terminate this Agreement upon 90 days written notice to the other Parties.

D. If this Agreement terminates before March 31, 2009, for any reason, any amounts remaining in the Escrow Account shall be distributed in accordance with the specific provisions in the Escrow Agreement providing for that contingency.

XII. Other Provisions

A. The English and Spanish language versions of this Agreement shall be equally authentic.

B. For all purposes hereunder, the Parties shall be represented by, and all communications and notice shall be given and addressed to:

Office of the United States Trade Representative, Office of the Americas, 600 17th St., N.W., Washington, D.C. 20508.

U.S. Department of Commerce, Assistant Secretary for Import Administration, International Trade Administration, Washington, DC 20230.

Secretaria de Economia, Subsecretaria de Negociaciones Comerciales Internacionales, Alfonso Reyes, 30- 9th Floor, Col. Condesa, C.P. 06400, Mexico D.F.

Signed at Washington, DC, on this 6th day of March, 2006.

For the Office of the United States Trade Representative of the United States of America: Robert Portman

For the United States Department of Commerce of the United States of America: Carlos Guiteriez

For the Ministry of Economy (Secretaria de Economia) of the United Mexican States: Sergio Garcia De Alba

[FR Doc. E6–3531 Filed 3–13–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–843, A–570–901]

Notice of Postponement of Preliminary Determinations of Antidumping Duty Investigation: Certain Lined Paper Products from the People's Republic of China and India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 14, 2006.

FOR FURTHER INFORMATION CONTACT: For the People's Republic of China, contact Marin Weaver at (202) 482–2336 or Charles Riggle at (202) 482–0650, and for India, contact Christopher Hargett at (202) 482–4161, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Postponement of Preliminary Determinations

On October 6, 2005, the Department of Commerce (''Department'') published the initiation of the antidumping duty investigations of certain lined paper products from India, Indonesia and the People's Republic of China. *See Initiation of Antidumping Duty*

Investigations: Certain Lined Paper Products from India, Indonesia and the People's Republic of China, 70 FR 58374 (October 6, 2005). The notice of initiation stated that we would make our preliminary determinations for these antidumping duty investigations no later than 140 days after the date of issuance of the initiation. On February 10, 2006, the Department postponed the preliminary determinations by 30 days to March 18, 2006. *See Notice of Postponement of Preliminary Determination of Antidumping Duty Investigation: Certain Lined Paper Products from the People's Republic of China, India, and Indonesia*, 71 FR 7015 (February 10, 2006). On February 21, 2006, the Association of American School Paper Suppliers, and its individual members (''Petitioner''), made timely requests pursuant to 19 CFR §351.205(e) for an additional 20-day postponement of the preliminary determinations with respect to the antidumping duty investigations covering certain lined paper products (''CLPP'') from the People's Republic of China (PRC) and India. Petitioner requested postponement of the preliminary determinations because it will provide the Department additional time to review submitted questionnaire responses which Petitioner claims contain substantial deficiencies.

Under section 733(c)(1)(A) of the Tariff Act of 1930, as amended (''the Act''), if Petitioner makes a timely request for a postponement of the preliminary determination, the Department may postpone the preliminary determination under subsection (b)(1) until no later than the 190th day after the initiation of the investigation.

Therefore, for reasons identified by Petitioner, we are postponing the preliminary determinations with respect to the antidumping duty investigations of CLPP from the PRC and India under section 733(c)(1)(A) of the Act by an additional 20 days to April 7, 2006. Pursuant to section 735(a) of the Act, the deadline for the final determinations will continue to be 75 days after the date of the preliminary determinations, or if extended, up to 135 days after the date of publication of the preliminary determinations in the **Federal Register**.

This notice is issued and published pursuant to sections 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: March 7, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6–3620 Filed 3–13–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–867]

Notice of Postponement of Final Antidumping Duty Determination and Extension of Provisional Measures: Metal Calendar Slides from Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 14, 2006.

FOR FURTHER INFORMATION CONTACT: Scott Lindsay or Dara Iserson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0780 or (202) 482–4052, respectively.

Postponement of Final Determination

The Department of Commerce (the Department) is postponing the final determination in the antidumping duty investigation of metal calendar slides from Japan.

On July 26, 2005, the Department published the initiation of the antidumping duty investigation on imports of metal calendar slides from Japan. *See Initiation of Antidumping Duty Investigation: Metal Calendar Slides from Japan*, 70 FR 43122 (July 26, 2005). On February 1, 2006, the Department published its affirmative preliminary determination in this investigation. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Metal Calendar Slides from Japan*, 71 FR 5244 (February 1, 2006). This notice stated that the Department would issue its final determination no later than 75 days after the date on which the Department issued its preliminary determination.

Section 735(a)(2)(A) of the Tariff Act of 1930, as amended, (the Act) and 19 CFR 351.210(b)(2)(ii) provide that a final determination may be postponed until no later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise. Additionally, the Department's regulations, at 19 CFR 351.210(e)(2)(ii), require that requests by a respondent for postponement of a final determination be accompanied by a request for an extension of the provisional measures from a four-month period to not more than six months.

On February 13, 2006, in accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), the only known exporter, Nishiyama Kinzoku Co. Ltd. (Nishiyama), requested that the Department: (1) Postpone the final determination; and (2) extend the provisional measures period from four months to a period not longer than six months. Accordingly, pursuant to section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) The preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise in this investigation; and (3) no compelling reasons for denial exist, we are postponing the final determination until no later than 135 days after the publication of the preliminary determination in the **Federal Register** (*i.e.*, until no later than June 16, 2006). Suspension of liquidation will be extended accordingly.

This notice of postponement is published pursuant to section 735(a) of the Act and 19 CFR 351.210(g).

Dated: March 8, 2006.

Stephen J. Claeys,

Deputy Assistant Secretaryfor Import Administration.

[FR Doc. E6–3630 Filed 3–13–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–580–825

Oil Country Tubular Goods, Other Than Drill Pipe, from Korea: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

SUMMARY: On September 8, 2005, the Department of Commerce (''the Department'') published the preliminary results of its administrative review of the antidumping duty order on oil country tubular goods (OCTG), other than drill pipe, from Korea. *See Oil Country Tubular Goods, Other Than Drill Pipe, from Korea: Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 53340 (September 8, 2005) (*Preliminary Results*). This review covers the following producers: Husteel Co., Ltd. (''Husteel'') and SeAH Steel Corporation (''SeAH''). The period of review (''POR'') is August 1, 2003, through July 31, 2004. Based on our analysis of the comments received, we have made changes to the *Preliminary Results*. For the final dumping margins, see the

''Final Results of Review'' section below.

EFFECTIVE DATE: March 14, 2006.

FOR FURTHER INFORMATION CONTACT: Nicholas Czajkowski or Scott Lindsay, AD/CVD Operations (6), Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482–1395 or (202) 482–0780, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 8, 2005, the Department published in the **Federal Register** the preliminary results of its administrative review of the antidumping duty order on OCTG from Korea. *See Preliminary Results*. Since the *Preliminary Results*, the following events have occurred. On September 12, 2005, Respondents requested that the Department hold a hearing. A case brief from Respondents and a rebuttal brief from Petitioners were timely filed. The issues raised in the case and rebuttal briefs by interested parties in this administrative review are addressed in the *Issues and Decisions Memorandum for the Final Results of the Administrative Review of the Antidumping Duty Order on Oil Country Tubular Goods (''OCTG'') from Korea (Issues and Decision Memorandum)*, which is hereby adopted by this notice. The *Issues and Decision Memorandum* is on file in the Central Records Unit (CRU), room B–099 of the Department of Commerce main building, and can be accessed directly at *http://www.ia.ita.doc.gov/*. The paper copy and electronic version of the Issues and Decision Memorandum are identical in content.

Scope of the Antidumping Duty Order

The products covered by this order are OCTG, hollow steel products of circular cross-section, including only oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute (''API'') or non–API specifications, whether finished or unfinished (including green tubes and limited service OCTG products). This scope does not cover casing or tubing pipe containing 10.5 percent or more of chromium, or drill pipe. The products subject to this order are currently classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') under item numbers: 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.30.10, 7304.29.30.20, 7304.29.30.30, 7304.29.30.40, 7304.29.30.50, 7304.29.30.60, 7304.29.30.80, 7304.29.40.10, 7304.29.40.20, 7304.29.40.30, 7304.29.40.40, 7304.29.40.50, 7304.29.40.60, 7304.29.40.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.60.15, 7304.29.60.30, 7304.29.60.45, 7304.29.60.60, 7304.29.60.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50. The HTSUS item numbers are provided for convenience and Customs purposes. The written description remains dispositive of the scope of this review.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by SeAH and Husteel for use in our final results. We used standard verification procedures, including on–site examination of relevant accounting and production records and original source documents provided by both companies. Our verification results are outlined in the *Memorandum to Barbara E. Tillman through Thomas Gilgunn from Scott Lindsay, Nicholas Czajkowski, and Toni Page: Verification of Costs and Sales for Husteel Co., Ltd. in the Administrative Review of Oil Country Tubular Goods, Other Than Drill Pipe, from Korea* (December 28, 2005); *Memorandum to Barbara E. Tillman through Thomas Gilgunn from Scott Lindsay, Nicholas Czajkowski, and Toni Page: Verification of Costs and Sales for SeAH Co., Ltd. in the Administrative Review of Oil Country Tubular Goods, Other Than Drill Pipe, from Korea* (December 28, 2005); *Memorandum to Barbara E. Tillman through Thomas Gilgunn from Scott Lindsay and Nicholas Czajkowski: CEP Sales Verification for Husteel USA, Inc. in the Administrative Review of Oil Country Tubular Goods, Other Than Drill Pipe, from Korea* (December 30, 2005); and *Memorandum to Barbara E. Tillman through Thomas Gilgunn from Scott Lindsay and Nicholas Czajkowski: CEP Sales Verification for Pusan Pipe America, Inc. in the Administrative Review of Oil Country Tubular Goods, Other Than Drill Pipe, from Korea* (December 30, 2005).

Analysis of Comments Received

All issues raised in the briefs and rebuttal briefs filed by parties to this administrative review are addressed in the *Issues and Decision Memorandum* which is hereby adopted by this notice. A list of the issues addressed in the *Issues and Decision Memorandum* is appended to this notice.

Changes Since the Preliminary Results

After reviewing the *Preliminary Results*, we have made two changes to SeAH's calculations that have impacted the margin. We included an updated cost of production database to include sales to Canada. We also converted the comparison–market revenue value used to calculate Constructed Export Price profit from U.S. Dollars to Korean Won.

Final Results of Review

As a result of our review, we determine that the following weighted–average margins exist for the period August 1, 2003, through July 31, 2004:

Manufacturer/Exporter	Margin (percent)
SeAH Steel Corporation	6.84%
Husteel Co., Ltd.	12.30%

Duty Assessment

The Department shall determine and U.S. Customs and Border Protection (CBP) shall assess antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), the Department calculates an assessment rate for each importer of the subject merchandise for each respondent. Upon issuance of the final results of this administrative review, if any importer–specific assessment rates calculated in the final results are above de minimis (i.e., at or above 0.5 percent), the Department will issue appraisement instructions directly to CBP to assess antidumping duties on appropriate entries.

To determine whether the duty assessment rates covering the period were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), for each respondent we calculated importer (or customer)-specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to that importer or customer and dividing this amount by the total entered value of the sales to that importer (or customer). Where an importer (or customer)-specific *ad valorem* rate is greater than *de minimis*, and the respondent has reported reliable entered values, we apply the assessment rate to the entered value of the

importer's/customer's entries during the review period. Where an importer (or customer)- specific *ad valorem* rate is greater than *de minimis* and we do not have reliable entered values, we calculate a per–unit assessment rate by aggregating the dumping duties due for all U.S. sales to each importer (or customer) and dividing this amount by the total quantity sold to that importer (or customer). The Department will issue appropriate assessment instructions directly to CBP within 15 days of the final results of this review.

Cash Deposit Requirements

The following antidumping duty deposit rates will be effective upon publication of the final results of this administrative review for all shipments of OCTG from Korea entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results, as provided for by section 751(a)(1) of the Act: (1) for Husteel and SeAH, the cash deposit rate will be the rate established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will be the company–specific rate established for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less–than-fair–value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the subject merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered by this review, a prior review, or the LTFV investigation, the cash deposit rate shall be the all others rate established in the LTFV investigation, which is 12.17 percent. *See Final Determination of Sales at Less Than Fair Value: Oil Country Tubular Goods from Korea*, 60 FR 33561 (June 28, 1995). These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification Regarding APOs

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(5). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 7, 2006.

David M. Spooner,

Assistant Secretaryfor Import Administration.

APPENDIX

List of Issues

1. The use of China, a non–market economy, as the basis for normal value.

[FR Doc. E6–3632 Filed 3–13–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–813]

Stainless Steel Butt–Weld Pipe Fittings From Korea; Notice of Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On November 7, 2005, the Department of Commerce (the Department) published the preliminary results of administrative review of the antidumping order covering stainless steel butt–weld pipe fittings from Korea. *See Stainless Steel Butt–Weld Pipe Fittings from Korea; Notice of Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 67444 (November 7, 2005) (*Preliminary Results*). The merchandise covered by this order is stainless steel butt–weld pipe fittings as described in the ''Scope of the Order'' section of this notice. The period of review (POR) is February 1, 2004, through January 31, 2005. We invited parties to comment on our *Preliminary Results*. We received no comments. Therefore, the final results are unchanged from those presented in the preliminary results. The final weighted–average dumping margin for the reviewed firm is listed below in the section entitled ''Final Results of the Review.''

EFFECTIVE DATE: March 14, 2006.

FOR FURTHER INFORMATION CONTACT: Michael Heaney, or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; (202) 482–4475 or (202) 482–0649 respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 7, 2005, the Department published the preliminary results of the 2004–2005 antidumping duty administrative review of stainless steel butt–weld pipe fittings from Korea. *See Preliminary Results*. The review covers Sungkwang Bend Company (SKBC), and the period February 1, 2004, through January 31, 2005. In the *Preliminary Results*, we invited parties to comment. We received no comments.

Scope of the Order

The products covered by this order are certain welded stainless steel butt–weld pipe fittings (pipe fittings), whether finished or unfinished, under 14 inches in inside diameter.

Pipe fittings are used to connect pipe sections in piping systems where conditions require welded connections. The subject merchandise can be used where one or more of the following conditions is a factor in designing the piping system: (1) Corrosion of the piping system will occur if material other than stainless steel is used; (2) contamination of the material in the system by the system itself must be prevented; (3) high temperatures are present; (4) extreme low temperatures are present; (5) high pressures are contained within the system.

Pipe fittings come in a variety of shapes, and the following five are the most basic: ''elbows,'' ''tees,'' ''reducers,'' ''stub ends,'' and ''caps.'' The edges of finished fittings are beveled. Threaded, grooved, and bolted fittings are excluded from this review. The pipe fittings subject to this order are classifiable under subheading 7307.23.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

Final Results of the Review

We determine the following percentage weighted–average margin exists for the period February 1, 2004 through January 31, 2005:

Manufacturer / Exporter	Weighted Average Margin (percentage)
SKBC	0.17 percent

Liquidation

The Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated exporter/importer–specific assessment rates. To calculate these rates, we divided the total dumping margins for the reviewed sales by the total entered value of those reviewed sales for each importer. *Id*. The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of these final results of review. We will direct CBP to assess the appropriate assessment rate against the entered Customs values for the subject merchandise on each of the importer's entries under the relevant order during the POR.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of stainless steel butt–weld pipe fittings from Korea entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a) of the Tariff Act of 1930, as amended (the Act): (1) Because the cash deposit rate for the reviewed company is *de minimis*, (see 19 CFR 351.106(c)) no cash deposit shall be required; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company–specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less–than-fair–value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 21.2 percent. This rate is the ''All Others'' rate from the amended final determination in the LTFV investigation. *See Antidumping Duty Order: Certain Welded Stainless Steel Butt–Weld Pipe Fittings From Korea*, 58 FR 11029 (February 23, 1993). These deposit requirements shall remain in effect until the publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping or countervailing duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information

disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 7, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6–3618 Filed 3–13–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews: Notice of Consent Motion To Dismiss Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of Consent Motion to Dismiss the Panel Review of the final material injury review made by the International Trade Commission, respecting Certain Durum Wheat and Hard Red Spring Wheat from Canada (Secretariat File No. USA–CDA–2003–1904–05).

SUMMARY: Pursuant to the Notice of Consent Motion to Dismiss the Panel Review by the complainants, the panel review is dismissed as of March 6, 2006. Pursuant to Rule 71(2) of the *Rules of Procedure for Article 1904 Binational Panel Review*, this panel review is dismissed.

FOR FURTHER INFORMATION CONTACT: Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686). The panel review in this matter was requested and terminated pursuant to these Rules.

Dated: March 8, 2006.

Caratina L. Alston,

United States Secretary, NAFTA Secretariat.

[FR Doc. E6–3571 Filed 3–13–06; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 030306D]

Endangered and Threatened Species; Recovery Plans

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

ACTION: Notice of Availability; request for comments.

SUMMARY: The National Marine Fisheries Service (NMFS) announces the availability for public review of the following two documents: the Draft Snake River Salmon Recovery Plan for Southeast Washington developed by the Snake River Salmon Recovery Board (SRSRB) for portions of three evolutionarily significant units (ESUs) of salmon Snake River spring/summer-run Chinook salmon, Snake River fall-run Chinook salmon (*Oncorhynchus*

tshawytscha), and Snake River sockeye salmon (*O. nerka*) and two distinct population segments (DPS) of steelhead Middle Columbia River steelhead and Snake River steelhead (*O. mykiss*) (Draft SRSRB Plan); and a Supplement to the Draft SRSRB Plan prepared by NMFS (the Supplement). NMFS is soliciting review and comment on the Draft SRSRB Plan and the Supplement from the public and all interested parties.

DATES: NMFS will consider and address all substantive comments received during the comment period. Comments must be received no later than 5 p.m. Pacific Daylight Time on May 15, 2006. A description of previous public and scientific review, including scientific peer review, can be found in the NMFS Supplement to the Plan.

ADDRESSES: Please send written comments and materials to Carol Joyce, National Marine Fisheries Service, Salmon Recovery Division, 1201 N.E. Lloyd Boulevard, Suite 1100, Portland, OR 97232. Comments may be submitted by e-mail. The mailbox address for providing e-mail comments is *WashingtonSnakePlan.nwr@noaa.gov*. Include in the subject line of the e-mail comment the following identifier: Comments on WA Snake Salmon Plan. Comments may also be submitted via facsimile (fax) to 503–872–2737.

Persons wishing to review the Plan can obtain an electronic copy (i.e., CD-ROM) from Carol Joyce by calling 503–230–5408 or by e-mailing a request to *carol.joyce@noaa.gov* with the subject line *CD-ROM Request for WA Snake Salmon Plan*. Electronic copies of the Plan are also available on-line on the NMFS website www.nwr.noaa.gov/Salmon-Recovery-Planning/ESA-Recovery-Plans/Index.cfm or on the Snake River Salmon Recovery Board website: *www.snakeriverboard.org/library.htm*.

FOR FURTHER INFORMATION CONTACT: Lynn Hatcher, NMFS Salmon Recovery Coordinator (509–962–8911 ext. 223), or Elizabeth Gaar, NMFS Salmon Recovery Division (503–230–5434).

SUPPLEMENTARY INFORMATION: Recovery plans describe actions considered necessary for the conservation and recovery of species listed under the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 *et seq.*). An ''evolutionarily significant unit'' (ESU) of Pacific salmon (Waples, 1991) and a ''distinct population segment'' (DPS) of steelhead (71 FR 834, January 5, 2006) are considered to be ''species,'' as defined in section 3 of the ESA. The ESA requires that recovery plans incorporate (1) Objective, measurable criteria that, when met, would result in a determination that the species is no longer threatened or endangered; (2) site-specific management actions necessary to achieve the plan's goals; and (3) estimates of the time required and costs to implement recovery actions. The ESA requires the development of recovery plans for listed species unless such a plan would not promote the recovery of a particular species.

NMFS' goal is to restore endangered and threatened Pacific salmon and steelhead ESA-listed species to the point that they are again secure, self-sustaining members of their ecosystems and no longer need the protections of the ESA. NMFS believes it is critically important to base its recovery plans on the many state, regional, tribal, local, and private conservation efforts already underway throughout the region. Therefore, the agency supports and participates in locally led collaborative efforts to develop recovery plans involving local communities, state, tribal, and Federal entities, and other stakeholders.

On October 26, 2005, the SRSRB presented its locally developed recovery plan to NMFS. The SRSRB was formed in 2002 under Washington State statute to oversee and coordinate salmon and steelhead recovery efforts in the Lower Snake River region of Washington. It comprises representatives from county governments, the Confederated Tribes of the Umatilla Indian Reservation, irrigation districts, private landowners, and concerned citizens. The SRSRB's mission is to protect and restore salmon habitat, consistent with the recovery plan, for current and future generations.

The Draft SRSRB Plan addresses portions of five ESA-listed species under NMFS' jurisdiction within the Southeast Washington Management Unit (a geographic unit that NMFS has defined for recovery planning purposes). NMFS intends to endorse the SRSRB Plan and Supplement as an interim regional recovery plan and combine it with other plans to make up a final domain recovery plan to meet ESA section 4(f) requirements for these species.

By endorsing a locally developed interim regional recovery plan, NMFS is making a commitment to implement the actions in the plan for which we have authority, to work cooperatively on implementation of other actions, and to encourage other Federal agencies to implement plan actions for which they have responsibility and authority. We will also encourage the State of Washington to seek similar implementation commitments from state agencies and local governments. NMFS expects that the interim regional recovery recovery plan will be used to help NMFS and other Federal agencies take a more consistent approach to future ESA section 7 consultations. For example, an interim regional recovery plan will provide greater biological context for the effects that a proposed action may have on the listed species. This context will be enhanced by adding recovery plan science to the ''best available information'' for section 7 consultations. Such information includes viability criteria for the ESUs and their independent populations, better understanding of and information on limiting factors and threats facing the ESUs, better information on priority areas for addressing specific limiting factors, and better geographic context for where the ESUs can tolerate varying levels of risk.

After review of the Draft SRSRB Plan, NMFS added a Supplement, which describes how the Draft SRSRB Plan contributes to ESA recovery plan requirements, including qualifications and additional actions that NMFS believes are necessary to support recovery. The Supplement and the SRSRB's plan together form a proposed interim regional recovery plan for the affected species. The Draft SRSRB Plan and the Supplement are now available for public review and comment. As noted above, the Draft SRSRB Plan is available at the Snake River Salmon Recovery Board website: *www.snakeriverboard.org/library.htm* and both the Draft SRSRB Plan and the Supplement are available at the NMFS Northwest Region Salmon Recovery Division website, *www.nwr.noaa.gov/Salmon-Recovery-Planning/index.cfm*. NMFS will consider all substantive comments and information presented during the public comment period (see **DATES**).

ESUs Addressed and Planning Area

The SRSRB Plan encompasses the Lower Snake Mainstem, Walla Walla, Tucannon, and Asotin subbasins in the State of Washington, in which four of the 28 populations of the Snake River spring/summer-run Chinook ESU are found. The SRSRB Plan also includes the Washington portions of the Walla Walla and Grande Ronde subbasins, within which four of the 25 populations of the Snake River steelhead DPS, and 2 of the 17 populations of the Middle Columbia steelhead DPS are found. Sockeye salmon migrate through the recovery region, but spawn and rear higher in the Snake Basin. The fall-run Chinook salmon population is described but not evaluated in the recovery plan.

The Snake River steelhead ESU was listed as threatened on August 18, 1997 (62 FR 43937). The Middle Columbia River steelhead ESU was listed as threatened on March 25, 1999 (64 FR 14517). Recently, NMFS revised its species determinations for West Coast steelhead under the ESA, delineating steelhead-only DPSs. NMFS listed both the Snake River and Middle Columbia River steelhead DPSs as threatened on January 5, 2006 (71 FR 834). The Snake River spring/summer-run Chinook and fall-run Chinook salmon ESUs were listed as threatened (57 FR 14658, April 22, 1992; correction 57 FR 23458, June 3, 1992). The Snake River sockeye salmon ESU was listed as endangered on November 20, 1991 (56 FR 58619). NMFS reaffirmed the threatened status of the Snake River spring/summer-run and fall-run Chinook salmon ESUs, and the endangered status of the Snake River sockeye salmon ESU, on June 28, 2005 (70 FR 37160).

None of the listed species is entirely contained within the Washington Snake River recovery region. Because most state and local boundaries are not drawn on the basis of watersheds or ecosystems, the various groups and organizations formed for recovery planning do not necessarily correspond to ESU or DPS areas. Therefore, in order to develop species-wide recovery plans that are built from local recovery efforts, NMFS defined ''management units'' that roughly follow jurisdictional boundaries but, taken together, encompass the geography of entire species. For the Middle Columbia sub-domain, there are four management units: (1) Oregon; (2) Yakima; (3) Columbia Gorge (Klickitat/Rock Creek/White Salmon); and (4) Southeast Washington (Walla Walla and Touchet). For the Snake River sub-domain there are three management units: (1) Idaho; (2) Oregon; and (3) Southeast Washington. The Draft SRSRB Plan is the plan for the Southeast Washington Management Unit of both sub-domains.

In 2006, the separate management unit plans will be ''rolled up'' or consolidated into ESU/DPS-level recovery plans. The final ESU/DPS-level recovery plans will incorporate the management unit plans and endorse the recommendations and decisions (for example, decisions on site-specific habitat actions) that are most appropriately left to the local recovery planners and implementers. The ESU/DPS-level plans will also more completely address actions for the hatchery, harvest, and hydro sectors.

The Draft SRSRB Plan

The Draft SRSRB Plan reflects the region's strong commitment to its threatened salmonid populations. Citizens of the area consider recovery of salmonids to be highly desirable. Salmon and steelhead are harvested in commercial (outside the region) and recreational (inside and outside the region) fisheries as well as taken for tribal ceremonial purposes. Native Americans place great value on salmonids as a religious, nutritional, economic, and cultural resource. The salmon is also an enduring symbol of the Pacific Northwest for non-Native peoples.

The Draft SRSRB Plan's overarching goal is the following: Develop and maintain a healthy ecosystem that contributes to the rebuilding of key fish populations by providing abundant, productive, and diverse populations of aquatic species that support the social, cultural, and economic well-being of the communities both within and outside the recovery region.

The Draft SRSRB Plan examines limiting factors and threats for Snake River salmon recovery in terms of habitat, hydropower, harvest, and hatcheries.

1. *Habitat:* The watersheds in the recovery region have similar salmonid habitat limitations because of similarities in topography, geology, vegetation, and land use. The Draft SRSRB Plan states that agriculture (including grazing), logging, and urbanization have resulted in increased sediment, higher water temperatures, and poorer riparian condition, and have caused major changes in channel form and function, resulting in lack of habitat diversity, increased channel instability, and low flows.

2. *Hydropower:* There are four major dams on the lower Snake River: Lower Granite, Little Goose, Lower Monumental, and Ice Harbor. Thus, depending on the locations of their native streams, adult and juvenile migrants must pass some or all of these dams as they migrate through the lower Snake River, as well as the four dams on the lower Columbia River.

The Draft SRSRB Plan states that both adult passage upstream and juvenile passage downstream through the hydroelectric system have major effects on the fish. These effects can include predation on juveniles by other species in tailraces and reservoirs, dissolved gas bubble disease, entrapment and entrainment on/in mechanical portions of the dam (such as turbines), altered water temperatures, adult fallback, and alteration of normal migration rates.

3. *Harvest:* In-region fisheries include recreational fisheries for salmon and steelhead authorized by Washington, Oregon, and Idaho, and treaty Indian ceremonial and subsistence fisheries. Since 2001, the Washington Department of Fish and Wildlife has authorized limited selective fisheries for spring/summer Chinook salmon in late April, May and June. According to the Draft SRSRB Plan, catches of wild fish and impacts on them are relatively low. Mainstem Columbia River fisheries downstream from the Southeast Washington Management Unit are managed under in-season harvest regulations pursuant to the *U.S.* v. *Oregon* management plan.

4. *Hatcheries:* The Draft SRSRB Plan does not propose any new hatchery programs, but recognizes that hatcheries can play a role in recovering fish populations. Hatchery programs directly affecting Snake River populations include programs funded under the Lower Snake River Compensation Program, those funded by Idaho Power Company, and other programs. In 2002, 33 hatcheries and satellite facilities from throughout the basin released over 29 million juvenile salmon and steelhead into the Snake River. The Draft SRSRB Plan states that there is concern about hatchery fish straying into virtually all stream reaches in the recovery area. NMFS and other agencies are reviewing and assessing hatchery programs in the Columbia Basin in several different processes. These efforts are expected to provide information relevant to the SRSRB Plan in 2006.

The Draft SRSRB Plan also discusses additional factors that affect Snake River salmon and steelhead: habitat alterations in the Columbia River and estuary, conditions in the Pacific Ocean, and dam operations on the Clearwater and Upper Snake mainstem.

Recovery will depend on the concerted efforts of actions addressing habitat, harvest, hydroelectric operations, and hatcheries working together and adjusting over time as population conditions change. The Draft SRSRB Plan discusses ''all-H integration,'' which is further defined in the Supplement.

The Draft SRSRB Plan incorporates the NMFS viable salmonid population (VSP) framework as a basis for biological status assessments and recovery goals. The Draft SRSRB Plan also incorporates the 2004 recommendations of the Interior Columbia Technical Recovery Team (ICTRT) appointed by NMFS, which provided recommendations on biological criteria for population and ESU viability. The ICTRT developed

''viability curves'' showing the relationships between productivity and abundance that would indicate higher or lower risk of extinction for a given population.

The SRSRB adopted strategic guidelines for recovery actions that emphasize projects with long persistence time and benefits distributed over the widest possible range of environmental attributes; immediate measures in addition to long-term actions; adaptive management; information contained in the applicable subbasin plans; consideration of recovery actions within the context of the four ''Hs'' (habitat, harvest, hatcheries, and hydroelectric); use of the Ecological Diagnosis and Treatment (EDT) analysis tool, in combination with other analyses, empirical data and professional opinion, to identify and prioritize habitat actions; and consideration of the economic, social, and cultural constraints identified by the recovery region.

The Draft SRSRB Plan primarily focuses on actions to protect and restore habitat, and to remove ''imminent threats'' to salmon survival, such as fish passage barriers and toxic effluents. The Draft SRSRB Plan's habitat actions are targeted for the major spawning areas (MSAs) identified by the ICTRT. The actions are designed to increase productivity, abundance, spatial structure, and diversity by addressing the limiting factors and threats. The actions are designed to improve upland habitat, riparian conditions, floodplain functions, instream habitat, water quantity, and water quality.

The Draft SRSRB Plan does not propose actions for the hydropower system or for harvest, because these are managed in other venues, and these actions will be addressed in the ESU-level plans. The plan does propose a hatchery strategy based on the Hatchery and Genetic Management Plans (HGMPs) for the region, which are administered by NMFS. The strategy attempts to balance risks to recovery of listed fish populations with the achievement of harvest objectives.

The SRSRB emphasizes adaptive management as a fundamental aspect of salmon recovery and envisions an extensive adaptive management program being developed in the implementation phase of the watershed planning process funded by the State of Washington. This adaptive management program will be incorporated into the final SRSRB Plan.

The Draft SRSRB Plan details a 15–year implementation strategy at a projected cost of $6.9 million per year. However, NMFS emphasizes in the Supplement that recovery planning and implementation cannot stop at 15 years, but must continue until the species is recovered. The SRSRB further proposes a specific, 18–month implementation plan containing actions that have been developed by multiple agencies and groups within the recovery region and that can be implemented quickly. The Draft SRSRB Plan states that, because salmon recovery efforts have been underway in the region since the early 1990s, much of the internal framework (policy, scientific, public support, and funding) needed to implement these actions is either in place or can be established quickly once the plan is adopted. Actions proposed in this 18–month plan vary from working to eliminate imminent threats to restoring riparian areas. The section also discusses policy, legislation and scientific ''unknowns'' that need to be resolved to fully implement the plan. The Draft SRSRB Plan includes a detailed cost estimate for site-specific actions in each MSA.

The ICTRT provided technical guidance to the SRSRB for use in the Draft SRSRB Plan. This technical guidance was itself reviewed by multiple technical experts from Federal, state, and local agencies and the Umatilla Tribe. The Draft SRSRB Plan bases much of its information on the subbasin plans for the Lower Snake Mainstem, Walla Walla, Tucannon, Asotin, and Grand Ronde subbasins, and these plans were peer-reviewed by the Independent Scientific Review Panel, appointed by the Northwest Power and Conservation Council (NPCC), and by the Independent Scientific Advisory Board, appointed by the NPCC and NMFS.

Public Comments Solicited

NMFS solicits written comments on the Draft SRSRB Plan and the NMFS Supplement. The Supplement states NMFS' assessment of the Draft SRSRB Plan's relationship to ESA requirements for recovery plans. The Supplement also explains the agency's intent to use the SRSRB Plan together with the Supplement as an interim regional recovery plan to guide and prioritize recovery actions and to roll up the interim regional recovery plan with other local plans into Federal ESA recovery plans for the respective domains. All substantive comments received by the date specified above will be considered prior to NMFS' decision whether to endorse the SRSRB Plan as an interim regional recovery plan and incorporate it into the species-level plans. Additionally, NMFS will provide a summary of the comments and responses through its regional web site and provide a news release for the public announcing the availability of the response to comments. NMFS seeks comments particularly in the following areas: (1) The analysis of limiting factors and threats; (2) the recovery strategies and measures; (3) the criteria for removing the ESUs and DPS from the Federal list of endangered and threatened wildlife and plants; and (4) meeting the ESA requirement for estimates of time and cost to implement recovery actions by soliciting implementation schedules.

Authority

The authority for this action is section 4(f) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

Dated: March 8, 2006.

James H. Lecky,

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

[FR Doc. E6–3633 Filed 3–13–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 030706E]

Fisheries off the West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Intent to Prepare an Environmental Impact Statement for Fishing Conducted Under the Pacific Coast Groundfish Fishery Management Plan

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

ACTION: Notice of intent to prepare an environmental impact statement (EIS); announcement of public scoping period; request for written comments.

SUMMARY: NMFS, in cooperation with the Pacific Fishery Management Council (Council), announces its intention to prepare an EIS in accordance with the National Environmental Policy Act (NEPA). NMFS and the Council intend to expand the scope of an EIS they had initially announced as needed to assess the impacts of the 2007–2008 Pacific Coast groundfish fishery specifications and management measures on the human, biological, and physical environment. The scope of this EIS will be expanded to include an analysis of the impacts of revising the rebuilding plans for the seven overfished Pacific Coast groundfish species. Revisions to rebuilding plans will be incorporated in

the Pacific Coast Groundfish Fishery Management Plan (FMP) via Amendment 16–4.

DATES: Public scoping opportunities for the 2007–2008 Pacific Coast groundfish fishery specifications and management measures and Amendment 16–4 EIS will occur during meetings of the Council and its advisory bodies, at the April 2–7, 2006, meeting in Sacramento, CA and at the June 11–16, 2006, meeting in Foster City, CA. Written comments will be accepted at the Council office through April 13, 2006.

ADDRESSES: You may submit comments, on issues and alternatives, identified by any of the following methods:

- E-mail: (*pfmc.comments@noaa.gov*. Include [030706E]

and enter ''Scoping Comments'' in the subject line of the message.)

- Fax: 503–820–2299.
- Mail: Dr. Donald McIsaac, Pacific Fishery Management Council, 7700 NE Ambassador Pl., Suite 200, Portland, OR 97220.

FOR FURTHER INFORMATION CONTACT: Mr. John DeVore, Groundfish Fishery Management Coordinator; phone: 503–820–2280, fax: 503–820–2299, and e-mail: *john.devore@noaa.gov* or Yvonne deReynier, NMFS, Northwest Region, phone: 206–526–6129, fax: 206–526–6736 and e-mail: *yvonne.dereynier@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is available on the Government Printing Office's website at: *www.gpoaccess.gov/fr/index/html*.

Background and Need for Agency Action

On October 25, 2005, NMFS and the Council published a Notice of Intent to prepare an EIS or an environmental assessment (EA) for the 2007–2008 groundfish harvest specifications and management measures (70 FR 61595). At that time, NMFS and the Council were unsure whether an EA or an EIS would be the appropriate analytical document for that action. During the Council's October 31 - November 4, 2005, meeting in San Diego, Ca, NMFS reported to the Council on recent Court instructions in *Natural Resources Defense Council (NRDC)* v. *NMFS*, 421 F.3d 872 (9th Cir. 2005), a lawsuit originally filed in opposition to darkblotched rockfish rebuilding measures in the 2002 groundfish harvest specifications and management measures.

The Council discussed a strategy for responding to the Court's orders to re-evaluate the darkblotched rockfish rebuilding plan so that the rebuilding period for that species would be as short as possible, taking into account the status and biology of the species and the needs of fishing communities. Like other overfished species, darkblotched rockfish co-occurs with both healthy and overfished species. This tendency for various groundfish species to co-occur with each other drives many groundfish management measures, because harvest of healthy stocks must be constrained to ensure that stocks are not subject to overfishing and that overfished stocks are rebuilt within the appropriate time frame. In order to meet the Court's order on darkblotched rockfish management within the biological constraints of a mixed, multi-species fishery, the Council recommended taking a global look at all of its overfished species rebuilding plans. NMFS and the Council reported back to the Court that they planned to implement a reduced darkblotched rockfish optimum yield (OY) for 2006, and to re-evaluate all seven of the overfished species rebuilding plans for 2007 and beyond. The Court reviewed this plan, and ordered NMFS to both implement a reduced darkblotched rockfish OY for 2006, and to re-evaluate and revise all overfished species rebuilding plans by January 1, 2007. (For more information on the revised 2006 darkblotched rockfish OY, see the proposed and final rules for that action; 70 FR 75115, December 19, 2005 and 71 FR 8489, February 17, 2006.)

This Notice of Intent to prepare an EIS announces NMFS and the Council's intent to expand the scope of the NEPA document analyzing the 2007–2008 groundfish harvest specifications and management measures to include revising rebuilding plans for seven overfished species. NMFS and the Council believe that this expansion of scope warrants NEPA analysis under an EIS, rather than an EA. When the Draft Environmental Impact Statement is submitted for public review, it will also include an analysis of the impacts of the action under the requirements of the Magnuson-Stevens Fishery Conservation and Management Act, the Regulatory Flexibility Act (RFA), Executive Order 12866 (E.O. 12866), and other applicable laws.

The Council will consider revisions to the overfished species rebuilding plans when it considers the 2007–2008 groundfish harvest specifications and management measures, at the April and June 2006 meetings. When the Council makes it final recommendations on a preferred alternative in June 2006, it plans to submit new overfished species rebuilding plans for NMFS review. These new overfished species rebuilding plans will be incorporated into the FMP as Amendment 16–4.

Alternatives

In the October 25, 2005, Notice of Intent, NMFS and the Council described the general structure of the range of alternatives that the public could expect to see for the 2007–2008 groundfish harvest specifications and management measures. These early draft alternatives looked at different rebuilding rates for each overfished species individually, and the effects of that species' harvest on the harvest rates of co-occurring healthy groundfish stocks. Since that notice was published, the Council and its advisory bodies have been refining the alternatives to better define them for public review.

The Council's Allocation Committee and Groundfish Management Team held a joint public meeting in Portland, OR, February 6–9, 2006. During that meeting, the advisory bodies discussed the need to revise the structure of the alternatives in order to ensure that the analysis of alternatives would adequately address issues raised by the Court. The advisory bodies discussed recommending that the Council first look at each overfished species at different rebuilding rates and associated harvest levels - a horizontal look across each species' biological constraints to rebuilding. Then, alternatives for analysis would be vertically integrated to account for the relationships between overfished species. Where, for example, rebuilding measures for darkblotched rockfish constrain the harvest of co-occurring Pacific ocean perch (POP), the POP OY would not be set higher than a level that would accommodate a given darkblotched rockfish yield level.

At the Council's April 2–7, 2006, meeting in Sacramento, CA, the Council will adopt a preferred range of alternative harvest levels. In this range, the Council take into account the inter-relationships between continental slope overfished species (darkblotched rockfish and POP), between different continental shelf species (yelloweye, canary, widow, cowcod, and bocaccio rockfish), between northern species (darkblotched, POP, widow, yelloweye, and canary rockfish), and between southern species (canary, bocaccio, and cowcod rockfish, and in some areas, widow and darkblotched rockfish.

At its April meeting, the Council will also make preliminary recommendations on alternative fishery management measures for 2007–2008. As in past years, alternative management measures will be

structured to account for the interactions between healthy and overfished stocks, and between the different fisheries and particular overfished stocks. Not all overfished stocks are incidentally caught in all fishery sectors. Therefore, management measures will differ by sector in order to allow access to healthy stock harvest while ensuring that overfished stocks are rebuilt as quickly as possible.

Preliminary Identification of Environmental Issues

A principal objective of the scoping and public input process is to identify potentially significant impacts to the human environment that should be analyzed in depth in the EIS. This process is also intended to eliminate from detailed study the issues that are not significant, or which have been covered in prior environmental reviews. Narrowing the scope of analysis is intended to allow greater focus on those impacts that are potentially most significant. NMFS and the Council will evaluate the impacts of the proposed action on these components of the biological and physical environment: (1) Essential fish habitat and ecosystems; (2) protected species listed under the Endangered Species Act and Marine Mammal Protection Act and their habitat; and (3) the fishery management unit, including target and non-target fish stocks. Socioeconomic impacts, which may be considered under NEPA, or under the RFA and E.O. 12866, are also considered in terms of the effect changes will have on the following groups: (1) those who participate in harvesting the fishery resources and other living marine resources (for commercial, subsistence, or recreational purposes); (2) those who process and market fish and fish products; (3) those who are involved in allied support industries; (4) those who rely on living marine resources in the management area; (5) those who consume fish products; (6) those who benefit from non-consumptive use (e.g., wildlife viewing); (7) those who do not use the resource, but derive benefit from it by virtue of its existence, the option to use it, or the bequest of the resource to future generations; (8) those involved in managing and monitoring fisheries; and (9) communities.

Public Scoping Process

Public scoping will primarily occur during the Council's decision-making process. All decisions during the Council process benefit from written and verbal comments delivered prior to or during the Council meetings. NMFS and the Council consider these public comments as integral to scoping for developing this EIS. The Council developed its preliminary range of 2007–2008 harvest specifications and management measures at its October 31–November 4, 2005, meeting in San Diego, CA. This was the same meeting at which the Council decided to expand the scope of this EIS. The Council will select the preferred range of management measures at the April 2–7, 2006, meeting in Sacramento, CA, at the Double Tree Hotel, 2001 Point West Way, 9815–4702; telephone: 800–227–6963 or 1–800–222–8733. The Council expects to select the preferred alternative at the June 11–16, 2006, meeting in Foster City, CA at the Crowne Plaza Mid Peninsula Hotel, 1221 Chess Drive, 94404; telephone 1–800- 227–6963 or 650–570–5700. Public comment may be made under the agenda items, when the Council will consider these proposed actions. The agendas for these meetings will be available from the Council website, or by request from the Council office in advance of the meetings (see **ADDRESSES**). Written comments on the scope of issues and alternatives may also be submitted as described under **ADDRESSES**.

NMFS invites comments and suggestions on the scope of the analysis to be included in the DEIS. The scope includes the range of alternatives to be considered, and potentially significant impacts to the human environment that should be evaluated in the DEIS. NMFS and the Council plan to make the DEIS available for public comment following the Council's June 2006 meeting. The comment period on the DEIS will be 45 days from the date the Environmental Protection Agency's Notice of Availability appears in the **Federal Register**. To be most helpful, comments on the DEIS should be as specific as possible and should address the adequacy of the statement or merits of the alternatives discussed. It is also helpful if comments refer to specific pages or chapters of the DEIS. Comments may also address the adequacy of the DEIS or the merits of the alternatives formulated and discussed in the DEIS. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of NEPA CFR 1503.3 in addressing these points). Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

Special Accommodations

These meetings are accessible to people with physical disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Carolyn Porter 503–820–2280 (voice) or 503–820–2299 (fax), at least 5 days prior to the scheduled meeting date.

Dated: March 9, 2006.

Alan D. Risenhoover,

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

[FR Doc. E6–3634 Filed 3–13–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 030806B]

Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish Fisheries in the Bering Sea, Aleutian Islands and Gulf of Alaska

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

ACTION: Notice; intent to prepare an environmental impact statement; request for written comments.

SUMMARY: NMFS announces its intent to prepare the Alaska Groundfish Harvest Specifications Environmental Impact Statement (EIS), in accordance with the National Environmental Policy Act of 1969 (NEPA), for the Bering Sea and Aleutian Islands (BSAI) and the Gulf of Alaska (GOA) groundfish fisheries. The scope of the EIS will be to determine the impacts to the human environment resulting from setting groundfish harvest specifications. NMFS will hold a public scoping meeting and accept written comments from the public to determine the issues of concern and the appropriate range of management alternatives to be addressed in the EIS.

DATES: Written comments must be received by May 15, 2006. A scoping meeting will be held on Tuesday, April 4, 2006, from 7 to 9 p.m., Alaska local time.

ADDRESSES: Written comments on issues and alternatives for the EIS should be sent to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Records Officer. Comments may be submitted by:

• E-mail: *EIS.Specifications.Intent@noaa.gov*. Include in the subject line the following

document identifier: Harvest Specs. E-mail comments, with or without attachments, are limited to 5 megabytes.

• Mail: P.O. Box 21668, Juneau, AK 99802.

• Hand Delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.

• Fax: 907–586–7557.

Meeting address: The meeting will be held in the Dillingham/Katmai room at the Hilton Hotel, 500 West 3rd Street, Anchorage, AK.

FOR FURTHER INFORMATION CONTACT: Ben Muse, (907) 586–7228 or *ben.muse@noaa.gov*.

SUPPLEMENTARY INFORMATION: NMFS is initiating this scoping process for the Alaska Groundfish Harvest Specifications EIS. NEPA requires preparation of an EIS for major Federal actions that may significantly impact the quality of the human environment. NMFS will incorporate into the EIS the written comments on the scope of the analysis generated during this scoping process.

Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the United States has exclusive fishery management authority over all living marine resources found within the exclusive economic zone. The management of these marine resources, with the exception of certain marine mammals and birds, is vested in the Secretary of Commerce (Secretary).

NMFS is seeking information from the public through the EIS scoping process on the range of alternatives to be analyzed, and on the environmental, social, and economic issues to be considered in the analysis.

Proposed Action

The proposed action is to set the harvest specifications in compliance with Federal regulations, the Fishery Management Plans (FMPs) for the BSAI and GOA groundfish fisheries, and the Magnuson-Stevens Act. Harvest specifications include the establishment of annual total allowable catches (TACs), and their seasonal apportionments and allocations, and prohibited species catch limits. TACs are harvest quotas that include retained and discarded catch.

Each year, the North Pacific Fishery Management Council (Council) recommends to the Secretary harvest specifications for the BSAI and the GOA groundfish fisheries. The Council establishes the harvest specifications using the overfishing levels and acceptable biological catches (ABCs) established by the Council's Groundfish Plan Teams and Scientific and Statistical Committee, and the optimum yield ranges established in the FMPs. After Secretarial review and approval, NMFs publishes the harvest specifications in the **Federal Register**. NMFS uses these harvest specifications to manage the groundfish fisheries.

The intent of the harvest specifications is to balance fish harvest during the fishing year with established total optimum yields and ecosystem needs. The harvest specifications are necessary for the management of the groundfish fisheries and the conservation of marine resources, as required by the Magnuson-Stevens Act and as described in the management policy, goals, and objectives in the groundfish FMPs.

Definition of Terms

The following terms are defined to assist the public in understanding the proposed action. These definitions are summarized from the FMPs, please refer to the FMPs for the exact language and additional details.

Optimum yield (OY) is the amount of fish that will provide the greatest overall benefit to the Nation, taking into account the protection of marine ecosystems.

Overfishing level (OFL) is set annually for a stock or stock complex following the criteria in the FMPs. Overfishing occurs when the harvest exceeds the overfishing level.

Acceptable biological catch (ABC) is an annual sustainable target harvest for a stock or stock complex. It is derived from the status and dynamics of the stock, environmental conditions, and other ecological factors, given the prevailing technological characteristics of the fishery.

Total allowable catch (TAC) is the annual harvest limit for a stock or stock complex, derived from the ABC by considering social and economic factors.

Alternatives

NMFS will evaluate a range of alternative harvest levels. Alternatives may include those identified here, and those developed through the public scoping process and through the Council process.

The alternatives in this analysis are based on a range of potential TACs because the harvest specifications are driven by the available ABCs and the Optimum Yield ranges that the Council considers each year when recommending TACs to NMFS. Each of the four alternatives represents different amounts of TAC that could be specified for managed species and species groups for each fishing year. The alternatives have been selected to display a wide range of TACs and their impacts on the environment. The four potential alternatives identified for analysis include:

Alternative 1: Set TACs to produce harvest levels equal to the maximum permissible ABCs, unless the sum of the TACs is constrained by the Optimum Yield established in the FMPs.

Alternative 2: Set TACs that fall within the range of ABCs recommended by the Council's Groundfish Plan Teams and TACs recommended by the Council.

Alternative 3: For stocks with a high level of scientific information, set TACs to produce harvest levels equal to the most recent five-year average actual fishing mortality rates. For stocks with insufficient scientific information, set TACs equal to the most recent five-year average actual catch.

Alternative 4: Set TACs equal to zero. This is the no action alternative, but does not reflect the status quo.

Preliminary Identification of Issues

A principal objective of the scoping and public input process is to identify potentially significant impacts to the human environment that should be analyzed in the EIS process. NMFS has conducted an initial screening to identify potentially significant impacts resulting from the harvest specifications. The analysis will evaluate the effects of the alternatives for all resources, species, and issues that may directly or indirectly interact with the groundfish fisheries within the action area, as a result of specified harvest levels. Impacts to the following components of the biological and physical environment may be evaluated: (1) Essential fish habitat; (2) species listed under the Endangered Species Act and their critical habitat, and species protected under the Marine Mammal Protection Act; (3) target and non-target fish stocks, including forage fish and prohibited species; (4) seabirds; and (5) the ecosystem.

Social and economic impacts also are considered in terms of the effects that changes in projected harvests will have on the following groups of individuals: (1) Those who participate in harvesting the fishery resources and other living marine resources; (2) those who process and market fish and fish products; (3) those who consume fish products; (4) those who rely on living marine resources in the management area, either for subsistence needs or for recreational benefits; (5) those who benefit from non-consumptive uses of living marine resources; and (6) fishing communities.

Public Involvement

Scoping is an early and open process for determining the scope of issues to be addressed in an EIS and for identifying the significant issues related to the proposed action. A principal objective of the scoping and public involvement process is to identify a reasonable range of management alternatives that, with adequate analysis, will delineate critical issues and provide a clear basis for distinguishing between those alternatives and for selecting a preferred alternative. In addition, NMFS is notifying the public that it is beginning an EIS and decision-making process for this proposed action so that interested or affected people may participate in the EIS and contribute to the final decision.

NMFS is seeking written public comments on the scope of issues that should be addressed in the EIS and alternatives that should be considered in establishing the harvest specifications. NMFS will accept comments in writing at the address above (see **ADDRESSES**). Written comments should be as specific as possible to be the most helpful. Written comments received during the scoping process, including the names and addresses of those submitting them, will be considered part of the public record on this proposal and will be available for public inspection.

The public is invited to attend the scoping meeting on Tuesday, April 4, 2006, in Anchorage, AK. The scoping meeting will be held in conjunction with the North Pacific Fishery Management Council meeting.

Please visit the NMFS Alaska Region web page at *http://www.fakr.noaa.gov* for more information on this EIS, guidance for submitting effective public comments, and to order a draft EIS. NMFS estimates that a draft EIS will be available in September 2006.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ben Muse, NMFS, (see **ADDRESSES**), (907) 586 7228, at least five days prior to the meeting date.

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

Dated: March 9, 2006.

Alan D. Risenhoover,

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

[FR Doc. E6–3628 Filed 3–13–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 030602141–6032–35; I.D. 022706A]

Announcement of Funding Opportunity for the California Bay Watershed Education and Training (B–WET) Program, Adult and Community Watershed Education in the Monterey Bay

AGENCY: National Marine Sanctuary Program (NMSP), the National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; availability of funds.

SUMMARY: The California B-WET Program, Adult and Community Watershed Education in the Monterey Bay is accepting proposals that provide meaningful watershed education to adults and communities. The Monterey Bay is susceptible to impacts from urban, rural, and agricultural sources of pollution. Projects funded under this program will be outcome-based programs that educate citizens about their role in protecting water quality and demonstrate behavioral changes that improve water quality and promote environmental stewardship.

DATES: Proposals must be received by 5 p.m. Pacific standard time on April 13, 2006. The deadline for applying through Grants.gov is April 13, 2006.

ADDRESSES: Paper applications, a signed original and 2 copies (submission of eight additional hard copies is strongly encouraged to expedite the review process, but it is not required) may be submitted to Attn: Seaberry Nachbar, B–WET Program Manager, Monterey Bay National Marine Sanctuary Office, 299 Foam Street, Monterey, CA 93940. For electronic submissions, see Electronic Submission section under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: B–WET Program Manager: Seaberry Nachbar, 831–647–4204, via Internet at *Seaberry.Nachbar@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Summary Description

The California B–WET Program, Adult and Community Watershed Education, is a competitively based program that supports existing environmental education programs, fosters the growth of new programs, and encourages the development of partnerships among environmental education programs throughout the Monterey Bay watershed. Funded projects provide meaningful watershed education to adults and communities. The term ''meaningful watershed education'' is defined as outcome–based programs that educate citizens about their role in protecting water quality and demonstrate behavioral changes that improve water quality and promote environmental stewardship.

Funding Availability

This solicitation announces that approximately $100,000 may be available in FY 2006 in award amounts to be determined by the proposals and the available funds. The National Marine Sanctuary Program anticipates that approximately two to four grants will be awarded with these funds. The National Marine Sanctuary Program anticipates that typical project awards will range from $10,000 to $50,000.

Electronic Submission

It is strongly preferred that you submit your application through Grants.gov at the internet site: *http://www.grants.gov*. You may access, download, and submit an electronic grant application through Grants.gov. The full funding announcement is available via the Grants.gov web site: *http://www.grants.gov*. The announcement will also be available at the NOAA web site *http://sanctuaries.noaa.gov/bwet* or by contacting the program official outlined in this **Federal Register** notice. Applicants must comply with all requirements contained in the full funding opportunity announcement. NOAA strongly recommends that you do not wait until the application deadline date to begin the application process through Grants.gov.

Statutory Authority: 16 U.S.C. 1440, 15 U.S.C. 1540

CFDA: 11.429, Marine Sanctuary Program

Eligibility

Eligible applicants are institutions of higher education, nonprofit organizations, state or local government agencies, and Indian tribal governments. The Department of Commerce/ National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of historically black colleges and universities, Hispanic serving institutions, tribal colleges and universities, and institutions that service undeserved areas.

Cost Sharing Requirements

No cost sharing is required under this program; however, the National Marine

Sanctuary Program strongly encourages applicants to share as much of the costs of the award as possible. Funds from other Federal awards may not be considered matching funds. The nature of the contribution (cash versus in–kind) and the amount of matching funds will be taken into consideration in the review process.

Intergovernmental Review

Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

Proposal Review and Selection Process for Projects

NOAA published its agency–wide solicitation entitled ''Omnibus Notice Announcing the Availability of Grant Funds for Fiscal Year 2006'' for projects for Fiscal Year 2006 in the **Federal Register** on June 30, 2005 (70 FR 37766). The evaluation and selection criteria and procedures for projects contained in that omnibus notice are applicable to this notice. Copies of this notice are available on the Internet at *http://www.ofa.noaa.gov/%7Eamd/SOLINDEX.HTML*. Further details on evaluation and selection criteria and procedures applicable to this notice can be found in the full funding opportunity announcement. Applicants must comply with all requirements contained in the full funding opportunity announcement.

National Environmental Policy Act (NEPA)

NOAA must analyze the potential environmental impacts, as required by the National Environmental Policy Act (NEPA), for applicant projects or proposals that are seeking NOAA Federal funding opportunities. Detailed information on NOAA compliance with NEPA can be found at the following NOAA NEPA website: *http://www.nepa.noaa.gov/*, including our NOAA Administrative Order 216–6 for NEPA, *http://www.nepa.noaa.gov/NAO216--6--TOC.pdf*, and the Council on Environmental Quality implementation regulations, *http://ceq.eh.doe.gov/nepa/regs/ceq/toc__ceq.htm*. Consequently, as part of an applicant's package and under the description of his or her program activities, an applicant is required to provide detailed information on the activities to be conducted, locations, sites, species and habitat to be affected, possible construction activities, and any environmental concerns that may exist (e.g., the use and disposal of hazardous or toxic chemicals, introduction of non–indigenous species, impacts to endangered and threatened species, aquaculture projects, and impacts to coral reef systems). In addition to providing specific information that will serve as the basis for any required impact analyses, applicants may also be requested to assist NOAA in the drafting of an environmental assessment, if NOAA determines an assessment is required. Applicants will also be required to cooperate with NOAA in identifying feasible measures to reduce or avoid any identified adverse environmental impact of their proposal. The failure to do so shall be grounds for not selecting an application. In some cases, if additional information is required after an application is selected, funds can be withheld by the Grants Officer under a special award condition requiring the recipient to submit additional environmental compliance information sufficient to enable NOAA to make an assessment on any impact that a project may have on the environment.

Pre–Award Notification Requirements for Grants and Cooperative Agreements

The Department of Commerce Pre–Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of December 30, 2004 (69 FR 78389) are applicable to this solicitation.

Limitation of Liability

Funding for the program listed in this notice is contingent upon the availability of Fiscal Year 2007 appropriations. In no event will NOAA be responsible for proposal preparation costs if this program fails to receive funding or is cancelled because of other agency priorities. Publication of this announcement does not oblige NOAA to award any specific project or to obligate any available funds.

Paperwork Reduction Act

This document contains collection–of–information requirements subject to the Paperwork Reduction Act (PRA). The use of Standard Forms 424, 424A, 424B, SF–LLL, and CD–346 has been approved by the Office of Management and Budget (OMB) under the respective control numbers 0348–0043, 0348–0044, 0348–0040, 0348–0046, and 0605–0001. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

Executive Order 12866

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

Executive Order 13132 (Federalism)

It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

Administrative Procedure Act/ Regulatory Flexibility Act

Prior notice and opportunity for public comment are not required by the Administrative Procedure Act or any other law for rules concerning public property, loans, grants, benefits, and contracts (5 U.S.C. 553(a)(2)). Because notice and opportunity for comments are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis has not been prepared.

Dated: March 7, 2006.

Mitchell A. Luxenberg,

Acting Chief Financial Officer, National Ocean Service,National Oceanic and Atmospheric Administration.

[FR Doc. E6–3635 Filed 3–13–06; 8:45 am]

BILLING CODE 3510–NK–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 030706C]

Marine Mammals; File No. 1093–1834

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Susan Shaw, PhD., Executive Director, Marine Environmental Research Institute, 55 Main Street, P.O. Box 1652, Blue Hill, ME, 04614, has applied in due form for a permit to conduct research on harbor seals (Phoca vitulina concolor).

DATES: Written, telefaxed, or e-mail comments must be received on or before April 13, 2006.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room

13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521; and

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298; phone (978)281–9200; fax (978)281–9371.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301)427–2521, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing email comments is *NMFS.Pr1Comments@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: File No. 1093–1834.

FOR FURTHER INFORMATION CONTACT: Kate Swails or Tammy Adams, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

The applicant requests a 5–year permit to investigate the utility of free-ranging harbor seals as a mammalian sentinel species for coastal contamination and associated health risks for top consumers in the marine food chain. Harbor seal pups tend to accumulate high body burdens of persistent organic pollutants. The applicant proposes to capture up to 280 harbor seal pups at six locations from Maine to Massachusetts over the course of the permit. The animals would be captured using seine nets or hand held hoop nets, measured, weighed, blood sampled, blubber/skin biopsied, swabbed for fecal and nasal samples, and released. The applicant also requests authorization for the research-related mortality of up to two seals over the course of the permit.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: March 8, 2006.

Stephen L. Leathery,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–3629 Filed 3–13–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021306A]

Vessel Monitoring Systems; Approval of Mobile Transceiver Unit Reseller

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

ACTION: Notice; addition of an authorized reseller.

SUMMARY: This document provides notice of the addition of an authorized reseller for the previously type approved ST2500G-NMFS Mobile Transceiver Unit (MTU).

ADDRESSES: To obtain copies of the list of NOAA-approved Vessel Monitoring Systems (VMS) MTU and VMS MCSPs, or to obtain information regarding the status of VMS systems being evaluated by NOAA, write to NOAA Fisheries, Office for Law Enforcement (OLE), 8484 Georgia Avenue, Suite 415, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: For current listing information contact Mark Oswell, Outreach Specialist, or for questions regarding VMS installation and status of evaluations contact Jonathan Pinkerton, National VMS Program Manager by phone: 301–427–2300 or by fax: 301–427–2055.

SUPPLEMENTARY INFORMATION: The reseller listed below is authorized to sell the Stellar ST2500G-NMFS MTU for use on vessels operating in fisheries that require the use of a VMS and listed within the approved sales area of this notice.

A. Additional Approved Reseller

METOCEAN Data Systems; 21 Thornhill Drive; Dartmouth, Nova Scotia Canada B3B 1R9. telephone (902) 468–2505, fax (902) 468–4442. For additional information METOCEAN Data Systems can be found on the Internet at *www.metocean.com*.

B. Approved Sales Areas

METOCEAN Data Systems is approved to resell the Stellar ST2500G-NMFS MTU to fishers operating in the Alaska Fisheries Requiring VMS, Pacific Coast Groundfish Fishery, South Atlantic Rock Shrimp Fishery, and the Atlantic Highly Migratory Species (HMS) Fishery.

Dated: March 8, 2006.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. E6–3631 Filed 3–13–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Event Planning

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on this new information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before May 15, 2006.

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

- E-mail: *Susan.Brown@uspto.gov.* Include ''0651–00xx Event Planning comment'' in the subject line of the message.
- Fax: 571–273–0112, marked to the attention of Susan Brown.
- Mail: Susan K. Brown, Records Officer, Office of the Chief Information Officer, Architecture, Engineering and Technical Services, Data Architecture and Services Division, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.
- Federal e-Rulemaking Portal: *http://www.regulations.gov*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Elizabeth Shaw, Office of External Affairs, United States Patent and Trademark Office (USPTO), P.O. Box 1451, Alexandria, VA 22313–1451; by telephone at 571–272–9300; or by e-mail at *elizabeth.shaw2@uspto.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

The United States Patent and Trademark Office (USPTO) is responsible under 35 U.S.C. 2(A)(2) for the dissemination of patent and trademark information to the public. This information can include planning for long-term goals, outreach to

independent inventors, assistance to small businesses, prevention of unlawful intellectual property practices, international trends, and cooperation between Intellectual Property entities, in addition to other types of information. The USPTO sponsors conferences, fairs, speaking engagements, and training seminars such as those offered under the Patent and Trademark Depository Library Program, as well as other events, to disseminate this information. In order to plan for these events, the USPTO must collect information from the attendees.

The USPTO plans to use an online registration screen available through the *http://www.uspto.gov* Web site for all of the event registrations. However, the USPTO believes that some of the PTDL registrations may still be submitted in paper. Online registration will standardize data collection for USPTO-sponsored events and provide for more efficient event planning. Attendees may complete forms for event registration online and e-mail them to the USPTO, or they may print, complete in ink, and mail the registrations to the USPTO. The USPTO has no plans to disseminate this information electronically or otherwise.

II. Method of Collection

Registrations for events other than the PTDLs can only be submitted using the online registration option. Registration for various PTDL events can be submitted electronically. The registrations can also be submitted by mail or by hand delivery if applicants choose to submit the information in paper form.

III. Data

OMB Number: 0651–00xx.

Form Number(s): No Form Numbers.

Type of Review: New collection.

Affected Public: Primarily business or other for-profit organizations, but also individuals or households; not-for-profit institutions; farms, Federal Government; and state, local or tribal Government.

Estimated Number of Respondents: 4,100 responses per year.

Estimated Time Per Response: The USPTO estimates that it will take the public approximately 5 minutes (0.08 hours) to complete this information, whether it is mailed to the USPTO or submitted electronically. This includes the time to gather the necessary information, complete the request, and submit it to the USPTO.

Estimated Total Annual Respondent Burden Hours: 328 hours per year.

Estimated Total Annual Respondent Cost Burden: $43,296. It is estimated that the respondent audience will be ⅓ attorneys, ⅓ paraprofessionals and members of the Patent and Trademark Depository Library Program, and ⅓ independent inventors, students, or other members of the public. Using a combination of the professional hourly rates of $286 for associate attorneys in private firms, $81 for paraprofessionals and members of the Patent and Trademark Depository Library Program, and $30 for independent inventors, students, and other members of the public, the USPTO is using an hourly rate of $132 to calculate the respondent costs. The USPTO estimates that the respondent cost burden for this collection will be $43,296 per year.

Item	Estimated time for response	Estimated annual responses	Estimated annual burden hours
Event Registrations (electronic)	5 minutes	4,000	320
PTDL Registrations (paper)	5 minutes	10	1
PTDL Registrations (electronic)	5 minutes	90	7
Total		4,100	328

Estimated Total Annual Non-hour Respondent Cost Burden: $4. This collection does not have any capital start-up, maintenance, operation, or recordkeeping costs or filing fees associated with it. Customers can register for PTDL events electronically or they can print out the request, complete it, and mail it to the USPTO through the United States Postal Service. The USPTO estimates that 10 PTDL registrations will be submitted via first class mail. First class postage is 39 cents. Therefore, the USPTO estimates a total annual (non-hour) cost burden of $4 due to mailing costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, *e.g.*, the use of automated collection techniques or other forms of information technology.

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

Dated: March 6, 2006.

Susan K. Brown,

Records Officer, U.S. Patent and Trademark Office, Office of the Chief Information Officer, Architecture, Engineering and Technical Services, Data Architecture and Services Division.

[FR Doc. E6–3561 Filed 3–13–06; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

Patent And Trademark Office

Submission for OMB Review; Comment Request

The United States Patent and Trademark Office (USPTO) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: United States Patent and Trademark Office (USPTO).

Title: Statutory Invention Registration.

Form Number(s): PTO/SB/94.

Agency Approval Number: 0651–0036.

Type of Request: Extension of a currently approved collection.

Burden: 4 hours annually.

Number of Respondents: 8 responses per year.

Avg. Hours Per Response: The USPTO estimates that it will take 24 minutes (0.4 hours) to submit a Statutory

Invention Registration request. This includes time to gather the necessary information, create the documents, and submit the completed request.

Needs and Uses: 35 U.S.C. 157, administered by the USPTO through 37 CFR 1.293–1.297, authorizes the USPTO to publish a statutory invention registration containing the specifications and drawings of a regularly filed application for a patent without examination, providing the applicant meets all the requirements for printing, waives the right to receive a patent on the invention within a certain period of time prescribed by the USPTO, and pays all application, publication, and other processing fees. This collection includes information needed by the USPTO to review and approve and/or deny such requests. The applicant may petition the USPTO to review final refusal to publish or to withdraw a request to publish a statutory invention registration prior to the date of the notice of the intent to publish.

Affected Public: Individuals or households; business or other for-profit; not-for-profit institutions; farms, the Federal Government, and State, Local or Tribal Governments.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by any of the following methods:

- E-mail: *Susan.Brown@uspto.gov.* Include ''0651–0036 copy request'' in the subject line of the message.
- Fax: 571–273–0112, marked to the attention of Susan Brown.
- Mail: Susan K. Brown, Records Officer, Office of the Chief Information Officer, Architecture, Engineering and Technical Services, Data Architecture and Services Division, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Written comments and recommendations for the proposed information collection should be sent on or before April 13, 2006 to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: March 6, 2006.

Susan K. Brown,

Records Officer, USPTO, Office of the Chief Information Officer, Architecture, Engineering and Technical Services, Data Architecture and Services Division.

[FR Doc. E6–3562 Filed 3–13–06; 8:45 am]

BILLING CODE 3510–16–P

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 06–C0002]

Acuity Brands, Inc., Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20(e). Published below is a provisionally-accepted Settlement Agreement with Acuity Brands, Inc., containing a civil penalty of $700,000.00.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by March 29, 2006.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 06–C0002, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Seth B. Popkin, Trial Attorney, Office of Compliance, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–7612.

SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.

Dated: March 8, 2006.

Todd A. Stevenson,

Secretary.

In the Matter of Acuity Brands, Inc.

Settlement Agreement and Order

1. In accordance with 16 CFR 1118.20, Acuity Brands, Inc. and the staff (''Staff'') of the United States Consumer Product Safety Commission (''Commission'') enter into this Settlement Agreement (''Agreement''). The Agreement and the incorporated attached Order (''Order'') settle the Staff's allegations set forth below.

Parties

2. The Commission is an independent federal regulatory agency established pursuant to, and responsible for the enforcement of, the Consumer Product Safety Act, 15 U.S.C. 2051–2084 (''CPSA'').

3. Acuity Brands, Inc. is a corporation organized and existing under the laws of the state of Delaware, and its principal offices are located in Atlanta, Georgia. Acuity Brands, Inc.'s businesses, among other things, design and manufacture lighting equipment. Lithonia Lighting conducted the product recalls referenced in the Agreement and identified itself as the manufacturer of those recalled products. Lithonia Lighting is a division of, and is wholly owned by, Acuity Lighting Group, Inc., which is wholly owned by Acuity Brands, Inc. Lithonia Lighting is also a brand of lighting products sold by Acuity Lighting Group, Inc. Acuity Brands Inc., Acuity Lighting Group, Inc., and Lithonia Lighting are collecting referred to herein as ''Acuity.''

4. Paragraphs 5 through 38 constitute the Staff's allegations based on the Staff's investigations. Paragraphs 39 through 48 constitute Acuity's responsive allegations disputing the Staff's allegations.

Staff Allegations

ELM/ELM II Emergency Lights

5. From August 1992 to May 1997, Acuity manufactured, and wholesalers and distributors sold, approximately 1.2 million ELM/ELM2 emergency lights later recalled on April 13, 2001 (''ELM Lights''). The ELM Lights were installed near exit doors in buildings such as schools, offices, and shopping centers, to aid in evacuation in the event of an emergency.

6. Each ELM Light is a ''consumer product'' that Acuity ''distributed in commerce,'' and Acuity is a ''manufacturer'' of that consumer product, as those terms are defined in CPSA sections 3(a)(1), (4), (11), and (12), 15 U.S.C. 2052(a)(1), (4), (11), and (12).

7. The ELM Lights had an electrical component that could overheat when connected to 277-volt electrical systems, and that could melt and burn the light enclosures and other objects, posing a fire hazard.

8. From January 1996 through September 2000, Acuity received reports of ELM Light capacitor failures and incidents from 33 sites, involving 109 failed capacitors, many of which included incidents of smoking, melting, rupturing, burning, and fire. Results included melted or damaged light enclosures, damaged walls and carpet, and one injury, i.e., a burned finger. From 1996 to 1999, Acuity replaced 345 ELM Lights due to the hazard.

9. Beginning in 1996, Acuity conducted testing and analysis, and it made an engineering change relating to the hazard by switching to a different and safer type of capacitor. By July

1997, Acuity was replacing ELM Lights having defective capacitors with new units having the new capacitors.

10. From 1998 to 1999, Underwriters Laboratories wrote 4 letters to Acuity advising it of the CPSA's reporting requirements and/or of the ELM Lights' risk of fire, serious injury, or death. In 2000, Acuity received a letter from the Commission staff advising of the CPSA reporting requirements.

11. By July 1997, Acuity had obtained information that reasonably supported the conclusion that the ELM Lights contained a defect that could create a substantial product hazard or that they created an unreasonable risk of serious injury or death. As of that date, Acuity had received reports from 12 sites, and the reports involved 60 failed (overheated) capacitors, at least 8 fire incidents, and 1 light that exploded, suffered smoke and heat damage, and had a capacitor failure not contained within the light enclosure. As of that date, Acuity had replaced some of the original capacitors with safer ones. CPSA sections 15(b)(2) and (3), 15 U.S.C. 2064(b)(2) and (3), required by Acuity to immediately inform the Commission of the defect or risk.

12. Acuity did not report to the Commission regarding the ELM Lights until October 19, 2000, thereby failing to immediately inform the Commission as required by CPSA sections 15(b)(2) and (3), 15 U.S.C. 2064(b)(2) and (3). This failure violated CPSA section 19(a)(4), 15 U.S.C. 2068(a)(4).

13. Acuity knowingly failed to immediately inform the Commission of the ELM Lights' defect or risk, as the term ''knowingly'' is defined in CPSA section 20(d), 15 U.S.C. 2069(d). Pursuant to CPSA section 20, 15 U.S.C. 2069, this failure subjected Acuity to civil penalties.

HID Lights

14. From November 2002 through October 2003, Acuity manufactured, and from November 2002 through February 2004, lighting and electrical supply distributors sold, approximately 52,600 indoor high intensity discharge lights later recalled on March 29, 2004 (''HID Lights''). The HID Lights have acrylic lenses and/or reflectors, and they are generally used in industrial locations and commercial locations such as retail spaces, warehouses, and gymnasiums.

15. Each HID Light is a ''consumer product'' that Acuity ''distributed in commerce,'' and Acuity is a ''manufacturer'' of that consumer product, as those terms are defined in CPSA sections 3(a)(1), (4), (11), and (12), 15 U.S.C. 2052(a)(1), (4), (11), and (12).

16. The HID Lights has an electrical component that could leak fluid that might degrade the acrylic lenses and reflectors, causing them to crack and fall from significant heights in pieces or in their entirety. Falling acrylic could injure people below.

17. From May 2003 through January 2004, Acuity received reports of HID Light failures from 18 sites, with 197 incidents in which acrylic lenses or reflectors cracked. These incidents included 56 occasions in which acrylic lenses, reflectors, or pieces fell from the lights. One injury occurred involving a forehead laceration and eye damage. During this time, Acuity replaced 770 HID Lights due to the hazard.

18. By the summer of 2003, Acuity knew that bad and leaking capacitors caused cracking acrylic, and Acuity learned of concerns about the defect, the potential for personal injury, and people fearing that falling reflectors could hit them.

19. Beginning in the summer of 2003, Acuity received defect analyses through which it learned more about the defect and hazard, and Acuity took further corrective action of its own, instructing its manufacturing facilities to stop using these capacitors because they were failing due to a manufacturing defect. In November 2003, due to ongoing and numerous failures from the defect, Acuity directed a change in the component vendor.

20. By August 2003, Acuity had obtained information that reasonably supported the conclusion that the HID Lights contained a defect that could create a substantial product hazard or that they created an unreasonable risk of serious injury or death. As of that date, Acuity knew that at 4 different sites, a total of 88 incidents occurred in which acrylic lenses or reflectors cracked, including 17 incidents in which acrylic lenses, reflectors, or pieces fell. CPSA sections 15(b)(2) and (3), 15 U.S.C. 2064(b)(2) and (3), required Acuity to immediately inform the Commission of the defect or risk.

21. Acuity did not report to the Commission regarding the HID Lights until February 6, 2004, thereby failing to immediately inform the Commission as required by CPSA sections 15(b)(2) and (3), 15 U.S.C. 2064(b)(2) and (3). This failure violated CPSA section 19(a)(4), 15 U.S.C. 2068(a)(4).

22. Acuity knowingly failed to immediately inform the Commission of the HID Lights' defect or risk, as the term ''knowingly'' is defined in CPSA section 20(d), 15 U.S.C. 2069(d). Pursuant to CPSA section 20, 15 U.S.C. 2069, this failure subjected Acuity to civil penalties.

HID Expansion Lights

23. From April through October 2002, Acuity manufactured, and from April 2002 through February 2004, distributors sold, approximately 40,600 indoor high intensity discharge lights later recalled on March 8, 2005 (''HID Expansion Lights''). The HID Expansion Lights have the same features, uses, defects, and hazard as the HID Lights described above. The HID Expansion Lights differ from the HID Lights in that Acuity manufactured the former from April through October 2002, a manufacture period preceding the manufacture period for the HID Lights. These additional products resulted in an expansion, one year later, of the original recall, to include this additional manufacture period (''Expansion Period'').

24. Each HID Expansion Light is a ''consumer product'' that Acuity ''distributed in commerce,'' and Acuity is a ''manufacturer'' of that consumer product, as those terms are defined in CPSA sections 3(a)(1), (4), (11), and (12), 15 U.S.C. 2052(a)(1), (4), (11), and (12).

25. From September 2003 through June 2004, Acuity received reports from 10 sites of Expansion Period products (i.e., the recalled HID Expansion Lights, as well as other lights that did not have acrylic and were not included in the recall but did have the same defective capacitors) leaking, cracking, and/or failing. From these 10 sites, Acuity learned of the following incident facts: At least 162 Expansion Period products with leaking capacitors only (no cracking/falling acrylic); 60 HID Expansion Lights with cracked lenses and/or reflectors that did not fall; and 31 HID Expansion Lights with lenses and/or reflectors that fell. At these sites, Acuity did 644 Expansion Period product replacements.

26. In September 2003, Acuity received the first site report about Expansion Period leaking capacitors. From April 5 to June 13, 2004, Acuity received reports from 6 sites having HID Expansion Lights with cracked lenses and/or reflectors.

27. Acuity acknowledged that its analysis for the HID Lights related as well to the HID Expansion Lights. Acuity also acknowledged that the HID Expansion Lights involved the same potential risk previously tested and that led to the HID Lights recall. Acuity conceded that as of February 2004, it knew the defect and took corrective action by stopping sale and doing replacements.

28. By April 2004, Acuity had obtained information that reasonably supported the conclusion that the HID

Expansion Lights contained a defect that could create a substantial product hazard or that they created an unreasonable risk of serious injury or death. CPSA sections 15(b)(2) and (3), 15 U.S.C. 2064(b)(2) and (3), required Acuity to immediately inform the Commission of the defect or risk.

29. Acuity did not report to the Commission regarding the HID Expansion Lights until October 8, 2004, thereby failing to immediately inform the Commission as required by CPSA sections 15(b)(2) and (3), 15 U.S.C. 2064(b)(2) and (3). This failure violated CPSA section 19(a)(4), 15 U.S.C. 2068(a)(4).

30. Acuity knowingly failed to immediately inform the Commission of the HID Expansion Lights' defect or risk, as the term ''knowingly'' is defined in CPSA section 20(d), 15 U.S.C. 2069(d). Pursuant to CPSA section 20, 15 U.S.C. 2069, this failure subjected Acuity to civil penalties.

HID Cord Lights

31. From June 1999 through May 2002, Acuity manufactured, and lighting and electrical supply distributors sold, approximately 120,000 indoor high intensity discharge lights later recalled on March 11, 2005 (''HID Cord Lights''). The HID Cord Lights are generally used in locations such as retail spaces, light manufacturing areas, warehouse spaces, and gymnasiums.

32. Each HID Cord Light is a ''consumer product'' that Acuity ''distributed in commerce,'' and Acuity is a ''manufacturer'' of that consumer product, as those terms are defined in CPSA sections 3(a)(1), (4), (11), and (12), 15 U.S.C. 2052(a)(1), (4), (11), and (12).

33. The cord of the HID Cord Lights could drip plasticizer fluid that might degrade the acrylic lenses and reflectors, causing them to crack and fall from significant heights in pieces or in their entirety. Falling acrylic could injure people below.

34. From June 2002 through September 2004, Acuity learned of 15 sites at which these were at least 510 failing HID Cord Lights (i.e., lights with cracking or failing lenses or reflectors, and/or dripping cords). These incidents included 6 falling lenses, more than 286 cracking reflectors, 19 falling reflectors, and at least 202 dripping cords that had not yet resulted in cracking or falling reflectors. During this time, Acuity replaced or made arrangements to replace over 2,000 HID Cord Lights.

35. From June 2002 to September 2004, Acuity learned of defect information, the potential for personal injury, and people concerned that falling lenses and reflectors could hit them. During this time, Acuity received increasing information about the cord fluid being incompatible with acrylic and about acrylic cracking due to fluid leaking from cords. In August 2003, Acuity learned of the cord manufacturer's intent to do a corrective action by revising the cord's design, and in October 2003, Acuity acknowledged the defect issues and defective cords.

36. By July 2003, Acuity had obtained information that reasonably supported the conclusion that the HID Cord Lights contained a defect that could create a substantial product hazard or that they created an unreasonable risk of serious injury or death. As of that date, Acuity had learned of 7 sites with 224 failing HID Cord Lights, including 5 falling lenses, 123 cracking reflectors, 4 falling reflectors, and at least 92 dripping cords not yet resulting in acrylic cracking or falling. Acuity replaced 431 HID Cord Lights at these sites. Also by July 2003, Acuity had learned of the cord fluid as the incidents' cause, and Acuity recognized the safety issue. CPSA sections 15(b)(2) and (3), 15 U.S.C. 2064(b)(2) and (3), required Acuity to immediately inform the Commission of the defect or risk.

37. Acuity did not report to the Commission regarding the HID Cord Lights until September 27, 2004, thereby failing to immediately inform the Commission as required by CPSA sections 15(b)(2) and (3), 15 U.S.C. 2064(b)(2) and (3). This failure violated CPSA section 19(a)(4), 15 U.S.C. 2068(a)(4).

38. Acuity knowingly failed to immediately inform the Commission of the HID Cord Lights' defect or risk, as the term ''knowingly'' is defined in CPSA section 20(d), 15 U.S.C. 2069(d). Pursuant to CPSA section 20, 15 U.S.C. 2069, this failure subjected Acuity to civil penalties.

Acuity's Responsive Allegations

39. Acuity contests and denies the Staff's allegations and enters into the Agreement to resolve the Staff's allegations without the expense and distraction of litigation. By agreeing to this settlement, Acuity does not admit any of the allegations set forth above in the Agreement or any fault, liability, or statutory or regulatory violation.

40. Acuity voluntarily, and without the Commission having first requested information from Acuity, notified the Commission in each of the matters described above.

41. Acuity closely monitored its reporting obligations under the CPSA. Acuity never knowingly failed to file a required report with the Commission or knowingly committed any other violation of the CPSA. Acuity has continued to improve its efforts to meet its reporting obligations under the CPSA.

42. Acuity's actions were to a significant degree influenced by its belief, based upon its initial review of the facts, that the Commission did not have jurisdiction over the products in question.

43. Acuity voluntarily conducted corrective actions with respect to the products identified in the Staff's allegations. It did so pursuant to the Commission's ''Fast Track'' program, and neither the Commission nor the Staff has ever made any determination that the products at issue contained a defect that could create either a substantial product hazard or an unreasonable risk of serious injury or death.

44. For several reasons, the actual risk associated with the products at issue was much lower in fact than implied by the Staff's description of incidents involving the products. These reasons include the fact that not all products subject to the corrective actions contained the problem that contributed to the performance failures described in the corrective actions. Moreover, even many of the product units that would have been so affected would not have caused harm due to varying circumstances. The fact that only two minor injuries occurred with respect to the products described in the Staff's allegations demonstrates that the actual, manifested risk from the products at issue was virtually nonexistent.

45. With respect to three of the four reports that the Staff has alleged were untimely, the component at issue was made by a third-party supplier and not by Acuity.

46. The Staff's recitation of incidents involving failure modes of varying levels of severity as evidence that the products were unsafe or should have been subject to the Commission's reporting requirements is over inclusive. Acuity evaluated its reporting obligations to the Commission based upon its assessment of risk, and it distinguished between risk issues and product performance issues in its evaluation of incidents. Acuity considered many of the incidents set forth in the Staff's allegations to be performance issues, based upon information available at the time. Product performance issues that do not demonstrate a substantial product hazard or an unreasonable risk of serious injury or death are not reportable to the Commission, regardless of whether Acuity responded

to customer requirements by providing replacement products.

47. The limitations period for bringing any claim regarding the ELM Lights has expired.

48. The HID Expansion Lights matter discussed in the Staff's allegations does not constitute a reporting violation separate from the alleged HID Lights reporting violation.

Agreement of the Parties

49. Under the CPSA, the Commission has jurisdiction over this matter and over Acuity.

50. The parties enter into the Agreement for settlement purposes only. The Agreement does not constitute an admission by Acuity, or a determination by the Commission, that Acuity has knowingly violated the CPSA. The Agreement does not constitute a Commission finding of fact or law with respect to any of the Agreement's allegations.

51. In settlement of the Staff's allegations, Acuity shall pay a civil penalty in the amount of seven hundred thousand dollars ($700,000.00) within twenty (20) calendar days of service of the Commission's final Order accepting the Agreement. The payment shall be by check payable to the order of the United States Treasury.

52. Upon the Commission's provisional acceptance of the Agreement, the Agreement shall be placed on the public record and published in the **Federal Register** in accordance with the procedures set forth in 16 CFR 1118.20(e). If the Commission does not receive any written request not to accept the Agreement within fifteen (15) days, the Agreement shall be deemed finally accepted on the sixteenth (16th) day after the date it is published in the **Federal Register**.

53. Upon the Commission's final acceptance of the Agreement and issuance of the final Order, Acuity knowingly, voluntarily, and completely waives any rights it may have in this matter to the following: (1) An administrative or judicial hearing; (2) judicial review or other challenge or contest of the validity of the Commission's Order or actions; (3) a determination by the Commission of whether Acuity failed to comply with the CPSA and its underlying regulations; (4) a statement of findings of fact and conclusions of law; and (5) any claims under the Equal Access to Justice Act with respect to the Staff's allegations in the Agreement.

54. The Commission may publicize the terms of the Agreement and Order. In publicizing the Agreement and Order, the Commission will comply with the requirements of law, including CPSA section 6(b), 15 U.S.C. 2055(b), to the extent applicable.

55. Acuity's full and timely payment to the United States Treasury of a civil penalty in the amount of seven hundred thousand dollars ($700,000.00) as required herein resolves the Staff's allegations in the Agreement with respect to the following: (a) Acuity; (b) any Acuity parent, subsidiary, affiliate, division, or related entity; (c) any shareholder, director, officer, employee, agent, or attorney of any entity referenced in (a) or (b) above; and (d) any successor, heir, or assignee of any entity referenced in (a), (b), or (c) above.

56. The Agreement and Order shall apply to, and be binding upon, Acuity and each of its successors and assigns.

57. The Commission issues the Order under the provisions of the CPsa, and violation of the Order may subject Acuity to appropriate legal action.

58. The Agreement may be used in interpreting the Order. Understandings, agreements, representations, or interpretations apart from those contained in the Agreement and Order may not be used to vary or contradict their terms. The Agreement shall not be waived, amended, modified, or otherwise altered, except in a writing that is executed by the party against whom such waiver, amendment, modification, or alteration is sought to be enforced, and that is approved by the Commission.

59. If after the effective date hereof, any provision of the Agreement and Order is held to be illegal, invalid, or unenforceable under present or future laws effective during the terms of the Agreement and Order, such provisions shall be fully severable. The balance of the Agreement and Order shall remain in full force and effect, unless the Commission and Acuity determine that severing the provision materially affects the purpose of the Agreement and Order.

Acuity Brands, Inc.
Dated: January 3, 2006.

By:

Vernon J. Nagel,
President, Acuity Brands, Inc., 1170 Peachtree Street, NE., Suite 2400, Atlanta, GA 30309.

Jeffrey S. Bromme,
Esq., Arnold & Porter LLP, 555 Twelfth Street, NW., Washington, DC 20004–1206, Counsel for Acuity Brands, Inc.

U.S. Consumer Product Safety Commission Staff.
J. Gibson Mullan,
Assistant Executive Director, Office of Compliance.

Ronald G. Yelenik,
Acting Director, Legal Division, Office of Compliance.

Dated: January 13, 2006.

By:

Seth B. Popkin,
Trial Attorney, Legal Division, Office of Compliance.

Order

Upon consideration of the Settlement Agreement entered into between Acuity Brands, Inc. (''Acuity'') and the U.S. Consumer Product Safety Commission (''Commission'') staff, and the Commission having jurisdiction over the subject matter and over Acuity, and it appearing that the Settlement Agreement and Order is in the public interest, it is

Ordered, that the Settlement Agreement be, and hereby is, accepted; and it is

Further ordered, that Acuity shall pay a civil penalty in the amount of seven hundred thousand dollars ($700,000.00) within twenty (20) calendar days of service of the final Order upon Acuity. The payment shall be made by check payable to the order of the United States Treasury. Upon the failure of Acuity to make the foregoing payment when due, interest on the unpaid amount shall accrue and be paid by Acuity at the federal legal rate of interest set forth at 28 U.S.C. 1961(a) and (b).

Provisionally accepted and Provisional Order issued on the 8th day of March, 2006.

By order of the Commission.

Todd A. Stevenson,
Secretary, Consumer Product Safety Commission.

[FR Doc. 06–2419 Filed 3–13–06; 8:45 am]
BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Defense Department Advisory Committee on Women in the Services (DACOWITS)

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: Pursuant to section 10(a), Public Law 92–463, as amended, notice is hereby given of a forthcoming meeting of the Defense Department Advisory Committee on Women in the Services (DACOWITS). The purpose of the Committee meeting is to introduce new members and conduct orientation training. The meeting is open to the public, subject to the availability of space.

Interested persons may submit a written statement for consideration by

the Committee and make an oral presentation of such. Persons desiring to make an oral presentation or submit a written statement to the Committee must notify the point of contact listed below no later than 5 p.m., 22 March 2006. Oral presentations by members of the public will be permitted only on Monday, 27 March 2006 from 4:45 p.m. to 5 p.m. before the full Committee. Presentations will be limited to two minutes. Number of oral presentations to be made will depend on the number of requests received from members of the public. Each person desiring to make an oral presentation must provide the point of contact listed below with one (1) copy of the presentation by 5 p.m., 22 March 2006 and bring 35 copies of any material that is intended for distribution at the meeting. Persons submitting a written statement must submit 35 copies of the statement to the DACOWITS staff by 5 p.m. on 22 March 2006.

Dates: March 27, 2006, 8:30 a.m.–5 p.m.; March 28, 2006, 8:30 a.m.–5 p.m.; March 29, 2006, 8:30 a.m.–5 p.m.

Location: Embassy Suites Hotel Crystal City—National Airport, 1300 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: MSgt Gerald Posey, USA DACOWITS, 4000 Defense Pentagon, Room 2C548A, Washington, DC 20301–4000. Telephone (703) 697–2122. Fax (703) 614–6233.

SUPPLEMENTARY INFORMATION: Meeting agenda.

Monday, 27 March 2006, 8:30 p.m.–5 p.m.

Welcome & Administrative Remarks.

New Member Orientation.

Public Forum.

Tuesday, 28 March 2006, 8:30 a.m.–5 p.m.

New Member Orientation.

Wednesday, 29 March 2006, 8:30 a.m.–5 p.m.

New Member Orientation.

Note: Exact order may vary.

Dated: March 7, 2006.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. 06–2414 Filed 3–13–06; 8:45 am]

BILLING CODE 5001–06–M

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 5,520,331 entitled ''Liquid Atomizing Nozzle'', Navy Case Number 75983, Inventor Wolfe, Issue date May 28, 1996. U.S. Patent Number 5,958,857 entitled ''Thixotropic low-solvent, non-hap wheel well cleaner'', Navy Case Number 77564, Inventors Bevilacqua et al, Issue date September 28, 1999. Navy Case Number 96334 entitled ''Radially Compressive Rope Assembly'', Inventor Kijesky, U.S. Patent Application Number 11/845,684 filed on January 26, 2006. Navy Case Number 96341 entitled ''Non-Chromium post-treatment for aluminum coated steel'', Inventors Matzdorf et al, U.S. Patent Application Number 11/268,405 filed on November 01, 2005. Navy Case Number 96342 entitled ''Non-Chromium Coatings for Aluminum'', Inventors Matzdorf et al, U.S. Patent Application Number 11/268,404 filed on November 01, 2005. U.S. Patent Number 6,239,725 entitled ''Passive visual system and method for use thereof for aircraft guidance'', Navy Case Number 82248, Inventor Bray, Issue date May 29, 2001. Navy Case Number 96345 entitled Non-Chromium Conversion Coating for Ferrous Alloys'', Inventors Matzdorf et al, U.S. Patent Application Number 11/268,406 filed on November 01, 2005. Navy Case Number 97473 entitled ''Oleaginous Corrosion and Mildew-Inhibiting Composition'', Inventors Arafat et al, U.S. Patent Application Number 11/325,283 filed on December 20, 2005. Navy Case Number 97567 entitled ''Corrosion Inhibiting Mildew Remover Kit'', Inventors Roser et al, U.S. Patent Application Number 11/345,686 filed on January 26, 2006. Navy Case Number 97798 entitled ''Global Visualization Process for Personal Computer Platforms (GVP+), Inventors Gatewood et al, U.S. Patent Application Number 11/296,723 filed on December 06, 2005. 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 6,625,510 entitled ''Computer-based tool management documentation system'', Navy Case Number 82247, Inventors Kimball et al, Issue date September 23, 2003.

ADDRESSES: Request for data and inventor interviews should be director to Mr. Paul Fritz, Naval Air Warfare Center Aircraft Division, Business Development Office, Office of Research and Technology Applications, Building 304; Room 107, 22541 Millstone Road, Patuxent River, MD 20670, 301–342–5586 or e-Mail *Paul.Fritz@navy.mil*.

DATES: Request for data, samples, and inventor interviews should be made prior to June 30, 2006.

FOR FUTHER 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. All licensing application packages and commercialization plans must be returned to Naval Air Warfare Center Aircraft Division, Business Development Office, Office of Research and Technology Applications, Building 304; Room 107, 22541 Millstone Road, Patuxent River, MD 20670.

The 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 Navy intends to ensure that its licensed inventions are broadly commercialized throughout the United States.

PCT application may be filed for each of the patents as noted above. The 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: March 6, 2006.

Eric McDonald,

Lieutenant Commander, Judge Advocate General's Corps, U. S. Navy, Federal Register Liaison Officer.

[FR Doc. E6–3549 Filed 3–13–06; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 13, 2006.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Rachel Potter, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: March 7, 2006.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Federal Student Aid

Type of Review: Revision.

Title: Teacher Cancellation Low Income Directory.

Frequency: On Occasion; Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Individuals or household.

Reporting and Recordkeeping Hour Burden:

Responses: 57.

Burden Hours: 6,983.

Abstract: There are 57 State Agencies that contribute to the development of a directory of elementary and secondary schools which qualify for the teacher cancellation benefit. The directory allows post-secondary institutions to determine whether or not a teacher who received a Federal Perkins Loan, Direct loan, or Federal Family Education Loan at their school is eligible to receive a loan cancellation as provided under Title I of the Elementary and Secondary Education Act of 1965.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 2964. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to the e-mail address *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E6–3576 Filed 3–13–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 13, 2006.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Rachel Potter, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: March 7, 2006.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: New.

Title: Annual Performance Reporting (APR) Forms for NIDRR Grantees (RERCs, RRTCS, FIPs, ARRTs, DBTACs, DRRPs).

Frequency: Annually.

Affected Public: Not-for-profit institutions; Businesses or other for-profit.

Reporting and Recordkeeping Hour Burden:

Responses: 340.

Burden Hours: 5,440.

Abstract: Information collection to obtain annual performance data from the National Institute on Disability and Rehabilitation Research (NIDRR) grantees. The Department of Education will use the information for monitoring of grantees, program planning, budget development and Government

Performance and Results Act (GPRA) and Program Rating Assessment Tool (PART) reporting.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2963. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to the e-mail address *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E6–3577 Filed 3–13–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Advisory Committee on Student Financial Assistance: Hearing

AGENCY: Advisory Committee on Student Financial Assistance, Education.

ACTION: Notice of upcoming hearing.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming hearing of the Advisory committee on Student Financial Assistance. Individuals who will need accommodations for a disability in order to attend the hearing (*i.e.*, interpreting services, assistive listening devices, and/or materials in alternative format) should notify the Advisory Committee no later than Tuesday, March 28, 2006, by contacting Ms. Hope Gray at (202) 219–2099 or via e-mail at *Hope.Gray@ed.gov.* We will attempt to meet requests after this date, but cannot guarantee availability of the requested accommodation. The hearing site is accessible to individuals with disabilities. This notice also describes the functions of the Advisory Committee. Notice of this hearing is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public.

DATE AND TIME: Tuesday, April 4, 2006, beginning at 9 a.m. and ending at approximately 5 p.m.

ADDRESSES: The Washington Court Hotel, 525 New Jersey Avenue, NW., Executive Room, Lower Lobby Level, Washington DC 20001.

FOR FURTHER INFORMATION CONTACT: Ms. Nicole A. Barry, Deputy Director, Advisory Committee on Student Financial Assistance, Capitol Place, 80 F Street, NW., Suite 413, Washington DC 20202–7582, (202) 219–2099.

SUPPLEMENTARY INFORMATION: The Advisory Committee on Student Financial Assistance is established under Section 491 of the Higher Education Act of 1965 as amended by Public Law 100–50 (20 U.S.C. 1098). The Advisory Committee serves as an independent source of advice and counsel to the Congress and the Secretary of Education on student financial aid policy. Since its inception, the congressional mandate requires the Advisory Committee to conduct objective, nonpartisan, and independent analyses on important aspects of the student assistance programs under Title IV of the Higher Education Act, and to make recommendations that will result in the maintenance of access to postsecondary education for low- and middle income students. In addition, Congress expanded the Advisory Committee's mission in the Higher Education Amendments of 1998 to include several important areas: Access, Title IV modernization, distance education, and early information and needs assessment. Specifically, the Advisory Committee is to review, monitor and evaluate the Department of Education's progress in these areas and report recommended improvements to Congress and the Secretary.

The Advisory Committee has scheduled the hearing on Tuesday, April 4 in Washington, DC to launch its new Study on Innovative Pathways to Baccalaureate Degree Attainment (Innovative Pathways Study). This three-year initiative, which was originally included in the Senate's HEA reauthorization bill, will identify creative programs and strategies designed to increase the likelihood that students from low- and moderate-income families attain a baccalaureate degree. The Advisory Committee will focus on ways to eliminate major academic, institutional, and financial barriers facing students and families from middle school through college. Over the course of the study, the Committee will produce a series of reports that highlight promising approaches to ensure that students who aspire to such a degree move through the access and persistence pipeline in an efficient, effective, and timely manner. These reports will be designed to encourage federal, state, and institutional policymakers to embrace best practices that, over time, will narrow income-related gaps in degree completion.

The proposed agenda includes expert testimony and discussions by policymakers and representatives from state agencies, institutions, and early intervention programs who will address: (a) Innovative pathways in middle school and high school designed to increase low- and moderate-income students' chances of attaining a baccalaureate degree, (b) promising strategies for improving the transition from high school to college, including credit-based transition and dual enrollment programs, and (c) programs in higher education designed to increase the number of low- and moderate-income students that attain a bachelor's degree, including those programs to increase the rate of transfer and articulation from two-year to four-year institutions. The Advisory Committee will also conduct a roundtable discussion among Committee members and panelists on the Innovative Pathways Study, followed by a public comment session.

The Advisory Committee invites the public to submit written comments on the Innovative Pathways Study to the following e-mail address: *ACSFA@ed.gov*. Information regarding the Innovative Pathways Study will also be available on the Advisory Committee's Web site, *http://www.ed.gov/ACSFA. We must receive your comments on or before April 3, 2006 to be included in the hearing materials; additional comments should be provided to the Committee no later than June 30, 2006.*

Space for the hearing is limited and you are encourage to register early if you plan to attend. You may register by sending an e-mail to the following address: *ACSFA@ed.gov* or *Tracy.Deanna.Jones@ed.gov.* Please include your name, title, affiliation, complete address (including internet and e-mail, if available), and telephone and fax numbers. If your are unable to register electronically, you may fax your registration information to the Advisory Committee staff office at (202) 219–3032. You may also contact the Advisory Committee staff directly at (202) 219–2099. **The registration deadline is Wednesday, March 29, 2006.**

Records are kept for Advisory Committee proceedings, and are

available for inspection at the Office of the Advisory Committee on Student Financial Assistance, Capitol Place, 80 F Street, NW.—Suite 413, Washington, DC from the hours of 9 a.m. to 5:30 p.m. Monday through Friday, except Federal holidays. Information regarding the Advisory Committee is available on the Committee's Web site, *http://www.ed.gov/ACSFA.*

Dated: March 8, 2006.

Dr. William J. Goggin,

Executive Director, Advisory Committee on Student Financial Assistance.

[FR Doc. 06–2405 Filed 3–13–06; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Hanford

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EMSSAB), Hanford. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, April 6, 2006. 9 a.m.–5 p.m.

Friday, April 7, 2006. 8:30 a.m.–4 p.m.

ADDRESSES: Red Lion Hotel, 304 Southeast Nye Avenue, Pendleton, Oregon 97801. Phone Number: (541) 276–6111.

FOR FURTHER INFORMATION CONTACT: Erik Olds, Federal Coordinator, Department of Energy Richland Operations Office, 2440 Stevens Drive, P.O. Box 450, H6–60, Richland, WA, 99352; Phone: (509) 376–8656; Fax: (509) 376–1214.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

- Hanford's 2008 Budget Submittal.
- Tank Closure and Waste Management Environmental Impact Statement.
- Office of River Protection Integration.
- Contracting Strategy.
- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Five-Year Plan.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Erik Olds' office at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the U.S. Department of Energy's Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Erik Olds' office at the address or telephone number listed above.

Issued at Washington, DC on March 8, 2006.

Carol Matthews,

Acting Advisory Committee Management Officer.

[FR Doc. E6–3592 Filed 3–13–06; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy; State Energy Advisory Board—Executive Working Group

AGENCY: Department of Energy.

ACTION: Notice of open teleconference.

SUMMARY: This notice announces a teleconference of the State Energy Advisory Board (STEAB)—Executive Working Group. The Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat. 770), requires that public notice of these teleconferences be announced in the **Federal Register**. No official business will be conducted—this is for information sharing only.

DATES: March 16, 2006 from 2 p.m. to 3 p.m. EST.

FOR FURTHER INFORMATION CONTACT: Gary Burch, STEAB Designated Federal Officer, Director, Central Regional Office, Energy Efficiency and Renewable Energy (EERE), U.S. Department of Energy, 1617 Cole Boulevard, Golden, CO 80401, Telephone 303/275–4801.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* To make recommendations to the Assistant Secretary for Energy Efficiency and Renewable Energy regarding goals and objectives, programmatic and administrative policies, and to otherwise carry out the Board's responsibilities pursuant to the State Energy Efficiency Programs Improvement Act of 1990 (Pub. L. 101–440).

Tentative Agenda: Update members on routine business matters. No official actions will be taken.

Public Participation: The teleconference is open to the public. Members of the public wishing to participate in the teleconference should contact Gary Burch for call-in information. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Gary Burch at the address or telephone number listed above. Requests to make oral comments will be accepted and a reasonable provision will be made to include requested topic(s) on the agenda. The Chair of the Board is empowered to conduct the call in a fashion that will facilitate the orderly conduct of business. This notice is being published less than 15 days before the date of the meeting due to programmatic issues.

Notes: The notes of the teleconference will be available for public review and copying within 60 days at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on March 9, 2006.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. E6–3591 Filed 3–13–06; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 739–018]

Appalachian Power Company; Notice of Intent To File License Application, Filing of Pre-Application Document, Commencement of Licensing Proceeding, Scoping Meetings, Solicitation of Comments on the Pad and Scoping Document, and Identification of Issues and Associated Study Requests

March 7, 2006

a. *Type of Filing:* Notice of Intent to File License Application for a New License and Commencing Licensing Proceeding.

b. *Project No.:* 739–018.

c. *Dated Filed:* January 6, 2006.

d. *Submitted By:* Appalachian Power Company.

e. *Name of Project:* Claytor Project.

f. *Location:* On the New River, in Pulaski County, Virginia. The project does not occupy any Federal land.

g. *Filed Pursuant to:* 18 CFR part 5 of the Commission's Regulations.

h. *Applicant Contact:* Ms. Teresa Rogers, Reservoir Superintendent, Appalachian Power Company, 40 Franklin Road, Roanoke, VA 24011, (540) 985–2441, *tprogers@aep.com.*

i. *FERC Contact:* John Smith, (202) 502–8972, or via e-mail at *john.smith@ferc.gov.*

j. We are asking Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the environmental document. Agencies who would like to request cooperating status should follow the instructions for filing comments described in paragraph o below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See,* 94 FERC ¶ 61,076 (2001).

k. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, part 402; and (b) the State Historic Preservation Officer, as required by section 106, National Historical Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Appalachian Power Company as the Commission's non-Federal representative for carrying out informal consultation, pursuant to section 7 of the Endangered Species Act and section 106 of the National Historic Preservation Act.

m. Appalachian Power Company filed a Pre-Application Document (PAD), including a proposed process plan and schedule with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations. The Commission issued Scoping Document 1 (SD1) on March 7, 2006.

n. A copy of the PAD and SD1 are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Copies are also available for inspection and reproduction at the address in paragraph h.

Register online at *http://ferc.gov/esubscribenow.htm* to be notified via e-mail of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. With this notice, we are soliciting comments on the PAD and SD1, as well as study requests. All comments on the PAD and SD1, and study requests should be sent to the address above in paragraph h. In addition, all comments on the PAD and SD1, study requests, requests for cooperating agency status, and all communications to and from Commission staff related to the merits of the potential application (original and eight copies) must be filed with the Commission at the following address: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. All filings with the Commission must include on the first page, the project name (Claytor Project) and number (P–739–018), and bear the heading ''Comments on Pre-Application Document,'' ''Study Requests,'' ''Comments on Scoping Document 1,'' ''Request for Cooperating Agency Status,'' or ''Communications to and from Commission Staff.'' Any individual or entity interested in submitting study requests, commenting on the PAD or SD1, and any agency requesting cooperating status must do so by May 6, 2006.

Comments on the PAD and SD1, study requests, requests for cooperating agency status, and other permissible forms of communications with the Commission may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''efiling'' link.

p. Although our current intent is to prepare an environmental assessment (EA), there is the possibility that an Environmental Impact Statement (EIS) will be required. Nevertheless, this meeting will satisfy the NEPA scoping requirements, irrespective of whether an EA or EIS is issued by the Commission.

Scoping Meetings

Commission staff will hold two scoping meetings in the vicinity of the project at the times and places noted below. The daytime meeting will focus on resource agency, Indian tribes, and non-governmental organization concerns, while the evening meeting is primarily for receiving input from the public. We invite all interested individuals, organizations, and agencies to attend one or both of the meetings, and to assist staff in identifying particular study needs, as well as the scope of environmental issues to be addressed in the environmental document. The times and locations of these meetings are as follows:

Evening Scoping Meeting

Date: Wednesday, April 5, 2006.

Time: 7 p.m. to 9 p.m.

Location: Dublin Middle School, 650 Giles Avenue, Dublin, Virginia 24084.

Daytime Scoping Meeting

Date: Thursday, April 6, 2006.

Time: 9 a.m. to 12 p.m.

Location: Appalachian Power's Pulaski Service Center, 4600 Newbern Road, Pulaski, Virginia 24301.

For Directions: Please call Ms. Teresa Rogers at (540) 985–2441, or via e-mail at *tprogers@aep.com.*

SD1, which outlines the subject areas to be addressed in the environmental document, was mailed to the individuals and entities on the Commission's mailing list. Copies of SD1 will be available at the scoping meetings, or may be viewed on the Web at *http://www.ferc.gov*, using the ''eLibrary'' link. Follow the directions for accessing information in paragraph n. Depending on the extent of comments received, a Scoping Document 2 may or may not be issued.

Site Visit

Appalachian Power will conduct a site visit of the project on Wednesday, April 5, 2006, starting at 9 a.m. All participants should meet at Appalachian Power's picnic area at

Claytor dam off Route 799 (Claytor Dam Road). All participants are responsible for their own transportation. Anyone with questions about the site visit should contact Ms. Teresa Rogers of Appalachian Power at (540) 985–2441, or via e-mail at *tprogers@aep.com* on or before March 30, 2006.

Scoping Meeting Objectives

At the scoping meetings, staff will: (1) Present a proposed list of issues to be addressed in the EA; (2) review and discuss existing conditions and resource agency management objectives; (3) review and discuss existing information and identify preliminary information and study needs; (4) review and discuss the process plan and schedule for pre-filing activity that incorporates the time frames provided for in part 5 of the Commission's regulations and, to the extent possible, maximizes coordination of Federal, state, and tribal permitting and certification processes; and (5) discuss requests by any federal or state agency or Indian tribe acting as a cooperating agency for development of an environmental document.

Meeting participants should come prepared to discuss their issues and/or concerns. Please review the PAD in preparation for the scoping meetings. Directions on how to obtain a copy of the PAD and SD1 are included in item n of this document.

Scoping Meeting Procedures

The meetings will be recorded by a stenographer and will become part of the formal Commission record on the project.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3600 Filed 3–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–171–003]

Central New York Oil and Gas Company, LLC; Notice of Compliance Filing

March 7, 2006.

Take notice that, on February 23, 2006, Central New York Oil and Gas Company, LLC (CNYOG), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Substitute Original Sheet No. 75A and Substitute Third Revised Sheet No. 98, to become effective February 6, 2006.

CNYOG states that the filing is being made to comply with the Commission's order dated February 3, 2006 in this proceeding.

CNYOG states that copies of the filing were served on the company's jurisdictional customers and interested state commissions.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of § 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3605 Filed 3–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–70–000 and CP06–79–000]

Colorado Interstate Gas Company Public Service Company of Colorado; Notice of Applications

March 7, 2006.

Take notice that on February 27, 2006, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed an application in Docket No. CP06–70–000, pursuant to section 7(b) and (c) of the Natural Gas Act (NGA) and part 157 of the Commission's regulations, for authorization to abandon certain delivery laterals and related metering facilities located in Morgan County, Colorado, and for authorization to retain certain capacity on those facilities under a lease. CIG intends to abandon the subject facilities by sale to Public Service Company of Colorado. Concurrently, CIG intends to retain a portion of the capacity under lease on the subject facilities until June 30, 2007 when it completes its contractual obligations for firm transportation service to Manchief Power Company, LLC. On March 3, 2006, Public Service Company of Colorado (PSC), 1225 17th Street, Denver, Colorado also filed an application in Docket No. CP06–79–000, pursuant to section 7(c) of the NGA for a limited jurisdiction certificate authorizing the lease by PSC of subject interstate pipeline capacity back to CIG.

These applications are on file with the Commission and open for public inspection. The 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'' 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.

Any questions regarding CIG's application may be directed to Richard Derryberry Director, Regulatory Affairs, Colorado Interstate Gas Company, P.O. Box 1087, Colorado Springs, Colorado 80944 at (719) 520–3782 or by fax at (719) 667–7534. Questions regarding PSC's filing should be directed to Robert I. White, counsel for PSC, Squire, Sanders & Dempsey, LLP at (202) 626–6285, fax (202) 626–6780, or *rwhite@ssd.com.*

Any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the below listed 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.

Motions to intervene, protests and comments may be filed electronically via the Internet in lieu of paper, see, 18 CFR 385.2001 (a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: March 28, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3596 Filed 3–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–13–023]

East Tennessee Natural Gas, LLC; Notice of Compliance Filing

March 7, 2006.

Take notice that on February 22, 2006, East Tennessee Natural Gas, LLC (East Tennessee) submitted a compliance filing pursuant to the Commission's August 16, 2005 order in the above-captioned docket.

East Tennessee states that copies of the filing were served on parties on the official service list in the above-captioned proceeding, as well as all customers and interested state commissions.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3654 Filed 3–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–422–007]

El Paso Natural Gas Company; Notice of Motion to Place Tariff Sheets in Effect

March 7, 2006.

Take notice that on March 1, 2006, El Paso Natural Gas Company (EPNG) submitted a Motion to Place filing, proposing to effectuate specific provisions of EPNG's Rate Case in the above-mentioned docket. EPNG tenders for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the tariff sheets listed in Appendix A to the filing, to become effective April 1, 2006.

EPNG states that copies of the filing were served on parties on the official service list in the above-captioned proceedings.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 13, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3604 Filed 3–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–200–002]

Entrega Gas Pipeline LLC; Notice of Tariff Filing

March 7, 2006.

Take notice that on February 28, 2006, Entrega Gas Pipeline LLC (Entrega) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Substitute First Revised Sheet No. 23, to be effective February 23, 2006.

Entrega stated that a copy of this filing has been served upon all parties to this proceeding, Entrega's customers, the Colorado Public Utilities Commission and the Wyoming Public Service Commission.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of § 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or

protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3606 Filed 3–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–77–000]

National Fuel Gas Supply Corporation; Notice of Application for Abandonment

March 7, 2006.

Take notice that on February 28, 2006, National Fuel Gas Supply Corporation (National Fuel) filed an application in Docket No. CP06–77–000 pursuant to section 7(b) of the Natural Gas Act and part 157 of the Commission's regulations, for permission and approval to partially abandon a storage service and transportation service it provides to Transcontinental Gas Pipe Line Corporation (Transco).

National Fuel proposes to partially abandon, effective April 1, 2006, a storage service and transportation service it provides to Transco under National Fuel's Rate Schedules SS–1 and X–54.

National Fuel states that National Fuel and Transco have agreed to reduce the Annual Storage Volume under the SS–1 contract from 11,000,000 Mcf to 10,637,000 Mcf and the Contract Demand under the X–54 Rate Schedule from 100,000 Mcf to 96,700 Mcf per day.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time March 17, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3597 Filed 3–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–229–000]

Nautilus Pipeline Company, L.L.C.; Notice of Tariff Filing

March 7, 2006.

Take notice that on February 20, 2006, Nautilus Pipeline Company, L.L.C. (Nautilus) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheet listed on the filing, to become effective March 22, 2006.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3595 Filed 3–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–204–001]

Northern Natural Gas Company; Notice of Compliance Filing

March 7, 2006.

Take notice that on February 21, 2006, Northern Natural Gas Company (Northern) tendered for filing to become part of its FERC Gas Tariff, Fifth Revised

Volume No. 1 the following tariff sheets to be effective April 1, 2006:

Substitute 19 Revised Sheet No. 61
Substitute 19 Revised Sheet No. 62
Substitute 22 Revised Sheet No. 63
Substitute 21 Revised Sheet No. 64

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 in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3607 Filed 3–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–218–000]

Northern Natural Gas Company; Notice of Limited Waiver

March 7, 2006.

Take notice that on February 9, 2006, Northern Natural Gas Company (Northern) tendered for filing a petition to the Commission for a limited waiver of its FERC Gas Tariff in order to allow Northern to resolve a prior-period imbalance trading error by retroactively adjusting imbalance levels for BP Canada Energy Marketing Corporation and Swift & Company (Swift) to reflect an imbalance trade with was agreed to but improperly communicated.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time March 13, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3608 Filed 3–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR06–10–000]

Ohio Valley Hub, LLC; Notice of Petition for Approval of Rates

March 7, 2006.

Take notice that on January 31, 2006, Ohio Valley Hub, LLC (Ohio Valley) filed a cost and throughput study pursuant to a Commission order issued in Docket Nos. PR02–15–000 and CP02–161–000 (Ohio Valley Hub, LLC, 100 FERC ¶ 61,238 (2002)).

Ohio Valley states that it requests no change to its existing rates and charges or to the previously approved terms and conditions of service.

Any person desiring to participate in this rate proceeding must file a motion to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 17, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3601 Filed 3–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–163–005]

Paiute Pipeline Company; Notice of Refund Report

March 7, 2006.

Take notice that on March 1, 2006, Paiute Pipeline Company (Paiute) tendered for filing its refund report in compliance with the Commission's order issued on November 30, 2005. Paiute states that on January 30, 2006, it distributed refunds in compliance with the order including applicable interest calculated at the FERC-approved rates through the date of distribution of refunds.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 6, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3602 Filed 3–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP05–418–002]

Tennessee Gas Pipeline Company; Notice of Compliance Filing

March 7, 2006.

Take notice that on February 17, 2006, Tennessee Gas Pipeline Company (Tennessee) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 2 Forty-Seventh Revised Sheet No. 5 and First Revised Sheet No. 1187, with an effective date of February 10, 2006.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 17, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3613 Filed 3–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–317–002]

Texas Gas Transmission, LLC; Notice to Place Interim Rates Into Effect

March 7, 2006.

Take notice that on February 24, 2006, Texas Gas Transmission, LLC (Texas Gas) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, to become effective February 1, 2006.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 14, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3603 Filed 3–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–224–000]

Trailblazer Pipeline Company; Notice of Filing Penalty Revenue Crediting Report

March 7, 2006.

Take notice that on February 17, 2006, Trailblazer Pipeline Company (Trailblazer) tendered for filing its Penalty Revenue Crediting Report. Trailblazer states that the purpose of this filing is to inform the Commission of penalty revenues it has received in the quarterly period October 1, 2005 through December 31, 2005.

Trailblazer states that copies of the filing are being mailed to its customers and interested state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed 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 online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time March 13, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3610 Filed 3–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–222–001]

Viking Gas Transmission Company; Notice of Compliance Filing

March 7, 2006.

Take notice that on February 20, 2006, Viking Gas Transmission Company (Viking) tendered for filing to be part of its FERC Gas Tariff, First Revised Volume No. 1, substitute Sixteenth Revised Sheet No. 5B, to become effective April 1, 2006.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3609 Filed 3–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–228–000]

Williston Basin Interstate Pipeline Company; Notice of Tariff Filing

March 7, 2006.

Take notice that on February 21, 2006, Williston Basin Interstate Pipeline Company (Williston Basin) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to become effective March 23, 2006:

Fifth Revised Sheet No. 231
Fifth Revised Sheet No. 231A
Sixth Revised Sheet No. 232
Fourth Revised Sheet No. 232A
Second Revised Sheet No. 232A.01
Fifth Revised Sheet No. 232B
Original Sheet No. 232B.01
Sixth Revised Sheet No. 232C
Third Revised Sheet No. 232D
Original Sheet No. 232D.01
First Revised Sheet No. 232E

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of § 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission,

888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3611 Filed 3–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER97–1417–000, et al.]

TransCanada Energy, Ltd., Inc. et al.; Electric Rate and Corporate Filings

March 6, 2006.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. TransCanada Energy Ltd.

[Docket No. ER97–1417–003]

Take notice that on March 2, 2006, TransCanada Energy Ltd. (TCE) filed proposed revisions to its Rate Schedule FERC No. 1 pursuant to Order Nos. 652 and 614. TCE also updated its market-based rate schedule to reflect a change in name.

TCE requests a waiver of the requirements of Section 35.13 of the regulations on the basis that those requirements are not relevant to the instant filing.

Comment Date: 5 p.m. Eastern Time on March 13, 2006.

2. TransCanada Power Marketing Ltd.

[Docket No. ER98–564–009]

Take notice that on March 2, 2006, TransCanada Power Marketing Ltd. (TCPM) filed proposed revisions to its Rate Schedule FERC No. 1 (Rate Schedule) pursuant to Order Nos. 652 and 614.

TCPM requests a waiver of the requirements of Section 35.13 of the regulations on the basis that those requirements are not relevant to the instant filing.

Comment Date: 5 p.m. Eastern Time on March 13, 2006.

3. Orzunil I de Electricidad Limitada, OrPower, 4 Inc., Ormat Momotomo Power Company, Ormat Leyte Co., Ltd., OrTitlan Limitada

[Docket No. FC06–1–000]

Take notice that on February 28, 2006, Orzunil I de Electricidad Limitada, OrPower, 4 Inc., Ormat Momotomo Power Company, Ormat Leyte Co., Ltd., and OrTitlan Limitada filed its Notification of Foreign Utility Company Status pursuant to 18 CFR 366.7(a).

Comment Date: 5 p.m. Eastern Time on March 21, 2006.

4. Macquarie Bank Limited

[Docket No. FC06–2–000]

Take notice that on February 15, 2006, Macquarie Bank Limited (MBL) filed a Notification of Foreign Utility Company Status pursuant to 18 CFR 366.7(a) on behalf of its companies and their direct and indirect subsidiaries.

Comment Date: 5 p.m. Eastern Time on March 17, 2006.

Standard Paragraph

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible 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. E6–3540 Filed 3–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL00–95–179, et al.]

San Diego Gas & Electric Company, et al.; Electric Rate and Corporate Filings

March 7, 2006.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. San Diego Gas & Electric Company v. Seller of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange

[Docket No. EL00–95–179]

Investigation of Practices of the California Independent System Operator Corporation and the California Power Exchange

[Docket No. EL00–98–165]

Take notice that on February 27, 2006, El Paso Marketing, L.P. filed a supplemental Cost Recovery Analysis, or in the alternative, a response to the Commission's Order issued January 26, 2006.

Comment Date: 5 p.m. Eastern Time on March 20, 2006.

2. TransCanada Hydro Northeast Inc.

[Docket No. ER05–111–003]

Take notice that on March 2, 2006, TransCanada Hydro Northeast Inc. (TC Hydro NE) filed proposed revisions to its FERC Electric Tariff No. 1 pursuant to Commission's February 16, 2006 Order.

TC Hydro NE requests a waiver of the requirements of § 35.13 of the regulations on the basis that those requirements are not relevant to the instant filing.

Comment Date: 5 p.m. Eastern Time on March 13, 2006.

3. South Carolina Electric and Gas Company

[Docket No. ER05–1165–005]

Take notice that on February 7, 2006, South Carolina Electric and Gas Company tendered for filing a revised compliance refund report.

Comment Date: 5 p.m. Eastern Time on March 17, 2006.

4. Teresa Conway

[Docket No. ID–4811–000]

Take notice that on February 14, 2006, Teresa Conway filed an Application for Authorization to Hold Interlocking Positions pursuant to Section 305(b) of the Federal Power Act and part 45 of the Commission's Regulations.

Comment Date: 5 p.m. Eastern Time on April 6, 2006.

Standard Paragraph

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3587 Filed 3–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

March 7, 2006.

Take notice that the Commission received the following electric rate filings.

Docket Numbers: ER02–73–008.
Applicants: Llano Estacado Wind, L.P.
Description: Entergy Services, Inc., as agent for its affiliate Llano Estacado Wind, LP, submits its triennial updated market power analysis in support of its continued eligibility to sell electric capacity and energy at market-based rates.
Filed Date: February 28, 2006.
Accession Number: 20060303–0092.
Comment Date: 5 p.m. Eastern Time on Tuesday, March 21, 2006.

Docket Numbers: ER03–563–057; EL04–102–013.
Applicants: Power Marketing Inc.
Description: ISO New England, Inc., submits a revision to its Compliance Report filed February 28, 2006.
Filed Date: March 1, 2006.
Accession Number: 20060303–0188.
Comment Date: 5 p.m. Eastern Time on Wednesday, March 22, 2006.

Docket Numbers: ER04–691–065.
Applicants: Midwest Independent Transmission System Operator, Inc.,
Description: Midwest Independent Transmission System Operator, Inc., submits a redacted version of its Supplemental Information Filing, filed February 24, 2006.
Filed Date: March 1, 2006.
Accession Number: 20060307–0096.
Comment Date: 5 p.m. Eastern Time on Wednesday, March 22, 2006.

Docket Numbers: ER06–456–001.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, LLC submits an amendment to its January 5, 2006 filing to include cost allocations for 35 additional upgrades in Schedule 12–Appendix, to become effective on May 30, 2006.
Filed Date: March 1, 2006.
Accession Number: 20060303–0087.
Comment Date: 5 p.m. Eastern Time on Wednesday, March 22, 2006.

Docket Numbers: ER06–505–001.
Applicants: Entergy Services, Inc.,
Description: Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., et al., submit a revision to its Compliance Filing filed on January 18, 2006.
Filed Date: February 28, 2006.
Accession Number: 20060303–0094.
Comment Date: 5 p.m. Eastern Time on Tuesday, March 10, 2006.

Docket Numbers: ER06–538–001.
Applicants: Llano Estacado Wind, LP.
Description: Llano Estacado Wind, LP submits amendments to its January 11, 2006 filing of its market-based rate tariff, designated as Original Sheets 1–4, FERC Electric Tarifff, First Revised Volume 1.
Filed Date: March 1, 2006.
Accession Number: 20060303–0091.
Comment Date: 5 p.m. Eastern Time on Wednesday, March 22, 2006.

Docket Numbers: ER06–686–000.
Applicants: DeGreeff DP, LLC.
Description: DeGreeff DP, LLC submits a petition for order accepting market-based rate tariff for filing and granting waivers and blanket approvals and request for expedited action.
Filed Date: March 1, 2006.
Accession Number: 20060303–0140.
Comment Date: 5 p.m. Eastern Time on Wednesday, March 22, 2006.

Docket Numbers: ER06–687–000.
Applicants: New England Power Pool.
Description: New England Power Pool Participants Committee submits its transmittal letter along with a counterpart signature page of the New England Power Pool Agreement.
Filed Date: March 1, 2006.
Accession Number: 20060303–0085.
Comment Date: 5 p.m. Eastern Time on Wednesday, March 22, 2006.

Docket Numbers: ER06–688–000.
Applicants: Hinson Power Company, LLC.
Description: Hinson Power Co., LLC submits its amendment to its Updated Market Power Analysis & Revisions to Second Revised Rate Schedule 1.
Filed Date: March 1, 2006.
Accession Number: 20060303–0086.
Comment Date: 5 p.m. Eastern Time on Wednesday, March 13, 2006.

Docket Numbers: ER06–689–000.
Applicants: Duke Energy Oakland, LLC.
Description: Duke Energy Oakland, LLC submits a correction to Original Sheet 142 from its Reliability Must Run Agreement with the California Independent System Operator Corp.
Filed Date: March 1, 2006.
Accession Number: 20060303–0143.
Comment Date: 5 p.m. Eastern Time on Wednesday, March 22, 2006.

Docket Numbers: ER06–691–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection LLC submits an executed construction service agreement among PJM, Southeastern Chester County Refuse Authority and PECO Energy Company.
Filed Date: March 1, 2006.

Accession Number: 20060303–0090.

Comment Date: 5 p.m. Eastern Time on Wednesday, March 22, 2006.

Docket Numbers: ER06–692–000.

Applicants: Orange and Rockland Utilities, Inc.,

Description: Orange and Rockland Utilities submits a revised Power Supply Agreement with Pike County Light & Power Company, effective May 1, 2006.

Filed Date: March 1, 2006.

Accession Number: 20060306–0119.

Comment Date: 5 p.m. Eastern Time on Wednesday, March 22, 2006.

Docket Numbers: ER96–110–020; ER99–2774–012; ER03–956–009; ER03–185–007; ER03–17–007; ER01–545–009; ER00–1783–009; ER02–795–007; ER96–2504–014; ER05–1367–003; ER05–1368–003; ER05–1369–004; ER00–826–006; ER00–828–006; ER98–421–017; ER98–4055–014; ER01–1337–009; ER02–177–010; ER03–1212–008; ER01–1820–008.

Applicants: Duke Power, Division of Duke Energy Corp.; Duke Energy Trading and Marketing, L.L.C.; Duke Energy Marketing America, LLC, Duke Energy Fayette, LLC; Duke Energy Hanging Rock, LLC; Duke Energy Lee, LLC; Duke Energy Vermillion, LLC; Duke Energy Washington, LLC; Cincinnati Gas & Electric Co.; PSI Energy, Inc.; Union Light Heat & Power Company; Cinergy Marketing & Trading, LP; Brownsville Power I, L.L.C.; Caledonia Power I, L.L.C. CinCap IV, LLC; CinCap V, LLC; Cinergy Capital & Trading, Inc.; Cinergy Power Investments, Inc.; St. Paul Cogeneration, LLC; Cinergy Operating Companies.

Description: Duke Energy Corp., et al., on behalf of Duke Power Co, LLC et al submits a notice of change in status for each MBR Company with respect to each such MBR Co's Authority to engage in wholesale sales of capacity.

Filed Date: March 1, 2006.

Accession Number: 20060306–0067.

Comment Date: 5 p.m. Eastern Time on Wednesday, March 22, 2006.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3590 Filed 3–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

March 7, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12641–000.

c. *Date filed:* January 17, 2006.

d. *Applicant:* Mt. Hope Waterpower Project LLP.

e. *Name of Project:* Mount Hope Pumped Storage Project.

f. *Location:* On the Mount Hope Lake and Rockaway River, in Morris County, New Jersey. The existing facilities are owned by the applicant.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Sam Ramiz, Mt. Hope Waterpower Project LLP, 627 Mt. Hope Road, Wharton, NJ 07885–2837, (973) 361–1072 and Donald H. Clarke, GKRSE, 1500 K Street, NW., Suite 330, Washington, DC 20005, Tel: (202) 408–5400.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.fed.us/efi/doorbell.htm.* Please include the project number (P–12641–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed pumped storage project would consist of: (1) A proposed upper reservoir having a surface area of 57 acres and storage capacity of 6,000 acre-feet and normal maximum water surface elevation of 900 feet mean sea level located in a 110-acre site west of Mt. Hope lake that would be excavated through quarrying operations, (2) a proposed reinforced concrete intake/outtake structure, (3) a proposed 2,800-foot-long, 25-foot diameter reinforced concrete vertical intake shaft, (4) five proposed 250-foot-long, 11-foot-diameter penstocks, (5) a proposed powerhouse containing five generating units having a total installed capacity of 2,000 megawatts, (6) two proposed 10.6-mile-long, 500 kilovolt transmission lines, (7) a proposed lower reservoir using a modified underground cavern associated with the inactive Mt. Hope Mine having a surface area of 150 acres

and storage capacity of 4,800 acre-feet and normal water surface elevation of −1,628 feet mean sea level; and (8) appurtenant facilities. The proposed project would have an average annual generation of 2,628 gigawatt-hours that would be sold to a local utility.

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (*see* 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies Under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions To Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3598 Filed 3–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

March 7, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of license to upgrade the installed capacity.

b. *Project No.:* 309–053.

c. *Date Filed:* February 24, 2006.

d. *Applicant:* Brookfield Power Piney & Deep Creek, LLC.

e. *Name of Project:* Piney Project.

f. *Location:* The Project is located on the Clarion River in Clarion County, Pennsylvania.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Sam Hirschey, Brookfield Power New York, 225 Greenfield Parkway, Suite 201, Liverpool, NY 13088. Tel: (315) 413–2790.

i. *FERC Contact:* Any questions on this notice should be addressed to Vedula Sarma at (202) 502–6190 or *vedula.sarma@ferc.gov.*

j. *Deadline for filing comments and/or motions:* April 7, 2006.

k. *Description of Filing:* Brookfield Power Piney & Deep Creek, LLC proposes to replace the existing Unit 2 runner with a new runner. The proposed upgrade would increase the installed capacity of the project from 28,000 kilowatts to 30,000 kilowatts, and the hydraulic capacity from 5,400 cfs to 5,600 cfs.

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using

the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3599 Filed 3–13–06; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R09–OAR–2006–0147; FRL–8044–7]

Adequacy Determination for the Sacramento Eight-Hour Ozone Reasonable Further Progress Plan for Transportation Conformity Purposes; State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of adequacy.

SUMMARY: In this notice, EPA is notifying the public that EPA has found that the motor vehicle emissions budgets in the Sacramento 8-hour ozone reasonable further progress plan are adequate for conformity purposes. As a result of our finding, the Sacramento 8-hour ozone nonattainment area (which consists of all of Sacramento and Yolo counties, and portions of Placer, El Dorado, Solano, and Sutter counties) must use the motor vehicle emissions budgets from the submitted 8-hour ozone reasonable further progress plan.

DATES: This determination is effective March 29, 2006.

FOR FURTHER INFORMATION CONTACT: Dave Jesson, Environmental Protection Agency, Region IX, Air Planning Office (AIR–2), 75 Hawthorne Street, San Francisco, CA 94105, (415) 972–3957, *jesson.david@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, whenever ''we'', ''us'' or ''our'' is used, we mean EPA.

Today's notice is simply an announcement of a finding that we have already made. EPA Region IX sent a letter to the California Air Resources Board, dated February 24, 2006, stating that the motor vehicle emissions budgets for the year 2008 for the Sacramento 8-hour ozone reasonable further progress plan are adequate. This finding is also posted on EPA's conformity Web site: *http://www.epa.gov/otaq/transp/conform/pastsips.htm.*

Transportation conformity is required by section 176(c) of the Clean Air Act. EPA's conformity rule requires that transportation plans, programs, and projects conform to state air quality implementation plans and establishes the criteria and procedures for determining whether or not they demonstrate conformity. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which we determine whether a SIP's motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). One of these criteria is that the motor vehicle emissions budgets, when considered together with all other emissions sources, are consistent with applicable requirements for a SIP. We have preliminarily determined that the Sacramento 8-hour ozone reasonable further progress plan meets the necessary emission reduction requirements and, therefore, the motor vehicle emissions budgets can be found adequate. Please note that an adequacy review is separate from EPA's completeness review which is required by section 110(k)(1) of the Clean Air Act, and it also should not be used to prejudge EPA's ultimate action (approval or disapproval) on the submitted plan itself. Even if we find budgets adequate, the submitted plan could later be disapproved.

We have described our process for determining the adequacy of submitted SIP budgets in guidance (May 14, 1999 memo titled ''Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision''). This guidance is now reflected in the transportation conformity rule at 40 CFR 93.118(e), most recently amended on July 1, 2004 (69 FR 40004) and July 20, 2004 (69 FR 43325). We followed this process in making our adequacy determination on the emissions budgets contained in the Sacramento 8-hour ozone reasonable further progress plan.

The budgets for the Sacramento area for the year 2008 are as follows: 41 tons per day of volatile organic compounds and 75 tons per day of nitrogen oxides.

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

Dated: March 1, 2006.

Laura Yoshii,

Acting Regional Administrator, EPA Region IX.

[FR Doc. E6–3588 Filed 3–13–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8044–9]

Notice of Proposed Prospective Purchaser Agreement Pursuant to CERCLA and RCRA, Chem-Wood Facility, Campbell Industrial Park, Ewa Beach, HI

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: Notice is hereby given that a proposed Prospective Purchaser Agreement (''Agreement'') associated with the Chem-Wood Facility, located at 91–476 Komohana Street in Campbell Industrial Park, Ewa Beach, Hawaii, was executed by the Agency and the United States Department of Justice on March 3, 2006. Chem-Wood is a former wood-treating facility at which a number of wastes have been generated and hazardous substances, including copper chromated arsenic and pentachlorophenol, have been used. The Agreement is between Kanani L.L.C. and the United States, and is subject to final approval after the comment period. The Agreement would resolve certain potential EPA claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), and potential claims under sections 3008(h) and 7003 of the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984 (''RCRA'').

Kanani L.L.C. plans to purchase the Chem-Wood Facility for storage of supplies and materials, parking of vehicles on paved areas, and other similar uses. Under this proposed Agreement, Kanani L.L.C. would be required to perform ground water and soil response actions, maintain security of the perimeter of the property, and maintain the integrity of the existing asphalt cap. Also under the Agreement, Kanani L.L.C. will be required to grant access to the property to EPA, its authorized officers, employees, representatives, and all other persons performing response actions under EPA oversight.

DATES: The comment period will expire fifteen (15) days from the date of this notice. A public hearing will be held on March 22, 2006 at 6 p.m. at Kapolei Elementary School, 91–1119 Kamaaha Loop, Kapolei, Hawaii, in accordance with section 7003(d) of RCRA, 42 U.S.C. 6973(d).

ADDRESSES: Comments may be submitted to Harrison Karr, Assistant Regional Counsel (ORC–3), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California 94105 (phone (415) 972–3939; e-mail: *karr.harrison@epa.gov*). Comments should reference ''The Chem-Wood Facility Prospective Purchaser Agreement.'' EPA's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California 94105 and at the information repository of the Chem-Wood facility located at the Hawaii Department of Health, Solid and Hazardous Waste Branch, 919 Ala Moana Blvd. Suite 212, Honolulu, Hawaii.

Availability: The proposed settlement is available for public inspection at the U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California 94105, and the information repository for the Chem-Wood Facility located at the Hawaii Department of Health, Solid and Hazardous Waste Branch, 919 Ala Moana Blvd. Suite 212, Honolulu, Hawaii. A copy of the proposed Agreement may be obtained from Harrison Karr, Assistant Regional Counsel (ORC–3), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California 94105 (phone (415) 972–3939; e-mail: *karr.harrison@epa.gov*).

FOR FURTHER INFORMATION CONTACT: Harrison Karr, Assistant Regional Counsel (ORC–3) U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California 94105; phone (415) 972–3939; e-mail: *karr.harrison@epa.gov.*

Dated: March 3, 2006.

Jeff Scott,

Director, Waste Management Division, U.S. EPA, Region IX.

Dated: March 2, 2006.

Keith Takata,

Director, Superfund Division, U.S. EPA, Region IX.

[FR Doc. E6–3584 Filed 3–13–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8044–6; Docket ID No. EPA–HQ–ORD–2006–0134]

A Framework for Assessing Health Risks of Environmental Exposures to Children

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is announcing a 45-day public comment period for the external review draft document titled, ''A Framework for Assessing Health Risks of Environmental Exposures to Children'' (EPA/600/R–05/093A). The draft document was prepared by the National Center for Environmental Assessment (NCEA) within EPA's Office of Research and Development (ORD).

For external scientific peer review, EPA has hired Eastern Research Group, Inc. (ERG) to convene an independent panel of experts and organize and conduct an external peer-review workshop. The date and location for the external peer-review workshop will be announced in a separate **Federal Register** notice, once that information is obtained by EPA. The public comment period and the external peer-review workshop are separate processes that provide opportunities for all interested parties to comment on the document. In addition to consideration by EPA, all public comments submitted in accordance with this notice will also be forwarded to ERG for the external peer-review panel prior to the workshop.

EPA is releasing this external review draft document solely for the purpose of pre-dissemination peer review under applicable information quality guidelines. This draft document has not been formally disseminated by EPA. It does not represent and should not be construed to represent any Agency policy or determination.

DATES: The 45-day public comment period begins March 14, 2006, and ends April 28, 2006. Technical comments should be in writing and must be received by EPA by April 28, 2006.

ADDRESSES: The draft document and EPA's peer-review charge are available primarily via the Internet on the National Center for Environmental Assessment's home page under the Recent Additions and Publications menus at *http://www.epa.gov/ncea.* A limited number of paper copies are available from the Technical Information Staff, NCEA–W; telephone: 202–564–3261; facsimile: 202–565–0050. If you are requesting a paper copy, please provide your name, mailing address, and the document title, ''A Framework for Assessing Health Risks of Environmental Exposures to Children'' (EPA/600/R–05/093A).

Comments may be submitted electronically via *http://www.regulations.gov*, by mail, by facsimile, or by hand delivery/courier. Please follow the detailed instructions

as provided in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: For information on the public comment period, contact the OEI Docket; telephone: 202–566–1752; facsimile: 202–566–1753; or e-mail: *ORD.Docket@epa.gov*.

If you have questions about the document, please contact the Technical Information Staff, National Center for Environmental Assessment, U.S. Environmental Protection Agency, Washington, DC 20460; telephone: 202–564–3261; facsimile: 202–565–0050; or e-mail: *NCEADC.Comment@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Information About the Document

Over the past decade, there has been a dramatic increase in the recognition of, and public health concern for, the vulnerability of children to exposure to environmental agents. Children have unusual patterns of exposure and have vulnerabilities to chemical agents that are quite distinct from those of adults, and thus require special consideration in risk assessment. Children often have disproportionately higher exposures to certain environmental toxicants because, pound-for-pound of body weight, children have higher food and water intake and breathe more air than adults. Metabolic pathways in the young, especially in the first few months after birth, are immature, and the ability to detoxify environmental agents is different from that of adults. In addition, behavior and activity patterns of children often magnify their exposures. These factors imply that children are likely to have more substantial exposures than adults to certain environmental agents. This document attempts to organize and present current knowledge and practices in a programmatic framework for assessing human health risks from exposures to environmental agents from prior to conception through adolescence. It describes this framework within the current Agency risk assessment paradigm, and includes problem formulation, analysis and risk characterization as discrete steps in the process. Moreover, this document focuses on mode of action as a context for considering the toxicokinetic and toxicodynamic differences between children and adults, and considers approaches for risk assessment in the context of uncertainty and variability in exposure and critical windows of development.

II. How To Submit Technical Comments to the Docket

Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2006–0134, by one of the following methods:

- *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.
- E-mail: *ORD.Docket@epa.gov*.
- Fax: 202–566–1753.
- Mail: Office of Environmental Information Docket (Mail Code: 2822T), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. The phone number is 202–566–1752.
- Hand delivery/courier: The Office of Environmental Information (OEI) Docket is located in the Headquarters EPA Docket Center (EPA/DC), EPA West Building, 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 Public Reading Room is 202–566–1744, and the telephone number for the OEI Docket is 202–566–1752; facsimile: 202–566–1753; or e-mail: *ORD.Docket@epa.gov*. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

If you provide technical comments by mail or hand delivery/courier, please submit one unbound original with pages numbered consecutively, and three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2006–0134. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center home page at *http://www.epa.gov/epahome/dockets.htm*.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute in the EPA Headquarters Docket Center. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov*, or in hard copy at the OEI Docket in the EPA Headquarters Docket Center.

Dated: March 7, 2006.

George W. Alapas,

Acting Director, National Center for Environmental Assessment.

[FR Doc. 06–2436 Filed 3–13–06; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Sunshine Act; Farm Credit Administration Board; Regular Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), that the April 13, 2006 regular meeting of the Farm Credit Administration Board (Board) has been rescheduled. The regular meeting of the Board will be held Thursday, April 6, 2006 starting at 9 a.m. An agenda for this meeting will be published at a later date.

FOR FURTHER INFORMATION CONTACT: Roland E. Smith, Secretary to the Farm Credit Administration Board, (703) 883–4009, TTY (703) 883–4056.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

Dated: March 9, 2006.

Roland E. Smith,

Secretary, Farm Credit Administration Board.

[FR Doc. 06–2460 Filed 3–9–06; 4:20 pm]

BILLING CODE 6705–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection Renewal (0028); Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comments concerning the following continuing collection of information titled: Recordkeeping and Confirmation Requirements for Securities Transactions (3064–0028).

DATES: Comments must be submitted on or before May 15, 2006.

ADDRESSES: Interested parties are invited to submit written comments by any of the following methods. All comments should refer to the name and number of the collection:

- *http://www.FDIC.gov/regulations/laws/federal/notices.html.*
- E-mail: *comments@fdic.gov.* Include the name and number of the collection in the subject line of the message.
- Mail: Gary A. Kuiper (202.942.3824), Counsel, Federal Deposit Insurance Corporation, Suite 2100, 550 17th Street, NW., Washington, DC 20429.
- Hand Delivery: Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.

A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Mark Menchik, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Gary A. Kuiper, at the address identified above.

SUPPLEMENTARY INFORMATION:

Proposal To Renew the Following Currently Approved Collection of Information

Title: Recordkeeping and Confirmation Requirements for Securities Transactions.

OMB Number: 3064–0028.

Frequency of Response: On occasion.

Affected Public: All financial institutions.

Previous Estimated Number of Respondents: 4,732.

Current Estimated Number of Respondents: 4,606.

Average annual burden hours per Respondent: 27.91.

Previous Estimated Total Annual Burden: 132,070 hours.

Current Estimated Total Annual Burden: 128,553 hours.

Reduction in Burden: 3517 hours.

General Description of Collection: The information collection requirements are contained in 12 CFR part 344. The regulation's purpose is to ensure that purchasers of securities in transactions effected by insured state nonmember banks are provided with adequate information concerning the transactions. The regulation is also designed to ensure that insured state nonmember banks maintain adequate records and controls with respect to the securities transactions they effect.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval. Comments submitted in response to this notice also will be summarized or included in the FDIC's requests to OMB for renewal of these collections. All comments will become a matter of public record.

Dated at Washington, DC, this 8th day of March, 2006.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E6–3539 Filed 3–13–06; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act; Notice of Meeting

AGENCY: Federal Election Commission.

Previously Scheduled Date & Time: Thursday, March 16, 2006 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

The Following Item was Added to the Agenda:

Draft Explanation and Justification for Interim Final Rule on Definition of ''Federal Election Activity'' (11 CFR 100.24(a)(1)(iii)).

FOR FURTHER INFORMATION CONTACT: Mr. Robert Biersack, Press Officer. Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 06–2525 Filed 3–10–06; 2:28 pm]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act

(12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center Web site at *http://www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 7, 2006.

A. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Freedom Bancshares, Inc. Overland Park, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of Freedom Bank, Overland Park, Kansas (in organization).

B. Federal Reserve Bank of San Francisco (Tracy Basinger, Director, Regional and Community Bank Group) 101 Market Street, San Francisco, California 94105-1579:

1. Placer Sierra Bancshares, Sacramento, California; California Community Financial Institutions Fund LP, San Francisco, California, and Belvedere Capital Partners LLC, San Francisco, California; to acquire Southwest Community Bancorp, Carlsbad, California, and thereby indirectly acquire Southwest Community Bank, Encinitas, California.

Board of Governors of the Federal Reserve System, March 9, 2006.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E6–3579 Filed 3–13–06; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

[File No. 061 0031]

Allergan, Inc. and Inamed Corporation; Analysis of Agreement Containing Consent Orders To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of Federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before April 7, 2006.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to ''Allergan, Inc. and Inamed Corp., File No. 061 0031,'' to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/Office of the Secretary, Room 135–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments containing confidential material must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with Commission Rule 4.9(c). 16 CFR 4.9(c) (2005).[1] The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions. Comments that do not contain any nonpublic information may instead be filed in electronic form as part of or as an attachment to e-mail messages directed to the following e-mail box: *consentagreement@ftc.gov*.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments, whether filed in paper or electronic form, will be considered by the Commission, and will be available to the public on the FTC Web site, to the extent practicable, at *http://www.ftc.gov*. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm*.

FOR FURTHER INFORMATION CONTACT: James E. Southworth, Bureau of Competition, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2822.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 8, 2006), on the World Wide Web, at *http://www.ftc.gov/os/2006/03/index.htm*. A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before the date specified in the **DATES** section.

Analysis of Agreement Containing Consent Order To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Orders (''Consent Agreement'') from Allergan, Inc. (''Allergan'') and Inamed Corporation (''Inamed''), which is designed to remedy the anticompetitive effects of the proposed acquisition of Inamed by Allergan. Under the terms of the proposed Consent Agreement, the companies would be required to return the development and distribution rights to Reloxin®, a botulinum toxin type A product, to Ipsen Ltd. (''Ipsen''), its manufacturer.

The proposed Consent Agreement has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the proposed Consent Agreement and the comments received and will decide whether it should withdraw from the proposed Consent Agreement, modify it, or make final the Decision and Order (''Order'').

Pursuant to an Agreement and Plan of Merger dated December 20, 2005, Allergan proposes to acquire all of the outstanding common shares of Inamed in a transaction valued at approximately $3.2 billion (''Acquisition''). The Commission's complaint alleges that the proposed acquisition, if consummated, would violate Section 7 of the Clayton

[1] The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* Commission Rule 4.9(c), 16 CFR 4.9(c).

Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, by eliminating the next most likely entrant in the market for cosmetic botulinum toxins. The proposed Consent Agreement would remedy the alleged loss of potential competition that would result from the merger in this market.

Botulinum toxin is an increasingly popular, non-surgical treatment for wrinkles caused by repetitive muscle movement, such as the ''worry lines'' that appear on the forehead when a person frowns. Botulinum toxin is uniquely effective in temporarily eliminating these ''dynamic wrinkles'' because it is the only product that can paralyze the underlying muscles associated with these wrinkles. Although there are many products and procedures that can be used to treat facial wrinkles, such as dermal fillers, topical creams, lasers, chemical peels, and surgery, botulinum toxin therapy is sufficiently differentiated from these other products and procedures that they are not close economic substitutes.

Allergan is the dominant supplier of cosmetic botulinum toxin in the United States. Allergan's Botox® is the only botulinum toxin type A approved by the U.S. Food and Drug Administration (''FDA'') for the treatment of facial wrinkles. In 2002, Ipsen granted Inamed the exclusive rights to develop and distribute a botulinum toxin type A product for facial cosmetic indications in the United States. Tentatively branded Reloxin®, Inamed's cosmetic botulinum toxin product is currently in Phase III clinical trials and is expected to be the first serious challenger to Botox® in the United States. Other firms' cosmetic botulinum toxin development programs lag well behind Inamed's Reloxin® program.

Entry into the market for cosmetic botulinum toxin would not be timely, likely, or sufficient in its magnitude, character, and scope to deter or counteract the anticompetitive effects of the Acquisition. Developing and obtaining FDA approval for manufacture and sale of cosmetic botulinum toxin takes at least two years due to substantial regulatory and technological barriers.

According to the Commission's complaint, the proposed acquisition likely would cause significant anticompetitive harm to consumers in the U.S. market for cosmetic botulinum toxin by eliminating potential competition between Allergan and Inamed. The entry of Reloxin®, which is expected to be the second botulinum toxin product to receive FDA approval for the treatment of facial wrinkles, would increase competition and likely reduce prices to consumers. Accordingly, allowing Allergan to control both Botox® and Reloxin® would likely force customers to pay higher prices for cosmetic botulinum toxin.

The proposed Consent Agreement contains several provisions designed to ensure the successful and timely entry of Reloxin® by requiring that: (1) Allergan and Inamed divest the Reloxin® development and distribution rights, including the ongoing clinical trials and certain intellectual property, back to Ipsen; (2) Allergan and Inamed take steps to ensure that confidential business information relating to Reloxin® will not be obtained or used by Allergan; and (3) Ipsen and/or its future marketing partner have the opportunity to enter into employment contracts with certain key individuals who have experience relating to Reloxin®.

The Commission has appointed Charles A. Riepenhoff, Jr. of KPMG LLG as Interim Monitor to oversee the transfer of confidential business information back to Ipsen and to ensure compliance with all of the provisions of the proposed consent order. Mr. Riepenhoff has over thirty-four years of experience in the health care industry. To ensure that the Commission remains informed about the status of the proposed assets and transfers of assets, the proposed Consent Agreement requires Allergan and Inamed to file reports with the Commission periodically until the divestitures and transfers are accomplished.

The purpose of this analysis is to facilitate public comment on the Consent Agreement, and it is not intended to constitute an official interpretation of the Consent Agreement or to modify its terms in any way.

By direction of the Commission, with Commissioner Rosch recused.

Donald S. Clark,

Secretary.

[FR Doc. E6–3550 Filed 3–13–06; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: Occupational Safety and Health Education, PAR–05–107, and Research Center and Occupational Safety and Health Training Projects Grants, PAR–05–126

Correction: This notice was published in the **Federal Register** on March 1, 2006, Volume 71, Number 40, page 10538. The titles for the Special Emphasis Panel meetings have been changed.

Titles: Program Announcement for Research (PAR) 05–107, Occupational Safety and Health Education and Research Centers, and Program Announcement for Research (PAR) 05–126, Occupational Safety and Health Training Project Grants.

FOR MORE INFORMATION CONTACT: Charles N. Rafferty, PhD, Designated Federal Official, National Institute for Occupational Safety and Health, CDC, 1600 Clifton Road, NE., Mailstop E–74, Atlanta, GA 30333, Telephone Number (404) 498–2582.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: March 8, 2006.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E6–3564 Filed 3–13–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2002D–0260] (formerly Docket No. 02D–0260)

Guidance for Industry on Prescription Drug Marketing Act—Donation of Prescription Drug Samples to Free Clinics; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the

availability of a guidance for industry entitled ''Prescription Drug Marketing Act—Donation of Prescription Drug Samples to Free Clinics.'' The guidance provides information for free clinics that receive donated prescription drug samples from licensed practitioners or other charitable institutions. The guidance discusses concerns that have been expressed by certain individuals regarding regulatory requirements for drug sample donations. The guidance announces that FDA, after reviewing an independent study report analyzing the potential effects of the regulations on free clinics, has decided to propose revisions to those regulations. In the interim, FDA intends to exercise its enforcement discretion and does not intend to object if a free clinic fails to comply with certain regulatory requirements for drug sample donations.

DATES: General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of this guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Meredith S. Francis, Office of Regulatory Policy (HFD–7), Center for Drug Evaluation and Research, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Prescription Drug Marketing Act—Donation of Prescription Drug Samples to Free Clinics.'' Section 203.39 (21 CFR 203.39) of the agency's regulations sets forth requirements for donation of prescription drug samples to charitable institutions. ''Charitable institution'' or ''charitable organization'' is defined in § 203.3(f) as ''a nonprofit hospital, health care entity, organization, institution, foundation, association, or corporation that has been granted an exemption under section 501(c)(3) of the Internal Revenue Code of 1954, as amended.'' Under § 203.39, a charitable institution may receive drug samples donated by a licensed practitioner or another charitable institution for dispensing to its patients, or may donate a drug sample to another charitable institution for dispensing to its patients, provided certain requirements are met. These requirements include, among other things, that a drug sample donated to a charitable institution must be inspected by a licensed practitioner or registered pharmacist, and that drug sample receipt and distribution records be maintained by the institution and retained for a minimum of 3 years.

In the **Federal Register** of June 27, 2002 (67 FR 43330), FDA announced the availability of a draft guidance entitled ''Prescription Drug Marketing Act Regulations for Donation of Prescription Drug Samples to Free Clinics.'' The draft guidance announced that FDA, in the exercise of its enforcement discretion, did not intend to object if a free clinic failed to comply with the requirements in § 203.39. The draft guidance defined the term ''free clinic,'' which is not otherwise defined in the Federal Food, Drug, and Cosmetic Act or regulations, as a charitable institution or organization, under § 203.3(f), that actually provides health care services and relies in whole or part on drug donations and volunteer help to achieve its goals. Thus, charitable institutions that receive donated drug samples but do not provide health care services, or that provide health care services but do not rely at least in part on drug donations and volunteer help to provide those services, would not be considered free clinics. According to the draft guidance, FDA intended to exercise enforcement discretion while the agency studied the potential impact of the regulation on the ability of free clinics to receive and distribute prescription drug samples. Interested persons were given the opportunity to submit comments on the draft guidance by September 25, 2002.

Since issuing the draft guidance, FDA has received a completed study report from Eastern Research Group (ERG) analyzing the burden imposed on free clinics by the requirements in § 203.39 and the potential regulatory alternatives. According to the ERG study report, implementing § 203.39 as written could impose a significant financial burden on free clinics. Based in part on the study report's conclusions, FDA is announcing today that it intends to exercise enforcement discretion while the agency proposes revisions to § 203.39 as applied to free clinics. Specifically, as FDA works to propose regulatory revisions, the agency does not intend to object if a free clinic fails to comply with certain parts of the regulation. The guidance clarifies that the agency's exercise of enforcement discretion with regard to certain requirements of § 203.39 will not extend to fraud or other illegal conduct involving drug samples, and that the agency could, at its discretion, initiate enforcement action for violations of any and all applicable statutory and regulatory provisions implicated by fraudulent or illegal activity. We note also that neither this notice, nor its corresponding guidance, affects or alters any requirements imposed by the U.S. Drug Enforcement Administration (DEA) on any free clinic, person, or other entity with regard to controlled substances donated to those entities. All DEA requirements relating to controlled substances remain fully in effect.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). It represents the agency's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/cder/guidance/index.htm* or *http:www.fda.gov/ohrms/dockets/default.htm*.

Dated: March 6, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–3532 Filed 3–13–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Ancillary Studies to Major Ongoing NIDDK Diabetes Clinical Research Studies.

Date: March 30, 2006.

Time: 2:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Boulevard, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Xiaodu Guo, MD, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 910, 6707 Democracy Boulevard, Bethesda, MD 20892–5452. (301) 594–4719. *guox@extra.niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Mentored Research Scientist Development Award.

Date: March 31, 2006.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Michael W. Edwards, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 750, 6707 Democracy Boulevard, Bethesda, MD 20892–5452. (301) 594–8886. *edwardsm@extra.niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Diabetes and Endocrinology Training Grants.

Date: April 6, 2006.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Lakshmanan Sankaran, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 755, 6707 Democracy Boulevard, Bethesda, MD 20892–5452. (301) 594–7799. *ls38oz@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: March 6, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–2398 Filed 3–13–06; 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; Enhancing Practice Improvement in Community-Based Care for Prevention and Treatment of Drug Abuse.

Date: April 3–4, 2006.

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: Gerald L. McLaughlin, PhD, Scientific Review Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Blvd., Bethesda, MD 20892–8401. 301–402–6626. *gm145a@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: March 6, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–2399 Filed 3–13–06; 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 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; Glycans Database.

Date: March 21, 2006.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: 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*.

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; ACTH Secretory Dynamics in Men and Women.

Date: March 27, 2006.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: 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.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cellular/molecular Responses in Dendritic Cells, Macrophages, and T cells.

Date: March 27, 2006.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Samuel C. Edwards, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4200, MSC 7812, Bethesda, MD 20892. (301) 435–1152. *edwardss@csr.nih.gov.*

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; Atherosclerosis and Macrophages.

Date: April 11, 2006.

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: Olga A. Tjurmina, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4030B, MSC 7814, Bethesda, MD 20892. (301) 451–1375. *ot3d@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Atrial Fibrillation and Pacing.

Date: April 12, 2006.

Time: 2 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Olga A. Tjurmina, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4030B, MSC 7814, Bethesda, MD 20892. (301) 451–1375. *ot3d@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Heart Failure Gene Therapy.

Date: April 17, 2006.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Rajiv Kumar, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4122, MSC 7802, Bethesda, MD 20892. (301) 435–1212. *kumarra@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Health Services Organization and Delivery Member Conflict Special Emphasis Panel.

Date: April 18, 2006.

Time: 10:30 a.m. to 1:30 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: Gertrude K. McFarland, FAAN, RN, DNSC Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3156, MSC 7770, Bethesda, MD 20892. (301) 435–1784. *mcfarlag@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 6, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–2400 Filed 3–13–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Service Administration

Changes to the National Registry of Evidence-Based Programs and Practices (NREPP)

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) is committed to preventing the onset and reducing the progression of mental illness, substance abuse, and substance-related problems among all individuals, including youth. As part of this effort, SAMHSA has expanded and refined the agency's National Registry of Evidence-based Programs and Practices (NREPP) based on a systematic analysis and consideration of public comments received in response to a previous **Federal Register** notice (70 FR 50381, Aug. 26, 2005).

This **Federal Register** notice summarizes SAMHSA's redesign of NREPP as a decision support tool for promoting a greater adoption of evidence-based interventions within typical community-based settings, and provides an opportunity for interested parties to become familiar with the new system.

FOR FURTHER INFORMATION CONTACT: Kevin D. Hennessy, Ph.D., Science to Service Coordinator/SAMHSA, 1 Choke Cherry Road, Room 8–1017, Rockville, MD 20857, (240) 276–2234.

Charles G. Curie,

Administrator, SAMHSA.

Advancing Evidence-Based Practice Through Improved Decision Support Tools: Reconceptualizing NREPP

Introduction

The Substance Abuse and Mental Health Services Administration (SAMHSA) strives to provide communities with effective, high-quality, and cost-efficient prevention and treatment services for mental and substance use disorders. To meet this goal, SAMHSA recognizes the needs of a wide range of decisionmakers at the local, state, and national levels to have readily available and timely information about scientifically established interventions to prevent and/or treat these disorders.

SAMHSA, through its Science to Service Initiative, actively seeks to promote Federal collaboration (e.g., with the National Institutes of Health [NIH]) in translating research into practice. The ideal outcome of this Initiative is that individuals at risk for or directly experiencing mental and substance abuse use disorders will be more likely to receive appropriate preventive or treatment services, and that these services will be the most effective and the highest quality that the field has to offer.

This report provides a summary of activities conducted during the past year to critically evaluate SAMHSA's recent activities and future plans for the National Registry of Evidence-based Programs and Practices (NREPP). It outlines the major themes that emerged from a formal public comment process and links this feedback to new review procedures and Web-based decision support tools that will enhance access to evidence-based knowledge for multiple audiences.

The report is presented in four sections:

- Section I briefly states the background of NREPP and SAMHSA's recent request for public comments.
- Section II discusses the analysis of comments that was conducted and presents the key recommendations for NREPP based on this analysis.
- Section III describes the new approach that SAMHSA is advancing for NREPP.
- Section IV presents the specific dimensions of the NREPP system in its new framework as a decision support tool.

• Section V describes future activities at SAMHSA to support NREPP.

I. Background: The National Registry of Evidence-Based Programs and Practices

The National Registry of Evidence-based Programs and Practices was designed to represent a key component of the Science to Service Initiative. It was intended to serve as a voluntary rating and classification system to identify programs and practices with a strong scientific evidence base. An important reason for developing NREPP was to reduce the significant time lag between the generation of scientific knowledge and its application within communities.[1] Quality treatment and prevention services depend on service providers' ability to access evidence-based scientific knowledge, standardized protocols, practice guidelines, and other practical resources.

The precursor of NREPP, the National Registry of Effective Prevention Programs, was developed by SAMHSA's Center for Substance Abuse Prevention (CSAP) as a way to help professionals in the field become better consumers of substance abuse prevention programs. Through CSAP's Model Program Initiative, over 1,100 programs were reviewed, and more than 150 were designated as Model, Effective, or Promising Programs.

Over the past 2 years, SAMHSA convened a number of scientific panels to explore the expansion of the NREPP review system to include interventions in all domains of mental health and substance abuse prevention and treatment. In addition, SAMHSA committed itself to three guiding principles—transparency, timeliness, and accuracy of information—in the development of an evidence-based registry of programs and practices.

During this process it was determined that, to provide the most transparent and accurate information to the public, evidence should be assessed at the level of outcomes targeted by an intervention, not at the more global level of interventions or programs. Based on this decision, SAMHSA's current NREPP contractor conducted a series of pilot studies to explore the validity and feasibility of applying an outcome-specific, 16-criteria evidence rating system to an expanded array of programs and practices. Through extensive dialogues with the prevention community, SAMHSA also explored ways to provide evidence-based reviews of population- and community-level interventions within NREPP.

In an effort to augment the information gained through these activities, SAMHSA solicited formal public comments through a notice posted in the **Federal Register** on August 26, 2005. The notice asked for responses to the agency's plans for NREPP, including (1) revisions to the scientific review process and review criteria; (2) the conveying of practical implementation information about NREPP programs and practices to those who might purchase, provide, or receive these interventions; and (3) the types of additional agency activities that may be needed to promote wider adoption of interventions on NREPP, as well as support innovative interventions seeking NREPP status. A brief summary of the public comments and key public recommendations is presented in Section II. The complete analysis of the public responses is included in the Appendix to this report.

II. Public Responses to the Federal Register Notice

Senior staff at SAMHSA engaged in a comprehensive review of comments received in response to the **Federal Register** notice. Particular attention was directed to comments from prominent state and Federal stakeholders, including providers and policymakers, who stand to be the most affected by whatever system is ultimately implemented. Efforts were taken to balance SAMHSA's responsiveness to public feedback with the need to adhere to rigorous standards of scientific accuracy and to develop a system that will be fair and equitable to multiple stakeholder groups.

Recommendations for NREPP

In the more than 100 comments received as part of the public comment process, a number of recurring themes and recommendations were identified. While all specific and general recommendations for modification of the NREPP review process were carefully considered by SAMHSA, the following are those that were considered most essential to the development of an accurate, efficient, and equitable system that can meet the needs of multiple stakeholders:

• Limit the system to interventions that have demonstrated behavioral change outcomes. it is inherently appealing to the funders, providers, and consumers of prevention and treatment services to know that an intervention has a measurable effect on the actual behavior of participants. As researchers at the University of Washington recommended, ''the system should be reserved for policies, programs, and system-level changes that have produced changes in actual drug use or mental health outcomes.''

• Rereview all existing programs. There was near consensus among the respondents to the notice that existing programs with Model, Effective, and Promising designations from the old reviews should be rereviewed under the new system. The Committee for Children pointed out that ''a 'grandfather' system may give the impression to users, right or wrong, that these interventions aren't as good as those that have undergone the new review process.'' One individual suggested that programs and practices needed to be rated ''according to a consistent set of criteria'' so that ''the adoption of an intervention by a provider can be made with confidence.''

• Train and utilize panels of reviewers with specific expertise related to the intervention(s) under review. Respondents to the notice noted that it would be important for the NREPP review process to utilize external reviewers with relevant scientific and practical expertise related to the intervention being assessed. In addition, the pool of available reviewers should broadly include community-level and individual-level prevention as well as treatment perspectives. In order to promote transparency of the review process, the reviewer training protocols should be available for review by the public (e.g., posted on the NREPP Web site).

• Provide more comprehensive and balanced descriptions of evidence-based practices, by emphasizing the important dimension of readiness for dissemination. The American Psychological Association (APA) Committee on Evidence-Based Practice recommended greater emphasis on the utility descriptors (i.e., those items describing materials and resources to support implementation), stating, ''these are key outcomes for implementation and they are not adequately addressed in the description of NREPP provided to date. This underscores earlier concerns noted about the transition from efficacy to effectiveness.'' The APA committee noted that generalizability of programs listed on NREPP will remain an issue until this ''gap between efficacy and effectiveness'' is explicitly addressed under a revised review system.

• Avoid limiting flexibility and innovation; implement a system that is

[1] As cited by the Institute of Medicine (2001), studies have suggested it takes an average of 17 years for research evidence to diffuse to clinical practice. Source: Balas, E.A., & Boren, S.A. (2000). Managing clinical knowledge for health care improvement. In: J. Bemmel & A.T. McCray (Eds.), Yearbook of medical informatics 2000: Patient-centered systems. Stuttgart, Germany: Schattauer.

fair and inclusive of programs and practices with limited funding, and establish policies that seek to prevent the misuse of information contained on NREPP. The National Association for Children of Alcoholics voiced this concern: ''It has been intrinsically unfair that only grants [referring to NIH-funded efforts] have been able to establish 'evidence' while many programs appear very effective—often more effective in some circumstances than NREPP approved programs, but have not had the Federal support or other major grant support to evaluate them. The SAMHSA grant programs continue to reinforce the designation of NREPP programs in order to qualify for funding, and the states tend to strengthen this 'stipulation' to local programs,who then drop good (non-NREPP) work they have been doing or purchase and manipulate NREPP programs that make the grant possible. This is not always in the best interest of the client population to be served.''

• Recognize multiple ''streams of evidence'' (e.g., researcher, practitioner, and consumer) and the need to provide information to a variety of stakeholders in a decision support context. A number of comments suggested that NREPP should be more inclusive of the practitioner and consumer perspective on what defines evidence. For example, one commenter noted: ''The narrowed interpretation of evidence-based practice by SAMHSA focuses almost solely on the research evidence to the exclusion of clinical expertise and patient values.'' Several comments noted that NREPP should be consistent with the Institute of Medicine's definition of evidence-based practice, which reflects multiple ''streams of evidence'' that include research, clinical, and patient perspectives.

• Provide a summary rating system that reflects the continuous nature of evidence quality. There was substantial disagreement among those responding to the notice concerning whether NREPP should include multiple categories of evidence quality. While a number of individuals and organizations argued for the use of categorical evidence ratings, there were many who suggested that NREPP should provide an average, numeric scale rating on specific evidence dimensions to better reflect the ''continuous nature of evidence.'' This approach would allow the user of the system to determine what level of evidence strength is required for their particular application of an intervention.

• Recognize the importance of cultural diversity and provide complete descriptive information on the populations for which interventions have been developed and applied. Most comments reflected the knowledge that cultural factors can play an important role in determining the effectiveness of interventions. The Oregon Office of Mental Health and Addiction Services noted, ''SAMHSA should focus considerable effort on identifying and listing practices useful and applicable for diverse populations and rural areas. Providers and stakeholders from these groups have repeatedly expressed the concern they will be left behind if no practices have been identified which fit the need of their area. We need to take particular care to ensure that their fear is not realized.''

• In addition to estimating the effect size of intervention outcomes, NREPP should include additional descriptive information about the practical impacts of programs and practices. In general, comments suggested that that effect size should not be used as an exclusionary criterion in NREPP. It was widely noted that effect size estimates for certain types of interventions (e.g., community-level or population-based) will tend to be of smaller magnitude, and that ''professionals in the field have not reached consensus on how to use effect size.'' Researchers at the University of Washington suggested the inclusion of information about the reach of an intervention, when available, as complementary information to effect sizes. Several comments also suggested that effect size is often confused with the clinical significance of an intervention and its impact on participants.

• Acknowledge the need to develop additional mechanisms of Federal support for technical assistance and the development of a scientific evidence base within local prevention and treatment communities. Nearly one third of the comments directly addressed the need for SAMHSA to identify and/or provide additional technical assistance resources to communities to help them adapt and implement evidence-based practices. The Oregon Office of Mental Health and Addiction Services wrote, ''The adoption of new practices by any entity is necessarily a complex and long-term process. Many providers will need technical support if adoption and implementation is to be accomplished effectively. Current resources are not adequate to meet this challenge.''

In order to align NREPP with the important recommendations solicited through the public comment process, SAMHSA also recognized the importance of the following goals:

• Provide a user-friendly, searchable array of descriptive summary information as well as reviewer ratings of evidence quality.

• Provide an efficient and cost-effective system for the assessment and review of prospective programs and practices.

Section III, Streamlined Review Procedures, provides a complete description of the modified and streamlined review process that SAMHSA will adopt in conducting evidence-based evaluations of mental health and substance abuse interventions.

III. Streamlined Review Procedures

The number and range of NREPP reviews are likely to expand significantly under the new review system, requiring that SAMHSA develop an efficient and cost-effective review process. The streamlined review procedures, protocols, and training materials will be made available on the NREPP Web site for access by all interested individuals and organizations.

Reviews of interventions will be facilitated by doctoral-level Review Coordinators employed by the NREPP contractor. Each Review Coordinator will support two external reviewers who will assign numeric, criterion-based ratings on the dimensions of Strength of Evidence and Readiness for Dissemination. Review Coordinators will provide four important support and facilitative functions within the peer review process: (1) They will assess incoming applications for the thoroughness of documentation related to the intervention, including documentation of significant outcomes, and will convey summaries of this information to SAMHSA Center Directors for their use in prioritizing interventions for review; (2) they will serve as the primary liaison with the applicant to expedite the review of interventions; (3) they will collaborate with the NREPP applicant to draft the descriptive dimensions for the intervention summaries; and (4) they will provide summary materials and guidance to external reviewers to facilitate initial review and consensus discussions of intervention ratings.

Interventions Qualifying for Review

While NREPP will retain its open submission policy, the new review system emphasizes the important role of SAMHSA's Center Directors and their staff (in consultation with key stakeholders) in setting intervention review priorities that will identify the particular content areas, types of

intervention approaches, populations, or even types of research designs that will qualify for review under NREPP. Under the streamlined review procedures, the sole requirement for potential inclusion in the NREPP review process is for an intervention to have demonstrated one or more significant behavioral change outcomes. Center-specific review priorities will be established and communicated to the field by posting them to the NREPP Web site at the beginning of each fiscal year.[2]

Review of Existing NREPP Programs and Practices

It will be the prerogative of SAMHSA Center Directors to establish priorities for the review and interventions already on, and pending entry on, NREPP. As indicated above, these decisions may be linked to particular approaches, populations, or strategic objectives as identified by SAMHSA as priority areas. Until reviews of existing NREPP programs and practices are completed and posted to the new NREPP Web site, the current listing on the SAMHSA Model Programs Web site will remain intact.

Notifications to Program/Practice Developers

Upon the completion of NREPP reviews program/practice developers (or principal investigators of a research-based intervention) will be notified in writing within 2 weeks of the review results. A complete summary, highlighting information from each of the descriptive and rating dimensions, will be provided for review. Program/practice developers who disagree with the descriptive information or ratings contained in any of the dimensions will have an opportunity to discuss their concerns with the NREPP contractor during the 2-week period following receipt of the review outcome notification. These concerns must be expressed in writing to the contractor within this 2-week period. If no comments are received, the review is deemed completed, and the results may be posted to the NREPP Web site. If points of disagreement cannot be resolved by the end of this 2-week period, then written appeals for a rereview of the intervention may be considered on a case-by-case basis.

NREPP Technical Expert Panel

SAMHSA will organize one or more expert panels to perform periodic (e.g., annual assessments of the evidence review system and recommend enhancements to to the review procedures and/or standards for evidence-based science and practice. Panel membership will represent a balance of perspectives and expertise. The panels will be comprised of researchers with knowledge of evidence-based practices and initiatives, policymakers, program planners and funders, practitioners, and consumers.

The modified NREPP system embodies a commitment by SAMHSA and its Science to Service Initiative to broaden the appeal and utility of the system to multiple audiences. While maintaining the focus on the documented outcomes achieved through a program or practice, NREPP also is being developed as a user-friendly decision support tool to present information along multiple dimensions of evidence. Under the new system, interventions will not receive single, overall ratings as was the case with the previous NREPP (e.g., Model, Effective, or Promising). Instead, an array of information from multiple evidence dimensions will be provided to allow different user audiences to both identify (through Web-searchable means) and prioritize the factors that are important to them in assessing the relative strengths of different evidence-based approaches to prevention or treatment services.

Section IV presents in more detail the specific dimensions of descriptive information and ratings that NREPP will offer under this new framework.

IV. NREPP Decision Support Tool Dimensions

The NREPP system will support evidence-based decisionmaking by providing a wide array of information across multiple dimensions. Many of these are brief descriptive dimensions that will allow users to identify and search for key intervention attributes of interest. Descriptive dimensions would frequently include a brief, searchable keyword or attribute (e.g., ''randomized control trial'' under the Evaluation Design dimension) in addition to narrative text describing that dimension. Two dimensions, Strength of Evidence and Readiness for Dissemination, will consist of quantitative, criterion-based ratings by reviewers. These quantitative ratings will be accompanied by reviewer narratives summarizing the strengths and weaknesses or the intervention along each dimension.

Considerations for Using NREPP as a Decision Support Tool

It is essential for end-users to understand that the descriptive information and ratings provided by NREPP are only useful within a much broader context that incorporates a wide range of perspectives—including clinical, consumer, administrative, fiscal, organizational, and policy—into decisions regarding the identification, selection, and successful implementation of evidence-based services. In fact, an emerging body of literature on implementation science[3] suggests that a failure to carefully attend to this broader array of data and perspectives may well lead to disappointing or unsuccessful efforts to adopt evidence-based interventions. Because each NREPP user is likely to be seeking somewhat different information, and for varied purposes, it is unlikely that any single intervention included on NREPP will fulfill all of the specific requirements and unique circumstances of a given end-user. Appreciation of this basic premise of NREPP as a decision support tool to be utilized in a broader context will thus enable system users to make their own determinations regarding how best to assess and apply the information provided.

The NREPP decision support dimensions include:

- Descriptive Dimensions
- Strength of Evidence Dimension Ratings
- Readiness for Dissemination Dimension Ratings

A complete description of these dimensions is provided in the sections below.

Descriptive Dimensions

- Intervention Name and Summary: Provides a brief summary of the intervention, including title, description of conceptual or theoretical foundations, and overall goals. Hyperlinks to graphic logic model(s), when available, could be accessed from this part of the summary.
- Contract Information: Lists key contact information. Typically will include intervention developer's title(s), affiliation, mailing address, telephone and fax numbers, e-mail address, and Web site address.
- Outcome(s): A searchable listing of the behavioral outcomes that the intervention has targeted.
- Effects and Impact: Provides a description and quantification of the effects observed for each outcome.

[2] Except for FY06 when priorities will be established and posted when the new system Web site is launched (i.e., within the third FY quarter).

[3] Fixsen, D.L., Naoom, S.F., Blase, K.A., Friedman, R.M., & Wallace, F. (2005). Implementation research: A synthesis of the literature. Tampa, Florida: University of South Florida, Louis de la Parte Florida mental Health Institute, The National Implementation Network (FMHI Publication #231).

Rogers (1995). Diffusion of innovaations (5th Ed.) New York: The Free Press.

Includes information on the statistical significance of outcomes, the magnitude of changes reported including effect size and measures of clinical significance (if available), and the typical duration of behavioral changes produced by the intervention.

• Relevant Populations and Settings: Identifies the populations and sample demographics that characterize existing evaluations. The settings in which different populations have been evaluated will be characterized along a dimension that ranges from highly controlled and selective (i.e., efficacy studies), to less controlled and more representative (i.e., effectiveness studies), to adoption in the most diverse and realistic public health and clinical settings (i.e., dissemination studies).[4]

• Costs: Provides a breakdown of intervention cost(s) per recipient/participant or annual as appropriate (including capital costs, other direct costs [travel, etc.]). Start-up costs including staff training and development. A standardized template would be provided to applicants for estimating and summarizing the implementation and maintenance costs of an intervention.

• Adverse Effects: Reported with regard to type and number, amounts of change reported, type of data collection, analyses used, intervention and comparison group, and subgroups.

• Evaluation Design: Contains both a searchable index of specific experimental and quasi-experimental designs (e.g., pre-/posttest nonequivalent groups designs, regression-discontinuity designs, interrupted time series designs, etc.)[5] as well as a narrative description of the design (including intervention and comparison group descriptions) used to document intervention outcomes.

• Replication(s): Coded as ''None,'' or will state the number of replications to date (only those that have been evaluated for outcomes). Replications will be additionally characterized as having been conducted in efficacy, effectiveness, or dissemination contexts.

• Proprietary or Public Domain Intervention: Typically will be one or the other, but proprietary components or instruments used as part of an intervention will be identified.

• Cultural Appropriateness: Coded as ''Not Available'' (N/A) if either no data or no implementation/training materials for particular culturally identified groups are available. When culture-specific data and/or implementation materials exist for one or more groups, the following two Yes/No questions will be provided for each group:

• Was the intervention developed with participation by members of the culturally identified group?

• Are intervention and training materials translated or adapted to members of the culturally identified group?

• Implementation History: Provides information relevant to the sustainability of interventions. Provides descriptive information on (1) the number of sites that have implemented the intervention; (2) how many of those have been evaluated for outcomes; (3) the longest continuous length of implementation (in years); (4) the average or modal length of implementation; and (5) the approximate number of individuals who have received or participated in the intervention.

Strength of Evidence Dimension Ratings

Quantitative, reviewer-based ratings on this dimension will be provided within specific categories of research/evaluation design. In this manner, users can search and select within those categories of research designs that are most relevant to their particular standards of evidence-based knowledge. The categories of research design that are accepted within the NREPP system are described below.

Research Design

Quality of evidence for an intervention depends on the strength of adequately implemented research design controls, including comparison conditions for quasi-experimental and randomized experimental designs (individual studies). Aggregation (e.g., meta-analysis and systematic research reviews) and/or replication across well-designed series of quasi-experimental and randomized control studies provide the strongest evidence. The evidence pyramid presented below represents a typical hierarchy for classifying the strength of causal inferences that can be obtained by implementing various research designs with rigor.[6] Designs at the lowest level of evidence pyramid (i.e., observational, pilot, or case studies), while acceptable as evidence in some knowledge development contexts, would not be included in the NREPP system.

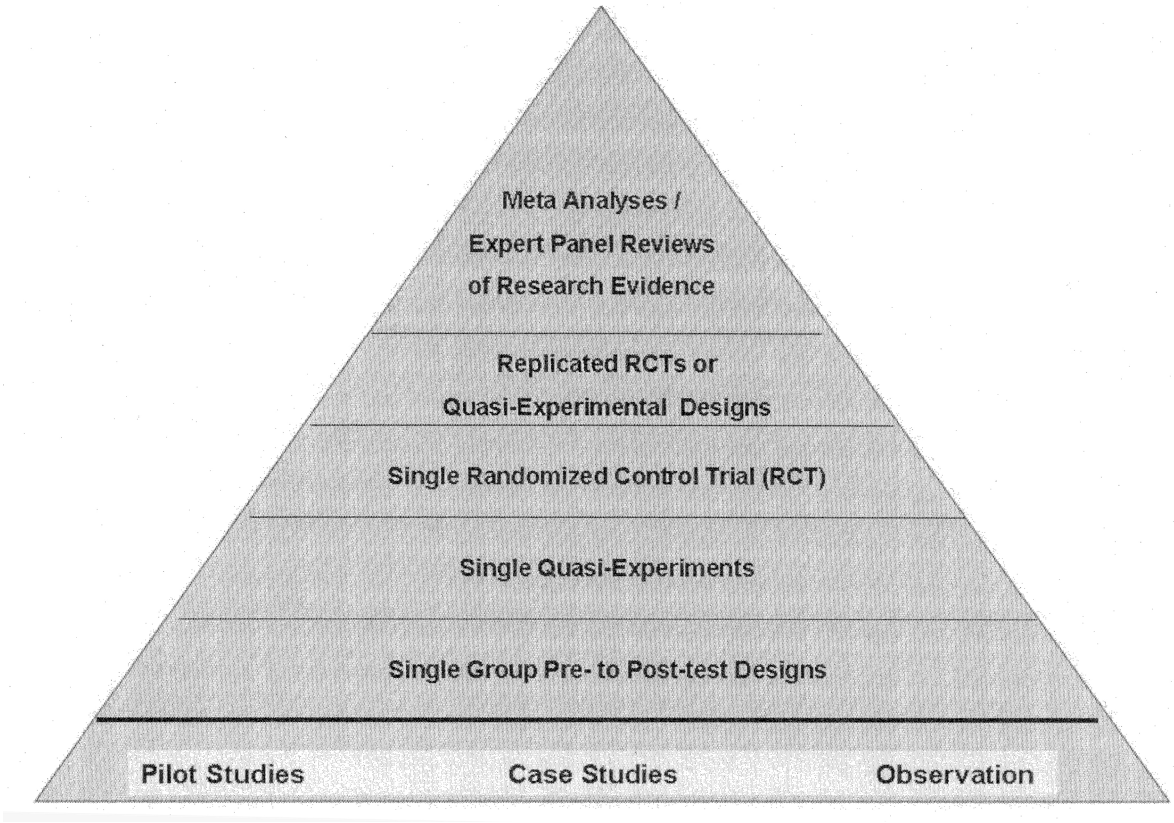
[4] For more description of these types of studies and their role in supporting evidence-based services, see the report: Bridging science and service: A report by the National Advisory mental Health Council's Clinical Treatment and Services Research Workgroup (*http://www.nimh.nih.gov/publicat/nimhbridge.pdf*).

[5] Campbell, D.T., & Stanley, J.C. (1966). Experimental and quasi-experimental designs for research. Chicago: Rand McNally.

[6] Biglan, A., Mrazek, P., Carnine, D.W., & Flay, B. R. (2003). The integration of research and practice in the prevention of youth problem behaviors. *American Psychologist, 58,* 433–440.

Chambless, D. L., & Hollon, S. (1998). Defining empirically supported therapies. *Journal of Consulting and Clinical Psychology, 66,* 7–18.

Gray, J. A. (1997), *Evidence-based healthcare: How to make health policy and management decisions.* New York: Churchill Livingstone.



1. Reliability [7]

Outcome measures should have acceptable reliability to be interpretable. ''Acceptable'' here means reliability at a level that is conventionally accepted by experts in the field.[8]

0 = Absence of evidence of reliability or evidence that some relevant types of reliability (e.g., test-retest, interrater, interitem) did not reach acceptable levels.

2 = All relevant types of reliability have been documented to be at acceptable levels in studies by the applicant.

4 = All relevant types of reliability have been documented to be at acceptable levels in studies by independent investigators.

2. Validity

Outcome measures should have acceptable validity to be interpretable. ''Acceptable'' here means validity at a level that is conventionally accepted by experts in the field.

0 = Absence of evidence measure validity, or some evidence that the measure is not valid.

2 = Measure has face validity; absence of evidence that measure is not valid.

4 = Measure has one or more acceptable forms of criterion-related validity (correlation with appropriate, validated measures or objective criteria); OR, for objective measures of response, there are procedural checks to confirm data validity; absence of evidence that measure is not valid.

3. Intervention Fidelity

The ''experimental'' intervention implemented in a study should have fidelity to the intervention proposed by the applicant. Instruments that have tested acceptable psychometric properties (e.g., interrater reliability, validity as shown by positive association with outcomes) provide the highest level of evidence.

0 = Absence of evidence or only narrative evidence that the applicant or provider believes the intervention was implemented with acceptable fidelity.

2 = There is evidence of acceptable fidelity in the form of judgment(s) by experts, systematic collection of data (e.g. dosage, time spent in training, adherence to guidelines or a manual), or a fidelity measure with unspecified or unknown psychometric properties.

4 = There is evidence of acceptable fidelity from a tested fidelity instrument shown to have reliability and validity.

4. Missing Data and Attrition

Study results can be biased by participant attrition and other forms of missing data. Statistical methods as supported by theory and research can be employed to control for missing data and attrition that would bias results, but studies with no attrition needing adjustment provide the strongest evidence that results are not biased.

0 = Missing data and attrition were taken into account inadequately, OR there was too much to control for bias.

2 = Missing data and attrition were taken into account by simple estimates of data and observations, or by demonstrations of similarity between remaining participants and those lost to attrition.

4 = Attrition was taken into account by more sophisticated methods that

[7] Each criterion would be rated on an ordinal scale ranging from 0 to 4. The endpoints and midpoints of the scale would be anchored to a narrative description of that rating. The remaining integer points of the scale (*i.e.*, 1 and 3) would not be explicitly anchored, but could be used by reviewers to assign intermediate ratings at their discretion.

[8] Marshall, M., Lockwood, A., Bradley, C., Adams, C., Joy, C., & Fenton, M. (2000). Unpublished rating scales: A major source of bias in randomised controlled trials of treatments for schizophrenia. *British Journal of Psychiatry, 176,* 249–252.

model missing data, observations, or participants; OR there was no attrition needing adjustment.

5. Potential Confounding Variables

Often variables other than the intervention may account for the reported outcomes. The degree to which confounds are accounted for affects the strength of casual inference.

0 = Confounding variables or factors were as likely to account for the outcome(s) reported as were hypothesized causes.
2 = One or more potential confounding variables or factors were not completely addressed, but the intervention appears more likely than these confounding factors to account for the outcome(s) reported.
4 = All known potential confounding variables appear to have been completely addressed in order to allow causal inference between intervention and outcome(s) reported.

6. Appropriateness of Analyses

Appropriate analysis is necessary to make an inference that an intervention caused reported outcomes.

0 = Analyses were not appropriate for inferring relationships between intervention and outcome, OR the sample size was inadequate.
2 = Some analyses may not have been appropriate for inferring relationships between intervention and outcome, OR the sample size may have been inadequate.
4 = Analyses were appropriate for inferring relationships between intervention and outcome. Sample size and power were adequate.

Readiness for Dissemination Dimension Ratings

1. Availability of Implementation Materials (e.g., Treatment Manuals, Brochures, Information for Administrators, etc.)

0 = Applicant has insufficient implementation materials.
2 = Applicant has provided a limited range of implementation materials, or a comprehensive range of materials of varying or limited quality.
4 = Applicant has provided a comrephensive range of standard implementation materials of apparent high quality.

2. Availability of Training and Support Resources

0 = Applicant has limited or no training and support resources.
2 = Applicant provides training and support resources that are partially adequate to support initial and ongoing implementation.
4 = Applicant provides training and support resources that are fully adequate to support initial and ongoing implementation (tested training curricula, mechanisms for ongoing supervision and consultation).

3. Quality Improvement (QI) Materials (e.g., Fidelity Measures, Outcome and Performance Measures, Manuals on How To Provide QI Feedback and Improve Practices)

0 = Applicant has limited or no materials.
2 = Applicant has materials that are partially adequate to support initial and ongoing implementation.
4 = Applicant provides resources that are fully adequate to support initial and ongoing implementation (tested quality fidelity and outcome measures, comprehensive and user-friendly QI materials).

Scoring the Strength of Evidence and Readiness for Dissemination Dimensions

The ratings for the decision support dimensions of Strength of Evidence and Readiness for Dissemination are calculated by averaging individual rating criteria that have been scored by reviewers according to a uniform five-point scale. For these two quantitative dimensions, the average score on each dimension (i.e., across criteria and reviewers) as well as average score for each rating criterion (across reviewers) will be provided on the Web site for each outcome targeted by the intervention.[9]

V. Future Activities: Implementing and Sustaining a Streamlined NREPP

SAMHSA plans to initiate reviews using the new NREPP review process and procedures in summer 2006. The precise number and characteristics of new interventions that will be prioritized for the first series of reviews have yet to be determined. SAMHSA anticipates that many of the existing programs and practices currently listed on the SAMHSA Model Programs Web site will undergo an expedited set of reviews using the new system. Regardless, the current Model Programs Web site will remain intact until all relevant programs have been included in a new Web site, *http://www.nationalregistry.samhsa.gov*

[9] Note that it is unlikely that the Readiness for Dissemination dimension will vary by targeted outcome(s), insofar as the materials and resources are usually program specific as opposed to outcome specific.

The identification of collaborative mechanisms for supporting the continued development and refinement of NREPP will represent a SAMHSA priority in 2006. SAMHSA will explore means for providing adequate technical assistance resources to communities seeking to initiate and/or augment evidence-based practices. In addition, appropriate technical advisors and other scientific resources will be utilized to assure the continued evolution of NREPP as a state-of-the-art decision support tool.

Appendix: Analysis of Public Comments in Response to Federal Register Notice

Background and Overview

The Substance Abuse and Mental Health Services Administration (SAMHSA), through its Science to Service initiative, develops tools and resources for providers of prevention and treatment services to facilitate evidence-based decisionmaking and practice. An important informational resource is the National Registry of Evidence-based Programs and Practices (NREPP). NREPP is a voluntary rating and classification system designed to provide the public with reliable information on the scientific basis and practicality of interventions designed to prevent and/or treat mental and addictive disorders. NREPP originated in SAMHSA's Center for Substance Abuse Prevention (CSAP) in 1997 as a way to help professionals in the field become better consumers of prevention programs. The program was expanded in 2004 to include substance abuse treatment interventions within SAMHSA's Center for Substance Abuse Treatment (CSAT) and mental health promotion and treatment interventions within the Center for Mental Health Services (CMHS).

During the past 2 years, SAMHSA reviewed existing evidence rating systems and developed and pilot-tested a revised approach to the rating of specific outcomes achieved by programs and practices. This development effort led SAMHSA to propose 16 evidence rating criteria as well as a set of proposed utility descriptors to describe the potential of a given intervention to be ''transported'' to real-world settings and populations.

Considering the prominence of NREPP within its Science-to-Service initiative and the potential impact of NREPP on the research and provider communities, SAMHSA announced a formal request for public comments in the **Federal Register** on August 26, 2005 (70 FR 165, 50381–50390) with a 60-day

public comment period ending October 26, 2005. The notice outlined in some detail the proposed review system, including scientific criteria for evidence reviews, the screening and triage of NREPP applications, and the identification by SAMHSA of priority review areas. The notice invited general as well as specific comments and included 11 questions soliciting targeted feedback. By request of the SAMHSA Project Officer, MANILA Consulting Group coded and analyzed the responses received in response to the 11 questions posted in the **Federal Register** notice. The results of the analysts are presented below.

Method

A total of 135 respondents submitted comments via e-mail, fax, and postal mail during the comment period. Of these 135 respondents, 109 (81%) answered at least some of the 11 questions posted in the **Federal Register** notice.

Respondents

The 135 respondents included 53 providers, 36 researchers, 4 consumers, 21 respondents with multiple roles, and 21 with unknown roles visa-à-vis NREPP. Respondents were labeled as having one or more of the following domains of interest: substance abuse prevention (N=68), substance abuse treatment (N=48), mental health promotion (N=22); and mental health treatment (N=20). The domain of interest was unknown for 33 respondents. The respondents represented 16 national organizations, 10 state organizations, and 14 local organizations; 90 were private citizens; and 5 were individuals with unknown affiliations. Fifty-one respondents (38%) were labeled ''noteworthy'' at the request of the SAMHSA Project Officer. Noteworthy respondents included those representing national or state governments or national organizations, and nationally known experts in substance abuse or mental health research or policy.

Twenty-six responses were judged by the four MANILA coders and the SAMHSA Project Officer to contain no information relevant to the 11 questions in the notice. These responses, labeled ''unanalyzable'' for the purposes of this report, could be categorized as follows:

- Mentioned topics related to SAMHSA but made no point relevant to the questions posted in the **Federal Register** notice (N=10);
- Mentioned only topics unrelated to SAMHSA or incoherent text (N=7);
- Asked general questions about NREPP and the **Federal Register** notice (N=4);Wanted to submit a program for NREPP review (N=4); and
- Wanted to submit a program for NREPP review (N=4); and
- Responded to another **Federal Register** notice (N=1).

Procedure

Before coding began, responses were read to identify recurrent themes to include in the codebook (presented in Subpart A of this Appendix). Using this codebook, each submission was then assigned codes identifying respondent characteristics (name, location, domain of interest, affiliation/type of organization, functional role, and level of response) and the content or topical themes contained in the response. One pair of coders coded the respondent data, while another pair coded the content. Content coding was conducted by two doctoral-level psychologists with extensive training and experience in social science research and methodology.

Each response could be assigned multiple codes for content. Coders compared their initial code assignments for all responses, discussed reasons for their code assignments when there were discrepancies, and then decided upon final code assignments. In many cases, coders initially assigned different codes but upon discussion agreed that both coders' assignments were applicable. Coding assignments were ultimately unanimous for all text in all responses.

Results

The following discussion of key themes in the public comments is presented in order of the 11 questions from the **Federal Register** notice. Tables containing detailed frequencies of themes in the comments and other descriptive information are provided in Subpart B.

Comments Addressing Question 1

Question 1. ''SAMHSA is seeking to establish an objective, transparent, efficient, and scientifically defensible process for identifying effective, evidence-based interventions to prevent and/or treat mental and substance use disorders. Is the proposed NREPP system—including the suggested provisions for screening and triage of applications, as well as potential appeals by applicants—likely to accomplish these goals?''

Respondents submitted a wide range of comments addressing Question 1. Highlights of these comments are presented below, organized by topic as follows:

1. Individual-Level Criteria
2. Population-, Policy-, and System-Level Criteria
3. Utility Descriptors
4. Exclusion From NREPP Due to Lack of Funding
5. Potential Impact on Minority Populations
6. Potential Impact on Innovation
7. Provider Factors
8. Other Agencies' Standards and Resources
9. Reliance on Intervention Developers To Submit Applications
10. Generalizability
11. Other Themes and Notable Comments

1. Individual-Level Criteria

Number of respondents: 24 (22%).

Recommendations made by respondents included adding cost feasibility as a 13th criterion (one respondent) and scoring all criteria equally (two respondents). Comments regarding specific criteria are presented in Subpart C.

2. Population-, Policy-, and System-Level Criteria

Number of respondents: 29 (27%).

Comments on specific criteria are presented in Subpart D. Highlights of comments on more general issues are presented below.

Differences in Evaluation Approaches for Individual-Level and Population-, Policy-, and System-Level Outcomes

Two respondents noted the proposed NREPP approach does not acknowledge key differences between evaluating individual-level outcomes and population-, policy-, and system-level outcomes. One of these respondents argued that NREPP is based on theories of change that operate only at the individual level of analysis, with the assumption that discrete causes lead to discrete effects, and therefore ''many of the NREPP criteria appear to be insufficient or inappropriate for determining the validity of community-based interventions and their context-dependent effects.''

Unclear What Interventions Are of Interest to NREPP

One organization, Community Anti-Drug Coalitions of America, recommended that SAMHSA present a clear, operational definition of the types of interventions it wants to include in NREPP.

Match Scale to Individual-Level Outcomes

Twelve respondents, including the Society for Prevention Research and a group of researchers from a major university, recommended that the same scale be used for outcomes at the

individual level as for the population, policy, and system levels.

Add Attrition Criterion

The same group of university researchers suggested adding attrition as a 13th criterion to the rating criteria for studies of population outcomes. They noted, ''Just as attention to attrition of individuals from conditions is essential in individual-level studies, attention to attrition of groups or communities from studies is essential in group-level studies. This is necessary in order to assess attrition as a possible threat to the validity of the claim that the population-, policy-, or system-level intervention produced observed outcomes.''

Include Only Interventions That Change Behavior

It was recommended that NREPP only include interventions proven to change behavior. A group of university researchers noted:

> As currently described, these outcomes refer to implementation of changes in policy or community service systems, not to changes in behavioral outcomes themselves. In fact, as currently described, the policy or system change would not be required to show any effects on behavior in order to be included in NREPP. This is a serious mistake. The NREPP system should be reserved for policies, programs, and system-level changes that have produced changes in actual drug use or mental health outcomes.

3. Utility Descriptors

Number of respondents: 15 (14%).

Only one respondent, the Committee for Children, recommended specific changes to the utility descriptors. Their comments are presented in Subpart E of this Appendix.

Seven other respondents recommended using utility descriptors in some way to score programs. The American Psychological Association (APA) Committee on Evidence-Based Practice recommended more emphasis on the utility descriptors ''as these are key outcomes for implementation and they are not adequately addressed in the description of NREPP provided to date. This underscores earlier concerns noted about the transition from effectiveness to efficacy.''

4. Exclusion From NREPP Due To Lack of Funding

Number of respondents: 28 (26%).

The possibility that NREPP will exclude programs due to lack of funding was a concern voiced by several organizations, including the National Association for Children of Alcoholics, the APA Committee on Evidence-Based Practice, the National Association of State Alcohol and Drug Abuse Directors, Community Anti-Drug Coalitions of America, and the California Association of Alcohol and Drug Program Executives. The National Association for Children of Alcoholics provided the following comment:

> NREPP should establish differing criteria for projects that collected data with [National Institutes of Health] grant funds and projects that collected data with no or very small amounts of funds. It has been intrinsically unfair that only grants have been able to establish ''evidence'' while many programs appear very effective—often more effective in some circumstances than NREPP approved programs—but have not had the Federal support or other major grant support to evaluate them. The SAMHSA grant programs continue to reinforce the designation of NREPP programs in order to qualify for funding, and the states tend to strengthen this 'stipulation' to local programs, who then drop good (non-NREPP) work they have been doing or purchase and manipulate NREPP programs that make the grant possible. This is not always in the best interest of the client population to be served.

Another key concern was that funding for replication research is rarely available. Several respondents suggested that SAMHSA consider funding evaluation research, and many argued that the lack of funding resources could negatively impact minority populations or inhibit treatment innovation. The latter two themes were frequent enough to be coded and analyzed separately. Results are summarized in the following sections.

5. Potential Impact on Minority Populations

Number of respondents: 13 (12%).

Thirteen respondents noted that the proposed NREPP approach could negatively impact specific populations, including minority client populations. The Federation of Families for Children's Mental Health suggested that NREPP would effectively promote certain practices ''simply because the resources for promotion, training, evaluation are readily accessible * * * thus widening the expanse and disparities that currently exist.''

Another frequently noted concern was that evidence-based practices are currently too narrowly defined, and thus as more funding sources begin to require evidence-based practices as a prerequisite for funding, some ethnic or racial minority organizations may be excluded from funding. One respondent also pointed to potential validity concerns, noting that ''Very little clinical trial evidence is available for how to treat substance use disorders in specific populations who may constitute most or all of those seen in particular agencies: HIV positive patients, native Americans, adolescents, Hispanics, or African Americans. Although it is unreasonable to expect all EBTs to be tested with all populations, the external validity of existing studies remains a serious concern.'' For these reasons, many respondents surmised that the widespread application of interventions developed in research contexts that might tend to limit the inclusion of minority and/or underserved populations could ultimately result in decreased cultural competence among service providers.

6. Potential Impact on Innovation

Number of respondents: 21 (19%).

Twenty-one respondents cited concerns that the proposed NREPP approach could hamper innovation. CAADPE noted that its main concerns were ''the focus on the premise that treatment will improve if confined to inteventions for which a certain type of research evidence is available'' and ''the issue of 'branding,' which could lead to some of our most innovative and effective small scale providers eliminated from funding considerations.''

One respondent suggested that lists of evidence-based treatments could ''ossify research and practice, and thus become self-fulfilling prophecies * * * stifling innovation and the validation of existing alternatives.'' Several respondents observed that the potential for stifling innovation is even greater given that SAMHSA's NREPP is not the only list of evidence-based practices used by funders.

The APA Practice Organization recommended that NREPP focus on ''developing and promoting a range of more accessible and less stigmatized services that are responsive to consumers' needs and preference, and offer more extensive care opportunities.''

7. Provider Factors

Number of respondents: 22 (20%).

A number of respondents noted the proposed NREPP approach does not acknowledge provider effects on treatment outcomes. The APA Committee on Evidence-Based Practice wrote, ''Relationship factors in a therapeutic process may be more important than specific interventions and may in fact be the largest determinant in psychotherapy outcome (see Lambert & Barley, 2002). How will NREPP address this concern and make this apparent to users?''

Another respondent cited the Institute of Medicine's definition of evidence-

based practice as ''the integration of the best research evidence with clinical expertise and client values,'' noting that ''The narrowed interpretation of evidence-based practice by SAMHSA focuses almost solely on the research evidence to the exclusion of clinical expertise and patient values.''

Several respondents suggested that NREPP could place too much emphasis on highly prescriptive, annualized treatments. Counselors can become bored when they are not able ti ''tinker'' with or adapt treatments. In addition, making minor modifications may actually make treatments more effective with different population groups.

8. Other Agencies' Standards and Resources

Number of respondents: 27 (25%).

Nineteen respondents suggested that, in developing NREPP, SAMHSA should consult other agencies' standards and resources related to evidence-based practices—for example, the standards published by the APA, American Society for Addiction Medicine, and the Society for Prevention Research. One respondent suggested consulting with National Institutes of Health scientists about approaches for aggregating evidence; another recommended including in NREPP model programs identified by other agencies. One respondent submitted a bibliography of references for assessing the rigor of qualitative research.

One respondent suggested that SAMHSA did not provide other institutions the opportunity to provide input on the development of NREPP prior to the request for public comments.

9. Reliance on Intervention Developers To Submit Applications

Number of respondents: 4 (4%).

Four respondents cited problems with NREPP's reliance on intervention developers to submit applications, and suggested that literature reviews instead be used to identify programs eligible for NREPP. One private citizen wrote, ''If no one applies on behalf of a treatment method, is that one ignored? Why not simply start with the literature and identify treatment methods with adequate evidence of efficacy?''

Another respondent observed that requiring an application creates a bias toward programs with advocates ''either ideologically or because of a vested interest in sales, visibility, and profits. An alternative is to select interventions for NREPP consideration solely by monitoring the peer-reviewed published literature, and including them regardless of whether or not the scientist responds or furthers the registration process.''

The Society for Prevention Research suggested that SAMHSA convene a panel to periodically review available interventions that might not be submitted to NREPP because they ''lack a champion.''

10. Generalizability

Number of respondents: 48 (44%).

Many respondents discussed the issue of generalizability of evidence, especially the concern that interventions proven to work in clinical trials do not always work in real-world settings. Several respondents pointed out the potential conflict between implementing an intervention with fidelity and having a adapt it for the setting.

The APA Evidence-Based Practice Committee suggested that the proposed NREPP approach does not adequately distinguish between ''efficacy'' and ''effectiveness,'' and strongly recommended that SAMHSA look for ways to bridge the two.

The Associations of Addiction Services recommended paying more attention to how and where treatments are replicated: ''The highest level of evidence should be successful replication of the approach in multiple community treatment settings. Experience with [the National Institute on Drug Abuse] Clinical Trials Network suggests that an approach that shows meaningful outcome improvements in the 'noisy' setting of a publicly funded community treatment program is truly an approach worth promoting.''

A few respondents suggested that NREPP score interventions according to their readiness and amenability to application in real-world settings.

11. Other Themes and Notable Comments

Distinguishing Treatment and Prevention

Number of respondents: 7 (6%).

A few respondents called or evaluating treatment and prevention approaches differently. One respondent noted that some criteria appear to be more appropriate for treatment modalities than for preventive interventions, and recommended that SAMHSA ''confer with research experts in those respective fields and separate out those criteria that are more relevant to only treatment or prevention.''

Another respondent suggested that the criteria are more appropriate for prevention that treatment:

The criteria and selection for the peer review panels should be separate for prevention and treatment programs. The criteria and models are different and the panels should not be an across the board effort, but rather representative of prevention and treatment experts specific to the program being evaluated. The plan is based as the notice states on 1,100 prevention programs with little experience with treatment programs/practices.

Synthesizing Evidence

Three respondents suggested using meta-analysis to synthesize evidence for outcomes. One recommended SAMHSA consult with National Institutes of Health experts in this area.

Replications

The Teaching-Family Association recommended considering replications when evaluating evidence. The Society for Prevention Research wrote that it is unclear how replications would be used in the proposed NREPP, and suggested averaging ratings across studies.

Add Criteria

The National Student Assistance Association Scientific Advisory Board and one other respondent suggested adding a cultural competence criterion. The Society for Prevention Research recommended adding a criterion to assess the clarity of causal inference.

Range of Reviewer Perspectives

The APA Practice Association noted the importance of having a ''large and broad'' reviewer pool: ''A small group of reviewers representing a limited range of perspectives and constituencies would have an undue impact on the entire system. We are pleased that a nominations process is envisioned.''

Cost Effectiveness

One respondent called for incorporating program cost effectiveness into NREPP. In choosing what program to implement, end users often have to decide between diverse possibilities, such as attempting to pass a tax increase on beer or implementing additional classroom prevention curricula, each with competing claims about effectiveness. A cost-effectiveness framework may be the only way to compare these choices.

Comments Addressing Question 2

Question 2. ''SAMHSA's NREPP priorities are reflected in the agency's matrix of program priority areas. How might SAMHSA engage interested stakeholders on a periodic basis in helping the agency determine intervention priority areas for review by NREPP?''

Number of respondents: 16 (15%).

Respondents recommended a number of approaches to engage stakeholders:

- Conduct meetings, conferences, and seminars.
- Send and solicit information via e-mail or a Web site.
- Send informational notices via newletters.
- Survey stakeholders.
- Work with the Addiction Technology Transfer Centers (ATTCs) to administer surveys.
- Consult the National Prevention Network and the Society for Prevention Research, which ''have forged a close working relationship to foster the integration of science and practice and * * * would be very helpful in answering this question.''

Comments Addressing Question 3

Question 3. ''There has been considerable discussion in the scientific literature on how to use statistical significance and various measures of effect size in assessing the effectiveness of interventions based upon both single and multiple studies (Schmidt & Hunter, 1995; Rosenthal, 1996; Mason, Schott, Chapman, & Tu, 2000; Rutledge & Loh, 2004). How should SAMHSA use statistical significance and measures of effect size in NREPP? Note that SAMHSA would appreciate receiving citations for published materials elaborating upon responders' suggestions in this area.''

Statistical Significance

Number of respondents: 13 (12%).

A group of university researchers recommended that for programs to be included in NREPP, they should be required to provide statistically significant results on drug use and/or mental health outcomes using two-tailed tests of significance at $p<.05$. The APA Evidence-Based Practices Committee recommended further discussion and consideration by NREPP of the conceptual distinction between statistical and clinical significance.

The County of Los Angeles Department of Health Services urged SAMHSA ''not to place undue preference only on programs that offer statistically significant results. Studies of innovative approaches and of emerging populations may not have sample sizes large enough to support sophisticated statistical analyses, yet may offer valuable qualitative information on effective approaches.''

Effect Size

Number of respondents: 24 (22%).

Most of the respondents discussing effect size noted that interventions aimed at achieving population change were likely to have small effect sizes, even if they are very successful. Several respondents recommended combining effect size with reach. A group of researchers from a major university noted:

Effect sizes should be reported, but they should not be used as a criterion for inclusion or exclusion from NREPP. From a public health perspective, the impact of an intervention is a function of both its efficacy and its reach (Glasgow, Vogt, & Boles, 1999). An intervention with even a very modest effect size can have a substantial impact on public health if it reaches many people. Therefore, NREPP should report effect sizes for each statistically significant outcome reported and NREPP should also include and provide an assessment of the ''reach'' of that intervention. Specifically, the inclusion criteria for participation and the proportion of the recruited population that participated in the intervention study should be included in describing the likely ''reach'' of the program.

Three respondents noted that professionals in the field have not reached consensus on how to use effect size. One noted, ''Effect sizes may vary with the difficulty of the prevention goal and the methodological rigor of the analysis. Applying standards for 'weak,' 'moderate,' 'strong' or other labels fails to take into account differences in results that may be attributable to differences in goals or methods.''

One respondent suggested considering other indicators of clinical effectiveness, such as use of the RCI (reliable change index; Jacobson & Truax, 1984).

Other points made regarding effect size included the following:

- Between-group effect sizes assume a standard comparison condition, which is rare in nonmedical interventions. Meta-analyses with baseline-follow-up effect sizes or a ''network approach'' to effect sizes are ways to overcome this problem.
- Effect size is not the equivalent of client improvement and does not assess the significance of interventions for their clients.
- Effect size alone is not sufficient to evaluate and rate programs; cost-benefit information or other practical information are also needed.

Comments Addressing Question 4

Question 4. ''SAMHSA's proposal for NREPP would recognize as effective several categories of interventions, ranging from those with high-quality evidence and more replication to those with lower quality evidence and fewer replications. This would allow for the recognition of emerging as well as fully evidence-based interventions. Some view this as a desirable feature that reflects the continuous nature of evidence; provides important options for interventions recipients, providers, and funders when no or few fully evidence-based interventions are available; and helps promote continued innovation in the development of evidence-based interventions. Others have argued that several distinct categories will confuse NREPP users. Please comment on SAMHSA's proposal in this area.''

Number of respondents: 35 (32%).

Thirty-three respondents supported the use of multiple categories as outlined in Question 4; two respondents were opposed. Of those in favor of multiple categories, nine respondents wrote that this approach would reflect the process of emerging evidence and encourage knowledge sharing early in the process. The APA Evidence-Based Practice Committee argued that ''Including all of these NREPP products is seen as a desirable feature that reflects the continuous nature of evidence. This may also be critical information for providing reasonable options for stakeholders when there are no or few evidence-based practices available.''

The State Associations of Addiction Services pointed out that multiple categories would lessen the likelihood of misinterpreting information in NREPP, and the California Department of Alcohol and Drug Programs added that including multiple categories of intervention would give greater flexibility to programs using the list.

Of the two respondents against multiple categories, one suggested that a clear designation of effectiveness is needed if NREPP is to be useful to the field.

Additional Comments

One respondent argued that only two categories should be used, effective and emergent: ''While distinctions such as whether a program has had independent replications as opposed to developer replications may be of interest to researchers, the majority of those responsible for choosing and implementing programs may find this level of detail to be confusing rather than particularly helpful or relevant.''

A group of university researchers recommended assigning scores to several categories of evidence quality: theoretical foundation, design adequacy, measure adequacy, fidelity, and analysis adequacy.

Several other organizations suggesting adding a category for programs not yet shown to be evidence-based, but recommended for further study. One noted that categories of effectiveness should be the same for individual-level and population-, policy-, or system-level outcomes.

One respondent proposed an approach in which SAMHSA would document the strength of evidence for

each approach, and allow consumers to decide what is effective:

> Various authorities have established different and sometimes conflicting standards for when there is enough evidence to constitute an EBT. Part of the problem here is drawing a discrete line (EBT or not) on what is actually a continuous dimension. * * * To inform and demystify the dichotomous and somewhat arbitrary decision as to which treatments are evidence-based and which are not, it is useful to have a compilation of the strength of evidence for (or against) different approaches. * * * Why not just stick to your main emphasis on documenting the strength of evidence for each approach, and let others decide where they want to draw the line for what they regard to be ''effective.''

Another respondent argued that providing information on replications and having six potential categorizations for evidence-based practices could be too technical and confusing for some. Most consumers will be most interested in whether there is some body of evidence that the program they are considering works.

One respondent, a private citizen, recommended that SAMHSA ask stakeholders what categories would be useful to them.

Comments Addressing Question 5

> Question 5. ''SAMHSA recognizes the importance of considering the extent to which interventions have been tested with diverse populations and in diverse settings. Therefore, the agency anticipates incorporating this information into the Web site descriptions of interventions listed on NREPP. This may allow NREPP users to learn if interventions are applicable to their specific needs and situations, and may also help to identify areas where additional studies are needed to address the effectiveness of interventions with diverse populations and in diverse locations. SAMHSA is aware that more evidence is needed on these topics. Please comment on SAMHSA's approach in this area.

Number of respondents: 27 (25%).

Most respondents affirmed the importance of the issues raised in Question 5. Two respondents suggested that SAMHSA should facilitate research aimed at developing services for minority populations. Comments regarding what and how to report are noted below.

What To Report

Regarding what to report, respondents suggested tracking and reporting demographic changes; reporting the impact of interventions on different populations; and requiring programs that use NREPP interventions to report to SAMHSA on the impact on their client populations, as well as providers' thoughts about the intervention's applicability to various client populations.

The Oregon Office of Mental Health and Addiction Services suggested that SAMHSA ''focus considerable effort on identifying and listing practices useful and applicable for diverse populations and rural areas. Providers and stakeholders from these groups have repeatedly expressed the concern they will be left behind if no practices have been identified which fit the need of their area. We need to take particular care to ensure that their fear is not realized.''

The Committee for Children suggested reporting data for two separate dimensions: setting and population. Setting dimensions would include community data—size of community, community context (*e.g.*, suburb, town), geographic location, community socioeconomic status—and agency data, which includes the type of agency (*e.g.*, hospital, child care, school), characteristics (*e.g.*, outpatient vs. inpatient, middle school vs. elementary school), size, and resources required for implementation. Population dimensions would include age, socioeconomic status, ethnicity, cultural identification, immigrant/acculturation status, race, and gender.

How To Report

Three respondents submitted suggestions for how to report on intervention effectiveness with diverse populations. The APA Evidence-Based Practices Committee suggested that SAMHSA develop ''a comprehensive glossary that addresses definitions of different constituencies, populations, and settings.'' The Family and Child Guidance Clinic and the Native American Health Center of Oakland both suggested that a panel of Native Americans be convened to decide which evidence-based programs and practices are effective for Native Americans, then submit a monograph describing these programs and practices.

Comments Addressing Question 6

> Question 6. ''To promote consistent, reliable, and transparent standards to the public, SAMHSA proposes that all existing programs on NREPP meet the prevailing scientific criteria described in this proposal, and that this be accomplished through required rereviews of all programs currently on NREPP. SAMHSA has considered an alternative approach that would ''grandfather'' all existing NREPP programs under the new system, but would provide clear communication that these existing programs have not been assessed against the new NREPP scientific standards. Please comment on which approach you believe to be in the best interests of SAMHSA stakeholders.''

Number of respondents: 32 (29%).

Twenty-seven respondents proposed rereviewing existing programs under the revised NREPP criteria. Five respondents advocated grandfathering the programs into NREPP without review. Highlights of these viewpoints are provided below.

Arguments for Rereview

The Committee for Children wrote a grandfathering system ''may give the impression to NREPP users, right or wrong, that 'grandfathered' interventions aren't as good as those that have undergone the new review process.''

Another respondent supported a single review process to assure programs that ''all programs and practices are being rated according to a consistent set of criteria, and therefore that the adoption of an intervention by a provider can be made with confidence.''

Two researchers (both SAMHSA Model Program affiliates) noted that grandfathering will ''water down'' the NREPP criteria, and recommended establishing a mechanism to remove programs from NREPP when the evidence warrants.

A program developer called for a gradual transition from Model Program to rereview:

> I suggest that SAMHSA maintain the current Model Program designation and grant these programs status within the new NREPP for up to 3 years. During that time period the existing programs would be screened against the new review criteria and provided an opportunity to obtain additional research findings, if needed, in order to help achieve evidence-based status within the new NREPP. * * * Many current model programs have invested extensive time and financial resources to reference SAMHSA Model Program status is their informational, training, and curricula materials, under the auspices of their partnership agreements with the SAMHSA Model Program Dissemination Project. They did this in good faith. While the SAMHSA Model Program Project has been disbanded, it is reasonable to expect SAMHSA to honor their agreements with the model programs for a period of time during the transitional phase. During this transitional phase I recommend that the model program not be earmarked as not having been assessed against the new NREPP scientific standards, but rather that they have been found to be effective under the former NREP and are awaiting review under the new criteria.''

Arguments for Grandfathering

Those who argued for grandfathering previous Model Programs discussed the possible detrimental effects that not grandfathering would have. One respondent described taking away the

Model Program designation as ''a breaking of faith that is just not acceptable. A subjective change in criteria does not justify harming programs that previously met the grade in all good faith * * * It also makes it hard for the end user to take the list seriously, especially if they have already expended considerable resources to replace a non-evidence-based program with one currently designated evidence-based.''

Another respondent described the destabilizing effects and potential impact on credibility of programs:

> Imagine if the ''model'' you just selected this year at the cost of thousands of dollars (and redesigned your prevention delivery system upon) is somehow diminished or lessened in ''scientific'' credibility. Would you not begin to wonder if you could trust the next ''model'' to hold credibility? * * * There is a very real need to be careful about the criteria, and planning for a smooth and gentle segue for change * * * at the grassroots level if programs are rotating on and off of the registry system. One might well ask, how could a ''model'' program of today not worthy of some level of inclusion tomorrow?

Yet another respondent pointed out that not grandfathering programs could pose financial problems for organizations offering model programs. Since some organizations may only receive funding for programs designated as ''model programs,'' they may not be able to offer the programs while awaiting rereview.

Comments Addressing Question 7

> Question 7. ''What types of guidance, resources, and/or specific technical assistance activities are needed to promote greater adoption of NREPP interventions, and what direct and indirect methods should SAMHSA consider in advancing this goal?''

Venue, Channel, and Format for Promoting Adoption of NREPP Interventions

Number of respondents: 7.

Proposed strategies for promotion (venue, channel, and format) include the following:

- Identify stakeholders and take the information to them (e.g., through conferences, journals, professional magazines, professional newsletters, physicians, churches, and PTAs).
- Convene program developers and state administrators for regular meetings about programs and implementation.
- Showcase NREPP programs at national, regional, and state conferences.
- Develop fact sheets about NREPP programs (in collaboration with the program developers).
- Conduct training on NREPP programs through the Addiction Technology Transfer Centers (ATTCs).
- Work with the Office of National Drug Control Policy's National Media campaign.
- On the NREPP Web site, offer downloadable information on programs as well as a way for consumers to contact the program developers for more information.

(**Note:** SAMHSA's Model Program Web site currently does provide program summaries and contact information for program developers).

Technical Assistance for Promoting Adoption of NREPP Interventions

Number of respondents: 30 (28%).

Many respondents noted the importance of providing technical assistance to those looking to adopt NREPP-listed interventions. The Oregon Office of Mental Health and Addiction Services wrote, ''The adoption of new practices by any entity is necessarily a complex and long-term process. Many providers will need technical support if adoption and implementation is to be accomplished effectively. Current resources are not adequate to meet this challenge.''

Another respondent suggested that SAMHSA identify point people, either at the Federal level or through the CAPTs, who can ''partner with developers to gain a clear understanding of their evidence-based interventions and become knowledgeable enough to accurately discuss them with community-based preventionists.''

A group of university researchers agreed that substantial training and technical assistance are required for the effective implementation of preventive interventions. They recommended using SAMHSA's Communities That Care, which has been shown to increase the adoption of tested and effective preventive interventions in communities, to increase adoption of NREPP interventions.

The National Student Assistance Association Scientific Advisory Board recommended that SAMHSA use existing effective program and practice structures, such as Student Assistance Programs, for technical assistance, resources, and guidance.

Guidance on Adopting NREPP Interventions

Number of respondents: 10 (9%).

Several respondents recommended that SAMHSA provide guidance to individuals and organizations looking to adopt NREPP interventions. The Center for Evidence-Based Interventions for Crime and Addiction wrote, ''We do not believe that just providing information about model programs on the Web will result in much diffusion of the innovation. NREPP must pay attention to training, dissemination, fidelity, and sustainability.''

The Society for Prevention Research suggested that SAMHSA survey decisionmakers and practitioners to determine their perceptions of NREPP as well as about other factors influencing their decisions in order to determine how to encourage adoption of NREPP interventions.

The APA Evidence-Based Practice Committee recommended that SAMHSA ''anticipate misuses of NREPP so as to insure that funding bodies do not mistakenly assume that improving treatment comes from confining treatment to a list of recommended techniques.''

Resources for Promoting NREPP Interventions

Number of respondents: 27 (25%).

Many respondents articulated ways that SAMHSA could support and promote NREPP interventions. One common suggestion was that SAMHSA should provide the funding for and/or help create the infrastructure that is required for program implementation.

For example, the California-based Coalition of Alcohol and Drug Associations wrote:

> The existing treatment infrastructure cannot handle the expectation for data collection. It is currently unlikely that most community-based treatment programs could meet the standard to be listed on the registry. How can the infrastructure be strengthened? What funding streams is SAMHSA promoting to accomplish this? * * * The initiative promises technical assistance, but this is not substitute for missing infrastructure. The financial resources to support such efforts [have] always been absent, yet the expectations and demands continue to be placed upon underfunded community-based providers, driving some out of business and requiring others to reduce services.

The Coalition of Alcohol and Drug Associations also asked how SAMHSA plans to protect providers from exploitation: ''Already there are examples of large sums of money being asked for training materials on interventions developed with tax dollars. Consultants representing particular practices (especially those listed on RFAs or on SAMHSA lists) are charging fees of $3,000 per day. This is not something most nonprofits can afford.''

Another respondent, a private citizen, suggested that SAMHSA fund Services to Science grants, ''a category of funding which was originally designed by SAMHSA but [is] rarely utilized.''

The State Associations of Addiction Services suggested that SAMHSA ''consider new mechanisms for funding the development of the organizational capacity needed by providers to implement and sustain evidence-based practices. Such mechanisms might require new legislative authority and/or new funding.''

Comments Addressing Question 8

Question 8. ''SAMHSA is committed to consumer, family, and other nonscientist involvement in the NREPP process. The panels convened by SAMHSA and described earlier in this notice suggested that these stakeholders be included specifically to address issues of intervention utility and practicality. Please comment on how consumer, family, and other nonscientist stakeholders could be involved in NREPP.''

Development of NREPP Process

Number of responses: 22 (20%).

A number of respondents discussed the need to involve nonscientist stakeholder (primarily providers) in developing the NREPP process. Seven respondents said consumers should be involved in NREPP development. The Pennsylvania Department of Health pointed out that ''the use of such approaches depends heavily on local, state, and national networks of community-based providers who need to be in a position to be an active participant in discussions related to the evaluation of interventions, practices, and programs.''

The Oregon Office of Mental Health and Addiction Services argued that ''Practices that are not readily acceptable by consumers and families may have limited usefulness, regardless of the evidence of technical adequacy. Consumers and families should be involved in advising SAMHSA at every level of design, development and implementation of NREPP. SAMHSA may wish to establish a specific consumer and family advisory group to provide advice on NREPP issues.''

Community Anti-Drug Coalitions of America suggested that nonscientists should review publications and recommendations to ensure they are clear to nonresearchers.

Role in NREPP Reviews

Number of respondents: 21 (19%)

Suggestions for NREPP reviews included the following:

- Involve consumers and practitioners in reviewing programs.
- Have practitioners assess the degree to which a program is implementable.
- Have consumer groups rate programs' utility.
- Have clinicians review materials for clarity.

Comments Addressing Question 9

Question 9. ''SAMHSA has identified NREPP as one source of evidence-based interventions for selection by potential agency grantees in meeting the requirements related to some of SAMHSA's discretionary grants. What guidance, if any, should SAMHSA provide related to NREPP as a source of evidence-based interventions for use under the agency's substance abuse and mental health block grants?''

Technical Assistance

Number of respondents: 11 (10%).

A number of respondents suggested that SAMHSA provide training to users on the NREPP review process, as well as guidance on the appropriate use of NREPP and how to avoid misuse. For example, Student Assistance Programs (SAPs) and CAPTs could be used as technical assistance resources. One respondent wrote, ''SAMHSA needs to make it clear that the NREPP ratings are established as recommendations for the field, rather than as demands upon agencies and programs—that it discourages thinking of NREPP-approved programs or practices as a finite list and encourages efforts that further refine and extend these programs and practices to new populations and settings.''

Another respondent noted that government agencies responsible for block grant allocation may need protection fro mandates about using NREPP interventions that may not be affordable or appropriate for their client populations.

Regulation

A number of respondents provided recommendations related to regulation and funding priority tied to NREPP. Twelve respondents said block grant funds should not be restricted based on NREPP status. The Society for Prevention Research and several other organizations recommended giving priority to NREPP programs, while reserving some funds specifically for innovation. One respondent suggested that block grant funding should give priority to NREPP interventions. The Maryland Alcohol and Drug Abuse Administration argued that state authority should supersede Federal authority in block grant allocation. Another respondent recommended giving funding priority to systems that implement practices known to be effective, except where evidence-based practices have not yet been identified: ''Although it is clear that funding cannot entirely be limited to existing evidence-based programs because of the chilling effect on innovation that such a stance would have, nevertheless, it might be appropriate to require that a certain percentage of block grant dollars be committed to the dissemination and use of block grant monies, or to establish additional incentives for the adoption of such programs.''

One respondent warned of the potential danger of unfunded mandates: ''The worst case scenario is that best of practices could cost the most money but by law or regulation become an unfunded mandate for a government-funded or not-for-profit program.''

The APA Practice Association noted that as NREPP is voluntary, ''applicants should not be penalized for studying programs or interventions that are not on the NREPP.''

Two organizations, the State Associations of Addiction Services and California Alcohol and Drug Programs, considered the revised NREPP approach to be too new to use as a block grant requirement.

Comments Addressing Question 10

Question 10. ''SAMHSA believes that NREPP should serve as an important, but not exclusive source, of evidence-based interventions to prevent and/or treat mental and substance use disorders. What steps should SAMHSA take to promote consideration of other sources (e.g., clinical expertise, consumer or recipient values) in stakeholders' decisions regarding the selection, delivery and financing of mental health and substance abuse prevention and treatment services?''

Number of respondents: 25 (23%).

The following suggestions were noted:

- Develop a directory of other sources of evidence-based practices. Some suggested providing links to these sources on the NREPP Web site.
- Use an external advisory committee to identify other sources of evidence-based practices.
- Include a disclaimer page that includes an introduction consistent with the issues raised in Question 10. Advertising or other promotional material created around NREPP could also include this information.
- List other sources of evaluation research such as the Collaborative for Academic, Social, and Emotional Learning, the U.S. Department of Education, the Office of Juvenile Justice and Delinquency Prevention, and the National Institute of Mental Health.

The National Association of State Alcohol/Drug Abuse directors wrote that its Exemplary Awards Program should ''serve as an 'incubator' for programs that may wish to consider submitting into the NREPP process.''

Comments Addressing Question 11

Question 11. ''SAMHSA anticipates that once NREPP is in operation, various

stakeholders will make suggestions for improving the system. To consider this input in a respectful, deliberate, and orderly manner, SAMHSA anticipates annually reviewing these suggestions. These reviews would be conducted by a group of scientist and nonscientist stakeholders knowledgeable about evidence in behavioral health and the social sciences. Please comment on SAMHSA's proposal in this area.''

Number of respondents: 35 (32%).

Many of the 35 responses stated that annual review of suggestions from stakeholders is important. Four respondents noted that feedback should be reviewed more frequently than once per year. Other themes included the following:

- Use the annual review process as a mechanism for fostering innovation.
- Use marketing strategies to encourage participation in the annual review process.
- Solicit annual feedback from NREPP applicants whose programs have been labeled effective, as well as those whose programs have not been labeled effective.
- Compare NREPP results to those in other similar systems.
- Include a mechanism in NREPP for programs to be dropped from, or improve their status on, the registry (possible through the annual review).
- Periodically conduct a meta-analysis of evaluation results (possible through the annual review).
- To ensure the stability of NREPP, the criteria should be maintained without changes for a set period of time (e.g., 5 years).

Comments Beyond the 11 Posted Questions

Twenty-two respondents (20%) submitted comments on issues that were relevant but not specifically within the parameters of the 11 posted questions. These are summarized below.

Programs Versus Practices

Fourteen respondents (13%) objected to using the terms ''programs'' and ''practices'' as if they were interchangeable. One private citizen who submitted comments wrote:

> It is important to distinguish between the value of rating practices and the value of rating programs. although it makes sense for reviewers to rate the quality/strength of evidence regarding a treatment practice, it is a much different proposition to rate the effectiveness of a program. The effectiveness of a treatment program is a function, among other things, of the treatment practices it employs, the ancillary services (e.g., employment counseling) it provides, the qualities and behaviors of its treatment providers * * * One could imagine a very ineffective program using evidence-based practices (e.g., one having disengaged or poorly trained counselors), and a very effective program that used other than evidence-based practices (e.g., one with committed, empathic counselors using practices that had not yet been subjected to research. Furthermore, given the multiple elements that contribute to a program's overall effectiveness, its effectiveness could change rapidly (e.g., when a charismatic program leader leaves, when there is significant counselor turnover, when funding source/amount changes, etc.). Thus, it makes much less sense to rate the effectiveness of individual programs than it does to rate the strength of evidence supporting specific treatment practices.

Terminology

The APA Evidence-Based Practices Committee suggested using a site glossary to define diagnostic terminology and client populations and communities.

Standard Outcomes

One respondent recommended including a standard set of outcomes to be evaluated.

Effect of Including Mental Health Interventions

One national organization expressed a concern that included mental health interventions will detract from the focus on substance abuse:

> The proposed expansion of NREPP to include substance abuse treatment and mental health will dramatically dilute the focus of substance abuse prevention. The resources NREPP require will necessarily be diluted across a broader range of issues and inevitably detract from a focused mission of supporting efforts to prevent substance abuse.

Reporting the Date of Reviews

One respondent recommended that SAMHSA document and report the date on which a review was conducted. This will allow users to know how much time has passed since the review and prompt them to search for more recent evidence if needed.

Rationale for Revising NREPP

One respondent questioned if SAMHSA had sufficiently evaluated the existing system before deciding to revise it.

Subpart A.—Federal Register Notice Comment Codebook

Comment ID Number:
Coded by:
Date coded:
Coded by: (each item is coded by two individual coders)
Date coded:
Entered by:
Date entered:

1. Respondent Category
   1.1 Commenter Name
   1.1.1 First
   1.1.2 MI
   1.1.3 Last
   1.2 Location
   1.2.1 City
   1.2.2 State
   1.2.3 ZIP code
   1.2.4 Unknown
   1.3 Domain Interest
   1.3.1 SAP
   1.3.2 SAT
   1.3.3 MHP
   1.3.5 Unknown
   1.4 Affiliation
   1.4.1 Private
   1.4.2 Organization
   1.4.2.1 National
   1.4.2.2 State
   1.4.2.3 Local
   1.4.2.4 Unknown
   1.5 Functional Role
   1.5.1 Provider
   1.5.2 Researcher
   1.5.3 Consumer
   1.5.4 Multiple
   1.5.5 Unknown
   1.6 Response Level
   1.6.1 Nonresponsive
   1.6.2 Routine
   1.6.3 Noteworthy (responder or comment content)
2. Topical Themes
   2.1 Will the proposed NREPP system identify effective interventions
   2.1.1 General, not criteria specific
   2.1.2 Individual-level outcome criteria
   2.1.3 Population/policy/system-level outcome criteria
   2.1.4 Utility descriptors
   2.1.5 Exclusion due to lack of funding
   2.1.6 Negative impact on minority populations
   2.1.7 Negative impact on program innovation
   2.1.8 Lack of acknowledgment of provider factors
   2.1.9 Use of other agencies' standards and resources
   2.1.10 Reliance on developers for submitting applications
   2.1.11 Generalizability issues
   2.2 How can stakeholders be engaged to identify priority review areas
   2.2.1 Identification (of priority areas)
   2.2.2 Engagement (of stakeholders)
   2.3 How should statistical significance and effect size be used to judge effectiveness
   2.3.1 Statistical significance
   2.3.2 Effect size
   2.3.3 General, NEC
   2.4 Should NREPP use multiple categories of effectiveness
   2.4.1 General, not outcome specific
   2.4.1 Pro
   2.4.2 Con
   2.4.2 Individual-level outcome rating categories
   2.4.2.1 Pro
   2.4.2.2 Con
   2.4.3 Population/policy/system-level outcome rating categories
   2.4.3.1 Pro
   2.4.3.2 Con

2.5 How can NREPP best provide information on population-specific needs and situations
2.5.1 General comment
2.5.2 Venue (e.g., organized events/meetings, national or regional organizations)
2.5.3 Channel (distribution mechanisms, e.g., listservs, clearinghouses, etc.)
2.5.4 Format (media type, document type, e.g., fact sheets, white papers, policy publications, etc.)
2.6 Should current NREPP programs be ''grandfathered'' or rereviewed
2.6.1 Grandfathered
2.6.2 Rereviewed
2.6.3 General, NEC
2.7 How should SAMHSA promote greater adoption of NREPP interventions
2.7.1 General comment
2.7.2 Venue
2.7.3 Channel
2.7.4 Format
2.7.5 Technical assistance
2.7.6 Guidance
2.7.7 Resources
2.8 How should nonscientist stakeholders be involved in the NREPP process
2.8.1 General comment
2.8.2 Venue, channel, format
2.8.3 Potential stakeholders
2.8.4 Involvement in the development of the NREPP process
2.8.5 Involvement in program reviews
2.9 What relationship should exist between NREPP and SAMHSA block grants
2.9.1 Technical assistance provision
2.9.2 Funding support
2.9.3 Regulatory (required to use)
2.10 What additional sources of information should be considered regarding SAMHSA services
2.10.1 Steps SAMHSA should take
2.10.2 Source
2.11 How should an annual review of NREPP procedures and practices be conducted
2.12 Other issues
2.12.1 Program vs. practice

Subpart B.—Comments on SAMHSA's Federal Register Notice: Frequencies and Percentages

TABLE 1.—CHARACTERISTICS OF RESPONDENTS

[N=135]

	n	Percent
Domain interest (not mutually exclusive)		
Substance abuse prevention	68	50.4
Substance abuse treatment	48	35.6
Mental health promotion	22	16.3
Mental health treatment	20	14.8
Unknown	33	24.4
Affiliation		
Private	90	66.7
National organization	16	11.9
State organization	10	7.4
Local organization	14	10.4
Unknown organization	5	3.7
Functional role		
Provider	53	39.3
Researcher	36	26.7
Consumer	4	3.0
Multiple roles	21	15.6
Unknown	21	15.6
Respondent clout		
Noteworthy	51	37.8
Responsive	58	43.0
Unanalyzable	26	19.3
Current program status		
Affiliated with a current program	10	7.4
No known affiliation with a current program	125	92.6

TABLE 2.—COMMENTS REGARDING THE PROPOSED NREPP SYSTEM ACCOMPLISHING ITS GOALS

[Question 1]

	National org.		State org.		Local org.		Unknown org.		Private	
	n	%[1]	n	%	n	%	n	%	n	%
''Noteworthy'' respondents										
General, not criteria specific[2]	11	78.6	4	50.0	2	100	2	66.7	16	84.2
Individual-level outcome criteria	1	7.1	1	12.5	0	0.0	1	33.3	14	73.7

TABLE 2.—COMMENTS REGARDING THE PROPOSED NREPP SYSTEM ACCOMPLISHING ITS GOALS—Continued

[Question 1]

	National org.		State org.		Local org.		Unknown org.		Private	
	n	%[1]	n	%	n	%	n	%	n	%
Population-, policy-, or system-level outcome criteria	2	14.3	4	50.0	1	50.0	1	33.3	14	73.7
Utility descriptors	4	28.6	1	12.5	0	0.0	0	0.0	3	15.8
Funding	7	50.0	3	37.5	1	50.0	0	0.0	3	15.8
Minority populatons	1	7.1	0	0.0	1	50.0	0	0.0	2	10.5
Program innovation	4	28.6	4	50.0	2	100	0	0.0	2	10.5
Provider factors	4	28.6	4	50.0	1	50.0	1	33.3	4	21.1
Use of other agencies' standards and resources	4	28.6	2	25.0	0	0.0	0	0.0	12	63.2
Developers submitting applications	1	7.1	0	0.0	0	0.0	0	0.0	2	10.5
Generalizability	7	50.0	5	62.5	2	100	0	0.0	5	26.3
"Responsive" respondents										
General, not criteria specific[2]	0	0.0	0	0.0	4	40.0	2	100	18	43.9
Individual-level outcome criteria	0	0.0	0	0.0	1	10.0	0	0.0	6	14.6
Population-, policy-, or system-level outcome criteria	0	0.0	0	0.0	2	20.0	0	0.0	5	12.2
Utility descriptors	0	0.0	0	0.0	0	0.0	0	0.0	7	17.1
Funding	0	0.0	0	0.0	5	50.0	0	0.0	9	22.0
Minority populations	0	0.0	0	0.0	2	20.0	0	0.0	7	17.1
Program innovation	0	0.0	0	0.0	3	30.0	0	0.0	6	14.6
Provider factors	0	0.0	0	0.0	4	40.0	0	0.0	4	9.8
Use of other agencies' standards and resource	0	0.0	0	0.0	3	30.0	0	0.0	6	14.6
Developers submitting applicaitons	0	0.0	0	0.0	0	0.0	0	0.0	1	2.4
Generalizability	0	0.0	0	0.0	7	70.0	1	50.0	21	51.2

[1] All percentages are calculated based on those providing comments.
[2] These categories are not mutually exclusive.

TABLE 3.—COMMENTS REGARDING HOW SAMHSA MIGHT ENGAGE INTERESTED STAKEHOLDERS TO DETERMINE INTERVENTION PRIORITY AREAS FOR REVIEW

[Question 2]

	National org.		State org.		Local org.		Unknown org.		Private	
	n	%[1]	n	%	n	%	n	%	n	%
"Noteworthy" respondents										
Identification of priority areas[2]	3	42.9	0	0.0	0	0.0	0	0.0	2	100
Engagement of stakeholders	5	71.4	1	100	1	100	0	0.0	1	50.0
"Responsive" respondents										
Identification of priority areas[2]	0	0.0	0	0.0	1	50.0	0	0.0	1	33.3
Engagement of stakeholders	0	0.0	0	0.0	2	100	0	0.0	3	100

[1] All percentages are calculated based on those providing comments.
[2] These categories are not mutually exclusive.

TABLE 4.—COMMENTS REGARDING STATISTICAL SIGNIFICANCE AND EFFECT SIZE

[Question 3]

	National org.		State org.		Local org.		Unknown org.		Private	
	n	% [1]	n	%	n	%	n	%	n	%
"Noteworthy" respondents										
Statistical significance [2]	1	25.0	0	0.0	1	50.0	0	0.0	11	84.6
Effect size	2	50.0	3	100	1	50.0	1	100	13	100
General	2	50.0	0	0.0	0	0.0	0	0.0	2	15.4
"Responsive" respondents										
Statistical significance [2]	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Effect size	0	0.0	0	0.0	3	100	0	0.0	6	85.7
General	0	0.0	0	0.0	0	0.0	0	0.0	1	14.3

[1] All percentages are calculated based on those providing comments.
[2] These categories are not mutually exclusive.

TABLE 4.—COMMENTS REGARDING STATISTICAL SIGNIFICANCE AND EFFECT SIZE

[Question 3]

	National org.		State org.		Local org.		Unknown org.		Private	
	n	% [1]	n	%	n	%	n	%	n	%
"Noteworthy" respondents										
General, not outcome specific:.										
General comment [2]	2	20.0	0	0.0	0	0.0	0	0.0	3	20.0
Pro	10	100	3	100	1	100	0	0.0	12	80.0
Con	0	0.0	0	0.0	0	0.0	0	0.0	1	6.7
Individual-level outcome rating categories:										
General comment	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Pro	1	10.0	0	0.0	0	0.0	0	0.0	0	0.0
Con	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Population-, policy-, or system-level outcome rating categories:										
General comment	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Pro	0	0.0	1	33.3	0	0.0	0	0.0	0	0.0
Con	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
"Responsive" respondents										
General, not outcome specific:.										
General comment [2]	0	0.0	0	0.0	1	50.0	0	0.0	3	37.5
Pro	0	0.0	0	0.0	1	50.0	1	100	6	75.0
Con	0	0.0	0	0.0	1	50.0	0	0.0	0	0.0
Individual-level outcome rating categories:										
General comment	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Pro	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Con	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Population-, policy-, or system-level outcome rating categories:										
General comment	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0

TABLE 4.—COMMENTS REGARDING STATISTICAL SIGNIFICANCE AND EFFECT SIZE—Continued

[Question 3]

	National org.		State org.		Local org.		Unknown org.		Private	
	n	% [1]	n	%	n	%	n	%	n	%
Pro	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Con	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0

[1] All percentages are calculated based on those providing comments.
[2] These categories are not mutually exclusive.

TABLE 6.—COMMENTS REGARDING SAMHSA'S APPROACH FOR INCORPORATING INFORMATION ON THE EXTENT TO WHICH INTERVENTIONS HAVE BEEN TESTED WITH DIVERSE POPULATIONS AND IN DIVERSE SETTINGS

[Question 5]

	National org.		State org.		Local org.		Unknown org.		Private	
	n	% [1]	n	%	n	%	n	%	n	%
"Noteworthy" respondents										
General comment [2]	6	100	2	100	1	100	0	0.0	12	100
Venue	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Channel	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Format	1	16.7	0	0.0	0	0.0	0	0.0	0	0.0
"Responsive" respondents										
"Responsive" respondents.										
General comment [2]	0	0.0	0	0.0	1	100	0	0.0	4	80.0
Venue	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Channel	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Format	0	0.0	0	0.0	0	0.0	0	0.0	1	20.0

[1] All percentages are calculated based on those providing comments.
[2] These categories are not mutually exclusive.

TABLE 7.—COMMENTS REGARDING WHETHER ALL EXISTING PROGRAMS ON NREPP SHOULD BE REREVIEWED OR "GRANDFATHERED"

[Question 6]

	Noteworthy		Responsive	
	n	Percent of those providing comments	n	Percent of those providing comments
Comments from individuals affiliated with an existing NREPP program (8 individuals [3 Noteworthy, 5 Responsive] provided comments on this question)				
Rereview*	2	66.7	1	20.0
Grandfather	1	33.3	3	60.0
General comment	1	33.3	2	40.0
Comments from individuals not known to be affiliated with an existing NREPP program (29 individuals [21 Noteworthy, 8 Responsive] provided comments on this question)				
Rereview	19	90.5	5	62.5
Grandfather	0	0.0	1	12.5
General comment	2	9.5	2	25.0

*Note: These categories are not mutually exclusive. There were instances of individuals who both commented specifically on whether to rereview or grandfather a program and also provided a general comment with regard to this question.

TABLE 8.—COMMENTS REGARDING GUIDANCE, RESOURCES, AND/OR TECHNICAL ASSISTANCE TO PROMOTE GREATER ADOPTION OF NREPP INTERVENTIONS

[Question 7]

	National org.		State org.		Local org.		Unknown org.		Private	
	n	%[1]	n	%	n	%	n	%	n	%
"Noteworthy" respondents										
General comment[2]	3	30.0	2	25.0	0	0.0	0	0.0	2	11.8
Venue	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Channel	2	20.0	0	0.0	0	0.0	0	0.0	1	5.9
Format	1	10.0	0	0.0	0	0.0	0	0.0	0	0.0
Technical assistance	5	50.0	5	62.5	1	100	0	0.0	11	64.7
Guidance	4	40.0	0	0.0	0	0.0	0	0.0	1	5.9
Resources	6	60.0	5	62.5	0	0.0	1	100	3	17.6
"Responsive" respondents										
General comment[2]	0	0.0	0	0.0	0	0.0	0	0.0	3	16.7
Venue	0	0.0	0	0.0	0	0.0	0	0.0	2	11.1
Channel	0	0.0	0	0.0	1	20.0	0	0.0	3	16.7
Format	0	0.0	0	0.0	0	0.0	0	0.0	1	5.6
Technical assistance	0	0.0	0	0.0	2	40.0	0	0.0	6	33.3
Guidance	0	0.0	0	0.0	1	20.0	0	0.0	4	22.2
Resources	0	0.0	0	0.0	3	60.0	0	0.0	9	50.0

[1] All percentages are calculated based on those providing comments.
[2] These categories are not mutually exclusive.

TABLE 9.—COMMENTS REGARDING HOW CONSUMER, FAMILY, AND OTHER NONSCIENTIST STAKEHOLDERS COULD BE INVOLVED IN NREPP

[Question 8]

	National org.		State org.		Local org.		Unknown org.		Private	
	n	%[1]	n	%	n	%	n	%	n	%
"Noteworthy" respondents										
General comment[2]	0	0.0	0	0.0	1	50.0	0	0.0	1	50.0
Venue, channel, format	2	20.0	0	0.0	0	0.0	0	0.0	1	50.0
Potential stakeholders	7	70.0	5	71.4	0	0.0	0	0.0	0	0.0
Involvement in the development of the NREPP process	5	50.0	4	57.1	1	50.0	0	0.0	0	0.0
Involvement in program reviews	6	60.0	5	71.4	1	50.0	0	0.0	0	0.0
"Responsive" respondents										
General comment[2]	0	0.0	0	0.0	1	16.7	0	0.0	1	5.6
Venue, channel, format	0	0.0	0	0.0	1	16.7	0	0.0	4	22.2
Potential stakeholders	0	0.0	0	0.0	4	66.7	1	100	14	77.8
Involvement in the development of the NREPP process	0	0.0	0	0.0	4	66.7	0	0.0	8	44.4
Involvement in program reviews	0	0.0	0	0.0	2	33.3	1	100	6	33.3

[1] All percentages are calculated based on those providing comments.
[2] These categories are not mutually exclusive.

TABLE 10.—COMMENTS REGARDING GUIDANCE SAMHSA SHOULD PROVIDE FOR USE UNDER THE AGENCY'S SUBSTANCE ABUSE AND MENTAL HEALTH BLOCK GRANTS

[Question 9]

	National org.		State org.		Local org.		Unknown org.		Private	
	n	%[1]	n	%	n	%	n	%	n	%
"Noteworthy" respondents										
Technical assistance[2]	1	11.1	2	50.0	0	0.0	0	0.0	1	8.3
Funding support	4	44.4	3	75.0	1	100	1	100	9	75.0
Regulatory	6	66.7	1	25.0	0	0.0	0	0.0	2	16.7
"Responsive" respondents										
Technical assistance[2]	0	0.0	0	0.0	1	50.0	0	0.0	2	18.2
Funding support	0	0.0	0	0.0	2	100	0	0.0	9	81.8
Regulatory	0	0.0	0	0.0	1	50.0	0	0.0	2	18.2

[1] All percentages are calculated based on those providing comments.
[2] These categories are not mutually exclusive.

TABLE 11.—COMMENTS REGARDING STEPS SAMHSA SHOULD TAKE TO PROMOTE CONSIDERATION OF OTHER SOURCES OF EVIDENCE-BASED INTERVENTIONS

[Questions 10]

	National org.		State org.		Local org.		Unknown org.		Private	
	n	%[1]	n	%	n	%	n	%	n	%
"Noteworthy" respondents										
Steps SAMHSA should take[2]	4	80.0	1	100	0	0.0	0	0.0	12	100
Source	1	20.0	0	0.0	1	100	1	100	0	0.0
"Responsive" respondents										
Steps SAMHSA should take[2]	0	0.0	0	0.0	2	100	0	0.0	2	66.7
Source	0	0.0	0	0.0	0	0.0	0	0.0	2	66.7

[1] All percentages are calculated based on those providing comments.
[2] These categories are not mutually exclusive.

TABLE 12.—COMMENTS REGARDING ANNUAL REVIEWS OF SUGGESTIONS FOR IMPROVING THE SYSTEM

[Question 11]

	National org.		State org.		Local org.		Unknown org.		Private	
	n	%	n	%	n	%	n	%	n	%
"Noteworthy" respondents										
General comment	8	100	3	100	1	100	0	0.0	14	100
"Responsive" respondents										
General comment	0	0.0	0	0.0	2	100	0	0.0	7	100

[1] All percentages are calculated based on those providing comments.

TABLE 13.—ADDITIONAL COMMENTS NOT CLASSIFIED ELSEWHERE

	National org.		State org.		Local org.		Unknown org.		Private	
	n	%[1]	n	%	n	%	n	%	n	%
"Noteworthy" respondents										
Other issues[2]	4	66.7	1	25.0	1	50.0	0	0.0	1	100
Defining terms	5	83.3	3	75.0	1	50.0	0	0.0	1	100

TABLE 13.—ADDITIONAL COMMENTS NOT CLASSIFIED ELSEWHERE—Continued

	National org.		State org.		Local org.		Unknown org.		Private	
	n	%[1]	n	%	n	%	n	%	n	%
"Responsive" respondents										
Other issues[2]	0	0.0	0	0.0	1	50.0	0	0.0	5	71.4
Defining terms	0	0.0	0	0.0	2	100	0	0.0	2	28.6

[1] All percentages are calculated based on those providing comments.
[2] These categories are not mutually exclusive.

Subpart C.—Comments on Specific Evidence Rating Criteria

Some of the respondents to SAMHSA's August 2005 **Federal Register** notice submitted comments about specific evidence rating criteria. A summary and highlights of key comments about these criteria are presented below.

Intervention Fidelity

Two respondents commented on this criterion. One noted that it is difficult to monitor or confirm how treatment is delivered and how staff are trained in programs with complex approaches, such as community reinforcement or family training.

Comparison Fidelity

Eleven respondents commented on this criterion. Ten of the respondents, a group of researchers from a major university, wrote:

> The comparison fidelity evidence quality criterion assumes the implementation and fidelity monitoring of a "comparison condition." In universal and selective prevention trials, this is not standard protocol. Rather, individuals or communities selected for comparison/control conditions receive standard prevention services available in the community. In such studies, it does not make sense to measure the "fidelity" of the comparison condition. However, as currently scored, this criterion will penalize prevention studies. I recommend the criterion and rating system be changed to reflect this difference between prevention and treatment research.

Nature of Comparison Condition

Fourteen respondents provided comments on this criterion. One respondent, a director of research and evaluation for a prevention program noted:

> Many program participants are drawn from undeserved or marginalized populations, e.g. incarcerated youth, the mentally ill, linguistically isolated subgroups, or those suffering from Human Immunodeficiency Virus (HIV). For these populations, there may be no option to withhold active treatment only to the intervention group, due to legal requirements, health and safety considerations, or other ethical constraints. The American Evaluation Association (AEA) duly notes this consideration in its 2003 commentary on scientifically based evaluation methods.

Another service provider noted that studies that include the target intervention, comparison intervention, and attention control "would require funding at extremely high levels to have enough N in each group for statistical analysis. To conduct such a study in today's economic climate is probably impractical."

A private citizen who submitted comments wrote:

> This is a critical criterion and should be weighted more heavily than many, if not all, of the other criteria. With the proposed system, if one were trying to "game the system," it would be advantageous to choose a comparison intervention that was ineffective (and thus receive a low score on this criterion), so as to increase the likelihood of a significant treatment effect. Nevertheless, the practice being evaluated could have "strong evidence" by scoring highly on other criteria.

A group of university researchers said that it is unclear how prevention practices being compared to existing prevention services would be scored using this criterion.

Assurances to Participants

One respondent questioned "whether such studies [without documented assurances to participants] should ever clear the bar for NREPP consideration. If investigators do not observe appropriate procedures to safeguard study participants' interests, it is at least questionable whether their products should receive any degree of attention and support from SAMHSA."

Participant Expectations

Three respondents commented on this criterion. Two respondents listed potential problems with controlling expectations in school settings. For example, for an intervention to be implemented effectively by teachers, the teachers would have to be trained and therefore would be aware of the intervention they implement.

Two respondents pointed out that expectations might be an active component of the intervention. One wrote that "trying to control [expectations] might reduce generalization of the eventual findings. In addition, given current ethical guidelines and human subjects policies, it is hard to see how one could 'mask' study conditions in many studies. In obtaining consent, one has to tell participants about the conditions to which they might be assigned and it is likely that participants will know to which condition they have been assigned."

Data Collector Bias

Three respondents commented on this criterion. One noted, "Changes to this criterion should recognize the critical need to ensure the fidelity of psychosocial treatment interventions. Fidelity, in these cases, can only be ensured through staff awareness of the actions required of them. Masking conditions actually inhibits psychosocial treatment fidelity."

Selection Bias

Three respondents commented on this criterion. One suggested that approaches other than random assignment, such as blocking variables of interest, should qualify for the highest score on this item. Another pointed out that random assignment to psychosocial interventions might not be possible due to ethical problems with nondisclosure. He suggested rewording the item to clarify that random assignment does not refer only to "blinding" participants to their treatment condition.

Attrition

Two respondents commented on this criterion. One pointed out that the criterion is unclear, and that "attrition needing adjustment" is not defined, nor is the difference between "crude" and "sophisticated" methods of adjusting for attrition. This respondent also pointed out that "sophisticated" does not necessarily mean better than "crude" (this comment also applied to the Missing Data criterion).

Theory-Driven Method Selection

Eleven respondents commented on this criterion. A group of university researchers wrote:

This is an important criterion. However, this criterion should recognize that a number of preventive interventions seek to address and reduce risk factors or enhance protective factors that research has shown are common shared predictors of a range of drug use, mental health, and other outcomes. It is important to explicitly recognize this fact in formulating and describing this criterion * * * Not all reviewers, especially those from treatment backgrounds, will be familiar with the concept of addressing shared predictors of broader outcomes in preventive trials in order to affect wide-ranging outcomes. This criterion needs to educate reviewers about this in the same way that the criterion currently warns against ''dredging'' for current significant results.

Subpart D.—Criterion-Specific Themes for Population-, Policy-, and System-Level Outcomes

Logic-Driven Selection of Measures

A group of researchers from a major university suggested that this item and the parallel item for individual-level outcomes, Theory-Driven Measure Selection, should have the same label.

Intervention Fidelity

The seven respondents who commented on this criterion observed that interventions must be adapted for individual communities to be effective. The criterion as written does not account for this.

Nature of Comparison Condition

One respondent stated that there is not consensus among evaluation researchers on this topic, and until there is, ''we should reserve judgment on how best to define the nature of comparison conditions within community level interventions.'' She also pointed out, ''Since the collective behaviors of members in each community will vary * * * how can they possibly be compared to each other in a valid and reliable way.''

Data Collector Bias

A group of university researchers pointed out that the item assumes archival data are unbiased, while they may be biased by institutional practices. They suggested that the highest rating ''be reserved for studies in which data collectors were masked to the population's condition.''

Another respondent, a national organization, wrote:

The very nature of coalition work requires coalition members to be involved in its evaluation and research efforts. It is culturally detrimental and unethical to work with coalitions in such a way that they are not involved in the evaluation process. Expecting the data collectors to be blind to the efforts of the community means that the researchers are outside the community and would have no understanding of the context in which the coalition works. Many evaluators and researchers view this as the absolute wrong way to work with coalitions. Criterion Seven [Data Collector Bias] runs counter to participatory research which is the standard in working with coalitions.

Population Studied

Eleven respondents commented on this criterion. One respondent stated that quasi-experimental time-series designs might be as internally valid as randomized control designs, and felt this should be reflected in the criterion.

A group of university researchers advocated excluding single-group pre-/posttest design studies from NREPP. They wrote, ''A group randomized design with adequate numbers of groups in each condition holds the greatest potential for ruling out threats to internal validity in community-level studies. This criterion should be expanded to provide a rating of four for group randomized studies with adequate Ns.''

Subpart E.—Comment for Children's Suggestions for Utility Descriptors

1. Implementation Support

Regarding the ease of acquiring materials is there centralized ordering for all materials? What implementation support materials are included in initial program cost, and are they adequate? Are basic program updates and replacement parts all easily available? Regarding start-up support, research suggests that there are several features that are important to the effectiveness and sustainability of programs. These include an active steering committee, administrator support, engagement of family members, and wholeschool implementation (for school-based programs). Do the basic program materials provided supply adequate guidance for effectively gaining these sources of support? On the other hand, some clients are not in the position to achieve all of these goals. Is it possible to effectively implement the program without them? Are needs assessment tools offered? This is important for determining whether implementation should take place at all. What is the nature of the start-up implementation support? What is the nature of the ongoing implementation support? Is client support differentiated for new and experienced clients? Do client support personnel have adequate training to answer sophisticated questions from the most highly experienced program implementers? Is there implementation support through a variety of media? What support is there for transfer of learning? For example, practice beyond specific lessons, opportunities for population served to demonstrate, and be reinforced for skills beyond specific lessons, support for staff awareness of skills, how to recognize skills, how to reinforce skills, examples typical in the daily setting, materials for engaging family members of the population served, materials for engaging staff outside the implementers of the program (e.g., residential housekeeping staff, school playground monitors), support for engaging community members outside the implementation setting, what training is required, what training is available beyond that which is required?

2. Quality Monitoring

Are the tools supplied for quality monitoring user-friendly and inexpensive? How well are they adapted specifically to the program? What are their psychometric characteristics?

3. Unintended or Adverse Events

No further comments.

4. Population Coverage

Are the materials appropriate to the population to be served in regard to, for example: length of lessons, vocabulary, concepts and behavioral expectations, teaching strategies.

5. Cultural Relevance and Cultural Competence

To what extent was cultural relevance addressed during the development of the program? Is there a theoretical basis to the program that addresses cultural relevance? Were stakeholders from a variety of relevant backgrounds engaged in the development process? How early in the development process were they involved? In what ways were they involved? Were professionals with multicultural expertise involved in the development process? How early in the development process were they involved? In what ways were they involved?

6. Staffing

Since FTEs are often difficult to estimate and estimates many therefore be unreliable, the required time should be estimated for the following: Required training time, on-site start-up activities, implementer preparation time per week, lesson length × number of lessons per implementer, time required for other activities.

7. Cost

No further comments on this descriptor except to reiterate that cost considerations play into several of the other descriptors.

8. Motivational Issues Affecting Implementation

We suggest that consideration be given to examining what further motivational issues may impact whether the programs are implemented and sustained with fidelity. These include: appeal of materials and activities for the population to be served, appeal of materials and activities for the staff who will implement the programs, support of the program for the preexisting goals and programs of the site (e.g., school-based programs that support academics), how well the program otherwise integrates with existing goals, programs, and activities of the site (e.g., teachers are expected to direct student discussions, but not therapy), support offered for adapting the program to specific local populations, fit of materials to the typical structures of the setting (e.g., short enough lessons to fit within a class period, necessary equipment is usually available in the setting).

[FR Doc. 06–2313 Filed 3–13–06; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5037–N–12]

Notice of Submission of Proposed Information Collection to OMB; Deed-in-Lieu of Foreclosure (Corporate Mortgagors or Mortgagors Owning More than One Property)

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

Mortgagee's must obtain written consent from HUD's National Servicing Center to accept a deed-in-lieu of foreclosure when the mortgagor is a corporate mortgagor or a mortgagor owning more than one property insured by the Department of Housing and Urban Development (HUD). Mortgagees must provide HUD with specific information,

DATES: *Comments Due Date:* April 13, 2006.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502–0301) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Lillian Deitzer at *Lillian_L_Deitzer@HUD.gov* or telephone (202) 708–2374. This is not a toll-free number.

Copies of available documents submitted to OMB may be obtained from Ms. Deitzer.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Deed-in-Lieu of Foreclosure (Corporate Mortgagors or Mortgagors Owning More than One Property).

OMB Approval Number: 2502–0301.

Form Numbers: None.

Description of the Need for the Information and Its Proposed Use: Mortgagee's must obtain written consent from HUD's National Servicing Center to accept a deed-in-lieu of foreclosure when the mortgagor is a corporate mortgagor or a mortgagor owning more than one property insured by the Department of Housing and Urban Development (HUD). Mortgagees must provide HUD with specific information.

Frequency of Submission: On occasion.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden:	600	0.041		0.5		12.5

Total Estimated Burden Hours: 12.5.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: March 9, 2006.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E6–3616 Filed 3–13–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Draft Conservation Agreement for the Yellow-Billed Loon (*Gavia adamsii*)

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of document availability for review and comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of the Draft Conservation Agreement for the Yellow-billed Loon (*Gavia adamsii*) for public review and comment.

DATES: Comments on the draft conservation agreement must be received on or before April 13, 2006.

ADDRESSES: Copies of the conservation agreement are available for inspection, by appointment, during normal business hours at the following location: U.S. Fish and Wildlife Service, Fairbanks Fish and Wildlife Field Office, 101 12th

Avenue, Fairbanks, AK 99701 (telephone: 907–456–0203). Requests for copies of the draft conservation agreement should be addressed to the Endangered Species Branch Chief, at the above Service address. An electronic copy of the draft conservation agreement is also available at *http://www.r7.fws.gov/current.htm*.

If you wish to comment, you may submit your comments and materials by any one of the following methods:

1. You may submit written comments and information by mail to: Yellow-billed Loon Draft Conservation Agreement Comments, U.S. Fish and Wildlife Service, 101 12th Avenue, Fairbanks, AK 99701.

2. You may hand-deliver written comments and information to our Fairbanks Fish and Wildlife Field Office, 101 12th Avenue, Fairbanks, AK 99701.

3. You may fax your comments to 907–456–0208.

4. You may send your comments by electronic mail (e-mail) to *YBLoon@fws.gov*. Please include ''Attn: Yellow-billed Loon Draft Conservation Agreement'' in the beginning of your message, and do not use special characters or any form of encryption. Electronic attachments in standard formats (such as .pdf or .doc) are acceptable, but please name the software necessary to open any attachments in formats other than those given above. Also, please include your name and return address in your e-mail message (anonymous comments will not be considered). If you do not receive a confirmation from the system that we have received your e-mail message, or in the event that our Internet connection is not functional, please submit your comments in writing using one of the alternate methods described above. All comments and materials received will be available for public inspection, by appointment, during normal business hours at our Fairbanks Fish and Wildlife Field Office at the above address.

FOR FURTHER INFORMATION CONTACT: Ted Swem, Endangered Species Branch Chief, at the above Service address.

SUPPLEMENTARY INFORMATION:

Background

A Conservation Agreement is an effective, proactive way to address conservation of species that have not yet been listed under the Endangered Species Act but that face identifiable risks. Early conservation actions preserve management options, minimize the cost of recovery, and reduce the potential for restrictive land use policies in the future. Addressing the needs of species before the regulatory restrictions associated with listed species come into play often allows greater management flexibility to stabilize or restore these species and their habitats. In addition, as threats are reduced and populations are increased or stabilized, priority for listing can be shifted to those species in greatest need of the Endangered Species Act's protective measures. Ideally, sufficient threats can be removed to eliminate the need for listing.

There are an estimated 16,000 yellow-billed loons worldwide. Approximately 3,300 breed in the freshwater treeless tundra of Alaska. They breed abundantly on the North Slope, and sparsely in western Alaska, primarily north of Unalakleet and the foothills of the Brooks Range. Yellow-billed loons nest exclusively in coastal and inland low-lying tundra from 62–74° N latitude, in association with permanent, fish-bearing lakes. Populations are thought to be limited primarily by breeding habitat, specifically nesting and brood-rearing lakes (North 1994). Lakes that support breeding loons have abundant fish populations; depths greater than 2 meters (m) (6.5 feet) and water under the ice during winter; large areas; connections to streams which may supply fish; highly convoluted, vegetated, and low-lying shorelines; and clear water and dependable water. Breeding lakes may be near but not connected to major rivers, possibly because fluctuating river water levels can flood nests or cause turbidity that compromises foraging success.

In northern Alaska, yellow-billed loons breed on lands within the National Petroleum Reserve-Alaska (NPR–A) and on State of Alaska lands between the Colville and the Canning Rivers. In western Alaska, yellow-billed loons are found breeding primarily along the coastal fringe of the Seward Peninsula on Selawik National Wildlife Refuge (NWR), administered by the U.S. Fish and Wildlife Service (USFWS); Cape Krusenstern National Monument and Bering Land Bridge National Preserve, administered by the National Park Service (NPS); and on scattered small parcels of Bureau of Land Management (BLM) and Alaska Native-owned lands. Small numbers of yellow-billed loons have also been found nesting on Alaska Native-owned lands on St. Lawrence Island.

The goal of this Agreement is to protect yellow-billed loons and their breeding, brood-rearing, and migrating habitats in Alaska, such that current or potential threats in these areas are avoided, eliminated or reduced to the degree that the species will not become threatened or endangered from these threats within the foreseeable future.

The parties entering into this conservation agreement are the Alaska Department of Fish and Game, the Alaska Department of Natural Resources, and the U.S. Department of the Interior (U.S. Fish and Wildlife Service; Bureau of Land Management; and National Park Service). This Agreement identifies agency commitments to implement specific actions to protect yellow-billed loons and their habitats from potential impacts of land uses and management activities, to inventory and monitor yellow-billed loon populations, to investigate and reduce the impact of subsistence activities (harvest and fisheries bycatch), and to conduct related biological research. We do not expect any concrete effects to the private sector from the conservation measures in the agreement. The term of the agreement is 10 years.

We will consider all information received during the public comment period on this conservation agreement. Substantive technical comments may result in changes to the conservation agreement. Substantive comments regarding conservation agreement implementation may not necessarily result in changes to the Agreement, but will be forwarded to the appropriate Federal agency or other entities so that they can take these comments into account during the course of implementing Agreement actions. Individual responses to comments will not be provided.

Public Comments Solicited

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address, which we will honor to the extent allowable by law. If you wish us to withhold your name or address, you must state this request prominently at the beginning of your comments. However, we will not consider anonymous comments. To the extent consistent with applicable law, 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.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: February 24, 2006.

Gary Edwards,

Acting Regional Director, Region 7, U.S. Fish and Wildlife Service.

[FR Doc. E6–3566 Filed 3–13–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–100–1310–DB]

Notice of Availability of the Record of Decision for the Final Environmental Impact Statement, Jonah Infill Drilling Project, Sublette County, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability (NOA) of the Record of Decision (ROD) for the Final Environmental Impact Statement (FEIS) for Jonah Infill Drilling Project, Sublette County, Wyoming.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, the Bureau of Land Management (BLM) announces the availability of the ROD for the Jonah Infill Drilling Project, Sublette County, Wyoming.

ADDRESSES: The ROD will be available electronically on the following Web site: *http://www.wy.blm.gov/nepa/nepadocs.htm*. Copies of the ROD are also available for public inspection at the following BLM office locations:

- Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming 82003.
- Bureau of Land Management, Pinedale Field Office, 432 East Mill Street, Pinedale, Wyoming 82941.

FOR FURTHER INFORMATION CONTACT: Mike Stiewig, Project Leader, Pinedale Field Office, P.O. Box 768, 432 East Mill Street, Pinedale, Wyoming 82941, telephone (307) 367–5300.

SUPPLEMENTARY INFORMATION: This ROD addresses approximately 30,500 acres of public lands administered by the BLM Pinedale Field Office, Sublette County, Wyoming. Copies of the ROD have been sent to affected Federal, State, and local government agencies and interested parties.

Dated: February 2, 2006.

Robert A. Bennett,

State Director.

[FR Doc. 06–2433 Filed 3–13–06; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–015–06–5870–EU: GP–6–0020]

Non-Competitive Sale of Public Lands, OR 62305

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: A 40.24 acre parcel in Lake County, Oregon is being considered for direct (non-competitive) sale to Mr. Alan Withers. Mr. Withers, the adjoining landowner, has used the subject parcel for hay storage and livestock feedlot purposes, authorized under a range improvement permit, since 1989. No significant resource values will be affected by this disposal. The parcel proposed for sale is identified as suitable for disposal in the Lakeview Resource Management Plan and Record of Decision, dated November 2003.

DATES: All comments must be received in writing by the BLM on or before April 28, 2006.

ADDRESSES: Address all written comments concerning this notice Thomas E. Rasmussen, BLM, Lakeview Resource Area Manager, 1301 South G Street, Lakeview, Oregon 97630. Electronic format submittals will not be accepted.

FOR FURTHER INFORMATION CONTACT: Dan Stewardson, Realty Specialist, at the above address or phone (541) 947–6115.

SUPPLEMENTARY INFORMATION: The following described public land is suitable for sale under section 203 of the Federal Land Policy and Management Act of 1976, (90 Stat. 2750, 43 U.S.C. 1713).

Willamette Meridian, Oregon

T. 33S., R. 18E., section 7, lot 1.

The area described contains 40.24 acres, more or less. This parcel will be sold at no less than the appraised market value, which has been determined to be $4,000.00.

In accordance with 43 CFR 2711.3–3(a)(3) & (4), direct sale procedures may be utilized when there is a need to recognize an authorized use such as an existing business which could suffer a substantial economic loss if the parcel were purchased by other than the authorized user. The offered public land is an integral part of Mr. Withers livestock operation and due to its location impractical for another party to own.

Mr. Withers will be allowed 30 days from receipt of a written offer to submit a deposit of at least 20 percent of the appraised value of the parcel, and within 180 days thereafter submit the balance. If the balance of the purchase price is not received within the 180 days, the deposit shall be forfeited to the United States and the parcel withdrawn from sale.

The following rights, reservations and conditions will be included in the conveyance document to the land:

(1) The sale involves the surface estate of the parcel only.

(2) A reservation to the United States for a right-of-way for ditches and canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

(3) The sale parcel will be subject to all valid existing rights of record at the time of conveyance.

(4) A notice and indemnification statement under the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9620) holding the United States harmless from any release of hazardous materials that may have occurred as a result of any authorized or unauthorized use of the property by other parties.

The lands described herein are hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action or 270 days from the date of publication of this notice, whichever occurs first.

Public Comments

Detailed information concerning the sale, including the reservations, sale procedures and conditions, appraisal, planning and environmental documentation, is available for review at the Lakeview Resource Area Office, 1301 South G Street, Lakeview, Oregon 97630.

In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Comments, including names, street addresses and other contact information of respondents, will be available for public review. Individual respondents may request confidentiality. If you wish to request that BLM consider withholding your name, street address and other contact information (such as: FAX or phone number) from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. BLM will honor requests for confidentiality on a case-by-case basis to the extent allowed by law. BLM will make available for public inspection in their entirety all submissions from organizations or businesses and from individuals

identifying themselves as representatives or officials of organizations or businesses.

Authority: 43 CFR 2711.1–2(a).

Thomas E. Rasmussen,

Manager, Lakeview Resource Area.

[FR Doc. E6–3582 Filed 3–13–06; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–060–06–1430; UTU–81536]

Notice of Realty Action; Noncompetitive Lease of Public Land; Grand County, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) has determined that 2,808.67 acres of isolated public lands in Grand County, Utah, are suitable for lease pursuant to section 302 of the Federal Land Policy and Management Act of 1976 (FLPMA) (90 Stat. 2762; 43 U.S.C. 1732) using noncompetitive (direct) lease procedures.

DATES: Interested parties may submit comments to the BLM Moab Field Manager, at the address below. Comments must be received by no later than April 28, 2006. Only written comments will be accepted.

ADDRESSES: Address all written comments concerning this notice to the BLM Moab Field Manager, 82 East Dogwood Avenue, Moab, Utah 84532.

FOR FURTHER INFORMATION CONTACT: Mary von Koch, Realty Specialist, at the above address or at (435) 259–2128.

SUPPLEMENTARY INFORMATION: Green River Farms, a domestic corporation, has proposed to file with BLM an application to lease the following described public lands, located near Green River, Utah, the lands to be used, occupied and developed as a commercial agricultural farm in conjunction with adjoining lands leased to Green River Farms by the State of Utah School and Institutional Trust Lands Administration:

Salt Lake Meridian

T. 20 S., R. 16 E.,
- sec. 25, S½;
- sec. 26, SW¼SW¼, E½SW¼, and SE¼;
- sec. 27, SE¼SE¼;
- sec. 28, E½SE¼;
- sec. 34, W½NW¼.

T. 21 S., R. 16 E.,
- sec. 1, lots 1, 4, 5, 8, 9, 11, 12, 13, and 16.

T. 21 S., R. 17 E.,
- sec. 4, lots 11, 12, 13, 14, N½SW¼, SW¼SW¼, and NW¼SE¼;
- sec. 5, E½SE¼;
- sec. 6, lots 2, 3, 4, 5, 7, and 10;
- sec. 7, lot 4, SE¼SW¼, and SE¼;
- sec. 8, NW¼SW¼, SE¼SW¼, and SE¼;
- sec. 9, N½N½, S½NE¼, SW¼NW¼, and S½

Containing 2,808.67 acres, more or less.

After review, the BLM has determined that the proposed use of the above described parcels is in conformance with the Grand Resource Area Resource Management Plan, and that the above described land is available for that use. Therefore, pursuant to section 302 (b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732 (b)) and the implementing regulations at 43 CFR part 2920, the BLM will accept for processing an application to be filed by Green River Farms, or its duly qualified designee, for a non-competitive lease of the above described lands, to be used, occupied, and developed as stated above.

A non-competitive lease may be employed in this case because all of the subject tracts of public land are adjacent to lands leased by Green River Farms from the State of Utah School and Institutional Trust Land Administration (SITLA) as part of the same proposed farming project. The subject lands are part of a BLM/SITLA legislative exchange package. It is therefore quite possible that these lands will be transferred to SITLA. SITLA has indicated in writing that it would have no objection to acquiring the lands if encumbered by the lease. As provided in 43 CFR 2920.5–4(b), land use authorizations may be offered on a negotiated, non-competitive basis, when, in the judgment of the authorized officer, equities, such as prior use of the lands, exist; if no competitive interest exists; or, where competitive bidding would represent unfair competitive and economic disadvantage to the originator of the unique land use concept that is compatible with the public interest. The non-competitive bid shall not be for less than fair market value. That is to say, rental value must be based on the fair market value of the land, acceptable to the BLM after taking into account a current, independent appraisal of, among other considerations, the highest and best use of the lands. The BLM will estimate the costs of processing the lease application. Before the BLM begins to process the application, the lease applicant must pay the full amount of the estimated costs to the United States. If a lease is not granted, the lease applicant must pay to the United States, in addition to the estimated costs, the reasonable costs incurred by the BLM in processing the lease in excess of the estimated costs. Rent, payable annually or otherwise in advance, will be determined by the BLM, if and when a lease application is granted and periodically thereafter. If a lease is granted, the lessee shall reimburse the United States for all reasonable administrative and other costs incurred by the United States in processing the lease application and for monitoring construction, operation, maintenance and rehabilitation of the land and facilities authorized. The reimbursement of costs shall be in accordance with the provisions of 43 CFR 2920.6.

The lease application must include a reference to this notice and comply in all respects with the regulations pertaining to land use authorization applications at 43 CFR 2920.5–2 and 2920.5–5(b).

If authorized, the lease would be subject to valid existing rights.

On or before April 28, 2006, interested parties may submit comments to the BLM at the address stated above with respect to:

(1) The decision of the BLM regarding the availability of the lands described herein and

(2) The decision of the BLM to accept for processing an application from Green River Farms for a non-competitive lease.

Adverse comments will be evaluated by the BLM Field Manager, Moab, Utah, who may sustain, vacate or modify this realty action. In the absence of adverse comment, this realty action will become a final determination of the BLM as to each of the two decisions stated above.

Authority: 43 CFR 2920.4.

A. Lynn Jackson,

Assistant Field Manager, Resources.

[FR Doc. E6–3583 Filed 3–13–06; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

National Park Service

Special Resource Study on the Preservation and Interpretation of Historic Sites Associated With the Manhattan Project, New Mexico, Ohio, Tennessee and Washington; Notice of Intent To Prepare an Environmental Impact Statement

SUMMARY: Notice is hereby given that in accord with the National Environmental Policy Act of 1969, and pursuant to the Council of Environmental Quality regulations (40 CFR parts 1500–08), the U.S. Department of the Interior, National Park Service, in consultation

with the Department of Energy, is initiating the conservation planning and environmental impact analysis process for a Special Resource Study concerning the preservation and interpretation of historic sites associated with the Manhattan Project. The scope of the study includes the Los Alamos National Laboratory and townsite, New Mexico; the Hanford Site in Washington; the Oak Ridge Reservation in Tennessee; and Dayton-area sites in Ohio. Following completion of the scoping phase an Environmental Impact Statement (EIS) is to be prepared. The authority for publishing this notice is contained in 40 CFR 1506.6.

The Special Resource Study will assess the national significance, suitability, and feasibility of designating one or more of these sites as a unit of the National Park System according to the standards and criteria for such determinations established in the National Park Service (NPS) Management Policies. In addition, management alternatives for the protection and interpretation for each of the sites will be evaluated according to NPS standards and criteria, and the potential environmental impacts (and appropriate mitigation strategies) of each alternative will be analyzed in the Draft EIS. Through the preliminary scoping process, the NPS welcomes suggestions from the public regarding preservation, interpretation, and management of the sites.

SUPPLEMENTARY INFORMATION: The Manhattan Project was a top-secret U.S. Government program implemented during World War II that was designed to beat Germany to the construction of the first nuclear bomb. The results of the Manhattan Project transformed the world of science and technology and ushered in the modern atomic and nuclear age.

Operating from December 1942 until September 1945, the Manhattan Project was a $2.2 billion effort that employed some 130,000 persons at its peak, but was kept largely out of public view. The Manhattan Project was conducted in four principal locations including Oak Ridge, Tennessee, where the first uranium enrichment facilities and pilot scale nuclear reactor were built; Hanford, Washington, the location of the first large-scale reactor for producing plutonium; Los Alamos, New Mexico, where the first atomic bombs were designed and assembled; and the Trinity Site, New Mexico, where the first nuclear device was detonated.

Three of these sites have been designated as National Historic Landmarks and all are listed in the National Register of Historic Places. A panel of experts convened by the Advisory Council on Historic Preservation reported in 2001 that the development and use of the atomic bomb during World War II has been called ''the single most significant event of the 20th century.'' The Advisory Council recommended that the sites of the Manhattan Project be formally established as a collective unit and be administered for preservation, commemoration, and public interpretation in cooperation with the NPS.

On October 18, 2004 President George W. Bush approved Public Law 108–340 ''The Manhattan Project National Historical Park Study Act''. This legislation directed the Secretary of the Interior, in consultation with the Department of Energy, to conduct a special resource study to assess the national significance, suitability, and feasibility of designating one or more of three sites named in the study as a unit of the National Park System. The three sites include the Los Alamos National Laboratory and townsite in New Mexico; the Hanford Site in Washington; and the Oak Ridge Reservation in Tennessee. The Secretary of the Interior, in conducing the study, was directed: to one or more of these sites as a unit of the National Park System with maintaining certain goals of the Department of Energy; and to consider previous research done by the Department of Energy on these sites. Consistent with Public Law 108–340, Eayton, Ohio, area sites where polonium-based triggers were designed and produced for the first atomic bombs will also be included in the study.

Public Scoping: Public scoping meetings will be an important foundation for this study. At this time its anticipated that during March-April 2006 a meeting will be held in each of the areas where sites are located. Representatives of the NPS will be available at each of the meetings to discuss issues, resource concerns, and the conservation planning and environmental impact analysis process. When confirmed, full details about the meetings will be widely announced via local and regional media and direct mailings. In addition, project newsletters will be peridocially prepared and distributed to all interested parties.

Responses to this Notice (and various media releases) will serve as the basis for developing a project mailing list. Persons who may be interested in or affected by any possible site designations are invited to participate in the scoping process by responding to this Notice with written comments. The scoping process for the EIS will help define issues or problems facing the Special Resource Study. All interested individuals and organizations are encouraged to provide any concerns, suggestions, or relevant information which should be considered in undertaking the Manhattan Project Sites Special Resource Study. Respondents may also address evaluation of significance, suitability, and feasibility, development of management alternatives, identification and analysis of environmental issues, and related matters.

All written comments should be directed to Carla McConnell, Project Manager and NPS Community Planner, Denver Service Center, PO Box 25287, 12795 West Alameda Parkway, Denver, Colorado 80225–0287, (303) 969–2287. All written comments must be postmarked not later than June 30, 2006. All respondents are advised that individual names and addresses may be included as part of the public record, and will be available for public review during regular business hours. There may be circumstances in which a person prefers to have his/her name and other information withheld from the public record. Any person wishing to do this must state this prominently at the beginning of any comment or correspondence, and the request will be honored to the extent allowable by law. As always, all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be included in the public record and are open to public inspection in their entirety; and, anonymous comments may not be considered.

Decision Process: The officials responsible for the preparation of the Draft and Final EIS and completion of the Special Resource Study process are as follows:

Patricia A. Hooks, Regional Director, Southeast Region, National Park Service, 1924 Building, 100 Alabama Street, SW, Atlanta, Georgia 30303–8701;

Ernest Quintana, Regional Director, Midwest Region, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102;

Michael D. Snyder, Regional Director, Intermountain Region, National Park Service, P.O. Box 25287, 12795 West Alameda Parkway, Denver, Colorado 80225–0287;

Jonathan B. Jarvis, Regional Director, Pacific West Region, National Park Service, 1111 Jackson Street, Suite 700, Oakland, California 94607.

Subsequently the Director, National Park Service will be responsible for amending or ratifying the recommendations and transmitting the completed Special Resource Study to the Secretary of the Interior. The Secretary determines the final recommended actions to be submitted for Congress' consideration.

Dated: January 13, 2006.

George J. Turnbull,

Acting Regional Director, Pacific West Region.

[FR Doc. 06–2407 Filed 3–13–06; 8:45 am]

BILLING CODE 4312–52–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of the Record of Decision for the Environmental Impact Statement on the Backcountry Management Plan and General Management Plan Amendment, Denali National Park and Preserve, AK

AGENCY: National Park Service, Interior.

ACTION: Notice of Availability of the Record of Decision for the Environmental Impact Statement on the Backcountry Management Plan and General Management Plan Amendment, Denali National Park and Preserve, Alaska.

SUMMARY: The National Park Service (NPS) announces the availability of the Record of Decision (ROD) for the Environmental Impact Statement on the Backcountry Management Plan and General Management Plan Amendment, Denali National Park and Preserve, Alaska.

This Record of Decision documents the decision by the NPS to adopt a Backcountry Management Plan for Denali National Park and Preserve and to amend the park's General Management Plan. The Backcountry Management Plan addresses management of all park and preserve lands, except the park road corridor and adjacent development zones and backcountry day use areas, which were addressed in the 1997 *Entrance Area and Road Corridor Development Concept Plan.* Winter management of the park road corridor west of park headquarters is also addressed. The plan includes management area zoning, access, wilderness management, commercial services, backcountry facilities, administrative and research uses, and boundary changes. The plan also serves as a *Soundscape Preservation and Noise Management Plan* as required by NPS Director's Order 47, a *Wilderness Management Plan* as required by NPS Director's Order 41, and a *Commercial Services Plan* for the backcountry.

The NPS selected the modified version of Alternative 4, as described in the Final Environmental Impact Statement (Final EIS). Of the four action alternatives, this alternative best meets the objectives of the plan for park resource protection and recreational use, and has a high degree of implementation feasibility.

The ROD briefly discusses the background for the planning effort, summarizes public involvement during the planning process, states the decision and discusses the basis for it, describes other alternatives considered, specifies the environmentally preferable alternative, identifies measures adopted to minimize potential environmental harm, and provides a non-impairment determination.

ADDRESSES: The ROD can be found online at the NPS Planning, Environment and Public Comment Web site at *http://parkplanning.nps.gov/index.cfm.* Copies of the ROD are available on request from: Adrienne Lindholm, National Park Service, Alaska Regional Office, 240 West 5th Avenue, Anchorage, Alaska 99501. Telephone: (907) 644–3613.

FOR FURTHER INFORMATION CONTACT: Mike Tranel, Chief of Planning, National Park Service, Denali National Park and Preserve, 240 West 5th Avenue, Anchorage, Alaska 99501. Telephone: (907) 644–3611.

SUPPLEMENTARY INFORMATION: The NPS prepared an EIS, as required, under the National Environmental Policy Act (NEPA) of 1969 and Council of Environmental Quality regulations (40 *Code of Federal regulations* [CFR] 1500).

A Notice of Intent to prepare an environmental impact statement, published in the **Federal Register** on August 31, 1999 (64 FR 49503), formally initiated the NPS planning and EIS effort. A Draft EIS was issued in February 2003 (68 FR 8782). Following a 90-day public comment period, a Revised Draft EIS was prepared and issued for a 75-day public comment period in April 2005 (70 FR 21440). A **Federal Register** (FR) notice announcing the availability of the Final EIS was published by the U.S. Environmental Protection Agency (EPA) on January 20, 2006, commencing the required 30-day no-action period (71 FR 3290). The Final EIS describes and analyzes the environmental impacts of four action alternatives and a no-action alternative.

The NPS selected the modified version of Alternative 4, as described in the Final EIS. The overview of the selected alternative is as follows:

This backcountry management plan will guide the NPS in providing opportunities for a variety of wilderness recreational activities and experiences while recognizing and protecting the premier wilderness resource values of the entire backcountry. Areas in the Dunkle Hills and around the Ruth and Tokositna Glaciers on the south side of the Alaska Range will be managed for those visitors who want to experience the wilderness resource values or other resource values of the Denali backcountry but require services or assistance, or who are unable to make a lengthy time commitment. Areas along the park road in the Old Park and the Kantishna Hills will provide accessible opportunities for short- or long-duration wilderness recreational activities with only limited options for guidance or assistance the farther one gets from the park road. The remainder of the backcountry will be managed for dispersed, self-reliant travel, and will include opportunities for extended expeditions in very remote locations.

Major actions of the selected alternative include:

- Subdivision of the ''Natural'' zone in the 1986 *General Management Plan* into a variety of management areas that are designed for different types of backcountry experiences: The management areas are defined by indicators and standards for resource and social conditions, which establish a carrying capacity for the area. These management areas include a few areas of relatively dense use and higher levels of impacts. These high use areas accommodate transportation into the backcountry and visitors who want to experience the wilderness resource values or other resource values of the Denali backcountry but require services or assistance, or who are unable to make a lengthy time commitment.
- Management of visitor access through adaptive management: Resource and social conditions will be monitored and access management tools will be used to achieve the standards for each management area. This approach is consistent with the Visitor Experience and Resource Protection framework used by the NPS to address carrying capacity.
- Establishment of wilderness management criteria, group size limits, restrictions on use of climbing tools, and a strategy for preventing social trail formation: The entire park and preserve backcountry will be managed to preserve wilderness resource values and provide wilderness recreational opportunities.

• Provision of commercial services in the backcountry associated with wilderness recreation and transportation to wilderness recreation, and scenic air tour landings.

• Limited development of visitor facilities in the backcountry, including a continuation of the ''no formal trails'' policy park wide (with minor, specific exceptions), no public use cabins or shelters in the backcountry, and up to five designated campsites in the southern Kantishna Hills.

• Application of the minimum requirement/minimum tool process throughout the park and preserve backcountry, research permit requirements for all NPS and external research, and development of a plan for NPS administrative and research use of aircraft.

• A land exchange with the State of Alaska to align the park boundary with the Ruth, Tokositna, Chulitna, and Coffee Rivers.

Dated: February 21, 2006.

Victor Knox,

Acting Regional Director, Alaska.

[FR Doc. E6–3558 Filed 3–13–06; 8:45 am]

BILLING CODE 4310–PF–P

DEPARTMENT OF THE INTERIOR

National Park Service

Final Environmental Impact Statement/ Fire Management Plan Santa Monica Mountains National Recreation Area Los Angeles and Ventura Counties, CA; Notice of Approval of Record of Decision

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91–190, as amended) and the implementing regulations promulgated by the Council on Environmental Quality (40 CFR 1505.2), the Department of the Interior, National Park Service has prepared, and the Regional Director, Pacific West Region has approved, the Record of Decision for the Fire Management Plan for Santa Monica Mountains National Recreation Area. The formal no-action period was officially initiated December 23, 2005, with the U.S. Environmental Protection Agency's **Federal Register** notification of the filing of the Final Environmental Impact Statement (EIS).

Decision: As soon as practicable the park will begin to implement as its updated Fire Management Plan the ''Mechanical Fuel Reduction/Ecological Prescribed Fire/Strategic Fuels Treatment'' alternative (also described and analyzed as the *Preferred Alternative* (*2*)) contained in the Draft and Final EIS. The selected plan provides the maximum potential environmental benefits and minimizes adverse effects of fire management activities. *Alternative 2* is the most flexible alternative, utilizing all available fire management strategies deemed to be appropriate for the mediterranean type conditions found in Santa Monica Mountains National Recreation Area. As documented in the EIS, this plan was also deemed to be the ''environmentally preferred'' alternative.

This course of action and three alternatives were identified and analyzed in the Final EIS, and previously in the Draft EIS (the latter was distributed in June 2004). The full spectrum of foreseeable environmental consequences was assessed, and appropriate mitigation measures identified, for each alternative. Beginning with early scoping, through the preparation of the Draft and Final EIS, numerous public meetings were conducted (in Thousand Oaks, Malibu, Los Angeles, Agoura Hills, Calabasas) and newsletter updates were regularly provided. Approximately 25 written comments responding to the Draft EIS were received and duly considered. Key consultations which aided in preparing the Draft and Final EIS involved (but were not limited to) the U.S. Fish and Wildlife Service, State Historic Preservation Office, native American Tribes, air quality management districts, adjoining land managing agencies, and U.S. Geological Survey. Local communities, county and city officials, and interested organizations were contacted extensively during initial scoping and throughout the fire planning process.

Copies: Interested parties desiring to review the Record of Decision may obtain a complete copy by contacting the Superintendent, Santa Monica Mountains National Recreation Area, and 401 West Hillcrest Dr., Thousand Oaks, CA 91360–4223 or via telephone request at (805) 370–2300.

Dated: February 16, 2006.

Jonathan B. Jarvis,

Regional Director, Pacific West Region.

[FR Doc. E6–3557 Filed 3–13–06; 8:45 am]

BILLING CODE 4312–FE–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: U.S. Department of Defense, Air Force, 15th Airlift Wing, Hickam Air Force Base, HI

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the U.S. Department of Defense, Air Force, 15th Airlift Wing, Hickam Air Force Base, HI. The human remains were removed from the Bellows Air Force Station, Island of O'ahu, HI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by the U.S. Army Corps of Engineers, the Bernice Pauahi Bishop Museum (Bishop Museum), Honolulu, HI, and the 15th Airlift Wing, Hickam Air Force Base professional staff in consultation with representatives from Aloha First, Hui Malama I Na Kupuna 'O Hawai'i Nei, Kaiwi Olelo 'O Hawai'i Nei, Nation of Hawai'i, Office of Hawaiian Affairs, Puuhonua 'o Waimanalo, and State of Hawai'i Burial Sites Program.

At an unknown date, between 1955 and November 16, 1990, human remains representing a minimum of 15 individuals were removed from along Bellows Beach on Bellows Air Force Station, Waimanalo ahupua'a, District of Ko'olaupoko, Island of O'ahu, HI, during excavations and as a result of inadvertent finds. No known individuals were identified. The 28 associated funerary objects are 1 gastropod exoskeleton, bone fragments from 6 fish, 1 pig, 1 medium mammal (pig or dog), 1 shark, and 1 bird; 1 kukui nut shell, 2 pieces of waterworn coral, 1 unmodified wood fragment, 4 pieces of basalt lithic debitage, 1 basalt hammerstone, 1 basalt adze, 1 sample of red ochre-colored sand, and 6 samples of unmodified sand.

The human remains and associated funerary objects were placed in the collections Bishop Museum between 1955 and 1990. Prior to November 16, 1990, the Bishop Museum repatriated most of the human remains and associated funerary objects from the Bellows Air Force Station. Between 2001 and 2002, the Bishop Museum reviewed its collections and found additional human remains and

associated funerary objects from the Bellows Air Force Station. In 2003, the Bishop Museum transferred the human remains and associated funerary objects, and all other archeological material associated with the 15th Air Wing to the Environmental Planning office at Hickam Air Force Base. Between 2003 and 2005, the U.S. Air Force conducted a second review of the materials returned by the Bishop Museum to search for NAGPRA related materials. This notice describes the human remains and associated funerary objects that were identified from both inventory surveys.

These burials for which a position can be determined were flexed. The burial position is consistent with traditional Hawaiian burial practices. The associated funerary objects, which include shell midden, sediment samples, non-human animal bones, and basalt artifacts are consistent with traditional Hawaiian lithic materials and subsistence practices. Based on the manner of the interments, types of associated funerary objects, recovery location, Land Commission Award records, historic maps and documents, oral history, and archeological investigations, the human remains are likely of Native Hawaiian ancestry.

Officials of the 15th Airlift Wing, Hickam Air Force Base have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of 15 individuals of Native Hawaiian ancestry. Officials of the 15th Airlift Wing, Hickam Air Force Base also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 28 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the 15th Airlift Wing, Hickam Air Force Base have determined that, pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native Hawaiian human remains and associated funerary objects and Aloha First, Hui Malama I Na Kupuna 'O Hawai'i Nei, Kaiwi Olelo 'O Hawai'i Nei, Nation of Hawai'i, Office of Hawaiian Affairs, and Puuhonua 'o Waimanalo.

Representatives of any other Native Hawaiian organization that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Valerie Curtis, Department of the Air Force, 15 CES/CEVP, 75 H Street, Hickam AFB, HI 96853–5233, before April 13, 2006. Repatriation of the human remains and associated funerary objects to Aloha First, Hui Malama I Na Kupuna 'O Hawai'i Nei, Kaiwi Olelo 'O Hawai'i Nei, Nation of Hawai'i, Office of Hawaiian Affairs, and Puuhonua 'o Waimanalo may proceed after that date if no additional claimants come forward.

The 15th Airlift Wing, Hickam Air Force Base is responsible for notifying Aloha First, Hui Malama I Na Kupuna 'O Hawai'i Nei, Kaiwi Olelo 'O Hawai'i Nei, Nation of Hawai'i, Office of Hawaiian Affairs, Puuhonua 'o Waimanalo, and State of Hawai'i Burial Sites Program that this notice has been published.

Dated: February 15, 2006.

C. Timothy McKeown,

Acting Manager, National NAGPRA Program.

[FR Doc. E6–3554 Filed 3–13–06; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Gilcrease Museum, Tulsa, OK

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession of the Gilcrease Museum, Tulsa, OK. The human remains and associated funerary objects were removed from Craighead County, AR.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by Gilcrease Museum professional staff in consultation with representatives of the Quapaw Tribe of Indians, Oklahoma.

Between 1964 and 1968, human remains representing a minimum of 161 individuals were removed from the Charlie MacDuffie farm in Craighead County, AR, by avocational archeologist Frank Soday. The human remains and associated funerary objects were deeded by gift to the Gilcrease Museum in 1982 by the Soday Research Foundation. No known individuals were identified. The 16,783 associated funerary objects are 77 whole and restored ceramic vessels; 8,093 spindle whorls, clay beads, and pot sherds; 938 lithic flakes and tools, including projectile points, scrapers, drills, and burins; 327 fire-cracked rocks, hammerstones, celts, cores, and cobbles; 4,415 faunal bones and bone and antler tools; 2,407 mussel shells, shell fragments, and shell beads; 206 turtle shells and shell fragments; 249 daub samples; 52 charcoal pieces; 7 wood and floral samples; and 12 mineral specimens. The 9,097 unassociated funerary objects removed from the MacDuffie farm are described in an accompanying Notice of Intent to Repatriate Cultural Items.

The Charlie MacDuffie site (3CG21) is located near the town of Lunsford in Craighead County, northeastern Arkansas. Excavation records indicate that the site consisted of a ''large village with two mounds.'' Non-destructive analysis indicates that the human remains are Native American. Cultural items associated with the human remains have been determined to date to the Middle Mississippian period (A.D. 1170–1300). Oral history evidence presented by representatives of the Quapaw Tribe of Indians, Oklahoma indicates that the region has long been included in the traditional and hunting territory of the Quapaw. French colonial records from 1700 also indicate that the Quapaw were known then to be the only Native American group present in the St. Francis River valley region where the MacDuffie site is located. Based on the geographical location and the date of interment, the human remains are most likely to be culturally affiliated with the Quapaw Tribe of Indians, Oklahoma.

Officials of the Gilcrease Museum have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of 161 individuals of Native American ancestry. Officials of the Gilcrease Museum have also determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 16,783 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Gilcrease Museum have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Quapaw Tribe of Indians, Oklahoma.

Representatives of any other Indian tribe that believes itself to be culturally

affiliated with the human remains and associated funerary objects should contact Randy Ramer, Curator of Anthropology, Gilcrease Museum, 1400 Gilcrease Museum Road, Tulsa, OK 74127–2100, telephone (918) 596–2743, before April 13, 2006. Repatriation of the human remains and associated funerary objects to the Quapaw Tribe of Indians, Oklahoma may proceed after that date if no additional claimants come forward.

The Gilcrease Museum is responsible for notifying the Quapaw Tribe of Indians, Oklahoma that this notice has been published.

Dated: February 10, 2006.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E6–3552 Filed 3–13–06; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: U.S. Department of the Interior, Bureau of Indian Affairs, Washington, DC, and Arizona State Museum, University of Arizona, Tucson, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the control of the U.S. Department of the Interior, Bureau of Indian Affairs, Washington, DC, and in the physical custody of the Arizona State Museum, University of Arizona, Tucson, AZ. The human remains and associated funerary object were removed from a site within the boundaries of the Gila River Indian Reservation, Pinal County, AZ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary object. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by Bureau of Indian Affairs and Arizona State Museum professional staff in consultation with representatives of the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico. The Zuni Tribe of the Zuni Reservation, New Mexico has withdrawn from this consultation. The Gila River Indian Community of the Gila River Indian Reservation, Arizona is acting on behalf of the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and Tohono O'odham Nation of Arizona; and themselves.

At an unknown date between 1931 and 1934, human remains representing one individual were removed from a cremation feature at an unknown site in the vicinity of Sacaton (AZ U:14:--), Gila River Indian Reservation, Pinal County, AZ, by Carl A. Moosberg. No known individual was identified. The one associated funerary object is a Sacaton Red-on-buff jar in which the human remains had been placed subsequent to cremation.

The vessel and the human remains were donated to the Arizona State Museum by Carl A. Moosberg in 1935. In 1953, the vessel and the remains were sent to the Chicago Natural History Museum (now the Field Museum of Natural History) as part of an exchange. In December 2005, the Field Museum returned the vessel and the remains to the Arizona State Museum. Additional human remains from the same site, representing a minimum of one individual, were reported in a Notice of Inventory Completion published in the **Federal Register** on December 22, 2004 (FR Doc. 04–28000, page 76781).

Based on characteristics of the mortuary pattern and the attributes of the ceramic style, this burial has been identified as being associated with the Sedentary phase of the Hohokam archeological tradition, which spanned the years circa A.D. 950–1150.

Continuities of mortuary practices, ethnographic materials, and technology indicate affiliation of Hohokam settlements with present-day O'odham (Piman), Pee Posh (Maricopa), and Puebloan cultures. Oral traditions documented for the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico support affiliation with Hohokam sites in central Arizona.

Officials of the Bureau of Indian Affairs and Arizona State Museum have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of one individual of Native American ancestry. Officials of the Bureau of Indian Affairs and Arizona State Museum also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the one object described above is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Bureau of Indian Affairs and Arizona State Museum have also determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary object and the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary object should contact John Madsen, Repatriation Coordinator, Arizona State Museum, University of Arizona, Tucson, AZ 85721, telephone (520) 621–4795, before April 13, 2006. Repatriation of the human remains and associated funerary object to the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico may proceed after that date if no additional claimants come forward.

The Arizona State Museum is responsible for notifying the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New

Mexico that this notice has been published.

Dated: February 10, 2006.

Sherry Hutt,

National NAGPRA Program.

[FR Doc. E6–3555 Filed 3–13–06; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items: U.S. Department of the Interior, Bureau of Indian Affairs, Washington, DC, and Arizona State Museum, University of Arizona, Tucson, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items in the control of the U.S. Department of the Interior, Bureau of Indian Affairs, Washington, DC, and in the physical custody of the Arizona State Museum, University of Arizona, Tucson, AZ, that meet the definition of ''unassociated funerary objects'' under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural items. The National Park Service is not responsible for the determinations in this notice.

The 113 cultural items are 38 ceramic bowl fragments, 7 ceramic bowls, 3 ceramic jars, 1 ceramic plate, 11 ceramic vessels, 1 stone ring, 9 projectile points, 41 shell and stone beads, 1 stone palette fragment, and 1 stone pendant.

A detailed assessment of the cultural items was made by Bureau of Indian Affairs and Arizona State Museum professional staff in consultation with representatives of the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico. The Zuni Tribe of the Zuni Reservation, New Mexico has withdrawn from this consultation. The Gila River Indian Community of the Gila River Indian Reservation, Arizona is acting on behalf of the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and Tohono O'odham Nation of Arizona; and themselves.

On unknown dates between 1931 and 1934, 43 cultural items were removed from cremation features at an unknown site in the vicinity of Sacaton (AZ U:14:--), Gila River Indian Reservation, Pinal County, AZ, by Carl A. Moosberg. The cultural items are 1 stone pendant, 1 ceramic bowl, and 41 shell and stone beads. In 1935, the 43 cultural items were donated to the Arizona State Museum by Mr. Moosberg. In 1953, the 43 cultural items were sent to the Chicago Natural History Museum (now the Field Museum of Natural History) as part of an exchange. In 2005, the Field Museum returned the cultural items to the Arizona State Museum.

Based on characteristics of the mortuary pattern and the attributes of the ceramic style, the cultural items from AZ U:14:-- have been identified as being associated with the Hohokam archeological tradition, which spanned the years circa A.D. 500–1350/1400.

In 1934 to 1935, 70 cultural items were removed during legally authorized archeological excavations conducted by the Gila Pueblo Foundation of Arizona, at the Snaketown site (AZ U:13:1 ASM), on the Gila River Indian Reservation, Pinal County, AZ. The cultural items are 1 ceramic plate, 6 ceramic bowls, 3 ceramic jars, 11 ceramic vessels, 38 ceramic bowl fragments, 1 stone ring, 1 stone palette fragment, and 9 projectile points. At an unknown date prior to 1950, the Gila Pueblo Foundation sent the stone ring and the 9 projectile points to the Field Museum of Natural History as part of an exchange. In 1950, the Arizona State Museum assumed repository responsibilities for the earlier Gila Pueblo Foundation collections. In 1953, the Arizona State Museum sent the ceramic plate, 6 ceramic bowls, 3 ceramic jars, 11 ceramic vessels, and 38 ceramic bowl fragments to the Chicago Natural History Museum as part of an exchange. In 2005, the Field Museum of Natural History returned the 69 cultural items to the Arizona State Museum. In 2005, the stone palette fragment was found in the museum collections of the Arizona State Museum. Other unassociated funerary objects from this site were published in two Notices of Intent to Repatriate in the **Federal Register** on March 20, 2001 (FR Doc. 01–6897, pages 15741–42), and December 22, 2004 (FR Doc. 04–27999, pages 76779–80).

The archeological evidence, including characteristics of portable material culture, attributes of ceramic styles, domestic and ritual architecture, site organization, and canal-based agriculture of the settlement places the Snaketown site within the archeologically-defined Hohokam tradition, and within the Phoenix Basin local variant of that tradition. The occupation of the Snaketown site spans the years circa A.D. 500/700–1100/1150.

Continuities of mortuary practices, ethnographic materials, and technology indicate affiliation of Hohokam settlements with present-day O'odham (Piman), Pee Posh (Maricopa), and Puebloan cultures. Oral traditions documented for the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico support affiliation with Hohokam sites in central Arizona.

Officials of the Bureau of Indian Affairs and Arizona State Museum have determined that, pursuant to 25 U.S.C. 3001 (3)(B), the 113 cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual. Officials of the Bureau of Indian Affairs and Arizona State Museum also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the unassociated funerary objects should contact John Madsen, Repatriation Coordinator, Arizona State Museum, University of Arizona, Tucson, AZ 85721, telephone (520) 621-4795, before April 13, 2006. Repatriation of the unassociated

funerary objects to the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico may proceed after that date if no additional claimants come forward.

The Arizona State Museum is responsible for notifying the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico that this notice has been published.

Dated: February 10, 2006

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E6–3556 Filed 3–13–06; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate a Cultural Item: Minnesota Museum of American Art, St. Paul, MN

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate a cultural item in the possession of the Minnesota Museum of American Art, St. Paul, MN, that meets the definition of ''object of cultural patrimony'' under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural item. The National Park Service is not responsible for the determinations in this notice.

The one cultural item is a clan hat, Xixch'i S'aaxw (Frog Hat), of the Kiks.ádi people of the Sheet'iká. The clan hat (#57.14.08), is estimated to have been made in the 19th century and is composed of polychrome alder wood, sea lion whiskers, beads, and yarn; it is 4⅝ inches high x 14⅛ inches long x 7⅝ inches wide. The clan hat is carved in a ''jockey cap'' form; the frog on the skull of the hat is in low raised relief, painted blue, red, and black; and originally had inlaid abalone shells to represent the eyes. The bill of the hat is ochre, decorated with sea lion whiskers and bead and yarn pendants. This clan hat depicts the time of Russian contact.

The hat was purchased by the Minnesota Museum of American Art in 1957 from the Portland Art Museum, Portland, OR, and listed as #48.3.724,2678 of the Portland Art Museum's Rasmussen collection. The Portland Museum lists the work as being purchased from Mrs. Billy Williams, but the Rasmussen collection was developed by Mr. Axel Rasmussen who was superintendent of schools in Skagway, AK. It is unclear if there is an association between Mrs. Williams and Mr. Rasmussen.

Representatives of the Central Council of the Tlinglit & Haida Indian Tribes, specifically of the Kiks.ádi Clan, have identified this hat as an object of cultural patrimony that is a vital part of their ongoing ceremonial rites and central to their scared beliefs, and no single individual could sell or alienate the clan hat. The clan hat is one of the most significant objects a clan can have and usually depicts the main crest of the clan, or one of their crests they are entitled to use, which has both social and religious significance. Clan hats serve to unify clan members, tie present-day clan members to their shuká, ancestral clan members, and link the clan member to the animal crest depicted thereon or the story connected with the hat.

Officials of the Minnesota Museum of American Art have determined that, pursuant to 25 U.S.C. 3001 (3)(D), the cultural item described above has ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual. Officials of the Minnesota Museum of American Art also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the object of cultural patrimony and the Central Council of the Tlinglit & Haida Indian Tribes.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with this object of cultural patrimony should contact Eunice Haugen, Registrar and Exhibits Coordinator, Minnesota Museum of American Art, 50 West Kellogg Boulevard, Suite 341, St. Paul, Minnesota 55102, telephone 651–266–1033, before April 13, 2006. Repatriation of the object of cultural patrimony to the Central Council of the Tlinglit & Haida Indian Tribes may proceed after that date if no additional claimants come forward.

The Minnesota Museum of American Art is responsible for notifying Central Council of the Tlinglit & Haida Indian Tribes that this notice has been published.

Dated: February 15, 2006.

C. Timothy McKeown,

Acting Manager, National NAGPRA Program.

[FR Doc. E6–3551 Filed 3–13–06; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items: Gilcrease Museum, Tulsa, OK

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items in the possession of the Gilcrease Museum, Tulsa, OK, that meet the definition of ''unassociated funerary objects'' under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural items. The National Park Service is not responsible for the determinations in this notice.

The 9,097 unassociated funerary objects are 45 whole and restored ceramic vessels; 2,784 spindle whorls, clay beads, and pot sherds; 1,403 daub samples; 401 fire-cracked rocks, hammerstones, celts, cores, and cobbles; 1,594 lithic flakes and tools, including projectile points, scrapers, drills, and burins; 2,558 faunal bones and bone and antler tools; 13 mussel shells, shell fragments, and shell beads; 238 turtle shells and shell fragments; 13 pieces of charcoal; 3 metal objects; 38 non-charred wood and floral samples; and 7 mineral specimens.

Between 1964 and 1968, human remains and funerary objects were removed from the Charlie MacDuffie farm in Craighead County, AR, by avocational archeologist Frank Soday. The cultural items were deeded by gift

to Gilcrease Museum in 1982 by the Soday Research Foundation. The human remains and associated funerary objects are described in an accompanying Notice of Inventory Completion.

The Charlie MacDuffie site (3CG21) is located near the town of Lunsford in Craighead County, northeastern Arkansas. Excavation records indicate that the site consisted of a ''large village with two mounds.'' Cultural items associated with the human remains removed from the site have been determined to date to the Middle Mississippian period (A.D. 1170–1300). Oral history evidence presented by representatives of the Quapaw Tribe of Indians, Oklahoma indicates that the region has long been included in the traditional and hunting territory of the Quapaw. French colonial records from 1700 also indicate that the Quapaw were known then to be the only Native American group present in the St. Francis River valley region where the MacDuffie site is located.

Officials of the Gilcrease Museum have determined that, pursuant to 25 U.S.C. 3001 (3)(B), the cultural items are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from specific burial sites of Native American individuals. Officials of the Gilcrease Museum also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and the Quapaw Tribe of Indians, Oklahoma.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the unassociated funerary objects should contact Randy Ramer, Curator of Anthropology, Gilcrease Museum, 1400 Gilcrease Museum Road, Tulsa, OK 74127–2100, telephone (918) 596–2743, before April 13, 2006. Repatriation of the unassociated funerary objects to the Quapaw Tribe of Indians, Oklahoma may proceed after that date if no additional claimants come forward.

The Gilcrease Museum is responsible for notifying the Quapaw Tribe of Indians, Oklahoma that this notice has been published.

Dated: February 10, 2006.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E6–3553 Filed 3–13–06; 8:45 am]

BILLING CODE 4312–50–S

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–563]

In the Matter of Certain Portable Power Stations and Packaging Therefor; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on February 8, 2006, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Roadmaster (USA) Corp. A supplemental letter was filed on February 27, 2006. The complaint, as supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain portable power stations and packaging therefor by reason of infringement of U.S. Design Patent No. D469,739; U.S. Trademark Registration No. 2,594,538; and U.S. Copyright Registration No. VA–1–261–495. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a permanent general exclusion order and cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: David O. Lloyd, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2576.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2005).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on March 7, 2006, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine:

(a) Whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain portable power stations and packaging therefor by reason of infringement of U.S. Design Patent No. D469,739, and whether an industry in the United States exists as required by subsection (a)(2) of Section 337; or

(b) whether there is a violation of subsection (a)(1)(C) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain portable power stations and packaging therefor by reason of infringement of U.S. Trademark Registration No. 2,594,538, and whether an industry in the United States exists as required by subsection (a)(2) of Section 337; or

(c) whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain portable power stations and packaging therefor by reason of infringement of U.S. Copyright Registration No. VA–1–261–495, and whether an industry in the United States exists as required by subsection (a)(2) of Section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

Roadmaster (USA) Corp., 41 James Way, Eatontown, New Jersey 07724.

(b) The respondent is the following entity alleged to be in violation of section 337, and is the party upon which the complaint is to be served:

Sinochem Ningbo, Ltd., 21 JiangXia Street, Ningbo 315000 China.

(c) David O. Lloyd, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E

Street, SW., Suite 401, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Charles E. Bullock is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondent in accordance with § 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter a final determination containing such findings, and may result in the issuance of a limited exclusion order or cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: March 9, 2006.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E6–3614 Filed 3–13–06; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Mine Operator Dust Cards

ACTION: Notice.

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

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the extension of the information collection related to the 30 CFR Sections 70.209, 71.209, and 90.209—Mine Operator Dust Data Card; 70.201(c), 71.201(c), 90.201(c)—Reporting Operator Sampling Dates; 70.202(b), 71.202(b), and 90.202(b)—Dust Sampling Certification; 70.220(a), 71.220(a), and 90.220(a)—Reporting Status Changes; and 71.300, 71.301(d),90.300, and 90.301(d)—Respirable Dust Control Plan.

DATES: Submit comments on or before May 15, 2006.

ADDRESSES: Send comments to U.S. Department of Labor, Mine Safety and Health Administration, John Rowlett, Director, Management Services Division, 1100 Wilson Boulevard, Room 2134, Arlington, VA 22209–3939. Commenters are encouraged to send their comments on a computer disk, or via e-mail to *Rowlett.John@dol.gov*, along with an original printed copy. Mr. Rowlett can be reached at (202) 693–9827 (voice), or (202) 693–9801 (facsimile).

FOR FURTHER INFORMATION: Contact the employee listed in the **ADDRESSES** section of this notice.

SUPPLEMENTARY INFORMATION:

I. Background

30 CFR 70.201(c), 71.201(c), and 90.201(c), authorizes the District Manager to require the mine operator to submit the dates(s) when sampling will begin. Only a certified person is allowed to conduct the respirable dust sampling required by these parts.

Sections 70.202(b), 71.202(b), and 90.202(b), requires that the person must pass the MSHA examination on sampling of respirable coal mine dust.

Sections 70.220(a), 71.220(a), and 90.220(a), requires the operator to report status changes to MSHA in writing within 3 working days after the status change has occurred.

Sections 70.209, 71.209, and 90.209, requires persons who are certified by MSHA to take respirable dust samples to complete the dust data card that accompanies each sample being submitted for analysis.

Sections 71.300 and 90.300 require a coal mine operator to submit to MSHA for approval a written respirable dust control plan within 15 calendar days after the termination date of a citation for violation of the applicable dust standard.

Section 71.301(d) requires the respirable dust control plan to be posted on the mine bulletin board however, 90.301(d) prohibits posting of the dust control plan for P–90 miners and, instead, requires a copy be provided to the affected P–90 miner.

II. Desired Focus of Comments

MSHA is particularly interested in comments that:

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

A copy of the proposed information collection request can be obtained by contacting the employee listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice, or viewed on the Internet by accessing the MSHA Home page (*http://www.msha.gov*) and then choosing ''Statutory and Regulatory Information'' and ''**Federal Register** Documents.''

III. Current Actions

The information provided by the mine operator on the dust data card that accompanies each dust sample, the reporting of when such samples will be collected to allow MSHA to observe the actual collection, and the reporting of any changes in operation status affecting sampling, is vital to effectively administer the operator sampling program. This allows MSHA to determine not only whether mine operators have complied with the sampling requirements stipulated in the regulations but also which operators were in noncompliance with the applicable dust standard. After

processing, results are reported back to mine operators for posting on the mine bulletin board and viewing by miners. MSHA also uses this information to plan enforcement activities and evaluate programs.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Mine Operator Dust Cards.

OMB Number: 1219–0011.

Frequency: On Occasion.

Affected Public: Business or other for-profit.

Respondents: 950.

Responses: 41,000.

Burden Hours: 32,875.

Total Burden Cost: $2,989,172.

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

Dated at Arlington, Virginia, this 7th day of March, 2006.

David L. Meyer,

Director, Office of Administration and Management.

[FR Doc. E6–3580 Filed 3–13–06; 8:45 am]

BILLING CODE 4510–43–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (06–017)]

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

DATES: All comments should be submitted within 30 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to the Desk Officer for NASA, Office of Information and Regulatory Affairs, Room 10236, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Mr. Walter Kit, Reports Officer, Office of the Chief Information Officer, NASA Headquarters, 300 E Street SW., Mail Suite JA000, Washington, DC 20546, 202–358–1350, *walter.kit-1@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

NASA's Destination Tomorrow is an adult science literacy program. The Destination Tomorrow Survey is required to continually modify and improve NASA's Destination Tomorrow ™ program. NASA's Destination Tomorrow ™ program is an educational resource for elementary teachers. Feedback from educators will help to modify and adjust this resource to meet the needs of educators.

The information is used by NASA Center for Distance Learning to effectively maintain and improve NASA's Destination Tomorrow ™ program.

II. Method of Collection

NASA collects this information by means of a telephone survey that will be taken of registered station managers that air the show. Completion of this survey will be entirely voluntary.

III. Data

Title: NASA's Destination Tomorrow Survey.

OMB Number: 2700–.

Type of Review: New Collection.

Affected Public: State, Local, or Tribal Government, or Not-for-profit institutions.

Estimated Number of Respondents: 946.

Total Annual Responses: 300.

Estimated Time Per Response: 15 minutes.

Estimated Total Annual Burden Hours: 75.

Estimated Total Annual Cost: $0.

IV. Requests for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Dated: March 8, 2006.

Patricia L. Dunnington,

Chief Information Officer.

[FR Doc. E6–3593 Filed 3–13–06; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Advisory Committee on the Electronic Records Archives

AGENCY: National Archives and Records Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), the National Archives and Records Administration (NARA) announces a meeting of the Advisory Committee on the Electronic Records Archives (ACERA). The committee serves as a deliberative body to advise the Archivist of the United States, on technical, mission, and service issues related to the Electronic Records Archives (ERA). This includes, but is not limited to, advising and making recommendations to the Archivist on issues related to the development, implementation and use of the ERA system.

Date of Meeting: April 5–6, 2006.

Time of Meeting: 9 a.m.–4 p.m.

Place of Meeting: 700 Pennsylvania Avenue, NW., Washington, DC 20408–0001.

This meeting will be open to the public. However, due to space limitations and access procedures, the name and telephone number of individuals planning to attend must be submitted to the Electronic Records Archives Program at *era.program@nara.gov.*

SUPPLEMENTARY INFORMATION:

Agenda

- Opening Remarks.
- Approval of Minutes.
- Committee Updates.
- Activities Reports.
- Adjournment.

FOR FURTHER INFORMATION CONTACT: Lewis Bellardo, Deputy Archivist/Chief of Staff; (301) 837–1600.

Dated: March 8, 2006.

Mary Ann Hadyka,

Committee Management Officer.

[FR Doc. E6–3568 Filed 3–13–06; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Proposed Collection; Comments Request

SUMMARY: The National Endowment for the Arts (NEA), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the NEA is soliciting comments concerning the proposed information collection of: National Endowment for the Arts Panelist Profile Form. A copy of the current information collection request can be obtained by contacting the office listed below in the address section of this notice.

DATES: Written comments must be submitted to the office listed in the address section below on or before May 10, 2006. The NEA 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.

ADDRESSES: Kathy Plowitz-Worden, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Room 710, Washington, DC 20506–0001, telephone (202) 682–5421 (this is not a toll-free number), fax (202) 682–5049.

Dated: March 8, 2006.

Murray Welsh,

Director Administrative Services, National Endowment for the Arts.

[FR Doc. E6–3541 Filed 3–13–06; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act; Meeting

TIME AND PLACE: 9:30 a.m., Thursday, March 23, 2006.

PLACE: NTSB Conference Center, 429 L'Enfant Plaza SW., Washington, DC 20594.

STATUS: The one item is open to the public.

MATTER TO BE CONSIDERED: 7680B, *Railroad Accident Report*—Collision Between Two Washington Metropolitan Area Transit Authority Trains at the Woodley Park-Zoo/Adams Morgan Station in Washington, DC, November 3, 2004.

News Media Contact: Telephone: (202) 314–6100.

Individuals requesting specific accommodations should contact Chris Bisett at (202) 314–6305 by Friday, March 17, 2006.

The public may view the meeting via a live or archived Webcast by accessing a link under ''News & Events'' on the NTSB home page at *http://www.ntsb.gov.*

FOR MORE INFORMATION CONTACT: Vicky D'Onofrio, (202) 314–6410.

Dated: March 9, 2006.

Vicky D'Onofrio,

Federal Register Liaison Officer.

[FR Doc. 06–2514 Filed 3–10–06; 2:05 pm]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

Background

Pursuant to section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. The Act requires the Commission publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from February 16, 2006 to March 2, 2006. The last biweekly notice was published on February 28, 2006 (71 FR 10071).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination,

any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner/requestor intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner/requestor intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff; (3) E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, *HearingDocket@nrc.gov;* or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at (301) 415–1101, verification number is (301) 415–1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and it is requested that copies be transmitted either by means of facsimile transmission to (301) 415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to the attorney for the licensee.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(i)–(viii).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact

the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov.*

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Units 1, 2, and 3, Maricopa County, Arizona

Date of amendments request: February 14, 2006.

Description of amendments request: The amendments would revise Technical Specifications (TS) 3.6.3 to allow a blind flange to be used for containment isolation in each of the two flow paths of the 42 inch refueling purge valves in Modes 1 through 4 without remaining in TS 3.6.3 Condition D.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The probability of an accident previously evaluated would not be affected by the proposed changes to allow the use of blind flanges for containment isolation in each of the two 42 inch refueling purge valve flow paths. The blind flanges are passive components that could not initiate an accident.

The consequences of an accident previously evaluated would not be increased because the blind flanges would provide containment isolation assumed in the accident analyses instead of the 42 inch refueling purge valves. The blind flanges are passive devices not susceptible to an active failure or malfunction that could result in a loss of isolation or leakage that exceeds limits assumed in the safety analysis. The blind flanges are leak rate tested in accordance with the containment leakage rate testing program that is required by TS surveillance requirement (SR) 3.6.1.1 and TS 5.5.16. The blind flanges are sealed using two separate concentric O-rings and are leak rate tested after installation by pressurizing the space between the O-rings through a test connection and measuring the leakage. In addition, the outboard 42 inch refueling purge valve packing leakage is measured by pressurizing the stuffing box through the leak off line after flange installation and after any maintenance on the packing. The sum of the individual leakage rates is compared to the acceptance criteria. The blind flanges are verified to be in position at a frequency of 31 days in accordance with TS SR 3.6.3.3.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different accident from any accident previously evaluated?

Response: No.

A new or different kind of accident from any accident previously evaluated would not be created by the proposed changes to allow the use of blind flanges for containment isolation in each of the two 42 inch refueling purge valve flow paths. The blind flanges are passive components that could not create an accident.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

No margin of safety is affected by the proposed changes to allow the use of blind flanges for containment isolation in each of the two 42 inch refueling purge valve flow paths. The blind flanges would provide containment isolation assumed in the accident analyses instead of the 42 inch refueling purge valves. The blind flanges are passive devices not susceptible to an active failure or malfunction that could result in a loss of isolation or leakage that exceeds limits assumed in the safety analysis. The blind flanges are leak rate tested in accordance with the containment leakage rate testing program that is required by TS SR 3.6.1.1 and TS 5.5.16. The blind flanges are leak rate tested after installation by pressurizing the space between the O-rings through a test connection and measuring the leakage. In addition, the outboard 42 inch refueling purge valve packing leakage is measured by pressurizing the stuffing box through the leak off line after flange installation and after any maintenance on the packing. The sum of the individual leakage rates is compared to the acceptance criteria. The blind flanges are verified to be in position at a frequency of 31 days in accordance with SR 3.6.3.3.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on that review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Attorney for licensee: Kenneth C. Manne, Senior Attorney, Arizona Public Service Company, P.O. Box 52034, Mail Station 7636, Phoenix, Arizona 85072–2034.

NRC Branch Chief: David Terao.

Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of amendment request: January 31, 2006.

Description of amendment request: The proposed amendment would address an inconsistency that was inadvertently introduced during conversion to improved technical specifications (TSs) when ''1 per room'' replaced ''2'' as the required channels per trip system for the reactor water cleanup (RWCU) area ventilation differential temperature—high isolation function.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change clarifies the requirement to maintain isolation capability for the RWCU Area Ventilation Differential Temperature—High isolation instrumentation by addition of a note to TS 3.3.6.1 Condition B, modification of TS 3.3.6.1 Surveillance Requirements Notes, and by clarifying the number of instruments required to be available in TS Table 3.3.6.1–1, ''Primary Containment Isolation Instrumentation,'' Function 5.c, by the addition of note (d). This ensures, during surveillance testing and normal operation, there will always be at least one instrument monitoring for a small leak in all RWCU locations. No changes in operating practices or physical plant equipment are created as a result of this change. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different type of accident from any accident previously evaluated?

Response: No.

The proposed change clarifies the requirement to maintain isolation capability for the RWCU Area Ventilation Differential Temperature—High isolation instrumentation by addition of a note to TS 3.3.6.1 Condition B, modification of TS 3.3.6.1 Surveillance Requirements Notes, and by clarifying the number of instruments required to be available in TS Table 3.3.6.1–1, ''Primary Containment Isolation Instrumentation,'' Function 5.c, by the addition of note (d). This ensures, during surveillance testing and normal operation, there will always be at least one instrument monitoring for a small leak in all RWCU locations. No physical change in plant equipment will result from this proposed change. Therefore, the proposed change does not create the possibility of a new or different type of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change clarifies the requirement to maintain isolation capability for the RWCU Area Ventilation Differential Temperature—High isolation

instrumentation by addition of a note to TS 3.3.6.1 Condition B, modification of TS 3.3.6.1 Surveillance Requirements Notes, and by clarifying the number of instruments required to be available in TS Table 3.3.6.1–1, ''Primary Containment Isolation Instrumentation,'' Function 5.c, by the addition of note (d). This ensures, during surveillance testing and normal operation, there will always be at least one instrument monitoring for a small leak in all RWCU locations. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: David G. Pettinari, Legal Department, 688 WCB, Detroit Edison Company, 2000 2nd Avenue, Detroit, Michigan 48226–1279.

NRC Branch Chief: Timothy J. Kobetz, Acting.

Dominion Energy Kewaunee, Inc. Docket No. 50–305, Kewaunee Power Station, Kewaunee County, Wisconsin

Date of amendment request: January 30, 2006.

Description of amendment request: The license amendment request would modify the currently approved radiological accident analyses (RAA) and associated Technical Specifications (TS) to account for the difference between the control room emergency zone (CREZ) unfiltered in-leakage (UFI) assumed in the current RAA and the CREZ UFI that was measured during testing.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

No. There are no system, structural, or component (SSC) alterations due to these changes. The radiological accident analyses inputs modified by this request are not accident initiators and do not affect the frequency of occurrence of previously analyzed transients.

The radiological accident analyses have demonstrated acceptable results using the revised inputs for all affected accidents. Further, the proposed changes do not alter or prevent the ability of structures, systems or components to perform their intended function to mitigate the consequences of accidents previously evaluated in the Updated Safety Analysis Report.

Therefore, the changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

No. There are no physical changes to the plant SSCs and there is no adverse impact on component or system interactions due to the proposed changes. The modes of operation of the plant remain unchanged and the design functions of all the safety systems remain in compliance with the applicable safety analysis acceptance criteria. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

No. The radiological accident analysis inputs modified by this request were incorporated into the revised radiological accident analyses. The revised radiological analyses satisfy all applicable acceptance criteria. There is no adverse effect on plant safety due to this proposed license amendment. Therefore, the change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Bradley D. Jackson, Esq., Foley and Lardner, P.O. Box 1497, Madison, WI 53701–1497.

Acting NRC Branch Chief: T. Kobetz.

Dominion Energy Kewaunee, Inc. Docket No. 50–305, Kewaunee Power Station, Kewaunee County, Wisconsin

Date of amendment request: February 6, 2006.

Description of amendment request: The proposed amendment adds a license condition to extend certain Technical Specification (TS) surveillance test intervals on a one-time basis to account for the effects of an extended forced outage in the spring of 2005.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The requested action is a one-time extension to the performance interval of a limited number of TS surveillance requirements. The performance of these surveillances, or the failure to perform these surveillances, is not a precursor to an accident. Performing these surveillances or failing to perform these surveillances does not affect the probability of an accident. Therefore, the proposed delay in performance of the surveillance requirements in this amendment request does not increase the probability of an accident previously evaluated.

A delay in performing these surveillances does not result in a system being unable to perform its required function. In the case of this one-time extension request, the relatively short period of additional time that the systems and components will be in service before the next performance of the surveillance will not affect the ability of those systems to operate as designed. Therefore, the systems required to mitigate accidents will remain capable of performing their required function. No new failure modes have been introduced because of this action and the consequences remain consistent with previously evaluated accidents. Therefore, the proposed delay in performance of the surveillance requirements in this amendment request does not involve a significant increase in the consequences of an accident.

Therefore, operation of the facility in accordance with the proposed license amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed amendment does not involve a physical alteration of any system, structure, or component (SSC) or a change in the way any SSC is operated. The proposed amendment does not involve operation of any SSCs in a manner or configuration different from those previously recognized or evaluated. No new failure mechanisms will be introduced by the one-time surveillance requirement deferrals being requested.

Thus, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed amendment is a one-time extension of the performance interval of a limited number of TS surveillance requirements. Extending these surveillance requirements does not involve a modification of any TS Limiting Conditions for Operation. Extending these surveillance requirements does not involve a change to any limit on accident consequences specified in the license or regulations. Extending these surveillance requirements does not involve a change to how accidents are mitigated or a significant increase in the consequences of an accident. Extending these surveillance requirements does not involve a change in a methodology used to evaluate consequences of an accident. Extending these surveillance requirements does not involve a change in any operating procedure or process.

The instrumentation and components involved in this request have exhibited reliable operation based on the results of the most recent performance of their 18-month surveillance requirements.

Based on the limited additional period of time that the systems and components will be in service before the surveillances are next performed, as well as the operating experience that these surveillances are typically successful when performed, it is reasonable to conclude that the margins of safety associated with these surveillance requirements will not be affected by the requested extension.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Bradley D. Jackson, Esq., Foley and Lardner, P.O. Box 1497, Madison, WI 53701–1497.

Acting NRC Branch Chief: T. Kobetz.

Entergy Gulf States, Inc., and Entergy Operations, Inc., Docket No. 50–458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana

Date of amendment request: December 19, 2005.

Description of amendment request: The amendment proposes to revise the Technical Specifications (TS) to make the temporary changes to TS Table 3.3.8.1–1, previously approved by Amendment No. 147, permanent. TS Table 3.3.8.1–1 would be revised to delete the temporary note, correct the number of Required Channels per Division for the Loss of Power (LOP) time delay functions, and delete the requirement to perform Surveillance Requirement (SR) 3.3.8.1.2, the monthly Channel Functional Test, on certain LOP time delay functions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes regarding the number of required channels per division for the LOP time delay functions are administrative in nature. The changes do not alter the instrumentation design or their physical configuration, and will not affect their operation or manner of control. The proposed changes correct an inconsistency between a TS Table and the RBS [River Bend Station, Unit 1] design basis. The TS required number of voltage sensors per division and associated channel components that monitor voltage conditions and provide the 4.16 kV bus undervoltage protection are unchanged.

The exclusion of the time delay functions from the monthly Channel Functional Test is proposed because the test creates a loss of function for the LOP instrumentation and is, therefore, undesirable during unit operations. The test also introduces the potential for an unintended plan transient, so the elimination of the requirement reduces the potential for such transients.

The channel functional test will continue to be performed every 31 days for the sensor channels. In addition, the LOP time delay functions will continue to be functionally tested and calibrated every 18 months as required by SR 3.3.8.1.3 and SR 3.3.8.1.4. Therefore, the required LOP instrumentation will continue to be tested in a manner and at a frequency necessary to provide confidence that the instrumentation can perform its intended safety function.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The changes do not alter the instrumentation design or their physical configuration, and will not affect their operation or manner of control. The proposed TS changes do not introduce any new failure mechanisms, malfunctions, or accident initiators not considered in the design and licensing bases.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes have no affect on any safety analysis assumptions or methods of performing safety analyses. The changes do not adversely affect system OPERABILITY or design requirements and the equipment continues to be tested in a manner and at a frequency necessary to provide confidence that the equipment can perform its intended safety functions. [Regulation] 10 CFR 50.36(c)(3) requires the TS to include Surveillance Requirements relating to test, calibration, or inspection to assure that the necessary quality of systems and components is maintained, that facility operation will be within safety limits, and that the limiting conditions for operation will be met. The channel functional test will continue to be performed every 31 days for the sensor channels. In addition, the LOP time delay functions will continue to be functionally tested and calibrated every 18 months as required by SR 3.3.8.1.3 and SR 3.3.8.1.4.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mark Wetterhahn, Esq., Winston & Strawn, 1700 K Street, NW., Washington, DC 20006–3817.

NRC Branch Chief: David Terao.

Entergy Nuclear Operations, Inc., Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: January 26, 2006.

Description of amendment request: The proposed amendment will modify Technical Specification (TS) requirements to support the implementation of Average Power Range Monitor (APRM), Rod Block Monitor, TS/Maximum Extended Operating Domain (ARTS/MEOD).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. [Does the proposed change] involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes revise thermal limit structure employed to comply with TS Section 3.2 LCOs [limiting conditions for operation]. The proposed changes will replace the flow-biased APRM scram and rod block trip setdown requirements with power and flow dependent adjustments to the Minimum Critical Power Ratio (MCPR) and Maximum Average Planar Linear Heat Generation Rate (MAPLHGR) or Linear Heat Generation Rate (LHGR) thermal limits. The adjustments to the thermal limits have been determined using NRC approved analytical methods as required by Technical Specifications 5.6.5.b and topical reports as specified in the Core Operating Limits Report (COLR). The proposed changes will not affect any accident initiating mechanism. Adjustments to thermal limits will be determined using NRC approved methodologies. The power and flow dependent adjustments will ensure that the MCPR safety limit will not be violated as a result of any anticipated operational occurrence (AOO), that the fuel thermal and mechanical design bases will be maintained, and that the consequences of the postulated loss of coolant accident (LOCA) will remain within acceptable limits. There are no changes to radioactive source terms or release pathways. Operation within the expanded operating domain has been evaluated and the affect on plant accidents was found to be

within acceptable parameters. The proposed changes do not result in any significant change in the availability of logic systems or safety-related systems themselves. Required protective functions will be maintained. The proposed changes do not degrade plant design, operation, or the performance of any safety system assumed to function in the accident analysis.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated?

2. [Does the proposed change] create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes do not introduce any new accident initiators or failure mechanisms because the changes and the affects on existing structures, systems and components have been evaluated and found to not have any adverse affects. The proposed changes eliminate the requirement for setdown of the flow-biased APRM scram and rod block trip setpoints or APRM adjustments under specified conditions and will substitute adjustments to the MCPR and MAPLHGR or LHGR thermal limits. Because the thermal limits will continue to be met, no transient event will escalate into a new or different type of accident due to the initial starting conditions permitted by the adjusted thermal limits.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident than those previously evaluated.

3. [Does the proposed change] involve a significant reduction in a margin of safety?

The proposed changes do not alter the manner in which safety limits, limiting safety system settings, or limiting conditions for operation are determined. There is no affect on the conclusions of any safety analysis. Replacement of the APRM setpoint requirement with power and flow dependent adjustments to the MCPR and MAPLHGR or LHGR thermal limits will continue to ensure that margins to the fuel cladding Safety Limit are preserved during operation at other than rated conditions. The fuel cladding safety limit will not be violated as a result of any anticipated operational occurrence. The flow and power dependent adjustments will be determined using NRC approved methodologies. The flow and power dependent adjustments will also ensure that all fuel thermal-mechanical design bases shall remain within the licensing limits. The proposed changes do not involve any increase in calculated off-site dose consequences. Operability of protective instrumentation and the associated systems is assured, and performance of equipment will not be significantly affected.

Therefore, there is no significant reduction in the margin of safety as a result of the proposed changes.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. John Fulton, Assistant General Counsel, Entergy Nuclear Operations, Inc., 440 Hamilton Avenue, White Plains, NY 10601.

NRC Branch Chief: Richard J. Laufer.

Entergy Nuclear Operations, Inc., Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant (JAFNPP), Oswego County, New York

Date of amendment request: January 26, 2006.

Description of amendment request: The proposed license amendment replaces the existing Reactor Vessel Material Surveillance Program with the Boiling Water Reactor Vessel and Internals Project (BWRVIP) Integrated Surveillance Program (ISP).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change to the licensing basis continues to assure that applicable regulatory requirements are met and the same assurance of reactor pressure vessel integrity continues to be provided. The proposed change to the License and licensing basis follow the NRC Safety Evaluation approving the implementation of the ISP. The proposed change ensures that the reactor pressure vessel will continue to be operated within the design, operational, and testing limits.

The proposed change does not modify the reactor coolant pressure boundary, (*i.e.*, there are no changes in operating pressure, materials, or seismic loading). The proposed change does not adversely affect the integrity of the reactor coolant pressure boundary such that its function in the control of radiological consequences is affected.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve a modification to the design of plant structures, systems, or components. Thus, no new modes of operation are introduced by the proposed change. The proposed change will not create any failure mode not bounded by previously evaluated accidents.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed implementation of ISP has been previously approved by the NRC and found to provide an acceptable alternative to plant-specific reactor vessel material surveillance programs. Operation of JAFNPP within the program ensures that the reactor vessel materials will continue to behave in a non-brittle manner, thereby preserving the original safety design bases.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. John Fulton, Assistant General Counsel, Entergy Nuclear Operations, Inc., 440 Hamilton Avenue, White Plains, NY 10601.

NRC Branch Chief: Richard J. Laufer.

Entergy Operations Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: February 15, 2006.

Description of amendment request: The proposed change will specifically credit the measurement tank weir flow instrumentation for the containment fan cooler condensate flow monitoring system in place of the one containment fan cooler condensate flow switch currently required by Technical Specification 3.4.5.1, ''Reactor Coolant System Leakage—Leakage Detection Instrumentation.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The Reactor Coolant System (RCS) leakage detections systems are passive monitoring systems; therefore, the proposed changes do not affect reactor operations or accident analyses and have no radiological consequences. The change maintains conservative restrictions on RCS leakage detections systems consistent with Regulatory Guide 1.45 [''Reactor Coolant Pressure Boundary Leakage Detection Systems''] and 10 CFR [Part] 50, Appendix A, General Design Criteri[on] 30.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change introduces no new mode of plant operation or any plant modification. The RCS leakage detection instrumentation is not part of plant control instruments or engineered safety feature actuation circuits but is used solely for monitoring purposes. The change does not vary or affect any plant operating condition or parameter.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

There will be no adverse affects on margins of safety since more stringent requirements will be applied to the third method (CFC [Containment Fan Cooler] condensate flow monitoring) of detecting RCS leakage. The third required RCS leakage detection method will now be capable of detecting a one gallon per minute leak within one hour.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: N. S. Reynolds, Esquire, Winston & Strawn, 1700 K Street NW., Washington, DC 20006–3817.

NRC Branch Chief: David Terao.

Exelon Generation Company, LLC, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of amendment request: October 3, 2005.

Description of amendment request: The proposed amendments would revise the reactor coolant system pressure and temperature limits report (PTLR) requirements. Specifically, the amendment would revise the TS Section 1.1, ''Definitions,'' description of the PTLR by deleting reference to specifications containing limits in the PTLR; (2) revise the administrative controls TS 5.6.6, ''Reactor Coolant System (RCS) Pressure and Temperature Limits Report (PTLR),'' by requiring the NRC approval documents to be identified by date and topical reports to be identified by number and title in accordance with Industry/Technical Specification Task Force (TSTF) Standard Technical Specification Change Traveler, TSTF–419; ''Revise PTLR Definition and References in ISTS 5.6.6, RC PTLR,'' and (3) add Westinghouse Electric Company, LLC, WCAP–16143, ''Reactor Vessel Closure Head/Vessel Flange Requirements Evaluation for Byron/Braidwood Units 1 and 2,'' to the list of analytical methods provided in TS 5.6.6.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change to the definition of PTLR is considered to be an editorial change because the requirements of TS 5.6.6 continue to specify the Limiting Conditions for Operation that address operation within the P–T [pressure temperature] limits.

The proposed changes to reference only the Topical Report number and title do not alter the use of the analytical methods used to determine the pressure temperature (P–T) limits or Low Temperature Overpressure Protection (LTOP) System setpoints that have been reviewed and approved by the NRC. This method of referencing Topical Reports would allow the use of current Topical Reports to support limits in the PTLR without having to submit an amendment to the operating license provided there is no change to the approved methodology. TS 5.6.6.b requires that the analytical methods used to determine the P–T limits be those previously reviewed and approved by the NRC. Implementation of revisions to Topical Reports would still be reviewed in accordance with 10 CFR 50.59, ''Changes, tests and experiments,'' and where required receive NRC review and approval.

The use of WCAP–16143, following approval by the NRC, for generation of P–T limits will continue to ensure that reactor pressure vessel integrity is maintained under all conditions.

The proposed changes do not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, or configuration of the facility or the manner in which the plant is operated and maintained. The proposed changes do not alter or prevent the ability of structures, systems, and components (SSCs) from performing their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits. The proposed changes do not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of an accident previously evaluated. The proposed changes do not increase the types or amounts of radioactive effluent that may be released offsite, nor significantly increase individual or cumulative occupational/public radiation exposures. The proposed changes are consistent with safety analysis assumptions and resultant consequences.

Based on the above discussion, the proposed changes do not involve an increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change to the definition of PTLR is considered to be an editorial change because the requirements of TS 5.6.6 continue to specify the Limiting Conditions for Operation that address operation within the P–T limits.

The proposed changes to reference only the Topical Report Number and title do not alter the use of the analytical methods used to determine the P–T limits or LTOP setpoints that have been reviewed and approved by the NRC. This method of referencing Topical Reports would allow the use of current Topical Reports to support limits in the PTLR without having to submit an amendment to the operating license provided there is no change to the approved methodology. TS 5.6.6.b requires that the analytical methods used to determine the P–T limits be those previously reviewed and approved by the NRC. Implementation of revisions to Topical Reports would still be reviewed in accordance with 10 CFR 50.59 and where required receive NRC review and approval.

The use of WCAP–16143, following approval by the NRC, for generation of P–T limits will continue to ensure that reactor pressure vessel integrity is maintained under all conditions.

The proposed changes will allow the use of a new NRC-approved methodology for the calculation of P–T limits. However, the changes do not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) and do not introduce a new mode of plant operation. Safety functions associated with P–T limits and LTOP setpoints will continue to function as previously assumed in accident analyses.

Based on this evaluation, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change to the definition of PTLR is considered to be an editorial change because the requirements of TS 5.6.6 continue to specify the Limiting Conditions for Operation that address operation within the P–T limits. The proposed changes to reference only the Topical Report Number and title do not alter the use of the analytical methods used to determine the P–T limits or LTOP setpoints that have been reviewed and approved by the NRC. This method of referencing Topical Reports would allow the use of current Topical Reports to support limits in the PTLR without having to submit an amendment to the operating license provided there is no change to the approved

methodology. TS 5 .6.6.b requires that the analytical methods used to determine the P–T limits be those previously reviewed and approved by the NRC. Implementation of revisions to Topical Reports would still be reviewed in accordance with 10 CFR 50.59 and where required receive NRC review and approval.

The P–T limits provide assurance that the reactor pressure vessel is maintained. The use of WCAP–16143, following approval by the NRC, for generation of P–T limits will continue to ensure that reactor pressure vessel integrity is maintained under all conditions.

The proposed changes do not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. Changes to setpoints at which protective actions are initiated that are allowed by the use of WCAP–16143 are evaluated in accordance with 10 CFR 50.59 and where required receive NRC review and approval. Sufficient equipment remains available to actuate upon demand for the purpose of mitigating an analyzed event.

Based on this evaluation, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: Mr. J. Bradley Fewell, Assistant General Counsel, Exelon Generation Company, LLC, 200 Exelon Way, Kennett Square, PA 19348.

NRC Branch Chief: Mindy Landau, Acting.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment requests: January 25, 2006.

Description of amendment requests: The proposed amendments would revise Technical Specification (TS) 1.1, ''Definitions,'' and TS 3.4.16, ''RCS Specific Activity.'' The proposed amendments would replace the current TS 3.4.16 limit on reactor coolant system (RCS) gross specific activity with a new limit on RCS noble gas specific activity. The noble gas specific activity limit would be based on a new DOSE EQUIVALENT XE–133 definition (corresponding to the Xenon-133 isotope) that would replace the current—AVERAGE DISINTEGRATION ENERGY definition. In addition, the current DOSE EQUIVALENT I–131 definition (corresponding to the Iodine-131 isotope) would be revised to allow the use of alternate, NRC-approved thyroid dose conversion factors.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes to add a new thyroid dose conversion factor reference to the definition of DOSE EQUIVALENT I–131, eliminate the definition of Ē—AVERAGE DISINTEGRATION ENERGY, add a new definition of DOSE EQUIVALENT XE–133, replace the Technical Specification (TS) 3.4.16 limit on reactor coolant system (RCS) gross specific activity with a limit on noble gas specific activity in the form of a Limiting Condition for Operation (LCO) on DOSE EQUIVALENT XE–133, replace TS Figure 3.4.16–1 with a maximum limit on DOSE EQUIVALENT I–131, extend the Applicability of LCO 3.4.16, and make corresponding changes to TS 3.4.16 to reflect all of the above are not accident initiators and have no impact on the probability of occurrence for any design[-]basis accidents.

The proposed changes will have no impact on the consequences of a design[-basis accident because they will limit the RCS noble gas specific activity to be consistent with the values assumed in the radiological consequence analyses. The changes will also limit the potential RCS iodine concentration excursion to the value currently associated with full power operation, which is more restrictive on plant operation than the existing allowable RCS iodine specific activity at lower power levels.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different accident from any accident previously evaluated?

Response: No.

The proposed changes do not alter any physical part of the plant nor do they affect any plant operating parameters besides the allowable specific activity in the RCS. The changes that impact the allowable specific activity in the RCS are consistent with the assumptions assumed in the current radiological consequence analyses.

Therefore, the proposed changes do not create the possibility of a new or different accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The acceptance criteria related to the proposed changes involve the allowable control room and offsite radiological consequences following a design[-]basis accident. The proposed changes will have no impact on the radiological consequences of a design[-]basis accident because they will limit the RCS noble gas specific activity to be consistent with the values assumed in the radiological consequence analyses. The changes will also limit the potential RCS iodine specific activity excursion to the value currently associated with full power operation, which is more restrictive on plant operation than the existing allowable RCS iodine specific activity at lower power levels.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Richard F. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Branch Chief: David Terao.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of amendment request: October 28, 2005.

Description of amendment request: The amendment would revise the Virgil C. Summer Nuclear Station (VCSNS) Technical Specifications (TS) TS 3.8.1 to incorporate changes implementing requirements for an Alternate AC (AAC) power supply.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

No.

The proposed change revised two action statements and relocated a surveillance requirement. The first AOT [allowable outage time] extension permits one EDG [emergency diesel generator] to be inoperable for up to 14 days, but the AAC [alternate alternating current] source will have to be available. This proposed change will be primarily used for scheduled preventative maintenance while the plant is online. If used for corrective maintenance, the AAC source will have to be capable of providing power within one hour, otherwise the existing 72-hour AOT would apply. This assures that adequate power remains available to the ESF buses to enable the plant to safely shut down, maintain a safe shutdown condition, and/or mitigate the effects of a design basis accident.

The second AOT extension provides an additional two hours to complete the

verification of supported equipment for operability. This additional time allows for a planned and systematic approach to performing this verification. Since there are other more immediate ways for the control room staff to be notified of the inoperable status of ESF [engineered safety feature] equipment, (annunciators, BISI, status lights), the TS requirement is not critical in knowing the status of the plant. Should some equipment be discovered inoperable, the extended AOT provides for some opportunity to restore the status to operable.

The deletion of a surveillance requirement that requires performing a vendor recommended maintenance at a specific frequency does not impact the ability of the EDG to perform its intended function for the mission time assumed in the accident analysis. EDG maintenance will continue to be performed and controlled under station procedures. The risk associated with the maintenance will be assessed under the provisions of 10 CFR 50.65 [Requirements for monitoring the effectiveness of maintenance at nuclear power plants], section (a) 4. The TS frequency was initially established to coincide with refueling outages, the only time that one EDG could be inoperable for any extended time. However, multiple plants have extended the time between refueling outages to 24 months with no discernable impact on reliability or availability. In addition, the Fairbanks-Morse diesel engine owners group has evaluated the maintenance requirements and determined that the TS required frequency should be based on performance and inspection results, not an arbitrary period that coincides with the best opportunity to perform the work. The Maintenance Rule requires evaluation for additional corrective actions and increased monitoring for scoped systems if the reliability and/or availability fall below pre-established criteria. This approach ensures appropriate actions in a timely manner are taken to ensure that equipment relied upon for accident mitigation is available when required.

There are no changes in operational limits or physical design of the onsite electric power systems. The proposed changes do not change the function or operation of plant equipment or affect the response of the equipment if called upon to operate. The EDGs are not the initiators of previously evaluated accidents. The EDGs are designed to mitigate the consequences of accidents. The risk informed assessment that was performed concluded that the increase in plant risk is small and consistent with the guidance in Regulatory Guide 1.174, [''An Approach for Using Probabilistic Risk Assessment in Risk Informed Decisions on Plant-Specific Changes to the licensing Basis'']. This assessment considers the possibility of an accident occurring during the extended period that the EDG would be unavailable. The proposed changes allow for additional operational flexibility and will not cause a significant increase in the probability or consequences of an accident previously evaluated. In actuality, the installation and availability of the AAC will have an overall net reduction in core damage frequency.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

No.

The proposed change to extend the EDG AOT to 14 days is based upon the installation of an AAC power source and the significant reduction in core damage frequency that results. There are no significant changes in installed plant equipment or operation of safety related equipment. The accident analysis considered the credible accidents and bounded those that apply.

The installation of the AAC and the extended AOT for one EDG to be inoperable remain bounded by previous evaluations.

The AOT extension to provide additional time to perform the redundant equipment verification is based on the other methods available for the Control Room staff to be made aware of a change in ESF equipment status and the safety benefit of performing this verification in an unhurried manner. This verification has been extended by other plants, both those who have converted to ITS and those that have not. No plant modifications are required and operator training is unaffected. The verification process does not utilize any new or complex software and any new accident is bounded by a Loss of Site Power or Station Blackout analysis.

The deletion of a surveillance requirement to perform the manufacturer's recommended inspection and maintenance is based on the recommendations from the vendor and the Fairbanks Morse owners group. The recommendation is to continue to perform the inspections and maintenance but the frequency should not be based on the refueling outage frequency. The effectiveness of the maintenance will be assured through monitoring under the Maintenance Rule program which would require evaluation and corrective actions should the EDG not meet its performance criteria for reliability and availability.

The EDG performs a function of supplying power when the normal ESF sources are unavailable. This is a function that mitigates the effects of the event and the proposed changes cannot cause the possibility of an accident that was not previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

No.

The proposed change to extend the EDG AOT to 14 days from the current 72 hours will assure that an alternative source of power for the ESF onsite distribution system is available and ready. The AAC and interfacing equipment are designed to maintain independence and separation, particularly during faulted conditions. The plant equipment will continue to respond per the design and analysis. The performance capability of the EDGs will not be affected. Installation of the AAC will have a net reduction in the core damage frequency. In addition, administrative controls will ensure that there are adequate compensatory measures that can and will be taken during extended EDG maintenance activities to reduce overall risk.

The AOT extension to provide additional time to perform the redundant equipment verification for operability verification allows some time to discover a problem and make a minor repair prior to placing the plant in a shutdown transient. The types of corrective or preventative maintenance associated with an EDG will not change. Plant operating and emergency procedures will be enhanced with guidance on when to use the AAC and how to connect up to the ESF bus.

The deletion of the periodic EDG inspection per the vendor's recommendation at a proscribed frequency provides significant flexibility in when to schedule the inspection and preventative maintenance. The activities would still be performed but the frequency would be based on equipment performance and owners group recommendation. The plant analysis only considers the availability of the EDG. The TS surveillances that assure the EDG remains operable remain in place at their current frequencies and the maintenance requirement will assure that the EDG receives sufficient maintenance to remain operable.

Since the operation of the plant remains largely unaffected and the EDG or the AAC will supply power to the ESF equipment as needed, there is no significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: J. Hamilton Hagood, Jr., South Carolina Electric & Gas Company, Post Office Box 764, Columbia, South Carolina 29218.

NRC Section Chief: Evangelos C. Marinos.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of amendment request: November 29, 2005.

Description of amendment request: The proposed amendment would add requirements to TS 3/4.7.1.2 to assure continued operability of the Emergency Feedwater (EFW) System based on LER 1998–004–00, by including the newly installed six emergency feedwater system automatic isolation valves into the Surveillance Requirements to assure the capability for automatic isolation of EFW in the event of a faulted steam generator.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or

consequences of an accident previously evaluated?

No.

The proposed change addresses necessary changes to the VCSNS [Virgil C. Summer Nuclear Station] Technical Specification (TS) 4.7.1.2.b and 4.7.1.2.c.2 associated with the installation of six new automatic isolation valves in the EF[W] system.

The only Final Safety Analysis Report (FSAR) analyzed accident for which the EF[W] system could contribute as an initiator would be minor secondary line break, as described in Section 15.3.2. The addition of isolation valves in the EF[W] piping to the steam generators [SGs] will not increase the likelihood of a pipe break, since the addition will be in accordance with the same codes and standards as the corresponding, existing portions of the system. Piping stress analyses have demonstrated the addition of these valves does not result in the need to postulate any additional pipe breaks.

The accidents analyzed in the FSAR, which rely on EF[W system] to mitigate consequences, are loss of normal feedwater, loss of off-site power, and major secondary system pipe ruptures. The addition of these automatic isolation valves will eliminate the need for operator action to manually close a flow control valve in response to a major secondary system line break. The elimination of operator manual action is accomplished by the addition of a new pneumatically operated isolation valve in series with each of the six existing flow control valves.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any previously evaluated?

No.

This proposed change does not result in changes to actual operating pressures, flow rates, flow paths, or system interfaces. There are no alterations to system operability requirements. The existing system alarm set points are not affected, neither is the information available to the operators. The addition of six new isolation valves will not change system design criteria and the surveillance testing will be the same as for the existing flow control valves.

This change does not introduce any new or different kind of failure mechanisms or limiting single failures. Piping analysis has concluded that no new pipe break locations or break sizes will result from this change. Equipment protection features are not impacted, the frequency of pump and valve operation remains the same. Independence and redundancy are actually improved.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

No.

The design basis for the EF[W] system is to assure the required flow and pressure to remove decay heat from the core under the worst postulated conditions. An additional function of the system is to isolate flow to a faulted SG within the time assumed in the safety analysis. The proposed change eliminates the need for operators to take actions to manually close the flow control valves in the event of a single failure.

The proposed change will create a surveillance requirement for the new isolation valves that is the same as the existing flow control valves. The acceptance criteria will assure the operability of these valves. The design and installation of these isolation valves will maintain the requirements for independence, redundancy, separation and testability. The margins assumed in the safety analysis will be enhanced by this proposed change. Due to the automatic isolation capability, additional water will be available for the intact SGs and a reduced mass will be available to be released into the containment building. No credible single failure will be capable of preventing isolation of a faulted SG upon a high flow signal.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: J. Hagood Hamilton, South Carolina Electric & Gas Company, Post Office Box 764, Columbia, South Carolina 29218.

NRC Branch Chief: Evangelos C. Marinos.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of amendment request: November 29, 2005.

Description of amendment request: This amendment revises Technical Specification (TS) 6.9.1.5 and TS 6.9.1.10 by eliminating the requirements to submit monthly operating reports and occupational radiation exposure reports. This consolidated line item improvement process (CLIIP) TS change was noticed in the **Federal Register** on June 23, 2004, (69 FR 35067). In addition, the TSs are revised beyond the scope of the CLIIP by the deletion of the TS 6.9.15 requirement to report exceedence of coolant specific activity limits and an administrative change to a TS index page.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

SCE&G has reviewed the proposed no significant hazards consideration determination published on June 23, 2004 (69 FR 35067) as part of the CLIIP. SCE&G has concluded that the proposed determination presented in the notice is applicable to the VCSNS, and the determination is hereby incorporated by reference to satisfy the requirements of 10 CFR 50.91(a).

The deletion of the additional paragraph in 6.9.1.5 is beyond the scope of the CLIIP and as such is beyond the scope of the no significant hazards consideration determination published on June 23, 2004. Therefore the following evaluation has been performed.

In accordance with the criteria set forth in 10 CFR 50.92, SCE&G has evaluated the proposed beyond scope Technical Specification change and determined it does not represent a significant hazards consideration. The following is provided to support this conclusion.

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

No.

The proposed change is the deletion of a paragraph in the administrative controls section of the facility Technical Specifications. The paragraph identifies required information that was to be provided in a report to the staff in the event where the RCS specific activity exceeded TS limits. This report has been found to be un-necessary due to reporting requirements located in 10 CFR 50.73 (exceeding a TS limit). Additionally, the TS limits are set such that there is very little risk to the health and safety of the public. Before the condition became significant, the NRC would have been notified due to the 10 CFR 50.73 requirement to report significant degradations in a principal fission product barrier.

Deletion of an administrative controls paragraph that provides reporting requirements is not a precursor to an accident. No changes are being proposed to any installed plant equipment or procedures. The operating philosophy is unaffected and training is not impacted. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

No.

The proposed change is the deletion of a paragraph that was inserted per the guidance of Generic Letter 85–19. The staff was concerned that the reporting requirements prior to that time were too restrictive and relaxed them through the Generic Letter. Since that time, it was determined that specific reporting could be performed via requirements in 10 CFR 50.73. Exceeding the TS limit is now an uncommon condition as proper fuel management and fabrication techniques should preclude approaching the TS limit.

Revising or even deleting a reporting requirement in the facility TS will not impact

how the plant is operated, how data is evaluated, or what instructions are located in operating and emergency procedures. No new equipment is being installed and no plant modifications are resulting from this proposed change. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

No.

The proposed change to delete some specific reporting requirements in the Administrative Controls section of TS has no impact on any plant evaluation or analysis. No plant setpoints are impacted; no alarm or annunciator functions are affected. This change has been approved for other plants. 10 CFR 50.73 will still require reporting the condition should it ever occur. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: J. Hagood Hamilton, South Carolina Electric & Gas Company, Post Office Box 764, Columbia, South Carolina 29218.

NRC Section Chief: Evangelos C. Marinos.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: September 19, 2005.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) Limiting Conditions for Operation (LCO) 3.3.1, ''Reactor Trip system (RTS) Instrumentation'' and TS Surveillance Requirements (SR) 3.2.4.2, ''Quadrant Power Tilt Ration (QPTR)'' to avoid confusion as to when a flux map for QPTR is required.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

No.

The proposed changes do not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, or configuration of the facility or the manner in which the plant is operated and maintained. The proposed changes do not alter or prevent the ability of structures, systems, and components (SSCs) from performing their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits. The proposed changes do not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of an accident previously evaluated. Further, the proposed changes do not increase the types or amounts of radioactive effluent that may be released offsite, nor significantly increase individual or cumulative occupational/public radiation exposures. The proposed changes are consistent with safety analysis assumptions and resultant consequences. Therefore, the proposed changes do not increase the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any previously evaluated?

No.

The proposed changes do not result in a change in the manner in which the RTS and ESFAS provide plant protection. The RTS and ESFAS will continue to have the same set points after the proposed changes are implemented. There are no design changes associated with the license amendment.

The changes do not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. In addition, the changes do not impose any new or different requirements or eliminate any existing requirements. The changes do not alter assumptions made in the safety analysis. The proposed changes are consistent with the safety analysis assumptions and current plant operating practice.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

No.

The proposed changes do not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The safety analysis acceptance criteria are not impacted by these changes. Redundant RTS and ESFAS trains are maintained, and diversity with regard to the signals that provide reactor trip and engineered safety features actuation is also maintained. All signals credited as primary or secondary, and all operator actions credited in the accident analyses will remain the same. The proposed changes will not result in plant operation in a configuration outside the design basis.

Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. Arthur H. Domby, Troutman Sanders, NationsBank Plaza, Suite 5200, 600 Peachtree Street, NE., Atlanta, Georgia 30308–2216.

NRC Branch Chief: Evangelos C. Marinos.

TXU Generation Company LP, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Units 1 and 2, Somervell County, Texas

Date of amendment request: December 16, 2005.

Brief description of amendments: The proposed change would revise Technical Specifications (TSs) 3.3.2, ''ESFAS [Engineered Safety Features Actuation System] Instrumentation''; 3.5.2, ''ECCS [Emergency Core Cooling System]—Operating''; and 3.6.7, ''Spray Additive System.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

None of the changes impact the initiation or probability of occurrence of any accident.

The consequences of accidents evaluated in the FSAR [Final Safety Analysis Report] that could be affected by this proposed change are those involving the pressurization of the containment and associated flooding of the containment and recirculation of this fluid within the ECCS or the Containment Spray System (*e.g.*, LOCAs [loss-of-coolant accidents]).

Although the water level in the containment flood plain will be higher at the start of ECCS switchover, the maximum water levels observed for the duration of the accident are unchanged by the nominal setpoint changes.

The increase in the minimum water delivered to containment by the RWST [Refueling Water Storage Tank] setpoint change will reduce the radiological consequences of LOCAs by diluting the radioiodine concentrations in the recirculating sump fluid which could be released by Engineered Safety Features (ESF) leakage. This increase in water will also reduce the maximum pH and its deleterious effects on equipment and sump performance.

The increase in water level and the change in strainer design will significantly increase NPSH [net positive suction head] and headloss margins required to assure long term core cooling.

The change to a minimum pH of 7.1 will not result in a significant increase in the radiological consequences of a LOCA as described below.

The buffering agent will dissolve in the containment sump fluid resulting from these accidents raising the pH of the fluid, which would initially be greater than or equal to 4.0 but less than 7.0 during the injection phase of containment spray operation. The equilibrium spray pH during the recirculation phase resulting from this change will be greater than or equal to 7.1. The pH range for the spray will be bounded by the water spray solution which is borated water with a maximum of 2600 ppm [parts per million] boron buffered to a final spray solution pH much less than the 10.5 as described in the current FSAR Section 3.11(B) for the postulated spray solution environment. The maximum pH is the limiting parameter for equipment qualification. Since the resulting pH level will be closer to neutral using the lower limit of 7.1, post-LOCA corrosion of containment components will not be increased. Post-LOCA hydrogen generation will be reduced. There will not be an adverse radiation dose effect on any safety-related equipment. Thus, the potential for failures of the ECCS or safety-related equipment following a LOCA will not be increased as a result of the proposed change.

This modification affects the Containment Spray System which is intended to respond to and mitigate the effects of a LOCA. The chemical additive baskets serve a passive function to provide a buffering agent to neutralize the sump solution. Failure of a basket would not initiate an accident. The Containment Spray System will continue to function in a manner consistent with the plant design basis. There will be no degradation in the performance of nor an increase in the number of challenges to equipment assumed to function during an accident situation.

As such, these Technical Specification revisions do not affect the probability of any event initiators. There will be no adverse changes to normal plant operating parameters, ESF actuation setpoints, or accident mitigation capabilities.

The proposed change allows a passive Spray Additive System to replace the active Spray Additive System currently used to mitigate the consequences of an accident. By substituting a passive system for an active system, the probability of occurrence of a malfunction of equipment associated with the Spray Additive System will be reduced since the number of active components subject to malfunction is reduced. This TS surveillance change will maintain the equilibrium sump pH at greater than or equal to 7.1 to minimize chloride-induced stress corrosion cracking in austenitic stainless components important to safety located inside containment. Therefore, the proposed changes will not increase the probability of an accident or malfunction of equipment important to safety previously evaluated in the FSAR.

The offsite and control room doses will continue to meet the requirements of 10 CFR [Part] 100; 10 CFR [Part] 50, Appendix A, GDC [General Design Criterion] 19; SRP [Standard Review Plan] 15.6.5.11; and SRP 6.4.11. The deletion of the active Spray Additive System and replacement with a sump pH control system using TSP–C [Trisodium Phosphate crystalline] will not increase the reported radiological consequences of a postulated LOCA. The proposed new pH control system will provide satisfactory retention of iodine in the sump water, as well as provide adequate pH control to minimize the potential of chloride-induced stress corrosion cracking of austenitic stainless steel components.

The baskets which will contain the trisodium phosphate are seismically designed and located in the post-accident flood plane area to ensure mixing with the recirculating fluid. The consequences of a malfunction of any piece of equipment associated with the Containment Spray System would not be affected by the change from an active Spray Additive System to a passive system. The consequences of a failure in the active Spray Additive System are eliminated by this passive system. The proposed changes do not increase the malfunction of equipment important to safety previously evaluated in the FSAR. Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The changes to the new Containment Spray Additive System are essentially a passive system, i.e., no operator or automatic action of electrical devices is required to actuate the system. There are no electrical components being added whose failure could prevent the new system from functioning. The only new components being added are the storage baskets for the chemical buffering agent. Seismic requirements have been included in the design to ensure the structural integrity of the baskets will be maintained during a seismic event.

No new accident scenarios, transient precursors, or limiting single failures are introduced as a result of these changes. There will be no adverse effect or challenges imposed on any safety-related system as a result of these changes. The use of dry sodium phosphates is allowed for adjustment of the post-LOCA sump solution pH as discussed in SRP 6.1.1. The quantity of trisodium phosphate or any other buffering agent chosen will provide a minimum equilibrium sump pH of 7.1 following dissolution and mixing. Therefore, the possibility of a new or different type of accident is not created.

There are no changes which would cause the malfunction of safety-related equipment, assumed to be operable in the accident analyses, as a result of the proposed Technical Specification changes. No new equipment performance burdens are imposed; however, there is the potential for an unlikely, but possible, event in which an initially concentrated solution of buffering agent could be transported to the stagnant volume of an inactive sump during blowdown and pool fill. This situation would be short-lived since, as the recirculated sump fluid is cooled in the RHR [residual heat removal] heat exchangers, sufficient buoyancy-driven circulation within containment will result to displace the stagnant solution and eventually yield a uniform, equilibrium solution. In the current design, all of the chemical additive is delivered to the recirculation sump even in the event of the worst single active failure. The possibility of a malfunction of safety-related equipment with a different result is not created. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

The RWST Low-Low nominal setpoint, in conjunction with the plant modifications, ensures that both the ECCS and Containment Spray Systems can be transferred from injection to recirculation without stopping the pumps and with no credit for containment overpressure. Analyses have been performed which show that, even with worst case single active failures, suction to the pumps would not be lost.

The only function of the NaOH spray additive solution is to provide pH control of the post-accident containment recirculation sump water, since the borated water from the Refueling Water Storage Tank (RWST) used as the containment spray pump suction source during injection is sufficient to remove iodine from the containment atmosphere following a LOCA. The net effect on the pH control function of reducing the amount of NaOH or replacing NaOH with the chemical buffering agent TSP–C is that the equilibrium sump pH will be lowered to a minimum of 7.1. There will be no change to the current Technical Specification acceptance limits on RWST volume and boron concentration. The resulting equilibrium sump pH level from this change will be closer to neutral; therefore, the post-LOCA corrosion of containment components will not be increased.

Because the long term pH will be maintained greater than or equal to 7.1, margin to minimize the potential for stress corrosion cracking is maintained.

The radiological analysis as discussed in the technical analysis above, is shown not to be impacted. There will be no change to the DNBR [departure from nucleate boiling ratio] Correlation Limit, the design DNBR limits, or the safety analysis DNBR limits discussed in Bases Section 2.1.1. There will be no effect on the manner in which Safety Limits or Limiting Safety System Settings are determined nor will there be any effect on those plant systems necessary to assure the accomplishment of protection functions. There will be no adverse impact on DNBR limits, F_Q, F-delta-H, LOCA PCT [peak cladding temperature], peak local power density, or any other margin of safety. Therefore the proposed change does not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff

proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: George L. Edgar, Esq., Morgan, Lewis and Bockius, 1800 M Street, NW., Washington, DC 20036.

NRC Branch Chief: David Terao.

TXU Generation Company LP, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Units 1 and 2, Somervell County, Texas

Date of amendment request: December 16, 2005.

Brief description of amendments: The amendment would revise the Technical Specifications (TS) to adopt NRC-approved Revision 4 to Technical Specification Task Force (TSTF) Standard Technical Specification Change Traveler, TSTF–449, ''Steam Generator Tube Integrity.'' The proposed amendment includes:

—Revised TS definition of Leakage,

—Revised TS 3.4.13, ''RCS [Reactor Coolant System] Operational Leakage,''

—Added new TS 3.4.17, ''Steam Generator (SG) Tube Integrity,''

—Revised TS 5.5.9, ''Steam Generator Program''

—Added new TS 5.6.9, ''Steam Generator Tube Inspection Report,'' and

—Revised TS 5.6.10, ''Steam Generator Tube Inspection Report'' (for existing Unit 1 SGs).

The proposed changes are necessary in order to implement the guidance for the industry initiative on Nuclear Energy Institute (NEI) Report 97–06, ''Steam Generator Program Guidelines.''

The NRC staff issued a notice of opportunity for comment in the **Federal Register** on March 2, 2005 (70 FR 10298), on possible amendments adopting TSTF–449, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on May 6, 2005 (70 FR 24126). The licensee affirmed the applicability of the following NSHC determination in its application dated December 16, 2005.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change requires a SG Program that includes performance criteria that will provide reasonable assurance that the SG tubing will retain integrity over the full range of operating conditions (including startup, operation in the power range, hot standby, cooldown and all anticipated transients included in the design specification). The SG performance criteria are based on tube structural integrity, accident induced leakage, and operational LEAKAGE.

A SGTR [steam generator tube rupture] event is one of the design basis accidents that are analyzed as part of a plant's licensing basis. In the analysis of a SGTR event, a bounding primary to secondary LEAKAGE rate equal to the operational LEAKAGE rate limits in the licensing basis plus the LEAKAGE rate associated with a double-ended rupture of a single tube is assumed.

For other design basis accidents such as a MSLB [main steam line break], rod ejection, and reactor coolant pump locked rotor the tubes are assumed to retain their structural integrity (i.e., they are assumed not to rupture). These analyses typically assume that primary to secondary LEAKAGE for all SGs is 1 gallon per minute or increases to 1 gallon per minute as a result of accident induced stresses. The accident induced leakage criterion introduced by the proposed changes accounts for tubes that may leak during design basis accidents. The accident induced leakage criterion limits this leakage to no more than the value assumed in the accident analysis.

The SG performance criteria proposed change to the TS identify the standards against which tube integrity is to be measured. Meeting the performance criteria provides reasonable assurance that the SG tubing will remain capable of fulfilling its specific safety function of maintaining reactor coolant pressure boundary integrity throughout each operating cycle and in the unlikely event of a design basis accident. The performance criteria are only a part of the SG Program required by the proposed change to the TS. The program, defined by NEI 97–06, Steam Generator Program Guidelines, includes a framework that incorporates a balance of prevention, inspection, evaluation, repair, and leakage monitoring. The proposed changes do not, therefore, significantly increase the probability of an accident previously evaluated.

The consequences of design basis accidents are, in part, functions of the DOSE EQUIVALENT I–131 in the primary coolant and the primary to secondary LEAKAGE rates resulting from an accident. Therefore, limits are included in the plant technical specifications for operational leakage and for DOSE EQUIVALENT I–131 in primary coolant to ensure the plant is operated within its analyzed condition. The analysis of the limiting design basis accident assumes that primary to secondary leak rate after the accident is 1 gallon per minute with no more than 150 gallons per day in any one SG, and that the reactor coolant activity levels of DOSE EQUIVALENT I–131 are at the TS values before the accident.

The proposed change does not affect the design of the SGs, their method of operation, or primary coolant chemistry controls. The proposed approach updates the current TSs and enhances the requirements for SG inspections. The proposed change does not adversely impact any other previously evaluated design basis accident and is an improvement over the current TSs.

Therefore, the proposed change does not affect the consequences of a SGTR accident and the probability of such an accident is reduced. In addition, the proposed changes do not affect the consequences of an MSLB, rod ejection, or a reactor coolant pump locked rotor event, or other previously evaluated accident.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The proposed performance based requirements are an improvement over the requirements imposed by the current technical specifications. Implementation of the proposed SG Program will not introduce any adverse changes to the plant design basis or postulated accidents resulting from potential tube degradation. The result of the implementation of the SG Program will be an enhancement of SG tube performance. Primary to secondary LEAKAGE that may be experienced during all plant conditions will be monitored to ensure it remains within current accident analysis assumptions.

The proposed change does not affect the design of the SGs, their method of operation, or primary or secondary coolant chemistry controls. In addition, the proposed change does not impact any other plant system or component. The change enhances SG inspection requirements.

Therefore, the proposed change does not create the possibility of a new or different type of accident from any accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The SG tubes in pressurized water reactors are an integral part of the reactor coolant pressure boundary and, as such, are relied upon to maintain the primary system's pressure and inventory. As part of the reactor coolant pressure boundary, the SG tubes are unique in that they are also relied upon as a heat transfer surface between the primary and secondary systems such that residual heat can be removed from the primary system. In addition, the SG tubes isolate the radioactive fission products in the primary coolant from the secondary system. In summary, the safety function of an SG is maintained by ensuring the integrity of its tubes.

Steam generator tube integrity is a function of the design, environment, and the physical condition of the tube. The proposed change does not affect tube design or operating environment. The proposed change is expected to result in an improvement in the tube integrity by implementing the SG Program to manage SG tube inspection,

assessment, repair, and plugging. The requirements established by the SG Program are consistent with those in the applicable design codes and standards and are an improvement over the requirements in the current TSs.

For the above reasons, the margin of safety is not changed and overall plant safety will be enhanced by the proposed change to the TS.

The NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Attorney for licensee: George L. Edgar, Esq., Morgan, Lewis and Bockius, 1800 M Street, NW., Washington, DC 20036.

NRC Branch Chief: David Terao.

TXU Generation Company LP, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Units 1 and 2, Somervell County, Texas

Date of amendment request: December 16, 2005.

Brief description of amendments: The proposed amendments would revise the Technical Specifications (TSs) consistent with the Nuclear Regulatory Commission (NRC)-approved Technical Specification Task Force (TSTF) Standard Technical Specification Change Traveller, TSTF–419, ''Revise PTLR [Pressure and Temperature Limits Report] Definition and References in ISTS [improved Standard TS] 5.6.6.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes to reference the Topical Report number and title do not alter the use of the analytical methods used to determine the P/T [Pressure/Temperature] limits or LTOP [Low Temperature Overpressure Protection] setpoints that have been reviewed and approved by the NRC. This method of referencing Topical Reports would allow the use of current Topical Reports to support limits in the PTLR without having to submit an amendment to the operating license. Implementation of revisions to Topical Reports would still be reviewed in accordance with 10 CFR 50.59 and where required receive NRC review and approval. The proposed changes do not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, or configuration of the facility or the manner in which the plant is operated and maintained. The proposed changes do not alter or prevent the ability of structures, systems, and components (SSCs) from performing their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits. The proposed changes do not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of an accident previously evaluated. Further, the proposed changes do not increase the types or amounts of radioactive effluent that may be released offsite, nor significantly increase individual or cumulative occupational/public radiation exposures. The proposed changes are consistent with safety analysis assumptions and resultant consequences.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes to reference the Topical Report number and title do not alter the use of the analytical methods used to determine the P/T limits or LTOP setpoints that have been reviewed and approved by the NRC. This method of referencing Topical Reports would allow the use of current Topical Reports to support limits in the PTLR without having to submit an amendment to the operating license. Implementation of revisions to Topical Reports would still be reviewed in accordance with 10 CFR 50.59 and where required receive NRC review and approval. The changes do not involve a physical alteration of the plant (*i.e.*, no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. In addition, the changes do not impose any new or different requirements or eliminate any existing requirements. The changes do not alter assumptions made in the safety analysis. The proposed changes are consistent with the safety analysis assumptions and current plant operating practice.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

The proposed changes to reference the Topical Report number and title do not alter the use of the analytical methods used to determine the P/T limits or LTOP setpoints that have been reviewed and approved by the NRC. This method of referencing Topical Reports would allow the use of current Topical Reports to support limits in the PTLR without having to submit an amendment to the operating license. Implementation of revisions to Topical Reports would still be reviewed in accordance with 10 CFR 50.59 and where required receive NRC review and approval. The proposed changes do not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The setpoints at which protective actions are initiated are not altered by the proposed changes. Sufficient equipment remains available to actuate upon demand for the purpose of mitigating an analyzed event.

Therefore, it is concluded that this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: George L. Edgar, Esq., Morgan, Lewis and Bockius, 1800 M Street, NW., Washington, DC 20036.

NRC Branch Chief: David Terao.

Virginia Electric and Power Company, Docket Nos. 50–280 and 50–281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment request: January 31, 2006.

Description of amendment request: The proposed change would replace the current containment methodology with the methodology described in Topical Report DOM–NAF–3, ''GOTHIC Methodology for Analyzing the Response to Postulated Pipe Ruptures Inside Containment,'' increase the containment air partial pressure limits in Technical Specification (TS) 3.8, ''Containment,'' revise the loss-of-coolant (LOCA) accident alternate source term (AST) analysis, and change the method of starting the recirculation spray (RS) pumps.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

No.

The proposed changes include a physical alteration to the RS system to start the inside and outside RS pumps on RWST [Refueling Water Storage Tank] Level Low coincident with CLS [consequence limiting safeguards] High High containment pressure. The RS system is used for accident mitigation only, and changes in the operation of the RS system cannot have an impact on the probability of an accident. The other changes do not affect equipment and are not accident initiators. The RWST Level Low instrumentation will comply with all applicable regulatory requirements and design criteria (e.g., train separation, redundancy, single failure). Therefore, the design functions performed by the RS system are not changed.

Delaying the start of the RS pumps affects long-term containment pressure and

temperature profiles. The environmental qualification of safety-related equipment inside containment was confirmed to be acceptable, and accident mitigation systems will continue to operate within design temperatures and pressures. Delaying the RS pump start reduces the emergency diesel generator loading early during a design basis accident, and staggering the RS pump start avoids overloading on each emergency bus. The reduction in iodine removal efficiency during the delay period is offset by changes to other assumptions in the LOCA dose analysis. The net impact is a reduction in the predicted offsite doses and control room doses following a design basis LOCA.

The UFSAR [Updated Final Safety Analysis Report] safety analysis acceptance criteria continue to be met for the proposed changes to the RS pump start method, the proposed TS containment air partial pressure limits, the implementation of the GOTHIC containment analysis methodology, and the changes to the LOCA dose consequences analyses. Based on this discussion, the proposed amendments do not increase the probability or consequence of an accident previously evaluated.

2. Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously identified?

No.

The proposed change alters the RS pump circuitry by initiating the start sequence with a new RWST Level Low signal instead of a timer after the CLS High High pressure setpoint is reached. The timers for the outside RS pumps will be used to sequence pump starts and preclude diesel generator overloading. The RS pump function is not changed. The RWST Level Low instrumentation will be included as part of the engineered safeguards features (ESF) instrumentation in the Surry TS and will be subject to the ESF surveillance requirements. The design of the RWST Level Low instrumentation complies with all applicable regulatory requirements and design criteria. The failure modes have been analyzed to ensure that the RWST Level Low circuitry can withstand a single active failure without affecting the RS system design functions. The RS system is an accident mitigation system only, so no new accident initiators are created.

The remaining changes to the containment analysis methodology, the containment air partial pressures, and the LOCA AST analysis basis do not impact plant equipment design or function. Together, the changes assure that there is adequate margin available to meet the safety analysis criteria and that dose consequences are within regulatory limits. The proposed changes do not introduce failure modes, accident initiators, or malfunctions that would cause a new or different kind of accident. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously identified.

3. Does the proposed license amendment involve a significant reduction in a margin of safety?

No.

The changes to the actuation of the RS pumps and the increased containment air partial pressure affect the containment response analyses and the LOCA dose analysis. Analyses have been performed that show the containment design basis limits are satisfied and the post-LOCA offsite and control room doses meet the required criteria for the proposed changes to the containment analysis methodology, the RS pump start method, the TS containment air partial pressure limits, and the LOCA AST bases. Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Counsel, Dominion Resources Services, Inc., Millstone Power Station, Building 475, 5th Floor, Rope Ferry Road, Rt. 156, Waterford, Connecticut 06385.

NRC Branch Chief: Evangelos C. Marinos.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible 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.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov.*

AmerGen Energy Company, LLC, et al., Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: February 25, 2005.

Brief description of amendment: The amendment deleted Section 2.E of the Facility Operating License, which requires reporting of violations of the requirements in Section 2.C of the Facility Operating License.

Date of Issuance: February 22, 2006.

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment No.: 258.

Facility Operating License No. DPR–16: The amendment revised the Facility Operating License.

Date of initial notice in ***Federal Register:*** April 26, 2005 (70 FR 21453).

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated February 22, 2006.

No significant hazards consideration comments received: No.

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Units Nos. 1, 2, and 3, Maricopa County, Arizona

Date of application for amendments: March 4, 2005, as supplemented by letter dated January 25, 2006.

Brief description of amendments: The proposed amendments deleted Section 2.F (2.G in Unit 3) of the Facility Operating Licenses, which requires reporting violations of the requirements

in Section 2.C of the Facility Operating License. The amendments also make administrative and editorial changes to the Technical Specifications (TSs). Changes to TS 1.4, ''Frequency,'' and TS 3.4.3, ''RCS [Reactor Coolant System] Pressure and Temperature (P/T) Limits,'' correct editorial errors. The changes to TS 2.1.1, ''Reactor Core SLs [Safety Limits],'' and TS 3.3.1, ''Reactor Protective System (RPS) Instrumentation—Operating,'' remove the reference to departure from nucleate boiling ratios (DNBR) based on operating cycle, since only one of the listed DNBR values is now valid. TS 3.1.10, ''Special Test Exceptions (STE)—MODES 1 and 2,'' is changed to correct an inconsistency between the limiting condition for operation and the TS Bases. The changes to TS 3.7.2, ''Main Steam Isolation Valves (MSIVs),'' and TS 3.7.3, ''Main Feedwater Isolation Valves (MFIVs),'' correct the applicability for these specifications. The change to TS 3.8.1, ''AC [Alternating Current] Sources—Operating,'' adds a note to a surveillance requirement. Changes to TS 3.8.4, ''DC [Direct Current] Sources—Operating,'' and TS 3.8.6, ''Battery Cell Parameters,'' remove the reference to AT&T batteries. The changes to TS 5.5.9, ''Steam Generator (SG) Tube Surveillance Program,'' correct the reference for NRC notification.

Date of issuance: February 28, 2006.

Effective date: As of the date of issuance, and shall be implemented within 60 days of the date of issuance.

Amendment Nos.: Unit 1—158, Unit 2—158, Unit 3—158.

Facility Operating License Nos. NPF–41, NPF–51, and NPF–74: The amendments revised the Facility Operating Licenses and the Technical Specifications.

Date of initial notice in ***Federal Register:*** May 10, 2005 (70 FR 24647).

The January 25, 2006, supplemental letter provided additional clarifying information, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 28, 2006.

No significant hazards consideration comments received: No.

Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of application for amendment: October 31, 2005.

Brief description of amendment: The amendment modified requirements by adding to the technical specifications a Limiting Condition for Operation (LCO) 3.0.8 that provides a delay time for entering a supported system TS when the inoperability is due solely to an inoperable snubber, if risk is assessed and managed. In addition, a change to LCO 3.0.1 was required to reference the addition of LCO 3.0.8.

Date of issuance: February 15, 2006.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 172.

Facility Operating License No. NPF–43: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 6, 2005 (70 FR 72670).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 15, 2006.

No significant hazards consideration comments received: No.

Entergy Gulf States, Inc., and Entergy Operations, Inc., Docket No. 50–458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana

Date of amendment request: March 8, 2005, as supplemented by letter dated January 17, 2006.

Brief description of amendment: The amendment allows a one-time extension of an additional 4 months beyond the 5-year extension already granted by the staff to the nominal 10-year interval of the test interval for the next Appendix J, Type A test.

Date of issuance: February 9, 2006.

Effective date: As of the date of issuance and shall be implemented 60 days from the date of issuance.

Amendment No.: 150.

Facility Operating License No. NPF–47: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** March 29, 2005 (70 FR 15942). The supplement dated January 17, 2006, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 9, 2006.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1 (GGNS), Claiborne County, Mississippi

Date of application for amendment: March 30, 2005, as supplemented by letter dated November 21, 2005.

Brief description of amendment: The amendment incorporated the following U.S. Nuclear Regulatory Commission (NRC)-approved Technical Specification Task Force (TSTF) changes that apply to the Boiling Water Reactor/6 Improved Standard Technical Specifications into GGNS Technical Specifications (TSs):

TSTF No.	Description	TS section affected
TSTF–046, Rev. 1	Clarify the Containment Isolation Valve surveillance to apply only to automatic isolation valves.	Surveillance Requirement (SR) 3.6.1.3.4, SR 3.6.4.2.2, SR 3.6.5.3.3.
TSTF–222, Rev. 1	Control Rod Scram Time Testing	SR 3.1.4.1, SR 3.1.4.4.
TSTF–264, Rev. 0	Delete flux monitors specific overlap SRs	SR 3.3.1.1.5, SR 3.3.1.1.6, Table 3.3.1.1–1.
TSTF–275, Rev. 0	Clarify requirements for Diesel Generator (DG) start signal on Reactor Pressure Vessel (RPV) Level—Low, Low, Low during RPV cavity flood-up.	Table 3.3.5.1–1, Footnote (a).
TSTF–276, Rev. 2	Revise DG full load rejection test	SR 3.8.1.9, SR 3.8.1.10, SR 3.8.1.14.
TSTF–300, Rev. 0	Eliminate DG Loss of Coolant Accident (LOCA) Start SRs while in shutdown when Emergency Core Cooling System is not required.	SR 3.8.2.1.
TSTF–322, Rev. 2	Secondary Containment Integrity SRs	SR 3.6.4.1.3, SR 3.6.4.1.4.
TSTF–400, Rev. 1	Clarify SR on bypass of DG automatic trips	SR 3.8.1.13.

TSTF No.	Description	TS section affected
TSTF–416, Rev. 0	SR 3.5.1.2 Notation	Limiting Condition for Operation (LCO) 3.5.1, SR 3.5.1.2, LCO 3.5.2, SR 3.5.2.4.

The amendment also granted delayed performance of the modified SRs for DG 12 until the next regularly scheduled performance rather than immediately upon implementation of this amendment, which is still consistent with NRC-approved TSTF changes. Those SRs are SR 3.8.1.9, SR 3.8.1.10, and SR 3.8.1.14.

Date of issuance: February 2, 2006.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance, with the exception of SR 3.8.1.9, SR 3.8.1.10, and SR 3.8.1.14.

Amendment No: 169.

Facility Operating License No. NPF–29: The amendment revises the Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register:*** May 24, 2005 (70 FR 29791). The supplemental letter dated November 21, 2005, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 2, 2006.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–237, Dresden Nuclear Power Station, Unit 2, Grundy County, Illinois

Date of application for amendment: February 25, 2005.

Brief description of amendment: The amendment deleted the reporting requirement in the Renewed Facility Operating License related to reporting violations of other requirements in the operating license.

Date of issuance: February 17, 2006.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment Nos.: 210.

Facility Operating License No. DPR–19: The amendments revised the Facility Operating License.

Date of initial notice in ***Federal Register:*** April 26, 2005 (70 FR 21456).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 17, 2006.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of application for amendments: April 13, 2005, as supplemented by letter dated December 22, 2005.

Brief description of amendments: The amendment extended the completion time (CT) for Required Action A.1, ''Restore Residual Heat Removal Service Water subsystem to OPERABLE status,'' associated with Technical Specification (TS) Section 3.7.1 from 7 days to 10 days; established a 6-day (for Division 2 core standby cooling system (CSCS) maintenance) or 10-day (for Division 1 CSCS maintenance) CT for TS Section 3.7.2 when one or more required diesel generator cooling water subsystem(s) are inoperable. The Nuclear Regulatory Commission (NRC) staff is granting this amendment request with respect to TS Sections 3.7.1 and 3.7.2 only. In the original submittal, the licensee also requested an extension of the CT for required Action C.4, ''Restore required Diesel Generator (DG) to OPERABLE status,'' associated with TS 3.8.1 from 72 hours to 6 days; and extension of the CT for required Action F.1, ''Restore one required Diesel Generator (DG) to OPERABLE status,'' associated with TS 3.8.1 from 2 hours to 6 days. The NRC staff needs additional information from the licensee in order to complete its review and grant this portion of the amendment request. The staff will address the requests to extend CTs for TS 3.8.1 in a separate safety evaluation and license amendment, if granted.

Date of issuance: February 23, 2006.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment Nos.: 175/161

Facility Operating License Nos. NPF–11 and NPF–18: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** June 7, 2005 (70 FR 33213).

The December 22, 2005, supplement, contained clarifying information and did not change the NRC staff's initial proposed finding of no significant hazards consideration.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 23, 2006.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket No. 50–352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania

Date of application for amendment: December 14, 2005, as supplemented by letter dated February 13, 2006.

Brief description of amendment: The amendment modifies the Technical Specifications (TSs) to incorporate a revised Single Loop Operation Safety Limit Minimum Critical Power Ratio due to the cycle-specific analysis.

Date of issuance: March 1, 2006.

Effective date: As of the date of issuance, to be implemented within 30 days.

Amendment No.: 183.

Facility Operating License No. NPF–39 This amendment revised the TSs.

Date of initial notice in ***Federal Register:*** January 17, 2006 (71 FR 2590). The supplement dated February 13, 2006, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 1, 2006.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: December 17, 2004.

Brief description of amendments: The amendments revised Appendix B, Environmental Protection Plan (non-radiological), of the Limerick Generating Station Operating Licenses.

Date of issuance: February 17, 2006.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment Nos.: 180 and 142.

Facility Operating License Nos. NPF–39 and NPF–85: The amendments

revised the Environmental Protection Plan.

Date of initial notice in ***Federal Register:*** April 12, 2005 (70 FR 19112).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 17, 2006.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: February 25, 2005.

Brief description of amendments: The proposed amendment would delete the sections of the Facility Operating Licenses that require reporting of violations of the requirements in Section 2.C of the Facility Operating Licenses.

Date of issuance: February 17, 2006.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment Nos.: 181 and 143.

Facility Operating License Nos. NPF–39 and NPF–85: The amendments revised the Technical Specifications/license.

Date of initial notice in ***Federal Register:*** April 26, 2005 (70 FR 21457).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 17, 2006.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Unit Nos. 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: December 21, 2005.

Brief description of amendments: The amendments revised the Technical Specifications (TSs) by relocating the Pressure Isolation Valve Table to the Technical Requirements Manual.

Date of issuance: February 17, 2006.

Effective date: As of the date of issuance, to be implemented within 30 days.

Amendment Nos.: 182 and 144.

Facility Operating License Nos. NPF–39 and NPF–85. These amendments revised the TSs.

Date of initial notice in ***Federal Register:*** January 17, 2006 (71 FR 2590).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 17, 2006.

No significant hazards consideration comments received: No.

FirstEnergy Nuclear Operating Company, et al., Docket Nos. 50–334 and 50–412, Beaver Valley Power Station, Unit Nos. 1 and 2 (BVPS–1 and 2), Beaver County, Pennsylvania

Date of application for amendments: June 2, 2004, as supplemented February 11, May 12, October 31, and November 14, 2005.

Brief description of amendments: These amendments approve conversion of the BVPS–1 and 2 containments from subatmospheric to atmospheric operating conditions. The proposed changes also approves the Modular Accident Analysis Program—Design Basis Accident (MAAP–DBA) computer code for the BVPS–1 and 2 containment integrity analysis and changes to mass and energy calculation methodologies.

Date of issuance: February 6, 2006.

Effective date: For BVPS–1, the amendment is effective as of the date of its issuance and shall be implemented prior to Mode 4 entry during startup from 1R17 which begins on or about February 10, 2006. For BVPS–2, the amendment is effective as of the date of its issuance and shall be implemented prior to Mode 4 entry during startup from 2R12 which begins October 2006.

Amendment Nos.: 272 and 154.

Facility Operating License Nos. DPR–66 and NPF–73: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** July 20, 2004 (69 FR 43462).

The supplements dated February 11, May 12, October 31, and November 14, 2005, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 6, 2006.

No significant hazards consideration comments received: No.

FirstEnergy Nuclear Operating Company, et al., Docket Nos. 50–334 and 50–412, Beaver Valley Power Station, Unit Nos. 1 and 2 (BVPS–1 and 2), Beaver County, Pennsylvania

Date of application for amendments: February 11, 2005, as supplemented August 8, 2005.

Brief description of amendments: The amendments approved the adoption of the Relaxed axial offset control (RAOC) and F_Q surveillance methodologies in accordance with NRC-approved Topical Report WCAP–10216–P–A, ''Relaxation of Constant Axial Offset Control—F_Q Surveillance Technical Specification.'' TS 3.2.1, ''Axial Flux Difference (AFD),'' and TS 3.2.2, ''Heat Flux Hot Channel Factor—$F_Q(Z)$,'' were revised to adopt the RAOC calculational procedure of NUREG–1431, ''Standard Westinghouse Technical Specifications for Westinghouse Plants,'' Revision 3, June 2004. Changes to TS 3.2.3, ''Nuclear Enthalpy Hot Channel Factor—$F^N\Delta_H$,'' TS 3.2.4, ''Quadrant Power Tilt Ratio (QPTR),'' TS 3.3.1, ''Reactor Trip System Instrumentation (Table 4.3–1, Note 3),'' and TS 6.9.5, ''Core Operating Limits Report (COLR),'' were made to provide consistency with the changes made to TSs 3.2.1 and 3.2.2.

Date of issuance: February 27, 2006.

Effective date: Prior to entry into Mode 4 upon restart from the spring 2006 refueling outage which begins on or about February 10, 2006, for BVPS–1 and prior to entry into Mode 4 from startup following the fall 2006 refueling outage which begins in October 2006, for BVPS–2.

Amendment Nos.: 274 and 155.

Facility Operating License Nos. DPR–66 and NPF–73: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** April 26, 2005 (70 FR 21457). The supplement dated August 8, 2005, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 27, 2006.

No significant hazards consideration comments received: No.

FirstEnergy Nuclear Operating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit 1, Ottawa County, Ohio

Date of application for amendment: April 20, 2005.

Brief description of amendment: The changes revised the Technical Specifications (TSs) to replace plant-specific position titles with generic position titles. Also, the changes deleted TS 6.7, ''Safety Limit Violations or Protective Limit Violation,'' and included a change to TS 2.1.2, ''Reactor Core,'' associated with the deletion of TS 6.7. Additionally, the changes relocated to the Davis-Besse Nuclear Power Station Updated Safety Analysis Report the Process Control Program

requirements from TS 6.8, ''Procedures and Programs,'' and from TS 6.14, ''Process Control Program (PCP).'' Associated with this change, TS Definition 1.30, ''Process Control Program,'' was deleted. Also, TS 6.15, ''Offsite Dose Calculation Manual (ODCM),'' was modified to eliminate the requirement that changes to the ODCM be reviewed and accepted by the Plant Operations Review Committee (PORC). These changes to administrative requirements also eliminated the need to propose additional changes in the future to plant-specific position/organizational titles. The changes are consistent with NUREG–1430, ''Standard Technical Specifications—Babcock and Wilcox Plants,'' Revision 3, dated June 2004. Lastly, the changes revised in the TSs the title ''Industrial Security Plan'' to ''Physical Security Plan.''

Date of issuance: February 7, 2006.

Effective date: As of the date of issuance and shall be implemented within 120 days.

Amendment No.: 272.

Facility Operating License No. NPF–3: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** May 24, 2005 (70 FR 29795).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 7, 2006.

No significant hazards consideration comments received: No.

FPL Energy Seabrook, LLC, Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: March 28, 2005.

Description of amendment request: The amendment revised the Seabrook Station, Unit No. 1, Technical Specifications (TSs) Surveillance Requirement 4.1.1.3, ''Moderator Temperature Coefficient,'' to allow the option of not measuring the moderator temperature coefficient within 7 effective full-power days of reaching an equilibrium boron concentration of 300 parts per million. This option is available only if the conditions described in WCAP–13749–P–A, ''Safety Evaluation Supporting the Conditional Exemption of the Most Negative Moderator Temperature Coefficient Measurement'' have been met.

Date of issuance: February 17, 2006.

Effective date: As of its date of issuance, and shall be implemented within 90 days.

Amendment No.: 107.

Facility Operating License No. NPF–86: The amendment revised the TSs.

Date of initial notice in ***Federal Register:*** May 10, 2005 (70 FR 24652).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 17, 2006.

No significant hazards consideration comments received: No.

PPL Susquehanna, LLC, Docket Nos. 50–388, Susquehanna Steam Electric Station, Unit 2 (SSES–2), Luzerne County, Pennsylvania

Date of application for amendment: January 28, 2005.

Brief description of amendment: The amendment revises the SSES–2 Technical Specification (TS) Table 3.3.5.1–1, ''Emergency Core Cooling System Instrumentation,'' Function 3.e, '' High Pressure Coolant Injection (HPCI) System,'' to change Condition ''D'' to ''C'' as the condition to reference from Required Action A.1. This is an editorial revision to correct a typographical error that had been present since the conversion to the Improved TSs in July 1998.

Date of issuance: February 6, 2006.

Effective date: As of the date of issuance, and shall be implemented within 30 days.

Amendment No.: 206.

Facility Operating License No. NPF–22: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** May 10, 2005 (70 FR 24654).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 2, 2006.

No significant hazards consideration comments received: No.

PPL Susquehanna, LLC, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2 (SSES 1 and 2), Luzerne County, Pennsylvania

Date of application for amendments: February 7, 2005

Brief description of amendments: The amendments change the SSES 1 and 2 Technical Specifications (TSs) for ''Secondary Containment,'' limiting condition for operation 3.6.4.1, by revising the frequency note applicable to Surveillance Requirements (SR) 3.6.4.1.4 and SR 3.6.41.5. The revised note requires each zone configuration be tested at least once every 60 months.

Date of issuance: February 2, 2006.

Effective date: As of the date of issuance, and shall be implemented within 90 days.

Amendment Nos.: 229 and 205.

Facility Operating License Nos. NPF–14 and NPF–22: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** May 24, 2005 (70 FR 29799).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 2, 2006.

No significant hazards consideration comments received: No.

PSEG Nuclear LLC, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: April 26, 2004, as supplemented by letters dated September 16, 2004, September 23, 2004, February 25, 2005, and June 13, 2005.

Brief description of amendments: These amendments revised the Technical Specifications to incorporate a full-scope application of an alternate source term methodology in accordance with 10 CFR 50.67.

Date of issuance: February 17, 2006.

Effective date: As of the date of issuance, to be implemented with 90 days.

Amendment Nos.: 271 and 252.

Facility Operating License Nos. DPR–70 and DPR–75: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** June 22, 2004 (69 FR 34705). The supplements did not effect the scope of changes discussed in the original no significant hazards determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 17, 2006.

No significant hazards consideration comments received: No.

R.E. Ginna Nuclear Power Plant, LLC, Docket No. 50–244, R.E. Ginna Nuclear Power Plant, Wayne County, New York

Date of application for amendment: April 29, 2005, as supplemented on September 19, 2005.

Brief description of amendment: The amendment revised the Technical Specifications to incorporate the relaxed axial offset control and heat flux hot channel (FQ) surveillance methodologies. These methodologies are used to reduce operator action required to maintain conformance with power distribution control requirements and to increase the ability to return to power after a plant trip or transient. The changes are consistent with Westinghouse Electric Company Report WCAP–10216–P–A, ''Relaxation of Constant Axial Offset Control/F_Q Surveillance Technical Specification.''

Date of issuance: February 15, 2006.

Effective date: As of the date of issuance to be implemented prior to startup following the fall 2006 refueling outage.

Amendment No.: 94.

Renewed Facility Operating License No. DPR–18: Amendment revised the Technical Specifications.

*Date of initial notice in **Federal Register:*** June 7, 2005 (70 FR 33220).

The September 19, 2005, letter provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 15, 2006.

No significant hazards consideration comments received: No.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of application for amendments: July 15, 2005, and as supplemented by letter dated January 20, 2006.

Brief description of amendments: The amendments are for the San Onofre Nuclear Generating Station (SONGS), Units 2 and 3, operating licenses, but they involved Unit 1, which is not an operating nuclear plant and is in the process of being decommissioned. The amendments revised License Condition 2.B.(6) for both SONGS, Units 2 and 3, by (1) deleting the sentence ''Transshipment of Unit 1 fuel between Units 1 and [2 or 3] shall be in accordance with SCE [Southern California Edison Company] letters to U.S. Nuclear Regulatory Commission dated March 11, March 18 and March 23, 1988, and in accordance with the Quality Assurance requirements of 10 CFR Part 71'' and (2) adding the phrase ''and by the decommissioning of San Onofre Nuclear Generating Station Unit 1'' to the remaining sentence in the license condition. This change recognized that Unit 1 is now in the stage of decommissioning and that in the future any radioactive waste water produced in the further decommissioning of Unit 1 would be released from the San Onofre site by transferring the waste water from Unit 1 to Units 2 and 3. The processing (if required) and discharging of this waste water would be using the Units 2 and 3 radioactive waste system and ocean outfall discharge line.

Date of issuance: February 28, 2006.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment Nos.: Unit 2—202; Unit 3—193.

Facility Operating License Nos. NPF–10 and NPF–15: The amendments revised the Facility Operating Licenses.

*Date of initial notice in **Federal Register:*** September 13, 2005 (70 FR 54089).

The supplement dated January 20, 2006, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 28, 2006.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendments request: November 2, 2005.

Brief Description of amendments: The amendments modify technical specifications (TS) to adopt the provisions of Industry/TS Task Force (TSTF) change TSTF–359, ''Increased Flexibility in Mode Restraints.''

Date of issuance: February 22, 2006.

Effective date: As of the date of issuance and shall be implemented within 120 days from the date of issuance.

Amendment Nos.: 170 and 163.

Renewed Facility Operating License Nos. NPF–2 and NPF–8: Amendments revise the Technical Specifications.

*Date of initial notice in **Federal Register:*** December 20, 2005 (70 FR 75498).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 22, 2006.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 7th day of March, 2006.

For the Nuclear Regulatory Commission.

Catherine Haney,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 06–2383 Filed 3–13–06; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Public Availability of Fiscal Year 2005 Agency Inventories Under the Federal Activities Inventory Reform Act

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice of public availability of agency inventory of activities that are not inherently governmental and of activities that are inherently governmental.

SUMMARY: The Federal Activities Inventory Reform (FAIR) Act, Public Law 105–270, requires agencies to develop inventories each year of activities performed by their employees that are not inherently governmental—i.e., inventories of commercial activities. The FAIR Act further requires OMB to review the inventories in consultation with the agencies and publish a notice of public availability in the **Federal Register** after the consultation process is completed. In accordance with the FAIR Act, OMB is publishing this notice to announce the availability of inventories from the agencies listed below. These inventories identify both commercial activities and activities that are inherently governmental.

This is the first release of the FAIR Act inventories for FY 2005. Interested parties who disagree with the agency's initial judgment may challenge the inclusion or the omission of an activity on the list of activities that are not inherently governmental within 30 working days and, if not satisfied with this review, may appeal to a higher level within the agency.

The Office of Federal Procurement Policy has made available a FAIR Act User's Guide through its Internet site: *http://www.whitehouse.gov/omb/procurement/fair-index.html*. This User's Guide will help interested parties review FY 2005 FAIR Act inventories.

Joshua B. Bolten,

Director.

FIRST FAIR ACT RELEASE FY 2005

American Battle Monuments Commission	Mr. Alan Gregory, (703) 696–6868, www.abmc.gov.
Chemical Safety Board	Ms. Bea Robinson, (202) 261–7627, www.csb.gov.

FIRST FAIR ACT RELEASE FY 2005—Continued

Commission on Fine Arts	Mr. Frederick Lindstrom, (202) 504–2200, www.cfa.gov.
Council on Environmental Quality	Mr. Ted Boling, (202) 395–3449, www.whitehouse.gov/ceq.
Defense Nuclear Facilities Safety Board	Mr. Kenneth Pusateri, (202) 694–7060, www.dnfsb.gov.
Department of Defense	Mr. Paul Soloman, (703) 602–3666, web.lmi.org/fairnet.
Department of Defense (IG)	Mr. John R. Crane, (703) 604–8324, www.dodig.osd.mil.
Department of Education	Mr. Glenn Perry, (202) 245–6200, www.ed.gov/about/offices/list/ocfo/2005fair.html.
Department of Energy	Mr. Mark R. Hively, (202) 586–5655, www.mbe.doe.gov/a-76/.
Department of Health and Human Services	Ms. Tracey Mock, (202) 205–4430, www.hhs.gov/ogam/oam/fair.
Department of Housing and Urban Development	Ms. Janice Blake-Green, (202) 708–0614, x3214, www.hud.gov.
Department of Housing and Urban Development (IG)	Ms. Peggy Dickinson, (202) 708–0614, x8192, www.hudoig.gov.
Department of the Interior	Ms. Donna Kalvels, (202) 219–0727, www.doi.gov.
Department of the Interior (IG)	Mr. Roy Kime, (202) 208–6232, www.oig.doi.gov.
Department of Justice	Mr. Larry Silvis, (202) 616–3754, www.usdoj.gov/jmd/pe/preface.htm.
Department of Labor	Mr. Al Stewart, (202) 693–4028, www.dol.gov.
Department of Labor (IG)	Mr. David LeDoux, (202) 693–5138, www.oig.dol.gov.
Department of State	Ms. Valerie Dumas, (703) 516–1506, www.state.gov.
Department of Transportation	Mr. David Litman, (202) 366–4263, www.dot.gov.
Department of Transportation (IG)	Ms. Jackie Weber, (202) 366–1495, www.oig.dot.gov.
Department of the Treasury	Mr. Jim Sullivan, (202) 622–9395, www.treas.gov/fair.
Environmental Protection Agency	Ms. Melanie Gooden, (202) 566–2222, www.epa.gov.
Environmental Protection Agency (IG)	Mr. Michael J. Binder, (202) 566–2617, www.epa.gov/oig.
Equal Employment Opportunity Commission	Mr. Jeffrey Smith, (202) 663–4200, www.eeoc.gov/abouteeoc/plan/.
Farm Credit Administration	Mr. Philip Shebest, (703) 883–4146, www.fca.gov.
Federal Mediation and Conciliation Service	Mr. Dan Ellerman, (202) 606–5460, www.fmcs.gov.
Federal Trade Commission	Ms. Darlene Cossette, (202) 326–3255, www.ftc.gov.
Holocaust Museum	Ms. Helen Shepherd, (202) 314–0396, www.ushmm.gov.
Inter-American Foundation	Ms. Linda Kolko, (703) 306–4308, www.iaf.gov.
Kennedy Center	Mr. Jared Barlage, (202) 416–8721, www.kennedy-center.org.
Marine Mammal Commission	Mr. David Cottingham, (301) 504–0087, www.mmc.gov.
Morris K. Udall Foundation	Mr. Philip Lemanski, (520) 670–5651, www.udall.gov.
National Aeronautics and Space Administration	Mr. Joseph Lecren, (202) 358–0431, competitivesourcing.nasa.gov.
National Archives and Records Administration	Ms. Susan Ashtianie, (301) 837–1490, www.nara.gov.
National Archives and Records Administration (IG)	Mr. James Springs, (301) 837–3018, www.archives.gov/about/plans-reports/fair-act/oig.html.
National Capital Planning Commission	Mr. Barry Socks, (202) 482–7209, www.ncpc.gov.
National Endowment for the Arts	Mr. Ned Read, (202) 682–5782, www.arts.gov.
National Endowment for the Humanities	Mr. Barry Maynes, (202) 606–8233, www.neh.gov/whoweare/administrative.html.
National Labor Relations Board	Ms. Demetria Gregory, (202) 273–0054, www.nlrb.gov/nlrb/about/reports/fair.asp.
National Labor Relations Board (IG)	Mr. Emil George, (202) 273–1966, www.nlrb.gov/nlrb/about/reports/fair.asp.
National Mediation Board	Ms. Denise Murdock, (202) 692–5010, www.nmb.gov.
National Science Foundation	Mr. Joseph F. Burt, (703) 292–8180, www.nsf.gov/pubs/2006/od0601/start.htm.
National Transportation Safety Board	Ms. Barbara Czech, (202) 314–6169, www.ntsb.gov/info/fair_act_2005.htm.
Nuclear Regulatory Commission	Ms. Mary Lynn Scott, (301) 415–7305, www.nrc.gov/who-we-are/contracting.html.
Nuclear Regulatory Commission (IG)	Mr. David Lee, (301) 415–5930, www.nrc.gov/insp-gen/fairact-inventory.html.
Nuclear Waste Technical Review Board	Ms. Joyce Dory, (703) 235–4473, www.nwtrb.gov.
Occupational Safety and Health Review Commission	Mr. Richard Loeb, (202) 606–5376, www.oshrc.gov.
Office of National Drug Control Policy	Mr. Daniel Petersen, (202) 395–6745, www.whitehousedrugpolicy.gov.
Office of Personnel Management	Mr. Ronald C. Flom, (202) 606–3207, www.opm.gov/procure/fairactinventory/.
Office of the Special Counsel	Mr. Roderick Anderson, (202) 254–3600, www.osc.gov.
Office of the U.S. Trade Representative	Ms. Susan Buck, (202) 395–9412, www.ustr.gov.
Railroad Retirement Board	Mr. Henry Valiulius, (312) 751–4990, www.rrb.gov.
Railroad Retirement Board (IG)	Ms. Henrietta Shaw, (312) 751–4345, www.rrb.gov/mep/oig.asp.
Selective Service System	Mr. Calvin Montgomery, (703) 605–4038, www.sss.gov.
Small Business Administration	Mr. Robert J. Moffitt, (202) 205–6610, www.sba.gov/fair.
Small Business Administration (IG)	Ms. Robert Fisher, (202) 205–6583, www.sba.gov/ig/OIG_Fair.html.
Social Security Administration	Mr. Jaime Fisher, (410) 965–9097, www.ssa.gov.
U.S. Agency for International Development	Ms. Deborah Lewis, (202) 712–0936, www.usaid.gov.
U.S. Agency for International Development (IG)	Mr. Robert S. Ross, (202) 712–0010, www.usaid.gov/oig/.
U.S. Patent and Trademark Office	Mr. Jack Buie, (571) 272–6283, www.uspto.gov.
U.S. Trade Development Agency	Ms. Barbara Bradford, (703) 875–4357, www.tda.gov.
Woodrow Wilson Center	Ms. Ronnie Dempsey, (202) 691–4216, www.wilsoncenter.org.

[FR Doc. 06–2427 Filed 3–13–06; 8:45 am]

BILLING CODE 3110–01–P

POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Act Meeting

TIMES AND DATES: 4 p.m., Wednesday, March 22, 2006; and 8:30 a.m., Thursday, March 23, 2006.

PLACE: Washington, DC, at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW.

STATUS: March 22—4 p.m. (Closed); March 23—8:30 a.m. (Closed).

MATTERS TO BE CONSIDERED:

1. Strategic Planning.
2. Rate Case Planning.
3. Financial Update.
4. Labor Negotiations Planning.
5. Personnel Matters and Compensation Issues.
6. Postal Rate Commission Opinion and Recommended Decision in Docket No. MC2006–1, Parcel Return Service.
7. Postal Rate Commission Opinion and Recommended Decision in Docket No. MC2006–2, Extension of Market Test for Repositionable Notes.

Thursday, March 23 at 8:30 a.m. (Closed)

1. Continuation of Wednesday's agenda.

FOR FURTHER INFORMATION CONTACT: Wendy A. Hocking, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–1000. Telephone (202) 268–4800.

Wendy A. Hocking,

Secretary.

[FR Doc. 06–2531 Filed 3–10–06; 3:10 pm]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 27258; 812–13233]

MCG Capital Corporation; Notice of Application

March 8, 2006.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 23(a), 23(b) and 63 of the Act, and under sections 57(a)(4) and 57(i) of the Act and rule 17d-1 under the Act permitting certain joint transactions otherwise prohibited by section 57(a)(4) of the Act.

Summary of the Application: MCG Capital Corporation (''Applicant'') requests an order to permit Applicant to issue restricted shares of its common stock under the terms of its employee and director compensation plans.

Filing Dates: The application was filed on September 2, 2005, and amended on January 31, 2006.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 3, 2006, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090. Applicant, c/o Bryan J. Mitchell, Chief Executive Officer, MCG Capital Corporation, 1100 Wilson Blvd., Suite 3000, Arlington, VA 22209.

FOR FURTHER INFORMATION CONTACT: Marilyn Mann, Senior Counsel, at (202) 551–6813, or Mary Kay Frech, Branch Chief, at (202) 551–6821, (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Desk, 100 F Street, NE., Washington, DC 20549–0102 (tel. 202–551–5850).

Applicant's Representations

1. Applicant, a Delaware corporation, is an internally managed, non-diversified, closed-end investment company that has elected to be regulated as a business development company (''BDC'') under the Act.[1] Applicant provides financing and advisory services to a variety of small- and medium-sized companies throughout the United States with a focus on growth-oriented companies. Applicant's investments are primarily senior secured commercial loans, subordinated debt and equity-based investments. Shares of Applicant's common stock are traded on The NASDAQ Stock Market, Inc. National Market under the symbol ''MCGC.'' As of December 31, 2005, there were 53,371,893 shares of Applicant's common stock outstanding. As of that date, Applicant had 128 employees, including the employees of its wholly-owned consolidated subsidiaries.

2. Applicant currently has an eight-member board of directors (the ''Board'') of whom three are ''interested persons'' of Applicant within the meaning of section 2(a)(19) of the Act and five are not interested persons (the ''non-interested directors''). The five non-interested directors are neither employees nor officers of Applicant (the ''non-employee directors''). Applicant states that its non-employee directors actively participate in service on committees of the Board and other aspects of corporate governance, as well as make a significant contribution to Applicant's business.

3. On November 28, 2001, prior to Applicant's election to be regulated as a BDC, Applicant terminated its stock option plan, and in exchange therefore issued to its employees and directors, in the aggregate, 1,539,851 shares of its common stock. These shares are subject to forfeiture restrictions but otherwise carry the rights of common stock, including the right to vote and the right to receive dividends. These shares represented 10.8% of Applicant's outstanding shares prior to its IPO, and 5.4% of Applicant's outstanding shares immediately following the IPO.

4. Applicant believes that its successful operation depends on its ability to offer compensation packages to its professionals that are competitive with those offered by its competitors. Applicant believes its ability to adopt compensation plans providing for the periodic issuance of shares of restricted stock (*i.e.*, stock that, at the time of issuance, is subject to certain forfeiture restrictions, and thus is restricted as to its transferability until such forfeiture restrictions have lapsed) (the ''Restricted Stock'') is vital to its future growth and success. Applicant wishes to adopt equity-based compensation plans for its non-employee directors (the ''Director Plan'') and employees (the ''Employee Plan'', and together the ''Plans''), as well as employees of its wholly owned consolidated subsidiaries (the ''Participants'').

[1] Applicant was organized on March 18, 1998. On December 4, 2001, Applicant completed its initial public offering (''IPO'') and immediately thereafter elected to be regulated as a BDC. Section 2(a)(48) defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in sections 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities.

5. The Plans will authorize the issuance of shares of Restricted Stock subject to certain forfeiture restrictions. These restrictions may relate to continued employment or service on the Applicant's Board, as the case may be (lapsing either on an annual or other periodic basis or on a ''cliff'' basis, *i.e.*, at the end of a stated period of time), the performance of the company, or other restrictions deemed by the compensation committee of the Board (the ''Committee'') to be appropriate. The Restricted Stock will be subject to restrictions on transferability and other restrictions as required by the Committee. Except to the extent restricted under the terms of the Plans, a Participant granted Restricted Stock will have all the rights of any other shareholder, including the right to vote the Restricted Stock and the right to receive dividends. During the restriction period, the Restricted Stock generally may not be sold, transferred, pledged, hypothecated, margined, or otherwise encumbered by the Participant. Except as the Board otherwise determines, upon termination of a Participant's employment or service on the Board during the applicable restriction period, Restricted Stock for which forfeiture restrictions have not lapsed at the time of such termination shall be forfeited.

6. The maximum number of shares that are represented by shares of Restricted Stock will be 10% of the outstanding shares of Applicant's common stock on the effective date of the Plans plus 10% of the outstanding shares of Applicant's common stock issued or delivered by Applicant (other than pursuant to compensation plans) during the term of the Plans.[2] The Employee Plan limits the total number of shares that may be awarded to any single Participant in a single year to 500,000 shares. In addition, no Participant may be granted more than 25% of the shares reserved for issuance under the Plans. The Employee Plan will be administered by the Committee, which will award shares of Restricted Stock to the Participants from time to time as part of the Participants' compensation based on a Participant's actual or expected performance and value to the Applicant.

7. Under the Director Plan, Applicant's non-employee directors will each receive a grant of 7,500 shares of Restricted Stock at the beginning of each three-year term of service on the Board, for which forfeiture restrictions will lapse as to one-third of such shares each year. The Director Plan will be administered by the Committee, and the grants of Restricted Stock under the Director Plan will be automatic and will not be changed without Commission approval.

8. The Employee Plan has been approved by the Committee, which is composed entirely of non-interested directors, as well as the Board, including a majority of the non-interested directors and the required majority, as defined in section 57(o) of the Act (''required majority'').[3] The Plans will be submitted for approval to Applicant's shareholders, and will become effective upon such approval, subject to and following receipt of the order.

Applicant's Legal Analysis

Sections 23(a) and (b), Section 63

1. Under section 63 of the Act, the provisions of section 23(a) of the Act generally prohibiting a registered closed-end investment company from issuing securities for services or for property other than cash or securities are made applicable to BDCs. This provision would prohibit the issuance of Restricted Stock as a part of the Plans.

2. Section 23(b) generally prohibits a closed-end management investment company from selling its common stock at a price below its current net asset value (''NAV''). Section 63(2) makes section 23(b) applicable to BDCs unless certain conditions are met. Because Restricted Stock that would be granted under the Plans would not meet the terms of section 63(2), sections 23(b) and 63 prohibit the issuance of the Restricted Stock.

3. Section 6(c) provides that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of the Act, if and to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicant requests an order pursuant to section 6(c) of the Act granting an exemption from the provisions of sections 23(a) and (b) and section 63 of the Act. Applicant states that the concerns underlying those sections include: (i) Preferential treatment of investment company insiders and the use of options and other rights by insiders to obtain control of the investment company; (ii) complication of the investment company's structure that makes it difficult to determine the value of the company's shares; and (iii) dilution of shareholders' equity in the investment company. Applicant states that the Plans do not raise the concern about preferential treatment of Applicant's insiders because the Plans are bona fide employee compensation plans of the type that is common among corporations generally. In addition, section 61(a)(3)(B) of the Act permits a BDC to issue to its officers, directors and employees, pursuant to an executive compensation plan, warrants, options and rights to purchase the BDC's voting securities, subject to certain requirements. Applicant states that, for reasons that are unclear, section 61 and its legislative history do not address the issuance by a BDC of restricted stock as incentive compensation. Applicant states, however, that the issuance of Restricted Stock is substantially similar, for purposes of investor protection under the Act, to the issuance of warrants, options, and rights as contemplated by section 61. Applicant also asserts that the Plans would not become a means for insiders to obtain control of Applicant because the number of shares of Applicant issuable under the Plans would be limited as set forth in the application. Applicant's current intention is to issue only shares of Restricted Stock as incentive compensation; however, if Applicant issues stock options in the future, it will do so pursuant to section 61 and in compliance with the terms and conditions of the application. Moreover, no individual Participant could be issued more than 25% of the shares reserved for issuance under the Plans.

5. Applicant further states that the Plans will not unduly complicate Applicant's structure because equity-based employee compensation arrangements are widely used among corporations and commonly known to investors. Applicant notes that the Plans will be submitted to Applicant's shareholders for their approval. Applicant represents that a concise, ''plain English'' description of the Plans,

[2] For purposes of calculating compliance with this limit, Applicant will count as Restricted Stock all shares of Applicant's common stock that are issued pursuant to the Plans less any shares that are forfeited back to Applicant and cancelled as a result of forfeiture restrictions not lapsing. Applicant will also count as Restricted Stock the shares of Applicant's common stock that were issued in November 2001 in connection with the termination of Applicant's stock option plan, pursuant to the same calculation formula.

[3] The term ''required majority,'' when used with respect to the approval of a proposed transaction, plan, or arrangement, means both a majority of a BDC's directors or general partners who have no financial interest in such transaction, plan, or arrangement and a majority of such directors or general partners who are not interested persons of such company.

including their potential dilutive effect, will be provided in the proxy materials that will be submitted to Applicant's shareholders. Applicant also states that it will comply with the proxy disclosure requirements in Item 10 of Schedule 14A under the Securities Exchange Act of 1934 (the ''Exchange Act''). Applicant further notes that the Plans will be disclosed to investors in accordance with the requirements of the Form N–2 registration statement for closed-end investment companies, and pursuant to the standards and guidelines adopted by the Financial Accounting Standards Board for operating companies. In addition, Applicant will comply with the disclosure requirements for executive compensation plans applicable to operating companies under the Exchange Act.[4] Applicant thus concludes that the Plans will be adequately disclosed to investors and appropriately reflected in the market value of Applicant's shares.

6. Applicant acknowledges that, while awards granted under the Plans would have a dilutive effect on the shareholders' equity in Applicant, that effect would be outweighed by the anticipated benefits of the Plans to Applicant and its shareholders. Applicant asserts that it needs the flexibility to provide the requested equity-based employee compensation in order to be able to compete effectively with other financial services firms for talented professionals. These professionals, Applicant suggests, in turn are likely to increase Applicant's performance and shareholder value. Applicant also asserts that equity-based compensation would more closely align the interests of Applicant's employees with those of Applicant's shareholders. Applicant believes that the granting of shares of Restricted Stock to non-employee directors under the Director Plan is fair and reasonable because of the skills and experience that such directors provide to Applicant. Such skills and experience are necessary for the management and oversight of Applicant's investments and operations. Applicant believes that granting the shares of Restricted Stock will provide significant incentives for non-employee directors to remain on the Board and to devote their best efforts to the success of Applicant's business in the future, as they have done in the past. The issuance of shares of Restricted Stock will also provide a means for Applicant's non-employee directors to increase their ownership interest in Applicant, thereby helping to ensure a close identification of their interests with those of Applicant and its shareholders.

7. In addition, Applicant states that Applicant's shareholders will be further protected by the conditions to the requested order that assure continuing oversight of the operation of the Plans by Applicant's Board. Under these conditions, the Board will review the Plans at least annually. In addition, the Committee periodically will review the potential impact that the issuance of Restricted Stock could have on Applicant's earnings and NAV per share, such review to take place prior to any decisions to issue Restricted Stock, but in no event less frequently than annually. Adequate procedures and records will be maintained to permit such review. The Committee will be authorized to take appropriate steps to ensure that the grant of Restricted Stock under the Plans would not have an effect contrary to the interests of Applicant's shareholders. This authority will include the authority to prevent or limit the grant of additional Restricted Stock under the Plans.

Section 57(a)(4), Rule 17d–1

8. Section 57(a) proscribes certain transactions between a BDC and persons related to the BDC in the manner described in section 57(b) (''57(b) persons''), absent a Commission order. Section 57(a)(4) generally prohibits a 57(b) person from effecting a transaction in which the BDC is a joint participant absent such an order. Rule 17d–1, made applicable to BDCs by section 57(i), proscribes participation in a ''joint enterprise or other joint arrangement or profit-sharing plan,'' which includes a stock option or purchase plan. Employees and directors of a BDC are 57(b) persons. Thus, the issuance of shares of Restricted Stock could be deemed to involve a joint transaction involving a BDC and a 57(b) person in contravention of section 57(a)(4). Rule 17d–1(b) provides that, in considering relief pursuant to the rule, the Commission will consider (i) whether the participation of the company in a joint enterprise is consistent with the Act's policies and purposes and (ii) the extent to which that participation is on a basis different from or less advantageous than that of other participants.

9. Applicant requests an order pursuant to section 57(a)(4) and rule 17d–1 to permit the Plans. Applicant states that the Plans, although benefiting the Participants and Applicant in different ways, are in the interests of Applicant's shareholders because the Plans will help Applicant attract and retain talented professionals, help align the interests of Applicant's employees with those of its shareholders, and in turn help produce a better return to Applicant's shareholders. Thus, Applicant asserts that the Plans are consistent with the policies and purposes of the Act and that Applicant's participation in the Plans will be on a basis no less advantageous than that of other participants.

Applicant's Conditions

Applicant agrees that the order granting the requested relief will be subject to the following conditions:

1. The Employee Plan will be authorized in accordance with section 61(a)(3)(A)(iv) of the Act, and each Plan will be approved by the Applicant's shareholders.

2. The Applicant will comply with sections 61(a)(3)(B)(iii) and (iv) of the Act.

3. The amount of voting securities that would result from the exercise of all of the Applicant's outstanding warrants, options, and rights, together with any Restricted Stock issued pursuant to the Plans, at the time of issuance shall not exceed 25% of the outstanding voting securities of the Applicant, except that if the amount of voting securities that would result from the exercise of all of the Applicant's outstanding warrants, options, and rights issued to the Applicant's directors, officers, and employees, together with any Restricted Stock issued pursuant to the Plans, would exceed 15% of the outstanding voting securities of the Applicant, then the total amount of voting securities that would result from the exercise of all outstanding warrants, options, and rights, together with any Restricted Stock issued pursuant to the Plans, at the time of issuance shall not exceed 20% of the outstanding voting securities of the Applicant.

4. The maximum amount of Restricted Stock that may be issued under the Plans will be 10% of the outstanding shares of common stock of Applicant on the effective date of the Plans plus 10% of the number of shares of Applicant's common stock issued or delivered by Applicant (other than pursuant to compensation plans) during the term of the Plans.

5. The Committee will administer the Plans.

6. The Board will review the Plans at least annually. In addition, the Committee will review periodically the

[4] In addition, Applicant will comply with the amendments to the disclosure requirements for executive and director compensation, related party transactions, director independence and other corporate governance matters, and security ownership of officers and directors to the extent adopted and applicable to BDCs. *See* Executive Compensation and Related Party Disclosure, Release No. 34–53185 (Jan. 27, 2006).

potential impact that the issuance of Restricted Stock under the Plans could have on Applicant's earnings and NAV per share, such review to take place prior to any decisions to grant Restricted Stock under the Plans, but in no event less frequently than annually. Adequate procedures and records will be maintained to permit such review. The Committee will be authorized to take appropriate steps to ensure that the grant of Restricted Stock under the Plans would not have an effect contrary to the interests of Applicant's shareholders. This authority will include the authority to prevent or limit the granting of additional Restricted Stock under the Plans. All records maintained pursuant to this condition will be subject to examination by the Commission and its staff.

By the Commission.

Nancy M. Morris,

Secretary.

[FR Doc. E6–3544 Filed 3–13–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Biopulse International, Inc., n/k/a Only You, Inc., and Summit National Consolidation Group, Inc., n/k/a Superwipes, Inc.; Order of Suspension of Trading

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Biopulse International, Inc. (n/k/a Only You, Inc.) because it has not filed a periodic report since the period ending April 30, 2002.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Summit National Consolidation Group, Inc. (n/k/a/ Superwipes, Inc.) because it has not filed a periodic report since the period ending December 31, 2000.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the above-listed companies is suspended for the period from 9:30 a.m. EST on March 10, 2006, through 11:59 p.m. EST on March 23, 2006.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 06–2475 Filed 3–10–06; 12:07 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53451; File No. SR–Amex–2006–23]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt an Options Licensing Fee for Options on Certain Rydex Exchange-Traded Funds

March 8, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 6, 2006, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. Amex has designated this proposal as one establishing or changing a due, fee, or other charge imposed by a self-regulatory organization pursuant to Section 19(b)(3)(A)(ii) of the Act [3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Amex proposes to modify its Options Fee Schedule by adopting a per-contract license fee for the orders of specialists, registered options traders, firms, non-member market makers, and broker-dealers (collectively, ''Market Participants'') in connection with options transactions in six (6) new Rydex exchange-traded funds (''ETFs'').

The text of the proposed rule change is available on the Exchange's Internet Web site (*http://www.amex.com*), at the Exchange's principal office, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposal is to adopt a per-contract options licensing fee in connection with options on the following six (6) ETFs: (1) Rydex S&P 500 Pure Growth ETF (symbol: RPG); (2) Rydex S&P Pure Value ETF (symbol: RPV); (3) Rydex S&P MidCap 400 Pure Growth ETF (symbol: RFG); (4) Rydex S&P MidCap 400 Pure Value ETF (symbol: RFV); (5) Rydex S&P Small Cap 600 Pure Growth ETF (symbol: RZG); and (6) Rydex S&P Small Cap 600 Pure Value ETF (symbol: RZV) (collectively, ''Rydex ETFs''). Amex represents that it plans to assess the proposed options licensing fee on members commencing March 7, 2006.

The Exchange has entered into numerous agreements with various index providers for the purpose of trading options on certain ETFs. As a result, the Exchange is required to pay index license fees to third parties as a condition to the listing and trading of these ETF options. In many cases, the Exchange is required to pay a significant licensing fee to the index provider that may not be reimbursed. In an effort to recoup the costs associated with certain index licenses, the Exchange has recently established per-contract licensing fees for orders of Market Participants that are collected on each option transaction in certain designated products in which such Market Participant is a party.[5]

The purpose of the proposal, therefore, is to charge an options licensing fee in connection with options on the Rydex ETFs. Specifically, Amex seeks to charge an options licensing fee of $0.09 per contract side for each

[5] *See* Securities Exchange Act Release No. 52493 (September 22, 2005), 70 FR 56941 (September 29, 2005).

Rydex ETF option for Market Participant orders executed on the Exchange. In all cases, the fee would be charged only to the Exchange member through whom such order is placed.

Amex represents that the proposed options licensing fees would allow the Exchange to recoup its costs in connection with the index license fees for the trading of the Rydex ETF options. The fees would be collected on every Market Participant order executed on the Exchange. The Exchange believes that requiring the payment of a per-contract licensing fee in connection with the Rydex ETF options by those Market Participants that benefit from the index license agreements is justified and consistent with the rules of the Exchange.

The Exchange notes that, in recent years, it has revised a number of its fees to better align Amex fees with the actual cost of delivering services and reduce Amex's subsidization of such services.[6] The Exchange represents that the implementation of this proposal is consistent with the reduction and/or elimination of these subsidies. Amex believes that these fees will help to allocate to those Market Participants engaging in transactions in Rydex ETF options a fair share of the related costs of offering such options for trading.

The Exchange asserts that the proposal provides for an equitable allocation of fees as required by Section 6(b)(4) of the Act.[7] In connection with the adoption of options licensing fees for the Rydex ETF options, the Exchange notes that charging the options licensing fees, where applicable, to all Market Participant orders, except for customer orders, is reasonable given the competitive pressures in the industry. Accordingly, the Exchange seeks, through this proposal, to better align its transaction charges with the cost of providing trading products.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act[8] in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[9] and Rule 19b–4(f)(2)[10] thereunder because it establishes or changes a due, fee, or other charge imposed by the Exchange. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–Amex–2006–23 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Amex–2006–23. 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 Commissions 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 Amex. 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–Amex–2006–23 and should be submitted on or before April 4, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Nancy M. Morris,

Secretary.

[FR Doc. E6–3572 Filed 3–13–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53436; File No. SR–BSE–2006–08]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto to Authorize Entry into Regulatory Services Agreements

March 7, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 15, 2006, the Boston Stock Exchange, Inc. (''Exchange'' or ''BSE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. On March 2, 2006, the Exchange filed Amendment No. 1 to the proposed rule

[6] *See, e.g.*, Securities Exchange Act Release No. 45360 (January 29, 2002), 67 FR 5626 (February 6, 2002); Securities Exchange Act Release No. 44286 (May 9, 2001), 66 FR 27187 (May 16, 2001).

[7] Section 6(b)(4) of the Act states that the rules of a national securities exchange must ''provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.'' 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 19b–4(f)(2).

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

change.[3] The Exchange filed the proposed rule change as a ''non-controversial'' rule change under Rule 19b–4(f)(6) under the Act,[4] which rendered the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Constitution to permit the Exchange to contract with another self-regulatory organization (''SRO'') for the performance of certain of the Exchange's regulatory functions. The text of the proposed rule change is available on the BSE's Web site, *http://www.bostonstock.com,* at the BSE's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change would create a mechanism that would allow the BSE to contract with another SRO for the performance of certain of the BSE's regulatory functions. The purpose of the proposed rule change is to enhance the BSE's ability to carry out its regulatory obligations under the Act by providing the BSE the ability to contract with another SRO for regulatory services. Under any agreement for regulatory services with another SRO, the BSE would remain an SRO registered under Section 6 of the Act[5] and, therefore, would continue to have statutory authority and responsibility for enforcing compliance by its members, and persons associated with its members, with the Act, the rules thereunder, and the rules of the BSE.

This rule change would have immediate applicability with respect to a Regulatory Services Agreement (''RSA'') between the BSE, the Chicago Board Options Exchange, Incorporated (''CBOE''), and other options markets participating in the proposed Options Regulatory Surveillance Authority national market system plan. The BSE has determined that, to best discharge its SRO responsibilities, it will contract with CBOE, which is subject to Commission oversight pursuant to Sections 6 and 19 of the Act,[6] for CBOE to provide certain regulatory services to the BSE, as set forth in the RSA. In performing services under the RSA, CBOE will be operating pursuant to the statutory SRO responsibilities of the BSE under Sections 6 and 19, as well as performing for itself its own SRO responsibilities. The proposed rule change specifically states that any action taken by another SRO, or its employees or authorized agents, operating on behalf of the BSE pursuant to a regulatory services agreement with the BSE (*e.g.,* CBOE under the RSA) will be deemed an action taken by the BSE. The BSE will retain ultimate responsibility for performance of its SRO duties under the RSA, and the proposed rule change states that the BSE will retain ultimate legal responsibility for, and control of, its SRO responsibilities.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[7] in general, and furthers the objectives of Sections 6(b)(1), 6(b)(6) and 6(b)(7) of the Act[8] in particular, in that it will enhance the ability of the Exchange to enforce compliance by its members and persons associated with its members with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange; it will help ensure that members and persons associated with members are appropriately disciplined for violations of the Act, the rules and regulations thereunder, and the rules of the Exchange; and it will provide a fair procedure for the disciplining of members and persons associated with members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and subparagraph (f)(6) of Rule 19b–4 thereunder.[10] The proposed rule change is based on a rule change previously filed by the American Stock Exchange LLC and approved by the Commission.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in the furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File

[3] In Amendment No. 1, the Exchange made non-substantive changes to the text of the proposed rule change.

[4] 17 CFR 240.19b–4(f)(6).

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f and 15 U.S.C. 78s.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(1); 15 U.S.C. 78f(b)(6); and 15 U.S.C. 78f(b)(7).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] *See* Securities Exchange Act Release No. 50122 (July 29, 2004), 69 FR 47962 (August 6, 2004) (SR–Amex–2004–32).

Number SR–BSE–2006–08 on the subject line.

Paper Comments

• Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BSE–2006–08. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BSE–2006–08 and should be submitted on or before April 4, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Nancy M. Morris,

Secretary.

[FR Doc. E6–3547 Filed 3–13–06; 8:45 am]

BILLING CODE 8010–01–P

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53433; File No. SR–CHX–2006–08]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing of a Proposed Rule Change and Amendment No. 1 Thereto Relating to Specialist Participant Fees and Credits

March 7, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 27, 2006, the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the CHX. On March 2, 2006, CHX filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CHX proposes to amend its Participant Fee Schedule to confirm that, retroactive to January 1, 2006, specialist fixed fees would not be assessed to a specialist firm with respect to securities that are temporarily assigned. The text of the proposed rule change is available on the Exchange's Web site (*http://www.chx.com/rules/proposed_rules.htm*) and at the Commission's Public Reference Room. Below is the text of the proposed rule change, as amended. Proposed new language is *underlined*; proposed deletions are in [brackets].

FEES AND ASSESSMENTS

* * * * *

E. Specialist Fixed Fees

* * * * *

Effective January 1, 2006, t[T]hese fixed fees shall not be assessed to a firm with respect to securities that are temporarily assigned.

* * * * *

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange revised the proposed rule text to clarify its meaning.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CHX included statements concerning the purpose of, and basis for, the proposed rule change, as amended, and discussed any comments it received regarding the proposal, as amended. The text of these statements may be examined at the places specified in Item IV below. The CHX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Under the Exchange's rules, the Committee on Specialist Assignment and Evaluation (''CSAE'') is responsible for appointing participant firms to act as specialists on the Exchange.[4] From time to time, the CSAE may make a temporary assignment of one or more securities to a specialist firm.[5] Temporary assignments may be made, for example, when one specialist firm has requested and been granted the opportunity to deregister in one or more of its securities before the formal posting and assignment process has been completed.[6] Through this filing, the Exchange proposes to confirm that, when a firm has been appointed to act as specialist in a security on a temporary basis, the firm will not be charged the specialist fixed fees otherwise associated with the trading of that security. The Exchange believes that this fee waiver creates an appropriate (and limited) incentive for a firm to agree to act as specialist on a temporary basis. This proposed rule change is designed to take effect, on a

[4] *See* Article IV, Rule 6.

[5] *See* Article XXX, Rule 1.

[6] The Exchange represents that when a security is to be assigned or reassigned, the Exchange notifies specialist firms of the assignment opportunity and invites applications for the security. *See* Article XXX, Rule 1, Interpretation and Policy .01, Section II. The Exchange further represents that if more than one firm seeks the assignment, the CSAE holds meetings with the firms to review their demonstrated ability, experience, financial responsibility and other factors that are relevant to the CSAE's assignment decision. *See* Article XXX, Rule 1, Interpretation and Policy .01, Section II and Section III. The Exchange represents that depending upon the number of firms applying for a security and the availability of committee members and specialist firm representatives, this process could take several weeks to complete. An interim temporary assignment allows a security to continue to be traded by a specialist firm, while the process is completed.

retroactive basis, on January 1, 2006 so that it can apply to temporary assignments made on or after that date.[7]

2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with Section 6(b)(4) of the Act[8] in that it provides for the equitable allocation of reasonable dues, fees and other charges among CHX's members and creates an appropriate (and limited) incentive for a firm to agree to act as specialist on a temporary basis.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, as amended; or

B. Institute proceedings to determine whether the proposed rule change, as amended, should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–CHX–2006–08 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CHX–2006–08. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the CHX. 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–CHX–2006–08 and should be submitted on or before April 4, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Nancy M. Morris,

Secretary.

[FR Doc. E6–3542 Filed 3–13–06; 8:45 am]

BILLING CODE 8010–01–P

[7] The Exchange also has filed a proposal to make this fee change effective immediately. *See* SR–CHX–2006–07.

[8] 15 U.S.C. 78f(b)(4).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53429; File No. SR–CHX–2006–07]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change and Amendment No. 1 Thereto Relating to Specialist Participant Fees and Credits

March 6, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 27, 2006, the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the CHX. On March 2, 2006, CHX filed Amendment No. 1 to the proposed rule change.[3] The CHX has designated this proposal as one changing a fee imposed by the CHX under Section 19(b)(3)(A)(ii) of the Act,[4] and Rule 19b–4(f)(2) thereunder,[5] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CHX proposes to amend its Participant Fee Schedule to confirm that, effectively immediately, specialist fixed fees would not be assessed to a specialist firm with respect to securities that are temporarily assigned. The text of the proposed rule change is available on the Exchange's Web site (*http://www.chx.com/rules/proposed_rules.htm*) and at the Commission's Public Reference Room. Below is the text of the proposed rule change, as amended. Proposed new language is *italicized.*

FEES AND ASSESSMENTS

* * * * *

E. Specialist Fixed Fees

* * * * *

These fixed fees shall not be assessed to a firm with respect to securities that are temporarily assigned.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CHX included statements concerning

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange revised the proposed rule text to clarify its meaning. The effective date of the original proposed rule change is February 27, 2006, and the effective date of Amendment No. 1 is March 2, 2006. For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on March 2, 2006, the date on which the CHX filed Amendment No. 1. *See* 15 U.S.C. 78s(b)(3)(C).

[4] 15 U.S.C. 78s(b)(3)(A)(ii).

[5] 5 17 CFR 240.19b–4(f)(2).

the purpose of, and basis for, the proposed rule change, as amended, and discussed any comments it received regarding the proposal, as amended. The text of these statements may be examined at the places specified in Item IV below. The CHX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Under the Exchange's rules, the Committee on Specialist Assignment and Evaluation (''CSAE'') is responsible for appointing participant firms to act as specialists on the Exchange.[6] From time to time, the CSAE may make a temporary assignment of one or more securities to a specialist firm.[7] Temporary assignments may be made, for example, when one specialist firm has requested and been granted the opportunity to deregister in one or more of its securities before the formal posting and assignment process has been completed.[8] Through this filing, the Exchange proposes to confirm that, when a firm has been appointed to act as specialist in a security on a temporary basis, the firm will not be charged the specialist fixed fees otherwise associated with the trading of that security. The Exchange believes that this fee waiver creates an appropriate (and limited) incentive for a firm to agree to act as specialist on a temporary basis.[9]

2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with Section 6(b)(4) of the Act[10] in that it provides for the equitable allocation of reasonable dues, fees and other charges among CHX's members and creates an appropriate (and limited) incentive for a firm to agree to act as specialist on a temporary basis.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change, as amended, has been designated as a fee change pursuant to Section 19(b)(3)(A) of the Act[11] and Rule 19b–4 thereunder,[12] because it establishes or changes a due, fee or other charge imposed by the Exchange. Accordingly, the proposal will take effect upon filing with the Commission. At any time within 60 days of the filing of the proposed rule change, as amended, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[13]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–CHX–2006–07 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CHX–2006–07. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the CHX. 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–CHX–2006–07 and should be submitted on or before April 4, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Nancy M. Morris,

Secretary.

[FR Doc. E6–3543 Filed 3–13–06; 8:45 am]

BILLING CODE 8010–01–P

[6] *See* Article IV, Rule 6.

[7] *See* Article XXX, Rule 1.

[8] The Exchange represents that when a security is to be assigned or reassigned, the Exchange notifies specialist firms of the assignment opportunity and invites applications for the security. *See* Article XXX, Rule 1, Interpretation and Policy .01, Section II. The Exchange further represents that if more than one firm seeks the assignment, the CSAE holds meetings with the firms to review their demonstrated ability, experience, financial responsibility and other factors that are relevant to the CSAE's assignment decision. *See* Article XXX, Rule 1, Interpretation and Policy .01, Section II and Section III. The Exchange represents that depending upon the number of firms applying for a security and the availability of committee members and specialist firm representatives, this process could take several weeks to complete. An interim temporary assignment allows a security to continue to be traded by a specialist firm, while the process is completed.

[9] The Exchange also is filing, pursuant to Section 19b(2) of the Act, a proposal to make this fee change retroactive to January 1, 2006. *See* SR–CHX–2006–08.

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 12 17 CFR 240.19b–4(f)(2).

[13] *See supra* note 3.

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53435; File No. SR–DTC–2006–03]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change To Amend the Criteria Used To Place Participants on Surveillance Status

March 7, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on

[1] 15 U.S.C. 78s(b)(1).

February 3, 2006, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

DTC is seeking to amend the criteria it uses to place participants on surveillance status.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Overview

DTC has developed certain criteria for placing participants on surveillance. Specifically, all broker-dealers from which DTC requires the submission of FOCUS or FOGS reports and banks from which DTC requires the submission of CALL reports [3] are assigned a rating that is generated by entering financial data of the participant into a risk evaluation matrix (''Matrix'') that was developed by credit risk staff.[4] Those participants with a ''weak'' rating (*i.e.*, deemed to pose a relatively higher degree of risk to DTC) are placed on an internal ''watch list'' and are monitored more closely. All participants that do not fall into the categories of banks and broker-dealers mentioned above are not currently included in the Matrix process but are monitored by DTC's credit risk staff using financial criteria deemed relevant by DTC.[5]

Procedures

Credit risk staff approaches its analysis of participants in the following manner. First, the required information of designated broker-dealers and banks are entered into the Matrix and a rating for each participant is generated. Low-rated participants are placed on the watch list. At this point, credit risk staff may downgrade a particular participant's rating based on various qualitative factors. For example, one qualitative factor might be that the participant in question received a qualified audit opinion on its annual audit. In order for DTC to protect itself and its other participants, it is important that credit risk staff maintain the discretion to downgrade a participant's Matrix rating and thus subject the participant to closer monitoring. All rated participants, including those on the watch list, are monitored monthly or quarterly, depending upon the participant's financial filing frequency, against basic minimum financial requirements and other parameters.

All broker-dealer participants included on the watch list are monitored more closely than those not on the watch list. This means that they are also monitored for various parameter breaks which may include but are not limited to such things as a defined decline in excess net capital over a one month or three month period, a defined period loss, a defined aggregate indebtedness/net capital ratio, a defined net capital/aggregate debit items ratio, or a defined net capital/regulatory net capital ratio. All bank participants included on the watch list are also monitored more closely for watch list parameter breaks which may include but are not limited to such things as a defined quarter loss, a defined decline in equity, a defined tier one leverage ratio, a defined tier one risk-based capital ratio, and a defined total risk-based capital ratio.

Credit risk staff also monitors those participants not included in the Matrix process using similar criteria.[6] These criteria include but are not limited to such things as failure to meet minimum financial requirements, experiencing a significant decrease in equity, or a significant loss. This class of participants may be placed on the watch list based on credit risk staff's analysis of this information. DTC reserves the right to place a participant on the Watch List for failure to comply with operational standards and requirements.[7]

DTC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act [8] and the rules and regulations thereunder applicable to DTC because it will facilitate the safeguarding of securities and funds which are in its custody or control or for which it is responsible and in general will protect investors and the public interest by improving DTC's member surveillance process.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will have any impact or impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, participants or Others

Written comments have not been solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

[2] The Commission has modified the text of the summaries prepared by DTC.

[3] A small number of DTC member banks which submit CALL reports are not assigned a rating. Because these banks do not make loans and do not take deposits as part of their business activities, their CALL reports do not contain information on asset quality and/or liquidity. Asset quality and liquidity are among the financial figures used in the Matrix. Since these figures would be zero in the Matrix for these banks, their Matrix results would not adequately portray their financial status. DTC has therefore concluded that these banks do not lend themselves to appropriate analysis using the Matrix.

[4] The Matrix is used by DTC and its affiliated clearing agencies, the Fixed Income Clearing Corporation (''FICC'') and the National Securities Clearing Corporation (''NSCC''). In using the Matrix, credit risk staff uses the financial data of each applicable DTC participant and the financial data of each applicable member of FICC and NSCC. In this way, each applicable DTC participant, FICC member, and NSCC member are rated against each other.

[5] DTC will continually evaluate the matrix methodology and its effectiveness and make such changes as it deems prudent and practicable within such time frames as it determines to be appropriate. DTC will update the Commission staff periodically on its evaluations of the Matrix.

[6] Participants that are not included in the Matrix are: the banks discussed in footnote 3, United States (''U.S.'') branches and agencies of non-U.S. banks, non-U.S. central securities depositories, and U.S. government sponsored enterprises.

[7] Participants are required to meet the standards of financial condition, operational capability, and character set forth in DTC Rule 2 (Participants and Pledgees).

[8] 15 U.S.C. 78q–1.

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–DTC–2006–03 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–DTC–2006–03. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of DTC and on DTC's Web site at *https://login.dtcc.com/dtcorg/*. 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–DTC–2006–03 and should be submitted on or before April 4, 2006.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Nancy M. Morris,

Secretary.

[FR Doc. E6–3573 Filed 3–13–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53443; File No. SR-NYSE–2006–14]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Establishment of a Trading License Fee for 2006 and the Creation of Certain Other Fees for Trading License Holders

March 8, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 6, 2006, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes as described in Items I, II, and III below, which items have been prepared by the NYSE. NYSE has designated the proposed rule change as one establishing or changing a due, fee, or other charge, pursuant to Section 19b(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4]4 which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to establish a trading license fee for 2006 to be implemented at the time of closing of its merger with Archipelago Holdings, Inc. (''Archipelago''). In addition, the Exchange proposes to create certain other fees for trading license holders, to eliminate from the 2006 Exchange Price List references to fees that will no longer be relevant after the merger, and to make three technical changes to the 2006 Exchange Price List to clarify how certain fees will be charged.

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

The text of the proposed rule change is available on the Exchange's Web site (*http://www.nyse.com*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The NYSE is submitting this filing to establish a trading license fee for 2006 to be implemented at the time of the Exchange's proposed merger and to eliminate from the 2006 Exchange Price List references to fees charged to Exchange members that will no longer be relevant after the Exchange's proposed merger. The Exchange is also proposing the following new fees: (i) A fee relating to the approval of any new member or pre-qualified substitute; (ii) a badge maintenance fee; and (iii) a license transfer fee. The Exchange is also making three technical changes to the 2006 Exchange Price List to clarify how certain fees will be charged after the merger.

The Exchange is planning to consummate a merger with Archipelago, as a result of which the businesses of the NYSE and Archipelago will be held under a single, publicly traded holding company named NYSE Group, Inc. (''NYSE Group''). Following the merger, the NYSE's current businesses and assets will be held in three separate entities affiliated with NYSE Group—New York Stock Exchange LLC (''NYSE LLC''), NYSE Market, Inc. and NYSE Regulation, Inc. The Commission has approved the Exchange's rule filing in connection with the merger[5] and the merger is scheduled to close on March 7, 2006.

[5] *See* Securities Exchange Act Release No. 53382 (February 27, 2006) (SR–NYSE–2005–77).

Trading License Fees

Upon completion of the merger, all of the membership interests in the Exchange will be exchanged for a combination of cash and common stock of NYSE Group. NYSE LLC will be the successor to the Exchange's status as a self-regulatory organization (''SRO''). After the merger, the right to transact business on the floor of the Exchange will be acquired by purchasing a trading license from the Exchange. Each trading license will provide to the license holder identical trading floor access rights to those previously held by a member of the Exchange. Starting with calendar year 2007, the Exchange will sell trading licenses in an annual modified ''Dutch'' auction under new NYSE Rule 300. However, to facilitate the distribution of trading licenses so that licensees could transact business immediately after the merger, an initial trading license auction was held on January 3, 2006. While NYSE Rule 300 will not be effective until after the merger, the 2006 trading license auction was conducted under the same modified ''Dutch'' auction procedures established by NYSE Rule 300 for auctions in future years, subject to the modifications set out in new NYSE Rule 300T.[6]

The auction produced 1,274 successful bids for trading licenses at an annual price of $49,290 each. Assuming the merger closes on March 7, 2006, as scheduled, the actual price payable for 2006 trading licenses will be $40,147.50, representing a pro-ration of the annual fee to reflect the amount of time remaining in the year at the time of the closing of the merger. Subject to the maximum number allowable of 1,366 licenses, the Exchange will sell additional trading licenses during the remainder of 2006 at an annual rate of $54,219 (*i.e.*, 110% of the $49,290 annual fee set in the 2006 auction) pro-rated to reflect the amount of time remaining in the year at the time of the commencement of the license.

New NYSE Rule 300 provides that: (i) Trading license holders must pay the annual fee in equal monthly installments in advance over the period during which the trading license is in effect, and (ii) prior to the commencement of the trading license, the holder shall pay to the Exchange the first monthly installment of the trading license fee, plus a cash deposit equal to one month's installment of the trading license fee. As the trading license fee applicable to calendar 2006 could not be determined until the merger closing date was known with specificity, the Exchange was unable to bill trading license holders their initial installment in advance. Therefore, the Exchange will send trading license holders a bill in early April 2006 for: (i) The period from the closing of the merger until March 31, 2006; (ii) the month of April 2006; and (iii) a one-month deposit which will be applied to payment for the month of December 2006 or to the one-month fee payable upon early termination of the trading license, if applicable. Bills are payable on receipt.

Fee for Approval of New Member or Pre-qualified Substitute or of Existing Member or Pre-qualified Substitute Upon Transfer to a Different Member Organization

The Exchange proposes to charge a fee of $1,000 for the approval of new members. This fee will not apply to current Exchange members who continue approved for trading floor access after the merger. From and after the merger, however, the fee will be billed to the new employer of: (i) Any new member or pre-qualified substitute not transferring from another member organization; (ii) any approved member who changes employment and continues as a member with another trading license holder; or (iii) any pre-qualified substitute who changes employment and continues as a pre-qualified substitute with another trading license holder. This fee reflects the costs to the Exchange of processing such new memberships or transfers, including checking that the member organization has a license for its new employee or approving the purchase of a license, ensuring that the member is not subject to any regulatory restriction, checking that the member's new employer has put in place the required financial guarantee, and issuing or resetting the member's badge and handheld. Under the Exchange rules existing prior to the merger, the Exchange charges a fee (currently $5,000[7]) (''Transfer Fee'') for the transfer of a membership, including a transfer between two employees of the same member organization. As such, the processing fee associated with the hiring of new member or pre-qualified substitute employees by a member organization will be reduced from $5,000 to $1,000 after the merger.

Badge Maintenance Fee

The Exchange proposes to charge a $250 badge maintenance fee, to be charged annually to member organizations with respect to each active member and each pre-qualified substitute. The fee will cover the Exchange's costs in maintaining the technological infrastructure supporting the badge system and updating system data as personnel commence and leave employment on the trading floor.

Trading License Transfer Fee

The Exchange proposes to charge a trading license transfer fee of $1,000, to be charged when an existing trading license is to be transferred to a permitted transferee. Permitted transfers of trading licenses pursuant to new NYSE Rule 300(a) are limited to transfers to a qualified and approved member organization: (i) Which is an affiliate, or (ii) which continues substantially the same business of such trading license holder without regard to the form of the transaction used to achieve such continuation, *e.g.*, merger, sale of substantially all assets, reincorporation, reorganization or the like. This fee will be applied separately to each individual license transferred. The trading license transfer fee reflects the processing costs incurred by the Exchange in effectuating a permitted transfer, including the re-registration of employee members with the new member organization and the closing down of the old billing account and opening of one in the new member organization's name. Prior to the merger, any transfer of an Exchange membership is subject to the $5,000 Transfer Fee described above. As a transfer of a trading license after the merger is equivalent to the transfer of a membership before the merger, the Exchange is effectively reducing the fee charged upon the occurrence of a permitted transfer from $5,000 to $1,000 after the merger.

[6] New Rule 300T modified the auction provisions of NYSE Rule 300 in the following respects for the 2006 auction:

(A) The Minimum Bid Price was eighty percent (80%) of the Reference Price (as hereinafter defined), and there was also imposed a ''Maximum Bid Price'' of one hundred twenty percent (120%) of the Reference Price. The term ''Reference Price'' means the average annual lease price for leases (including renewal leases) which leases (or renewals) commenced during the six-month period ending on the last business day of the last calendar month ending at least thirty days before the opening of the auction. In addition, in determining the Auction Price, the Clearing Price is reduced by multiplying it by a fraction the numerator of which is the number of months for which the license shall be issued and the denominator of which is twelve (12).

(B) The number of trading licenses that could be acquired by a single member organization was limited to a number that was the greater of: (i) 35, and (ii) 125% of the number of regular and electronic access Exchange memberships utilized by the member organization in its business immediately prior to the merger.

[7] Transfer fees for purchased and leased memberships equal 5% of the purchase price or last contracted sale of a membership, subject to minimum and maximum fees of $1,000 and $5,000 respectively. As membership prices currently exceed $1,000,000, the current initiation fee is the $5,000 maximum.

Technical Changes to Price List

The Exchange proposes to make three clarifying changes to the 2006 Exchange Price List to clarify that: (i) The annual aggregate regulatory fee of $16,000,000 to be allocated among specialist firms will be based on the number of trading licenses held by each specialist firm; (ii) the annual regulatory fee of $11,000 charged to non-specialist members will be charged on a per trading license basis; and (iii) the $180 minimum regulatory fee currently charged to members who do not conduct a public business will be charged after the merger to member organizations.

Deletion of Fees Charged to Members

The 2006 Exchange Price List contains references to fees charged to members, physical access members and electronic access members. As the concept of Exchange membership as a means of acquiring the right to conduct business on the trading floor will be superseded by the issuance of trading licenses upon completion of the merger, these fees will have no continued relevance. Therefore, the Exchange is deleting all references to them from the 2006 Exchange Price List.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[8] which requires that an Exchange have rules that provide an equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii)[9] of the Act and subparagraph (f)(2)[10] thereunder because it establishes or changes a due, fee, or other charge. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2006–14 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2006–14. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro/shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. 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–NYSE–2006–14 and should be submitted by April 4, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Nancy M. Morris,

Secretary.

[FR Doc. E6–3574 Filed 3–13–06; 8:45 am]

BILLING CODE 8010–01–P

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 240.19b–4(f)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53413; File No. SR–PCX–2006–06]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Its Fees and Charges

March 3, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 17, 2006, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which items have been prepared by PCX. PCX has designated the proposed rule change as one establishing or changing a due, fee, or other charge, pursuant to Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

PCX proposes to amend its Schedule of Fees and Charges in order to extend the pilot program (''Pilot Program'') that applies to Option Strategy Executions until September 1, 2006.

The text of the proposed rule change is available on PCX's Web site at *http://www.pacificex.com,* at the Office of the Secretary at PCX, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposal. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to extend the Pilot Program that applies to Option Strategy Executions until September 1, 2006. The transactions included as part of the Pilot Program include reversals and conversions,[5] dividend spreads,[6] box spreads,[7] short stock interest spreads,[8] and merger spreads.[9] Because the referenced Options Strategy Transactions are generally executed by professionals whose profit margins are generally narrow, the Pilot Program caps the transaction fees associated with such executions at $1,000 for strategy executions that are executed on the same trading day in the same option class. In addition, there is also a monthly cap of $50,000 per initiating firm for all strategy executions. The Exchange believes that by keeping fees low, the Exchange will be able to attract liquidity by accommodating these transactions. Extending the Pilot Program until September 1, 2006 will allow the Exchange to keep these fees low and thus continue to attract liquidity.

OTP Holders and OTP Firms who wish to benefit from the fee cap will be required to submit to the Exchange forms with supporting documentation (*e.g.*, clearing firm transaction data) to qualify for the cap.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,[10] in general, and Section 6(b)(4),[11] in particular, in that it provides for an equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

PCX believes that proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[12] and subparagraph (f)(2) of Rule 19b–4 thereunder[13] because it establishes or changes a due, fee, or other charge. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–PCX–2006–06 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–PCX–2006–06. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of PCX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PCX–2006–06 and should be submitted on or before April 4, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Nancy M. Morris,

Secretary.

[FR Doc. E6–3548 Filed 3–13–06; 8:45 am]

BILLING CODE 8010–01–P

[5] Reversals and conversions are transactions that employ calls, puts and the underlying stock to lock in a nearly risk-free profit. Reversals are established by combining a short stock position with a short put and a long call position that shares the same strike and expiration. Conversions employ long positions in the underlying stock that accompany long puts and short calls sharing the same strike and expiration.

[6] Dividend spreads are trades involving deep-in-the-money options that exploit pricing differences arising around the time a stock goes ex-dividend.

[7] Box spreads is a strategy that synthesizes long and short stock positions to create a profit. Specifically, a long call and short put at one strike is combined with a short call and long put at a different strike to create synthetic long and synthetic short stock positions, respectively.

[8] A short stock interest spread is a spread that uses two deep-in-the-money put options of the same class followed by the exercise of the resulting long position in order to establish a short stock interest arbitrage position.

[9] A merger spread is a transaction executed pursuant to a strategy involving the simultaneous purchase and sale of options of the same class and expiration date, but with different strike prices followed by the exercise of the resulting long option position.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4).

[12] 15 U.S.C. 78s(b)(3)(A)(ii).

[13] 17 CFR 240.19b–4(f)(2).

[14] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #10418]

New York Disaster #NY–00020 Declaration of Economic Injury

AGENCY: Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Economic Injury Disaster Loan (EIDL) declaration for the State of New York, dated 03/07/2006.

Incident: Rock Slide.

Incident Period: 12/20/2005.

Effective Date: 03/07/2006.

EIDL Loan Application Deadline Date: 12/07/2006.

ADDRESSES: Submit completed loan applications to: Small Business Administration, National Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's EIDL declaration on 03/07/2006, applications for economic injury 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: Westchester.

Contiguous Counties: New York: Bronx; Putnam; Rockland.
Connecticut: Fairfield.
New Jersey: Bergen.

The Interest Rate is: 4.000.

The number assigned to this disaster for economic injury is 104180.

The States which received an EIDL Declaration # are New York; Connecticut; New Jersey

(Catalog of Federal Domestic Assistance Number 59002).

Hector V. Barreto,

Administrator.

[FR Doc. E6–3569 Filed 3–13–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: Small Business Administration.

ACTION: Notice of intent to Waive the Nonmanufacturer Rule for Lenses, Ophthalmic, Manufacturing.

SUMMARY: The Small Business Administration (SBA) is considering granting a request for a waiver of the Nonmanufacturer Rule for Lenses, Ophthalmic, Manufacturing. According to the request, no small business manufacturers supply these classes of products to the Federal government. If granted, the waiver would allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses; service-disabled veteran-owned small businesses or SBA's 8(a) Business Development Program.

DATES: Comments and source information must be submitted March 29, 2006.

ADDRESSES: You may submit comments and source information to Edith Butler, Program Analyst, U.S. Small Business Administration, Office of Government Contracting, 409 3rd Street, SW., Suite 8800, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Edith Butler, Program Analyst, by telephone at (202) 619–0422; by FAX at (202) 481–1788; or by e-mail at *edith.butler@sba.gov.*

SUPPLEMENTARY INFORMATION: Section 8(a)(17) of the Small Business Act (Act), 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any ''class of products'' for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1202(c), in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines ''class of products'' based on six digit coding system. The coding system is the Office of Management and Budget North American Industry Classification System (NAICS).

The SBA is currently processing a request to waive the Nonmanufacturer Rule for Lenses, Ophthalmic, Manufacturing, North American Industry Classification System (NAICS) code 339115. The public is invited to comment or provide source information to SBA on the proposed waivers of the Nonmanufacturer Rule for this class of NAICS code within 15 days after date of publication in the **Federal Register**.

Dated: March 7, 2006.

Karen C. Hontz,

Associate Administrator for Government Contracting.

[FR Doc. E6–3570 Filed 3–13–06; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 5340]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: Competition for Proposals (1) To Strengthen Secondary Education in Indonesia Through a Program for High School English Language Teachers and/or (2) To Strengthen Private and Community-based Secondary Education in Indonesia through a Program for School Administrators & Community Leaders

Announcement Type: New Grant.

Funding Opportunity Number: ECA/PE/C/WHA–EAP–06–33.

Catalog of Federal Domestic Assistance Number: 00.000.

Key Dates:

Application Deadline: May 3, 2006.

Executive Summary: The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs announces an open competition for grants to support two distinct exchanges projects with Indonesia. U.S. public and non-profit organizations meeting the provisions described in Internal Revenue code section 26 U.S.C. 501(c)(3) may submit proposals that support the goals of the two exchange programs. The Program for High School English Language Teachers is intended to strengthen secondary school education in Indonesia, support tolerance in a diverse, democratic society, and allow Indonesians and Americans to share their views on international education and teaching high school students language and critical thinking skills necessary to their success in the workforce. The Program for School Administrators & Community Leaders will bring senior instructors and leaders (''kiai'') of Islamic day and boarding schools and counterparts from other Indonesian private schools to U.S. for informational sessions on teacher/administrator training techniques and classroom observation as well as

provide them with an orientation to U.S. society, history, culture and values.

Applicants must submit separate proposals for each project outlined.

I. Funding Opportunity Description:

Authority

Overall grant-making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries* * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations* * *and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation. Funding is being provided from FY–2005/FY–2006 Economic Support Funds (ESF) transferred to the Bureau in FY–2006 for obligation.

Purpose

The Bureau seeks proposals for the following projects: To strengthen secondary education in Indonesia through a program for High School English Language Teachers and/or (2) to strengthen private and community-based secondary education in Indonesia through a program for School Administrators & Community Leaders.

Competitive proposals will include the following:

- A brief description of the problem as it relates to Indonesia. (Proposals that request resources for an initial needs assessment will be deemed less competitive under the review criterion Program Planning and Ability to Achieve Objectives, per item V.1 below.);
- A clear statement of program objectives and projected outcomes that respond to Bureau goals for each theme in this competition. Desired outcomes should be described in qualitative and quantitative terms. (See the Program Monitoring and Evaluation section per item V.1 below, for more information on project objectives and outcomes.);
- A proposed timeline, listing the optimal schedule for each program activity;
- A description of participant recruitment and selection processes;
- Letters of support from foreign and U.S. partners. (*Letters from prospective partner institutions should demonstrate an ability to arrange and conduct U.S. and overseas activities.*);
- An outline of the applicant organization's relevant expertise in the project theme and country;
- An outline of relevant experience managing previous exchange programs;
- Resumes of experienced staff who have demonstrated a commitment to monitor projects and ensure implementation;
- A comprehensive plan to evaluate whether program outcomes achieved met the specific objectives described in the narrative. (See the Program Monitoring and Evaluation section [IV.3d.d below] for further guidance on evaluation.);
- A post-grant plan that demonstrates how the grantee plans to maintain contacts initiated through the program. Applicants should discuss ways that U.S. and foreign participants or host institutions could collaborate and communicate after the ECA-funded grant has concluded. (See Review Criterion #5, per item V.1 below for more information on post-grant activities.)
- Successful projects will demonstrate the importance Americans place on community service as an element of a strong civil society and may include ideas and projects to strengthen civil society through community service either during participants' stay in the U.S. or upon their return to their countries.
- In addition to addressing the projects described below, proposals should develop partner organizations' capacity in such areas as strategic planning, performance management, fund raising, financial management, human resources management, and decision-making.

It is important that the proposal narrative clearly state the applicant's commitment to consult closely with the Public Affairs Section of the U.S. Embassy in Jakarta, Indonesia to develop plans for project implementation and to select project participants. Proposals should also acknowledge U.S. Embassy involvement in the final selection of all participants. Applicants should state their willingness to invite representatives of the U.S. and/or consulate(s) to participate in program sessions or site visits. Applicants are also *strongly* encouraged to consult with Public Affairs Officers at U.S. Embassy in Jakarta, Indonesia as they develop proposals responding to this RFGP. Narratives should state that all material developed for the project will prominently acknowledge Department of State ECA Bureau funding for the program. In addition, before submitting a proposal, applicants are strongly encouraged to be in touch with the Washington, DC-based State Department contact for project description below.

Projects

1. High School English Language Teachers

A successful program will provide participants:

- Understanding of important elements of a civil society. This includes concepts such as volunteerism, the idea that American citizens can and do act at the grassroots level to deal with social and educational problems, and an awareness of the respect for the rule of law in the U.S.
- Knowledge of the importance of education to creating the conditions for a free market economy. This includes awareness of private enterprise and an appreciation of the role of the entrepreneur in economic growth.
- Appreciation for American culture, an understanding of the diversity of American society and increased tolerance and respect for others with differing views and beliefs.
- Interaction with Americans that may generate enduring ties.
- Enhanced leadership capacity that will enable them to initiate and support activities in their home countries that focus on development and community service.

Successful applicants must fully demonstrate a capacity to achieve the following three key activities:

(1) Recruit and select approximately 30 individual English teachers from high schools throughout Indonesia, including private religious schools. Program should be designed for two groups of 15 teachers to travel to the U.S. For this phase of the program, partnering with organizations based in Indonesia is encouraged.

(2) In addition to identifying schools and screening, selecting, and preparing participants prior to departure for the United States, the recipient of this grant will be responsible for building and executing a three to four week informative travel and residency program in the United States.

(3) The final part of the program will be conducting enhancement activities and leadership development opportunities that reinforce program goals after the participants' return to Indonesia. An essential follow-on component will be a longitudinal assessment of the achievements of the program.

Program design should focus on offering participants maximum

opportunities to develop leadership skills and raise their awareness of how to develop critical thinking, nurture democratic values, and encourage tolerance for diversity through the classroom and through networks of teachers.

2. School Administrators & Community Leaders

School Administrators and Community Leaders should be provided with the following:

- Acquire an understanding of important elements of a civil society. This includes concepts such as volunteerism, the idea that American citizens can and do act at the grassroots level to deal with social and educational problems, and an awareness of the respect for the rule of law in the U.S.
- Acquire an understanding of the importance of education to creating the conditions for a free market economy. This includes awareness of private enterprise and an appreciation of the role of the entrepreneur in economic growth.
- Develop an appreciation for American culture, an understanding of the diversity of American society and increased tolerance and respect for others with differing views and beliefs.
- Interact with Americans and generate enduring ties.
- Gain leadership capacity that will enable them to initiate and support activities in their home countries that focus on development and community service.

A successful program design must accomplish these three key objectives:

(1) Recruit and select approximately 30 individual leaders from Indonesian private secondary schools that are administered under the auspices of the Government of Indonesia's Department of Religious Affairs. Program should be designed for two groups of 15 school administrators and community leaders to travel to the U.S. For this phase of the program, partnering with organizations based in Indonesia is encouraged.

(2) In addition to identifying schools and screening, selecting, and preparing participants prior to departure for the United States, the recipient of this grant will be responsible for building and executing a three to four week informative travel and residency program in the United States.

(3) The final part of the program will be conducting enhancement activities and leadership development opportunities that reinforce program goals after the participants' return to Indonesia. An essential follow-on component will be a longitudinal assessment of the achievements of the program.

Program design should focus on offering participants maximum opportunities to develop leadership skills and raise their awareness of how to develop critical thinking, nurture democratic values, and encourage tolerance for through the classroom and through school-supported community activities and networks.

Suggested Program Designs

Bureau-supported exchanges may include internships; study tours; short-term, non-technical experiential learning; extended and intensive workshops; and seminars taking place in the United States or overseas as long as these seminars promote intensive exchange of ideas among participants in the project. Examples of program activities include:

1. A U.S.-based program that includes an orientation to program purposes and to U.S. society; study tour/site visits; professional internships/placements; interaction and dialogue; hands-on training; professional development; and action plan development.

2. Capacity-building/training-of-trainer (TOT) workshops to help participants to identify priorities, create work plans, strengthen professional and volunteer skills, share their experience with committed people within each country, and become active in a practical and valuable way.

3. Site visits by U.S. facilitators/experts to monitor projects in the region and to encourage further development, as appropriate.

Participant Selection

Proposals should clearly describe the types of persons that will participate in the program as well as the participant recruitment and selection processes. For programs that include U.S. internships, applicants should submit letters of support from host institutions. In the selection of foreign participants, the Bureau and U.S. embassies retain the right to review all participant nominations and to accept or refuse participants recommended by grantee institutions. When U.S. participants are selected, grantee institutions must provide their names and brief biographical data to the Office of Citizen Exchanges. Priority in two-way exchange proposals will be given to foreign participants who have not previously traveled to the United States.

II. Award Information

Type of Award: Grant.

Fiscal Year Funds: FY–2006.

Approximate Total Funding: $600,000 (from ESF transfer to ECA).

Approximate Number of Awards: 2.

Approximate Average Award: $300,000.

Floor of Award Range: $200,000.

Ceiling of Award Range: Approximately $300,000.

Anticipated Award Date: Pending availability of funds, August 31, 2006.

Anticipated Project Completion Date: September 30, 2007–June 30, 2008. Projects under this competition may range in length from one to three years depending on the number of project components, the country/region targeted and the extent of the evaluation plan proposed by the applicant. The Office of Citizen Exchanges strongly encourages applicant organizations to plan enough time after project activities to measure project outcomes. Please refer to the Program Monitoring and Evaluation section, item IV.3d.3 below, for further guidance on evaluation.

III. Eligibility Information

III.1. *Eligible applicants:* Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

III.2. *Cost Sharing or Matching Funds:* There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs. Cost sharing is an important element of the ECA-grantee institution relationship, and it demonstrates the implementing organization's commitment to the program. Cost sharing is included as one criterion for grant proposal evaluation. Applicants are strongly encouraged to cost share a portion of overhead and administrative expenses. Cost-sharing, including contributions from the applicant, proposed in-country partner(s), and other sources should be included in the budget request. Proposal budgets that do not reflect cost sharing will be deemed not competitive under the Cost Effectiveness and Cost Sharing criterion (item V.1 below). When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved grant agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs that are claimed as your contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis

for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. *Other Eligibility Requirements:* (a.) Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000.

IV. Application and Submission Information

Note: Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1 *Contact Information to Request an Application Package:* Please contact the Office of Citizen Exchanges, ECA/PE/C, Room 220, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, tel.: 202–453–8163; fax: 202–453–8168; or e-mail *rharveyrh@state.gov* to request a Solicitation Package. Please refer to the Funding Opportunity Number (ECA/PE/C/WHA–EAP–06–33) located at the top of this announcement when making your request.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document that consists of required application forms, and standard guidelines for proposal preparation.

Please specify the Bureau Program Officer listed for each region and theme above and refer to the Funding Opportunity Number (ECA/PE/C/WHA–EAP–06–33) located at the top of this announcement on all other inquiries and correspondence.

IV. 2. *To Download a Solicitation Package Via Internet:* The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/rfgps/menu.htm.* Please read all information before downloading.

IV. 3. *Content and Form of Submission:* Applicants must follow all instructions in the Solicitation Package. The application should be sent per the instructions under IV.3f. ''Application Deadline and Methods of Submission'' below.

IV. 3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget.

Please Refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document for additional formatting and technical requirements.

IV. 3c. You must have nonprofit status with the IRS at the time of application. If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV. 3d. Please take into consideration the following information when preparing your proposal narrative:

IV. 3d.1 Adherence To All Regulations Governing the J Visa.

The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs is the official program sponsor of the exchange program covered by this RFGP, and an employee of the Bureau will be the ''Responsible Officer'' for the program under the terms of 22 CFR part 62, which covers the administration of the Exchange Visitor Program (J visa program). Under the terms of 22 CFR part 62, organizations receiving grants under this RFGP will be third parties ''cooperating with or assisting the sponsor in the conduct of the sponsor's program.'' The actions of grantee program organizations shall be ''imputed to the sponsor in evaluating the sponsor's compliance with'' 22 CFR part 62. Therefore, the Bureau expects that any organization receiving a grant under this competition will render all assistance necessary to enable the Bureau to fully comply with 22 CFR part 62 et seq.

The Bureau of Educational and Cultural Affairs places great emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantee program organizations and program participants to all regulations governing the J visa program status. Therefore, proposals should *explicitly state in writing* that the applicant is prepared to assist the Bureau in meeting all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR part 62. If your organization has experience as a designated Exchange Visitor Program Sponsor, the applicant should discuss its record of compliance with 22 CFR part 62 et seq., including the oversight of its Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements.

The Office of Citizen Exchanges of ECA will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD—SA–44, Room 734, 301 4th Street, SW., Washington, DC 20547. Telephone: (202) 203–5029. FAX: (202) 453–8640.

IV.3d.2 Diversity, Freedom and Democracy Guidelines.

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the ''Support for Diversity'' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of

these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. Program Monitoring and Evaluation.

Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the grantee will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are ''smart'' (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program *outputs* and *outcomes. Outputs* are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. *Outcomes*, in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. *Participant satisfaction* with the program and exchange experience.

2. *Participant learning*, such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.

3. *Participant behavior*, concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.

4. *Institutional changes*, such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (*i.e.*, surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3e.1. Applicants must submit a comprehensive budget for the entire program. For this competition, requests should not exceed $300,000 for either of the two projects. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets.

Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

IV.3e.2. Allowable costs for the program include the following:

1. *Travel.* International and domestic airfare; visas; transit costs; ground transportation costs. Please note that all air travel must be in compliance with the Fly America Act. There is no charge for J–1 visas for participants in Bureau sponsored programs.

2. *Per Diem.* For U.S.-based programming, organizations should use the published Federal per diem rates for individual U.S. cities. Domestic per diem rates may be accessed at: *http://policyworks.gov/org/main/mt/homepage/mtt/perdiem/perd03d.html*. ECA requests applicants to budget realistic costs that reflect the local economy and do not exceed Federal per diem rates. Foreign per diem rates can be accessed at: *http://www.state.gov/m/a/als/prdm/html*.

3. *Interpreters.* For U.S.-based activities, ECA strongly encourages applicants to hire their own locally based interpreters. However, applicants may ask ECA to assign State Department interpreters. One interpreter is typically needed for every four participants who require interpretation. When an applicant proposes to use State Department interpreters, the following expenses should be included in the budget: Published Federal per diem rates (both ''lodging'' and ''M&IE'') and ''home-program-home'' transportation in the amount of $400 per interpreter. Salary expenses for State Department interpreters will be covered by the Bureau and should not be part of an applicant's proposed budget. Bureau funds cannot support interpreters who accompany delegations from their home country or travel internationally.

4. *Book and Cultural Allowances.* Foreign participants are entitled to a one-time cultural allowance of $150 per person, plus a book allowance of $50. Interpreters should be reimbursed up to $150 for expenses when they escort participants to cultural events. U.S. program staff, trainers or participants are not eligible to receive these benefits.

5. *Consultants.* Consultants may be used to provide specialized expertise or to make presentations. Honoraria rates should not exceed $250 per day. Organizations are encouraged to cost-share rates that would exceed that figure. Subcontracting organizations may also be employed, in which case the written agreement between the prospective grantee and sub-grantee should be included in the proposal. Such sub-grants should detail the division of responsibilities and proposed costs, and subcontracts should be itemized in the budget.

6. *Room rental.* The rental of meeting space should not exceed $250 per day. Any rates that exceed this amount should be cost shared.

7. *Materials.* Proposals may contain costs to purchase, develop and translate

materials for participants. Costs for high quality translation of materials should be anticipated and included in the budget. Grantee organizations should expect to submit a copy of all program materials to ECA, and ECA support should be acknowledged on all materials developed with its funding.

8. *Equipment.* Applicants may propose to use grant funds to purchase equipment, such as computers and printers; these costs should be justified in the budget narrative. Costs for furniture are not allowed.

9. *Working meal.* Normally, no more than one working meal may be provided during the program. Per capita costs may not exceed $15–$25 for lunch and $20–$35 for dinner, excluding room rental. The number of invited guests may not exceed participants by more than a factor of two-to-one. When setting up a budget, interpreters should be considered ''participants.''

10. *Return travel allowance.* A return travel allowance of $70 for each foreign participant may be included in the budget. This allowance would cover incidental expenses incurred during international travel.

11. *Health Insurance.* Foreign participants will be covered during their participation in the program by the ECA-sponsored Accident and Sickness Program for Exchanges (ASPE), for which the grantee must enroll them. Details of that policy can be provided by the contact officers identified in this solicitation. The premium is paid by ECA and should not be included in the grant proposal budget. However, applicants are permitted to include costs for travel insurance for U.S. participants in the budget.

12. *Wire transfer fees.* When necessary, applicants may include costs to transfer funds to partner organizations overseas. Grantees are urged to research applicable taxes that may be imposed on these transfers by host governments.

13. *In-country travel costs* for visa processing purposes. Given the requirements associated with obtaining J–1 visas for ECA-supported participants, applicants should include costs for any travel associated with visa interviews or DS–2019 pick-up.

14. *Administrative Costs.* Costs necessary for the effective administration of the program may include salaries for grantee organization employees, benefits, and other direct and indirect costs per detailed instructions in the Application Package. While there is no rigid ratio of administrative to program costs, proposals in which the administrative costs do not exceed 25% of the total requested ECA grant funds will be more competitive under the cost effectiveness and cost sharing criterion, per item V.1 below. Proposals should show strong administrative cost sharing contributions from the applicant, the in-country partner and other sources.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f. *Application Deadline and Methods of Submission: Application Deadline Date:* Thursday, May 3, 2006. *Reference Number:* ECA/PE/C/WHA–EAP–06–33.

Methods of Submission: Applications may be submitted in one of two ways:

(1) In hard-copy, via a nationally recognized overnight delivery service (*i.e.*, DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or

(2) Electronically through *http://www.grants.gov.* Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1 Submitting Printed Applications.

Due to heightened security measures, proposal submissions must be sent via a nationally recognized overnight delivery service (*i.e.*, DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.) and be shipped no later than the above deadline. The delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. ECA will *not* notify you upon receipt of application. Delivery of proposal packages *may not* be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Applicants must follow all instructions in the Solicitation Package.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to ''ECA/EX/PM''.

The original and ten copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/PE/C/WHA–EAP–06–33, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.2—Submitting Electronic Applications.

Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the ''Find'' portion of the system. Please follow the instructions available in the 'Get Started' portion of the site (*http://www.grants.gov/GetStarted*).

Applicants have until midnight (12 a.m.) of the closing date to ensure that their entire applications have been uploaded to the grants.gov site. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the grants.gov system, and will be technically ineligible.

Applicants will receive a confirmation e-mail from grants.gov upon the successful submission of an application. ECA will not notify you upon receipt of electronic applications.

IV.3g. Intergovernmental Review of Applications: Executive Order 12372 does not apply to this program.

IV.3h. Applicants must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal in text (.txt) format on a PC-formatted disk. The Bureau will provide these files electronically to the appropriate Public Affairs Section(s) at the U.S. Embassy in Jakarta for its review.

V. Application Review Information

V.1. Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. The program office will review all eligible proposals as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and

forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for grants resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. Program Planning and Ability To Achieve Objectives

Program objectives should be stated clearly and should reflect the applicant's expertise in the subject area and region. Objectives should respond to the topics in this announcement and should relate to the current conditions in the target country/countries. A detailed agenda and relevant work plan should explain how objectives will be achieved and should include a timetable for completion of major tasks. The substance of workshops, internships, seminars and/or consulting should be described in detail. Sample training schedules should be outlined. Responsibilities of proposed in-country partners should be clearly described. A discussion of how the applicant intends to address language issues should be included, if needed.

2. Institutional Capacity

Proposals should include (1) the institution's mission and date of establishment; (2) detailed information about proposed in-country partner(s) and the history of the partnership; (3) an outline of prior awards-U.S. government and/or private support received for the target theme/country/region; and (4) descriptions of experienced staff members who will implement the program. The proposal should reflect the institution's expertise in the subject area and knowledge of the conditions in the target country/countries. Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grants Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants. Proposed personnel and institutional resources should be adequate and appropriate to achieve the program's goals. The Bureau strongly encourages applicants to submit letters of support from proposed in-country partners.

3. Cost Effectiveness and Cost Sharing

Overhead and administrative costs in the proposal budget, including salaries, honoraria and subcontracts for services, should be kept to a minimum. *Proposals whose administrative costs are less than twenty-five (25) per cent of the total funds requested from the Bureau will be deemed more competitive under this criterion.* Applicants are strongly encouraged to cost share a portion of overhead and administrative expenses. Cost-sharing, including contributions from the applicant, proposed in-country partner(s), and other sources should be included in the budget request. Proposal budgets that do not reflect cost sharing will be deemed not competitive in this category.

4. Support of Diversity

Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities). Applicants should refer to the Bureau's Diversity, Freedom and Democracy Guidelines in the Proposal Submission Instructions (PSI) and the Diversity, Freedom and Democracy Guidelines section, Item IV.3d.2, above for additional guidance.

5. Post-Grant Activities

Applicants should provide a plan to conduct activities after the Bureau-funded project has concluded in order to ensure that Bureau-supported programs are not isolated events. Funds for all post-grant activities must be in the form of contributions from the applicant or sources outside of the Bureau. Costs for these activities must not appear in the proposal budget, but should be outlined in the narrative.

6. Program Monitoring and Evaluation

Proposals should include a detailed plan to monitor and evaluate the program. Program objectives should target clearly defined results in quantitative terms. Competitive evaluation plans will describe how applicant organizations would measure these results, and proposals should include draft data collection instruments (surveys, questionnaires, etc.) in Tab E. See the ''Program Management/Evaluation'' section, item IV.3d.3 above for more information on the components of a competitive evaluation plan. Successful applicants (grantee institutions) will be expected to submit a report after each program component concludes or on a quarterly basis, whichever is less frequent. The Bureau also requires that grantee institutions submit a final narrative and financial report no more than 90 days after the expiration of a grant. Please refer to the ''Program Management/Evaluation'' section, item IV.3d.3 above for more guidance.

VI. Award Administration Information

VI.1a. Award Notices

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive an Assistance Award Document (AAD) from the Bureau's Grants Office. The AAD and the original grant proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The AAD will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.2 Administrative and National Policy Requirements.

Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, ''Cost Principles for Nonprofit Organizations.''

Office of Management and Budget Circular A–21, ''Cost Principles for Educational Institutions.''

OMB Circular A–87, ''Cost Principles for State, Local and Indian Governments''.

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference the following Web sites for additional information: *http://*

www.whitehouse.gov/omb/grants. http://exchanges.state.gov/education/grantsdiv/terms.htm#articleI.

VI.3. Reporting Requirements

You must provide ECA with a hard copy original plus two copies of the following reports:

(1) A final program and financial report no more than 90 days after the expiration of the award;

(2) Any interim report(s) required in the Bureau grant agreement document.

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to Application and Submission Instructions [IV.3d.3] above for Program Monitoring and Evaluation information.)

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VI.4. Program Data Requirements

Organizations awarded grants will be required to maintain specific data on program participants and activities in an electronically accessible database format that can be shared with the Bureau as required. As a minimum, the data must include the following:

(1) Name, address, contact information and biographic sketch of all persons who travel internationally on funds provided by the grant or who benefit from the grant funding but do not travel.

(2) Itineraries of international and domestic travel, providing dates of travel and cities in which any exchange experiences take place. Final schedules for in-country and U.S. activities must be received by the ECA Program Officer at least three workdays prior to the official opening of the activity.

VII. Agency Contacts

For questions about this announcement, contact: The Office of Citizen Exchanges, ECA/PE/C, Room 220, ECA/PE/C/HWA–EAP–06–33, Bureau of Educational and Cultural Affairs, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC, 20547; tel.: 202–453–8163; fax: 202–453–8168; *harveyrh@state.gov.*

For correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/PE/C/WHA–EAP–06–33. Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: March 8, 2006.

C. Miller Crouch,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. E6–3589 Filed 3–13–06; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2006 24125]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel ALTIMATE PLEASURE.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2006x–24125 at *http://dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before April 13, 2006.

ADDRESSES: Comments should refer to docket number MARAD–2006 24125. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel ALTIMATE PLEASURE is:

Intended Use: ''I intend to provide charters to executive or company groups.''

Geographic Region: East Coast, New England waterways to Florida, including the states of MA, NH, RI, and Florida.

Dated: March 7, 2006.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. E6–3529 Filed 3–13–06; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2006 24124]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel GRAND PASSAGE.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2006–24124 at *http://dms.dot.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before April 13, 2006.

ADDRESSES: Comments should refer to docket number MARAD–2006 24124. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel GRAND PASSAGE is:

Intended Use: ''Skippered charters. Take passengers for hire for boat handling training and recreational activities.''

Geographic Region: Puget Sound.

Dated: March 7, 2006.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. E6–3530 Filed 3–13–06; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2006 24123]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel HUSSAR.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2006–24123 at *http://dms.dot.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before April 13, 2006.

ADDRESSES: Comments should refer to docket number MARAD–2006 24123. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel HUSSAR is:

Intended Use: ''Carry up to six passengers for hire on a classic sailing yacht. By the day up to a week, inland and near coastal. The vessel will always be under command of a USCG Licensed Captain (100 ton license, with sailing endorsement). No more than 15 charters per year. Learn to Sail and special events.''

Geographic Region: Connecticut, Rhode Island, Massachusetts, and Maine coastlines. Primary area is Cape Cod. Inland and near coastal.

Dated: March 7, 2006

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. E6–3528 Filed 3–13–06; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. USCG–2004–17696]

Freeport McMoRan Energy L.L.C. Main Pass Energy Hub Liquefied Natural Gas Deepwater Port License Application; Final Application Public Hearings and Final Environmental Impact Statement

AGENCY: Maritime Administration, DOT.

ACTION: Notice of availability; notice of public hearing; request for comments.

SUMMARY: The Maritime Administration (MARAD) announces the availability of the final environmental impact statement (FEIS) on the Main Pass Energy Hub (MPEH) Deepwater Port License Application. Also, public hearings will be held on matters relevant to the approval or denial of the 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.

DATES: Three public hearings will be held. The public hearing in Grand Bay, Alabama will be on March 21, 2006, 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 hearing in Pascagoula, Mississippi will be on March 22, 2006, 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 hearing in New Orleans, Louisiana, will be on March 23, 2006, 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 hearings may end later than the stated times, depending on the number wishing to speak.

Material submitted in response to the request for comments must reach the Docket Management Facility on or before April 24, 2006, ending the 45 day public comment period. Federal and State agencies must submit comments on the application, recommended conditions for licensing, or letters of no objection by May 7, 2006 (45 days after the final public hearings). Also by May 7, 2006, the Governors of the adjacent coastal states of Alabama, Louisiana, and Mississippi must approve, disapprove, or notify MARAD of inconsistencies with State programs relating to environmental protection, land and water use, and coastal zone management for which MARAD may condition the license to make consistent. MARAD must issue a record of decision (ROD) to approve, approve with conditions, or deny the DWP license application by June 21, 2006 (90 days after the public hearings.)

ADDRESSES: The first public hearing 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 hearing and informational open house will be held at the La Font Inn, 2703 Denny Avenue, Pascagoula, Mississippi, phone: 228–762–7111. The third public hearing and informational open house will be held at the Hilton New Orleans Riverside Hotel, Two Poydras Street, New Orleans, Louisiana, phone: 504–561–0500.

A copy of the FEIS, license application, and associated documentation 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 the 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, 985–876–5861; 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.

The public docket for this license application bears a U.S. Coast Guard (USCG) docket number, because the U.S. Coast Guard handles much of the processing for the license application. 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: H. Keith Lesnick, Senior Transportation Specialist, Deepwater Ports Program Manager, U.S. Maritime Administration, telephone: 202–366–1624 or e-mail *Keith.Lesnick@dot.gov.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone: 202–493–0402.

SUPPLEMENTARY INFORMATION:

Public Hearing and Open House

We invite you to learn about the proposed deepwater port at the informational open house, and to comment at the public hearing on the proposed action and the evaluation contained in the FEIS and the license application. Speaker registration will be available at the door. In order to allow everyone a chance to speak, we may limit speaker time, or extend the hearing 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 hearing, 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 hearing, and need special assistance such as sign language interpretation or other reasonable accommodation, please notify MARAD (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 FEIS and license application. You can submit material to the Docket Management Facility during the public comment period (see **DATES**). We will consider all comments submitted during the public comment period.

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 application for the proposed MPEH LNG Terminal LLC deepwater port at 69 FR 32363 (June 9, 2004); a notice of intent to prepare an EIS at 69 FR 45337 (July 29, 2004); and announced the availability of the draft EIS (DEIS) at 70 FR 35277 (June 17, 2005). 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 FEIS.

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.

Freeport-McMoRan Energy LLC (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. The 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.

The FME MPEH 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

On July 22, 2005, the New Orleans District, Army Corps of Engineers issued a joint 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: March 9, 2006.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. E6–3594 Filed 3–13–06; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket: RSPA–00–7666]

Request for Public Comments and Office of Management and Budget (OMB) Approval of an Existing Information Collection (2137–0610)

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

SUMMARY: This notice requests public participation in the Office of Management and Budget (OMB) approval process for the renewal of an existing PHMSA information collection. In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) described below has been forwarded to OMB for extension of the currently approved collection. The ICR describes the nature of the information collection and the expected burden. PHMSA published a **Federal Register** Notice soliciting comments on the following information collection and received none. The purpose of this notice is to allow the public an additional 30 days from the date of this notice to submit comments.

DATES: Comments must be submitted on or before April 13, 2006.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725—17th Street, NW., Washington, DC 20503, Attention DOT Desk Officer.

FOR FURTHER INFORMATION CONTACT: William Fuentevilla at (202) 366–6199, or by e-mail at *William.Fuentevilla@dot.gov*.

SUPPLEMENTARY INFORMATION: Comments are invited on whether the collection of information described below is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. PHMSA published a **Federal Register** Notice with a 60-day comment period for this ICR on December 29, 2005 (70 FR 77247), and received no comments.

This ICR relates to the rule at 49 CFR part 192, subpart O, which covers pipeline integrity management in high consequence areas for natural gas transmission pipeline operators. The Gas Transmission Integrity Management rule became effective February 14, 2004. The regulation improves pipeline safety through (1) accelerating the integrity assessment of pipelines in high consequence areas, (2) improving integrity management systems within companies, (3) improving the government's role in reviewing the adequacy of integrity programs and plans, and (4) providing increased public assurance in pipeline safety.

This information collection requires operators of gas transmission pipelines located in or near high consequence areas to submit to PHMSA a written integrity management program and records showing compliance with 49 CFR part 192, subpart O. Operators must maintain these records for the life of the pipeline and PHMSA or State regulators may review the records during inspections. The regulation also requires each operator to submit four overall performance measures to PHMSA semi-annually. This information collection supports DOT's strategic goal of safety by reducing the number of incidents in natural gas transmission pipelines.

As used in this notice, ''information collection'' includes all work related to preparing and disseminating information related to this recordkeeping requirement including completing paperwork, gathering information and conducting telephone calls.

Type of Information Collection Request: Renewal of Existing Collection.

Title of Information Collection: Pipeline Integrity Management in High Consequence Areas (Gas Transmission Pipeline Operators).

Respondents: 721.

Estimated Total Annual Burden on Respondents: 1,030,309 hours.

Issued in Washington, DC on March 9, 2006.

Florence L. Hamn,

Director of Regulations, Office of Pipeline Safety.

[FR Doc. 06–2447 Filed 3–9–06; 3:26 pm]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket No. 06–01]

FEDERAL RESERVE SYSTEM

[Docket No. OP–1248]

FEDERAL DEPOSIT INSURANCE CORPORATION

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[No. 2006–01]

Concentrations in Commercial Real Estate Lending, Sound Risk Management Practices; Extension of Comment Period

AGENCIES: Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); and Office of Thrift Supervision, Treasury (OTS).

ACTION: Proposed guidance; extension of comment period.

SUMMARY: On January 13, 2006, the OCC, Board, FDIC, and OTS (the Agencies) published for public comment proposed Interagency Guidance on Concentrations in Commercial Real Estate Lending, Sound Risk Management Practices. The Agencies are extending the comment period on the proposed guidance for 30 days.

DATES: Comments must be submitted on or before April 13, 2006.

ADDRESSES: The Agencies will jointly review all of the comments submitted. Therefore, interested parties may send comments to any of the Agencies and need not send comments (or copies) to all of the Agencies. Please consider submitting your comments by e-mail or fax since paper mail in the Washington area and at the Agencies is subject to delay. Interested parties are invited to submit comments to:

OCC: You should include ''OCC'' and Docket Number 06–01 in your comment. You may submit your comment by any of the following methods:

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

• OCC Web Site: *http://www.occ.treas.gov.* Click on ''Contact the OCC,'' scroll down and click on ''Comments on Proposed Regulations.''

• E-Mail Address: *regs.comments@occ.treas.gov.*

• Fax: (202) 874–4448.

• Mail: Office of the Comptroller of the Currency, 250 E Street, SW., Mail Stop 1–5, Washington, DC 20219.

• Hand Delivery/Courier: 250 E Street, SW., Attn: Public Information Room, Mail Stop 1–5, Washington, DC 20219.

Instructions: All submissions received must include the agency name (OCC) and docket number for this notice. In general, the OCC will enter all comments received into the docket without change, including any business or personal information that you provide.

You may review comments and other related materials by any of the following methods:

• *Viewing Comments Personally:* You may personally inspect and photocopy comments at the OCC's Public Information Room, 250 E Street, SW., Washington, DC. You can make an appointment to inspect comments by calling (202) 874–5043.

• *Viewing Comments Electronically:* You may request that we send you an electronic copy of comments via e-mail or mail you a CD-ROM containing electronic copies by contacting the OCC at *regs.comments@occ.treas.gov.*

• *Docket Information:* You may also request available background documents and project summaries using the methods described above.

Board: You may submit comments, identified by Docket No. OP–1248, by any of the following methods:

• Agency Web site: *http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*

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

• E-mail: *regs.comments@federalreserve.gov.* Include the docket number in the subject line of the message.

• FAX: 202/452–3819 or 202/452–3102.

• Mail: Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

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

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

• Agency Web site: *http://www.fdic.gov/regulations/laws/federal/propose.html.* Follow the instructions for submitting comments on the Agency Web site.

• E-Mail: *Comments@FDIC.gov.*

• Mail: Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

• Hand Delivery/Courier: Guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m.

Instructions: All submissions received must include the agency name. All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal/propose.html* including any personal information provided.

• Public Inspection: Comments may be inspected and photocopied in the FDIC Public Information Center, Room E–1007, 3501 North Fairfax Drive, Arlington, VA, between 9 a.m. and 4:30 p.m. on business days.

OTS: You may submit comments, identified by docket number 2006–01, by any of the following methods:

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

• E-mail address: *regs.comments@ots.treas.gov.* Please include docket number 2006–01 in the subject line of the message and include your name and telephone number in the message.

• Fax: (202) 906–6518.

• Mail: Regulation Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention: No. 2005–56.

• Hand Delivery/Courier: Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9 a.m. to 4 p.m. on business days. Address envelope as follows: Attention: Regulation Comments, Chief Counsel's Office, Attention: No. 2006–01.

Instructions: All submissions received must include the agency name and docket number for this proposed Guidance. All comments received will be posted without change to the OTS Internet site at *http://www.ots.treas.gov/pagehtml.cfm?catNumber=67&an=1,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.ots.treas.gov/pagehtml.cfm?catNumber=67&an=1.* In addition, you may inspect comments at the OTS's Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment for access, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755. (Prior notice identifying the materials you will be requesting will assist us in serving you.) We schedule appointments on business days between 10 a.m. and 4 p.m. In most cases, appointments will be available the next business day following the date we receive a request.

FOR FURTHER INFORMATION CONTACT: *OCC:* Doreen Ledbetter, National Bank Examiner/Credit Risk Specialist, Credit Risk Policy, (202) 874–4531; or Dena G. Patel, Credit Risk Specialist, Credit Risk Policy, (202) 874–1724.

Board: Denise Dittrich, Supervisory Financial Analyst, (202) 452–2783; or Virginia Gibbs, Senior Supervisory Financial Analyst, (202) 452–2521; or Sabeth I. Siddique, Assistant Director, (202) 452–3861, Division of Banking Supervision and Regulation; or Mark Van Der Weide, Senior Counsel, Legal Division, (202) 452–2263. For users of Telecommunications Device for the Deaf (''TDD'') only, contact (202) 263–4869.

FDIC: James Leitner, Senior Examination Specialist, (202) 898–6790, or Benjamin W. McDonough, Attorney, Legal Division, (202) 898–7411.

OTS: William Magrini, Senior Project Manager, (202) 906–5744.

SUPPLEMENTARY INFORMATION: On January 13, 2006, the Agencies published for comment proposed guidance entitled ''Concentrations in Commercial Real Estate Lending, Sound Risk Management Practices'' (Guidance). 71 FR 2302. The proposal stated that any comments on the proposal must be submitted on or before March 14, 2006.

In response to the solicitation of comments, the Agencies have received several hundred comments on the proposal, including a request from a financial institutions trade association to extend the comment period. In light of the wide public interest in the proposal and the Agencies' desire to provide the public with sufficient time to consider the proposal and formulate

any comments, the Agencies have decided to extend the comment period on the proposal by 30 days. The comment period will now run through April 13, 2006.

Dated: March 7, 2006.

John C. Dugan,

Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority, March 9, 2006.

Jennifer J. Johnson,

Secretary of the Board.

Dated at Washington, DC, this 8th day of March, 2006.

By order of the Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Dated: March 8, 2006.

By the Office of Thrift Supervision.

Scott M. Polakoff,

Deputy Director & Chief Operating Officer.

[FR Doc. 06–2442 Filed 3–13–06; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P; 6720–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8861

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8861, Welfare-to-Work Credit.

DATES: Written comments should be received on or before May 15, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the internet at (*Larnice.Mack@irs.gov*).

SUPPLEMENTARY INFORMATION:

Title: Welfare-to-Work Credit.

OMB Number: 1545–1569.

Form Number: 8861.

Abstract: Section 51A of the Internal Revenue Code allows employers an income tax credit 35% of the first $10,000 of first-year wages and 50% of the first $10,000 of second-year wages paid to long-term family assistance recipients. The credit is part of the general business credit.

Current Actions: There are no changes being made to the form at this time. Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and farms.

Estimated Number of Responses: 500.

Estimated Time Per Respondent: 6 hours, 41 minutes.

Estimated Total Annual Burden Hours: 3,347.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (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 estimate 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 of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 7, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–3625 Filed 3–13–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Request for Nominations to the Electronic Tax Administration Advisory Committee

AGENCY: Internal Revenue Service (IRS).

ACTION: Notice.

SUMMARY: The Electronic Tax Administration Advisory Committee (ETAAC), was established to provide continued input into the development and implementation of the Internal Revenue Service (IRS) strategy for electronic tax administration. The ETAAC provides an organized public forum for discussion of electronic tax administration issues in support of the overriding goal that paperless filing should be the preferred and most convenient method of filing tax and information returns. ETAAC members convey the public's perception of IRS electronic tax administration activities, offer constructive observations about current or proposed policies, programs, and procedures, and suggest improvements. This document seeks nominations of individuals to be considered for selection as Committee members.

The Director, Electronic Tax Administration (ETA) will assure that the size and organizational representation of the ETAAC obtains balanced membership and includes representatives from various groups including: (1) Tax practitioners and preparers, (2) transmitters of electronic returns, (3) tax software developers, (4) large and small businesses, (5) employers and payroll service providers, (6) individual taxpayers, (7) financial industry (payers, payment options and best practices), (8) system integrators (technology providers), (9) academic (marketing, sales or technical perspectives), (10) trusts and estates, (11) tax exempt organizations, and (12) state and local governments. We are soliciting nominations from professional and public interest groups, IRS officials, the Department of Treasury, and Congress. Members serve a three-year term on the ETAAC to allow a change in membership. The change of members on the Committee ensures that different perspectives are represented. All travel expenses within government guidelines

will be reimbursed. Potential candidates must pass an IRS tax compliance check and Federal Bureau of Investigation (FBI) background investigation.

DATES: Applications and/or written nominations must be received no later than Friday, April 28, 2006.

ADDRESSES: Completed applications and/or written nominations should be submitted by using one of the following methods:

- E-Mail: Send to *etaac@irs.gov*.
- Mail: Send to Internal Revenue Service, Electronic Tax Administration, OS:CIO:I:ET:S:RM, 5000 Ellin Road (M/Stop C4–470), Attn: Kim Logan (C4–226), Lanham, Maryland 20706.
- Fax: Send via facsimile to (202) 283–4829 (not a toll-free number).

Application packages can be obtained by sending an e-mail to *etaac@irs.gov* or calling (202) 283–1947 (not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Kim Logan, (202) 283–1947 or send an e-mail to *etaac@irs.gov*.

SUPPLEMENTARY INFORMATION: The ETAAC will provide continued input into the development and implementation of the IRS strategy for electronic tax administration. The ETAAC members will convey the public's observations about current or proposed policies, programs, and procedures, and suggest improvements. The ETAAC will also provide an annual report to Congress on IRS progress in meeting the Restructuring and Reform Act of 1998 goals for electronic filing of tax returns. This activity is based on the authority to administer the Internal Revenue laws conferred upon the Secretary of the Treasury by section 7802 of the Internal Revenue Code and delegated to the Commissioner of the Internal Revenue. The ETAAC will research, analyze, consider, and make recommendations on a wide range of electronic tax administration issues and will provide input into the development of the strategic plan for electronic tax administration.

Nominations should describe and document the proposed member's qualifications for membership to the Committee. Equal opportunity practices will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken into account the needs of the diverse groups served by the Department, membership will include, to the extent practicable, individuals, with demonstrated ability to represent minorities, women, and persons with disabilities. The Secretary of Treasury will review the recommended candidates and make final selections.

Dated: March 9, 2006.

Kim McDonald,

Acting Director, Strategic Services Division.

[FR Doc. E6–3626 Filed 3–13–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 7 Taxpayer Advocacy Panel (Including the States of Alaska, California, Hawaii, and Nevada)

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 7 committee of the Taxpayer Advocacy Panel will be conducted in Los Angeles, California. The Taxpayer Advocacy Panel (TAP) is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service. The TAP will use citizen input to make recommendations to the Internal Revenue Service.

DATES: The meeting will be held Thursday, April 6, 2006, Friday, April 7, 2006 and Saturday, April 8, 2006.

FOR FURTHER INFORMATION CONTACT: Dave Coffman at 1–888–912–1227, or 206–220–6096.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 7 Taxpayer Advocacy Panel will be held Thursday, April 6, 2006 from 1 p.m. Pacific time to 4:30 p.m. Pacific time; Friday, April 7, 2006 from 8:30 a.m. Pacific time to 4:30 p.m. Pacific time; and Saturday, April 8, 2006 from 8:30 a.m. Pacific time to 11:30 a.m. Pacific time at 404 South Figueroa Street, Los Angeles, California. The public is invited to make oral comments. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 206–220–6096, or write to Dave Coffman, TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174 or you can contact us at *http://www.improveirs.org.* Due to limited space, notification of intent to participate in the meeting must be made with Dave Coffman. Mr. Coffman can be reached at 1–888–912–1227 or 206–220–6096.

The agenda will include the following: Various IRS issues.

Dated: March 8, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E6–3622 Filed 3–13–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 5 Taxpayer Advocacy Panel (Including the States of Iowa, Kansas, Minnesota, Missouri, Nebraska, Oklahoma, and Texas)

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 5 Taxpayer Advocacy Panel will be conducted. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, April 11, 2006, at 9:30 a.m. central time.

FOR FURTHER INFORMATION CONTACT: Mary Ann Delzer at 1–888–912–1227, or (414) 297–1604.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Area 5 Taxpayer Advocacy Panel will be held Tuesday, April 11, 2006, at 9:30 a.m. central time via a telephone conference call. You can submit written comments to the panel by faxing to (414) 297–1623, or by mail to Taxpayer Advocacy Panel, Stop1006MIL, 310 West Wisconsin Avenue, Milwaukee, WI 53203–2221, or you can contact us at *http://www.improveirs.org.* This meeting is not required to be open to the public, but because we are always interested in community input, we will accept public comments. Please contact Mary Ann Delzer at 1–888–912–1227 or (414) 297–1604 for additional information.

The agenda will include the following: Various IRS issues.

Dated: March 8, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E6–3623 Filed 3–13–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Assistance Center Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Taxpayer Assistance Center Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel (TAP) is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, April 4, 2006.

FOR FURTHER INFORMATION CONTACT: Dave Coffman at 1–888–912–1227, or 206–220–6096.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Assistance Center Committee of the Taxpayer Advocacy Panel will be held Tuesday, April 4, 2006 from 9 a.m. Pacific time to 10:30 a.m. Pacific time via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 206–220–6096, or write to Dave Coffman, TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174 or you can contact us at *http://www.improveirs.org.* Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Dave Coffman. Mr. Coffman can be reached at 1–888–912–1227 or 206–220–6096.

The agenda will include the following: Various IRS issues.

Dated: March 8, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E6–3624 Filed 3–13–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Small Business/Self Employed—Taxpayer Burden Reduction Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Small Business/Self Employed—Taxpayer Burden Reduction Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The TAP will be discussing issues pertaining to increasing compliance and lessening the burden for Small Business/Self Employed individuals.

DATES: The meeting will be held Tuesday, April 4, 2006.

FOR FURTHER INFORMATION CONTACT: Marisa Knispel at 1–888–912–1227 or 718–488–3557.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Small Business/Self Employed—Taxpayer Burden Reduction Committee of the Taxpayer Advocacy Panel will be held Tuesday, April 4, 2006 from 3:30 p.m. ET to 4:30 p.m. ET via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 718–488–3557, or write to Marisa Knispel, TAP Office, 10 Metro Tech Center, 625 Fulton Street, Brooklyn, NY 11201. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Marisa Knispel. Ms. Knispel can be reached at 1–888–912–1227 or 718–488–3557, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include the following: Various IRS issues.

Dated: March 9, 2006.

John Fay,

Director, Taxpayer Advocacy Panel.

[FR Doc. E6–3627 Filed 3–13–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0205]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–21), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 13, 2006.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565–8374, FAX (202) 565–6950 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0205.''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to ''OMB Control No. 2900–0205'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Titles: Applications and Appraisals for Employment for Title 38 Positions and Trainees.

OMB Control Number: 2900–0205.

Type of Review: Revision of a currently approved collection.

Abstract: VA will use the data collected on VA Forms 10–2850, 2850a through d, VA Form Letters 10–341a and b to evaluate an applicant's qualification for employment with the VA, as well as their training, educational, and professional experiences. The data is necessary to determine the applicant's suitability, grade level and clinical privileges.

Affected Public: Individuals or Households, Business or other for-profit, Not-for-Profit Institutions, Federal Government, and State, Local or Tribal Government.

Estimated Annual Burden:

a. Application for Physicians, Dentists, Podiatrists and Optometrists, Chiropractors, VA Form 10–2850—7,450 hours.

b. Application for Nurses and Nurse Anesthetists, VA Form 10–2850a—29,799 hours.

c. Application for Residents, VA Form 10–2850b—15,893 hours.

d. Application for Associated Health Occupations, VA Form 10–2850c—9,933 hours.

e. Application for Health Professions Trainees, VA Form 10–2850d—28,143 hours.

f. Appraisal of Applicant, VA Form FL 10–341a—25,410 hours.

g. Trainee Qualification and Credentials Verification Letter, VA Form 10–341b—7,266 hours.

Estimated Average Burden Per Respondent:

a. Application for Physicians, Dentists, Podiatrists and Optometrists, Chiropractors, VA Form 10–2850—30 minutes.

b. Application for Nurses and Nurse Anesthetists, VA Form 10–2850a—30 minutes.

c. Application for Residents, VA Form 10–2850b—30 minutes.

d. Application for Associated Health Occupations, VA Form 10–2850c—30 minutes.

e. Application for Health Professions Trainees, VA Form 10–2850d—30 minutes.

f. Appraisal of Applicant, VA Form Letter 10–341a—30 minutes.

g. Trainee Qualification and Credentials Verification Letter, VA Form Letter 10–341b—5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents:

a. Application for Physicians, Dentists, Podiatrists and Optometrists, Chiropractors, VA Form 10–2850—14,900.

b. Application for Nurses and Nurse Anesthetists, VA Form 10–2850a—59,598.

c. Application for Residents, VA Form 10–2850b—31,786.

d. Application for Associated Health Occupations, VA Form 10–2850c—19,866.

e. Application for Health Professions Trainees, VA Form 10–2850d—56,286.

f. Appraisal of Applicant, VA Form 10–341a—50,820.

g. Trainee Qualification and Credentials Verification Letter, VA Form 10–341b—87,190.

Dated: March 2, 2006.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E6–3636 Filed 3–13–06; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–New (0863)]

Agency Information Collection Activities Under OMB Review

AGENCY: Office of Acquisition and Material Management, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–21), this notice announces that the Veterans Office of Acquisition and Material Management (OA&MM), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 13, 2006.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 565–8374 or FAX (202) 565–6950. Please refer to ''OMB Control No. 2900–New (0863).''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–New (0863)'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Department of Veterans Affairs (VA) National Acquisition Center Customer Response Survey, VA Form 0863.

OMB Control Number: 2900–New (0863).

Type of Review: New Collection.

Abstract: VA Form 0863 will be used to collect customer's feedback and suggestions on delivered products and services administered by the National Acquisition Center (NAC). NAC will use the data to improve and/or enhance its program operations for both internal and external customers.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on December 09, 2005 at pages 73328.

Affected Public: Federal Government, Businesses or Other for Profit, and State, Local, or Tribal Government.

Estimated Annual Burden: 83 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 1,000.

Dated: March 1, 2006.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E6–3637 Filed 3–13–06; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Tuesday,
March 14, 2006

Part II

Department of Housing and Urban Development

24 CFR Parts 200 and 401
Implementation of Mark-to-Market Program Revisions; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 200 and 401

[Docket No. FR–4751–P–01; HUD 2006–0003]

RIN 2502–AH86

Implementation of Mark-to-Market Program Revisions

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: Based on statutory changes and HUD's technical operational experience in administering the program, this proposed rule would implement a number of changes to the Mark-to-Market (M2M) program, HUD's mortgage restructuring program for FHA-insured projects with project-based Section 8 assistance, to facilitate processing. Unlike the M2M proposed and final rules addressing renewal of expiring Section 8 project-based assistance contracts that HUD published on January 12, 2006, this rule addresses a range of administrative and programmatic issues other than the project-based assistance contracts.

DATES: *Comment Due Date:* May 15, 2006.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500. Interested persons also may submit comments electronically through the Federal eRulemaking Portal at: *http://www.regulations.gov.* Commenters should follow the instructions provided on that site to submit comments electronically. Facsimile (FAX) comments are not acceptable. In all cases, communications must refer to the docket number and title. All comments and communications submitted will be available, without change, for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the public comments by calling the Regulations Division at (202) 708–3055 (this is not a toll-free number). Copies are also available for inspection and downloading at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Theodore Toon, Acting Deputy Assistant Secretary, Office of Affordable Housing Preservation (OAHP), Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6230, Washington, DC 20024, (202) 708–0001 (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8389.

SUPPLEMENTARY INFORMATION:

I. Background

The Multifamily Assisted Housing Reform and Affordability Act (MAHRA) became law on October 27, 1997. (See Pub. L. 105–65, 111 Stat. 1384, 42 U.S.C. 1437f note.) The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act for Fiscal Year 1999 (Pub. L. 105–276, approved October 21, 1998) revised section 524(a)(2) of MAHRA to make renewal of expiring contracts under that section subject to section 516 of MAHRA, which prohibits mortgage restructuring and consideration of requests for contract renewals in the case of certain kinds of conduct by the project owner. On October 20, 1999, the Departments of Veterans Affairs, Housing and Urban Development, and Independent Agencies Appropriations Act for Fiscal Year 2000, Public Law 106–74, 113 Stat. 1047, at 1110, extensively revised section 524 of MAHRA. Among other changes, the revisions changed the method for calculating rents when an expiring or terminating Section 8 contract is renewed, and required reduction to comparable market rents for certain projects that, prior to expiration or termination, had rents that exceeded such comparable market rents.

The Mark-to-Market Extension Act of 2001 (Title VI of Pub. L. 107–116, approved January 10, 2002) (Mark-to-Market Extension Act) amended sections 512, 514, 517, and 524 of MAHRA and section 223(a)(7) of the National Housing Act (12 U.S.C. 1715n). Part II of this preamble discusses the proposed implementation of those amendments and additional proposed revisions to HUD's mortgage restructuring program in this notice of proposed rulemaking (NPRM).

MAHRA is currently implemented in HUD's regulations at 24 CFR parts 401 and 402. These regulations were initially published as an interim rule on September 11, 1998 (63 FR 48926). On March 22, 2000, HUD published a final rule implementing 24 CFR part 401 and portions of 24 CFR part 402 (65 FR 15485).

In order to facilitate restructurings under MAHRA, this rule also amends HUD's regulations at part 200. Part 200 is the introductory section addressing HUD's mortgage insurance programs under the National Housing Act, 12 U.S.C. 1701 *et seq.* The specific sections being amended are 24 CFR 200.20, which applies to the refinancing of insured mortgages, and 24 CFR 200.40, which sets HUD's fees and charges for its mortgage insurance programs.

II. This Notice of Proposed Rulemaking (NPRM)

A. Section 200.20 Refinancing Insured Mortgages

Section 615 of the Mark-to-Market Extension Act amended section 223(a)(7) of the National Housing Act (NHA) to permit refinancing mortgages under that section for existing mortgages subject to restructuring under MAHRA. This NPRM proposes a revision to 24 CFR 200.20 to implement this provision. The term of such mortgages would be limited to 30 years, and the mortgages would have to meet the legal requirements of section 223(a)(7) of the NHA and pertinent regulatory requirements established by HUD.

B. Section 200.40 HUD Fees

HUD, in its regulations implementing its insured mortgage programs under the NHA, typically charges various transactional fees that HUD is authorized, but not required, to collect. In its experience, HUD has found that these fees have discouraged participation in the Mark-to-Market program. This NPRM proposes to revise § 200.40(h) by exempting transfer fees where the transfer of physical assets or substitution of mortgagors is in connection with a restructuring plan under HUD's regulations implementing MAHRA. This NPRM also proposes to revise 200.40(j) to state that an application or commitment fee shall not be required in connection with the insurance of a mortgage used to facilitate a restructuring plan under HUD's MAHRA regulations.

C. Section 401.2 What Special Definitions Apply to This Part?

This rule makes a conforming change to the definition of ''Office of Multifamily Housing Assistance Restructuring'' (OMHAR) at § 401.2 to include the Office of Affordable Housing Preservation (OAHP) or any successor office. This change will obviate the need for extensive conforming revisions to part 401 in the event of subsequent administrative changes at HUD.

D. Section 401.101 Which Owners Are Ineligible To Request Restructuring Plans?

Section 612(c) of the Mark-to-Market Extension Act amended section 516(d) of MAHRA by requiring the Office of Multifamily Housing Restructuring to notify tenants if a mortgage restructuring plan was rejected, and made this duty delegable to the participating administrative entity (PAE). At 24 CFR 401.500(f)(2), HUD currently requires the PAE to make the notification. This NPRM proposes to amend § 401.500(f)(2) to require HUD or the PAE to provide the necessary notice. Also under this NPRM, 24 CFR 401.101(d) would be amended to reflect this requirement, for consistency and clarity.

E. Section 401.304 Portfolio Restructuring Agreement (PRA) Provisions on PAE Compensation

As additional properties come into the mortgage restructuring program, HUD determines whether existing PAEs are willing and able to add those properties to their portfolios. This process allows HUD to determine whether existing PAE compensation, including base fees and incentives, is adequate. HUD's experience shows that it can adjust PAE's compensation accurately through this process, and that the requirement in the current rule for an annual market survey is unnecessary. Therefore, in the interests of regulatory simplification, this NPRM proposes to remove the market survey requirement from 24 CFR 401.304(a)(2). The proposed amendment to 24 CFR 401.304(b) would clarify that all PAEs potentially have the opportunity to earn the same amount of incentives per completed transaction.

F. Section 401.309 PRA Term and Termination Provisions; Other Provisions

HUD has from time to time negotiated with PAEs for the removal of assets from PRAs, in exchange for partial base fees and reimbursement of amounts incurred by the PAE for third-party vendors. This NPRM proposes to amend 24 CFR 401.309(b)(2) to give HUD regulatory authority to require removal of assets in PRAs. This NPRM also proposes to amend § 401.309(c) to clarify HUD's ability to recover damages from a PAE during the term of the PRA.

G. Section 401.401 Consolidated Restructuring Plans

This NPRM proposes to add a new sentence to the end of 24 CFR 401.401 stating that HUD's decision whether to approve a consolidated restructuring plan will be made on a case-by-case basis.

H. Section 401.452 Property Standards for Rehabilitation

Section 612(e) of the Mark-to-Market Extension Act added a new section 517(c)(2) to MAHRA authorizing a restructuring plan to require the addition to a project of ''significant features,'' such as an elevator, air conditioning, and community space, which are not required for rehabilitation of the project to a non-luxury standard adequate to the rental market in which the project is located, and specifying the funding and amount of owner contribution for such features. The NPRM proposes revising 24 CFR 401.452 to state that rehabilitation under the restructuring plan may include the addition of significant features, and to refer to 24 CFR 401.472, which would contain further requirements regarding significant features.

I. Section 401.461 HUD-Held Second Mortgage

Section 612(g)(1) of the Mark-to-Market Extension Act amended section 517(a)(1)(B) of MAHRA to provide that a restructuring plan shall include a second mortgage in an amount not more than the greater of the full or partial payment of claim or the difference between the restructured first mortgage and the original indebtedness prior to restructuring. In addition, an overall cap was imposed that limits the second mortgage to an amount that HUD or the PAE determines can reasonably be expected to be repaid. The change made by section 612(g)(1) of the Mark-to-Market Extension Act is proposed to be implemented in 24 CFR 401.461(a)(2)(ii).

The second, and any additional, mortgage to HUD secures repayment of HUD funds used in a restructuring transaction. HUD funds are available from either the section 541(b) full or partial payment of claim, or from residual receipts accumulated pursuant to the expiring housing assistance payments (HAP) contract subject to the regulatory provisions in 24 CFR 880.205(e), 881.205(e), and 883.306(e).

Section 517(b)(6) of MAHRA provides for the use of surplus project accounts to facilitate restructuring under MAHRA. Surplus project accounts are available when the combination of a pre-restructuring reserve for replacement account and residual receipt account balances are greater than the initial deposit to the reserve for replacement required after restructuring. MAHRA provides that up to 10 percent of such surplus may be released to the owner (see section 517(b)(6) of MAHRA). The remaining surplus funds are to be used for other purposes, including facilitating the debt restructuring transaction. Generally, for restructuring of FHA-insured mortgages, the surplus funds are used to reduce the amount of the partial payment of claim. For the restructuring of HUD-held mortgages, there would be no need for a partial payment of claim; in such a case, the typical use is to increase the net cash proceeds of the restructuring and thus reduce the ''write-down.'' This NPRM proposes amending 24 CFR 401.461(a)(1) to include, among the situations where a full payment of claim is not needed, those cases where section 517(b)(6) surplus accounts are available to facilitate the restructuring.

To the extent the source of the surplus project accounts is existing reserve for replacement funds, or residual receipts not subject to 24 CFR 880.205(e), 881.205(e), and 883.306(e) (which allow HUD to place such funds into an account to be used for reduction of housing assistance payments or other project purposes), HUD's restructuring plan would not take back an additional mortgage. For the restructuring of HUD-held mortgages, the surplus funds increase the net cash proceeds of the restructuring to provide partial repayment of the previously paid FHA claim. To the extent the residual receipts are subject to 24 CFR 880.205(e), 881.205(e), and 883.306(e) (which allow surplus project funds to be used for reducing housing assistance payments or other project purposes), the surplus funds will be treated as HUD funds and will be reflected in an increased second mortgage amount (or third mortgage, as applicable). However, where the reduction in principal amount of the restructured HUD-held mortgage is not caused by a source of new mortgage funds or amounts subject to 24 CFR 880.205(e), 881.205(e), or 883.306(e) the proposed amendment to 24 CFR 401.461(c) provides that the restructuring plan may require the owner to give an additional mortgage to HUD in the amount of the difference between the reduced principal amount of the restructured mortgage and the principal amount of the second mortgage.

HUD is also proposing in this rule to remove the prohibition against compound interest on second and third HUD-held mortgages. The existing regulations (§ 401.461(b)(1)) require that the interest rate on the second mortgage created in the M2M debt restructuring must have an interest rate of at least 1 percent but not more than the

Applicable Federal Rate (AFR). The regulations further require that the interest rate ''will accrue but not compound.'' The intent of this requirement was to minimize the debt burden created by accruals on the unpaid balance of the M2M second mortgage. The additional mortgage (third mortgage) described in § 401.461(c) requires the same terms and conditions as the second mortgage.

The number of debt restructurings being financed with equity raised under the Low Income Housing Tax Credit (LIHTC) program is increasing. A portion of these tax credit restructurings involve what is referred to in the industry as ''9 percent credits,'' which generate far more equity for the redevelopment of the project than the more readily available ''4 percent credits.'' HUD has been informed by tax counsel to a number of tax credit purchasers that the Internal Revenue Service (IRS) will not allow the M2M subordinate debt to be used as ''basis'' in a ''9 percent credit'' transaction if the debt is set at less than the AFR and if the interest does not compound. The M2M rate of 1 percent at simple interest is considered by IRS to be ''subsidized debt'' and, as a result, the 9 percent credits are reduced to 4 percent credits.

The existing regulations allow the interest rate to be set at the AFR, but HUD has had to issue regulatory waivers on a number of these transactions to allow the rate to compound. The waivers have clearly served the best interests of both HUD and the project. This regulatory change removes the reference to simple interest and thereby allows HUD to use its administrative discretion in requiring simple or compounding interest. Simple interest will remain the program standard, but compounding will be allowed where it serves the best interest of the government and the individual debt restructuring. The regulations governing the third mortgage would also be amended to conform to the language governing the second mortgage.

This NPRM proposes to revise 24 CFR 401.461(b)(5) to implement section 612(g)(2) of the Mark-to-Market Extension Act. Section 612(g)(2) amended section 517(a)(5) of MAHRA to provide that, in addition to modifying or forgiving all or part of the second mortgage, HUD may assign the second mortgage to a purchaser that is a tenant organization or tenant-endorsed community-based nonprofit or public agency. Such a purchaser is currently defined at § 401.2 as a priority purchaser. This rule would also add a new § 401.480(e), as discussed below in this preamble, to provide a procedure for a community-based non-profit or public agency that is a purchaser to obtain tenant endorsement in order to qualify as a priority purchaser.

This rule would also revise § 401.461(c), which addresses additional mortgages to HUD, to provide that if HUD modifies, assigns, or forgives a second mortgage in accordance with § 401.461(e) pursuant to section 517(a)(5) of MAHRA, that it may modify, assign, or forgive the additional mortgage (third mortgage or contingent repayment mortgage) that is part of the same restructuring. Specifically, § 401.461(c) would provide that, as part of a restructuring, HUD may elect either to not create an additional mortgage or to create an additional mortgage in an amount less than required if the anticipated recovery on the additional mortgage is less than the servicing costs; or if the restructuring plan approved the modification, forgiveness, or assignment of a second mortgage (Mortgage Repayment Mortgage) created under § 401.461(b)(5) pursuant to section 517(a)(5) of MAHRA.

Example of second mortgages in a restructuring transaction. Assume an FHA-insured property subject to a Restructuring Plan has a pre-restructuring first mortgage of $2 million, and can support $900,000 of first-mortgage debt after restructuring. After the required owner contributions, additional funding of $270,000 is needed for the repair escrow, for the initial deposit to the reserve for replacement, and for transaction costs. If no surplus project account funding is available, the section 541(b) partial payment of claim would be increased by $270,000 (i.e., from $1.1 million to $1.37 million) to make available some of the proceeds from the new first mortgage to fund the repair escrow, initial deposit to the reserve for replacement, and transaction costs. In this case, the second mortgage would be limited by the lesser of: (1) The amount reasonably repayable; or (2) $1.37 million. The potential third mortgage amount would be up to the difference, if any, between $1.37 million and the second mortgage.

If surplus project accounts of $400,000 from other than residual receipts pursuant to 24 CFR 880.205(e), 881.205(e), or 883.306(e), and after 10 percent of the surplus was released to the owner, were available, the partial payment of claim required and the maximum second mortgage would be reduced accordingly to $970,000. If the source of the surplus project accounts were residual receipts accumulated pursuant to 24 CFR 880.205(e), 881.205(e), or 883.306(e), HUD would take back a second mortgage of $1.37 million, assuming that amount could be reasonably expected to be repaid, reflecting the total HUD funds to be used in the restructuring ($970,000 from the partial payment of claim and $400,000 from the residual receipts).

If a HUD-held first mortgage is being restructured, there is no need for a partial payment of claim. Thus, the second mortgage is limited by section 517(a)(1)(B)(ii) of MAHRA to the difference in the first mortgage indebtedness before and after restructuring ($1.1 million in the example). To the extent that the amount of the HUD-held debt is not refinanced through a new first or Mark-to-Market second mortgage, or repaid from the net cash proceeds of the restructuring, HUD would either take back a third mortgage pursuant to 24 CFR 401.461(c), or, if a third mortgage is not to be taken back, or is taken back in a lesser amount, HUD would originate the third mortgage at the closing, and then cancel or modify it accordingly.

OAHP has provided additional guidance in its Operating Procedures Guide (OPG) and through an underwriting model used by PAEs. The OPG and underwriting model are both available at OAHP's Web site, *http://www.hud.gov/offices/omhar.*

J. Section 401.472 Rehabilitation Funding

This proposed amendment to 24 CFR 401.472 implements section 612(e) of the Mark-to-Market Extension Act, which amended section 517 of MAHRA to provide for a cap on owner contributions with respect to the addition of significant features. For example, the addition of air conditioning (including conversions from window air conditioning to central air conditioning), an elevator, or additional community space will be considered significant. Upgrades (for example, replacement of windows with more efficient windows) are not eligible for this capped owner contribution. If a restructuring plan includes additions other than those specified, and the PAE considers the additions significant, the PAE may propose to make those additions subject to the cap on owner contributions. In general, the owner will contribute 3 percent toward the cost of each significant addition. The PAE may propose a lower or higher owner contribution, not to exceed 20 percent, with respect to significant additions. The 20 percent ceiling, based on total cost, is the equivalent of the statutory 25 percent ceiling, based on the amount of assistance. For example, if the cost of an item were $100,000, with the owner

contributing $20,000 and assistance in the amount of $80,000, the owner would contribute 20 percent of the total cost and 25 percent of the amount of assistance.

K. Section 401.480 Sale or Transfer of Project

Section 612(d) of the Mark-to-Market Extension Act amends section 524(e) of MAHRA to provide that properties with plans of action under the Emergency Low Income Housing Preservation Act of 1987 (12 U.S.C. 1715l note) or the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4101 *et seq.*) are eligible for Mark-to-Market restructuring, but only if sold. This NPRM proposes to amend 24 CFR 401.480(b) to implement this provision. Sale is a condition of restructuring, and so HUD will require the sale to take place immediately, and under the original set of escrow instructions, if the sale has not occurred prior to the restructuring.

As noted above in the discussion of HUD-held second mortgages under § 401.461, this rule also proposes to add a new § 401.480(e) to establish the procedure for a community-based nonprofit organization or public agency purchaser to obtain tenant endorsement and qualify as a priority purchaser. A community-based nonprofit or public agency purchaser requesting tenant endorsement would be required to conduct two meetings, the first (the ''Informational Meeting'') to disseminate information about the endorsement request and the purchaser's plans for the project, and the second (the ''Endorsement Vote'') to conduct the voting for the endorsement. The purchaser would be required to provide notice of the Informational Meeting and Endorsement Vote to each tenant and any tenant organization for the project, and post notices of the two meetings in the project. If the purchaser is acting contemporaneously with the Restructuring Plan, the Informational Meeting would occur at the second meeting of tenants convened by the PAE pursuant to § 401.500(d) to discuss the restructuring plan.

The notices of the date and time for these meetings would be sent to each head of household in the project and would contain a ballot that includes a proxy authorizing a designated person to vote on behalf of such tenant household at the Endorsement Vote. The designated person may be the purchaser, the tenant organization, the PAE, or any individual that would attend the Endorsement Vote. In each notice, the purchaser would provide a narrative outlining its plans for the project, including any request made to HUD for debt relief under § 401.461(b)(5) of the second and any additional mortgage. The rule would permit the proxies to be collected from the tenants by the purchaser, from any tenant organization for the project, from the PAE, or from some other entity approved by HUD at any time, including at the Informational Meeting, up to the date and time of the Endorsement Vote.

The Endorsement Vote would be held at least 10 days after the Informational Meeting. Tenant households would cast their ballots and any remaining proxies would be gathered. The PAE then would determine whether the total of votes cast in person and by proxy equals a quorum of at least 10 percent of the total number of tenant households in the project. If there is such quorum, the votes would be tallied (including those cast by proxy), and a majority of the votes will determine whether or not the purchaser has the endorsement of the tenants. HUD specifically seeks comment on this proposed procedure to demonstrate tenant endorsement, and solicits recommendations for less prescriptive and more streamlined procedures that will meet the goal of providing an opportunity for the informed participation of tenants in a process that results in an endorsement that can reasonably be considered to be valid.

L. Subpart F—Owner Dispute of Rejection and Administrative Appeal

This rule would also revise the administrative appeals procedure in subpart F of part 401. Presently, § 401.645 provides an intermediate level appeal only for notices of rejection. This rule would expand the availability of the intermediate level appeal to include a decision by HUD and the PAE to offer a proposed Restructuring Commitment that the owner does not execute. The reference to notices of rejection in § 401.645 would also be restated in more general terms to include any notice of rejection rather than listing specific sections under which a notice of rejection may be based. This change would eliminate the need for conforming changes if sections of the rule were to be revised and renumbered in the future, and would eliminate any confusion if a specific section that served as the basis for a notice of rejection were inadvertently omitted from the list. Besides addressing such procedural issues as providing for the appeals officer to be identified in HUD's notice to the owner, this rule would also establish the standard of review for appeals: for the intermediate level, the standard would be whether HUD's action is reasonable in light of all the evidence presented by the owner, and for the final level of administrative appeal, whether the determination of the appeals officer at the intermediate level was reasonably reached.

III. Findings and Certifications

Paperwork Reduction Act

The proposed information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Under this Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

The public reporting burden for this collection of information is estimated to include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the required data, and completing and reviewing the collection of information.

The following table provides information on the estimated public reporting burden:

Information collection § 401.480(e)	Number of respondents	Responses per respondent	Total annual responses	Hours per response	Total hours
Nonprofit Groups/Public Agencies	7	1	7	20	140
Tenants/Heads of Households	550	1	550	1	550
Totals	557		557		690

In accordance with 5 CFR 1320.8(d)(1), HUD is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting responses to be submitted electronically.

Interested persons are invited to submit comments regarding the information collection requirements in this proposal. Under the provisions of 5 CFR 1320, OMB is required to make a decision concerning this collection of information between 30 and 60 days after today's publication date. Therefore, any comment on the information collection requirements is best assured of having its full effect if OMB receives the comment within 30 days of today's publication. This time frame does not affect the deadline for comments to the agency on the proposed rule, however. Comments must refer to the proposal by name and docket number (FR–4751–P–01) and must be sent to:

HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, FAX: (202) 395–6974, and

Kathleen O. McDermott, Reports Liaison Officer, Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 9116, Washington, DC 20410–8000.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This rule, which implements a statutory mandate to establish a program for the resolution of a narrow category of disputes, will not impose any federal mandates on any state, local, or tribal government or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995.

Environmental Impact

A Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The finding remains available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410.

Executive Order 12866

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866, *Regulatory Planning and Review.* OMB determined that this rule is a ''significant regulatory action'' (but not economically significant) as defined in section 3(f) of the Order. Any changes made in this rule subsequent to its submission to OMB are identified in the docket file. The docket file is available for public inspection between 8 a.m. and 5 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule does not have a significant economic impact on a substantial number of small entities.

This rule affects only multifamily Section 8 owners. There are very few multifamily Section 8 owners who are small businesses. Therefore, this rule will not have a significant economic impact on a substantial number of small entities.

Notwithstanding the determination that this rule does not have a significant impact on a substantial number of small entities, HUD specifically invites any comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Executive Order 13132, Federalism

This rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4; approved March 22, 1995) (UMRA) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and the private sector. This rule does not impose any federal mandates on any state, local, or tribal governments, or on the private sector, within the meaning of the UMRA.

List of Subjects

24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Home improvement, Housing standards, Lead poisoning, Loan programs—housing and community development, Mortgage insurance, Organization and functions (Government agencies), Penalties, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

24 CFR Part 401

Grant programs-housing and community development, Housing, Housing assistance payments, Housing standards, Insured loans, Loan programs-housing and community development, Low and moderate income housing, Mortgage insurance, Mortgages, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, HUD proposes to amend 24 CFR parts 200 and 401 as follows:

PART 200—INTRODUCTION TO FHA PROGRAMS

1. The authority citation for part 200 continues to read as follows:

Authority: 12 U.S.C. 1702–1715z–21; 42 U.S.C. 3535(d).

2. Revise § 200.20 to read as follows:

§ 200.20 Refinancing insured mortgages.

An existing mortgage insured under the Act, or an existing mortgage held by the Secretary that is subject to a mortgage restructuring and rental assistance sufficiency plan under the Multifamily Assisted Housing Reform and Affordability Act, 42 U.S.C. 1437f note (MAHRA), may be refinanced pursuant to section 223(a)(7) of the Act and such terms and conditions as may be established by the Commissioner. The term of such refinancing in connection with the implementation of an approved restructuring plan under section 401, subpart C of this title, may be up to, but not more than, 30 years.

3. In § 200.40, revise paragraphs (h) and (j) to read as follows.

§ 200.40 HUD fees.

* * * * *

(h) *Transfer fee.* Upon application for the approval of a transfer of physical

assets or the substitution of mortgagors, a transfer fee of 50 cents per thousand dollars shall be paid on the original face amount of the mortgage in all cases, except that a transfer fee shall not be paid where both parties to the transfer transaction are qualified nonprofit purchasers, or when the transfer of physical assets or the substitution of mortgagors is in connection with a restructuring plan under part 401, subpart C of this title.

* * * * *

(j) *Fees not required.* (1) The payment of an application, commitment, inspection, or reopening fee shall not be required in connection with the insurance of a mortgage involving the sale by the Secretary of any property acquired under any section or title of the Act.

(2) The payment of an application or commitment fee shall not be required in connection with the insurance of a mortgage used to facilitate a restructuring plan under part 401, subpart C of this title.

PART 401—MULTIFAMILY HOUSING MORTGAGE AND HOUSING ASSISTANCE RESTRUCTURING PROGRAM (MARK-TO-MARKET)

4. The authority citation for part 401 continues to read as follows:

Authority: 12 U.S.C. 1715z–1 and 1735f–19(b); 42 U.S.C. 1437(c)(8), 1437f(t), 1437f note, and 3535(d).

5. In § 401.2, revise the definition of OMHAR to read as follows:

§ 401.2 What special definitions apply to this part?

* * * * *

OMHAR means the Office of Multifamily Housing Assistance Restructuring, the Office of Affordable Housing Preservation (OAHP), and any successor office.

* * * * *

6. In § 401.101, add a new paragraph (d) to read as follows:

§ 401.101 Which owners are ineligible to request restructuring plans?

* * * * *

(d) *Notice to tenants.* The PAE or HUD will give notice to tenants of a rejection in accordance with §§ 401.500(f)(2), 401.501, and 401.502.

7. In § 401.304, revise paragraphs (a)(2) and (b) to read as follows:

§ 401.304 PRA provisions on PAE compensation.

(a) * * *

(2) HUD will establish a substantially uniform baseline for base fees for public entities. The base fee for a PAE will be adjusted if necessary after the first term of the PRA.

* * * * *

(b) *Incentives.* The PRA may provide for incentives to be paid by HUD. While individual components may vary between PAEs (both public and private), the total amount potentially payable under the incentive package will be uniform. Objectives may include maximizing savings to the Federal Government, timely performance, tenant satisfaction with the PAE's performance, the infusion of public funds from non-HUD sources, and other benchmarks that HUD considers appropriate.

* * * * *

8. In § 401.309, revise the section heading and paragraphs (b)(2) and (c) to read as follows:

§ 401.309 PRA term and termination provisions; other provisions.

* * * * *

(b) * * *

(2) *Termination for convenience of Federal Government.* HUD may terminate a PRA, and may remove an eligible property from a PRA, at any time in accordance with the PRA or applicable law regardless of whether the PAE is in default of any of its obligations under the PRA if such termination is in the best interests of the Federal Government. The PRA will provide for payment to the PAE of a specified percentage of the base fee authorized by § 401.304(a) and amounts for reimbursement of third-party vendors to the PAE authorized by § 401.304(c).

* * * * *

(c) *Liability for damages.* During the term of a PRA, and notwithstanding any termination of a PRA, HUD may seek its actual, direct, and consequential damages from any PAE for failure to comply with its obligations under PRA.

* * * * *

9. Revise the section heading and add a new sentence to the end of § 401.401 to read as follows:

§ 401.401 Consolidated Restructuring Plans.

* * * HUD's decision to approve or disapprove a Consolidated Restructuring Plan will be made on a case-by-case basis.

10. Revise § 401.452 to read as follows:

§ 401.452 Property standards for rehabilitation.

The restructuring plan must provide for the level of rehabilitation needed to restore the property to the non-luxury standard adequate for the rental market for which the project was originally approved. If the standard has changed over time, the rehabilitation may include improvements to meet the current standards. The rehabilitation also may include the addition of significant features in accordance with § 401.472. The result of the rehabilitation should be a project that can attract non-subsidized tenants, but competes on rent rather than on amenities. When a range of options exists for satisfying the rehabilitation standard, the PAE must choose the least costly option considering both capital and operating costs and taking into account the marketability of the property and the remaining useful life of all building systems. Nothing in this part exempts rehabilitation from the requirements of part 8 of this title concerning accessibility to persons with disabilities.

11. In § 401.461, revise paragraphs (a)(1), (a)(2)(ii), (b)(1), (b)(5), and (c) to read as follows:

§ 401.461 HUD-held second mortgage.

(a) *Amount.* (1) The Restructuring Plan must provide for a second mortgage to HUD whenever the Plan provides for either payment of a section 541(b) claim or the modification or refinancing of a HUD-held first mortgage that results in a first mortgage with a lower principal amount. The term ''second mortgage'' in this section also includes a new HUD-held first mortgage (not a refinancing mortgage) if a full payment of claim is made under § 401.471 or if a full payment of claim is unnecessary because surplus project accounts are available to facilitate the Restructuring Plan pursuant to section 517(b)(6) of MAHRA, or if § 401.460(a) does not permit a restructured first mortgage in any amount.

(2) * * *

(ii) The greater of:

(A) The section 541(b) claim (or the difference between the unpaid principal balance on HUD-held mortgage debt immediately before and after the restructuring), plus surplus project accounts from residual receipts accumulated pursuant to 24 CFR 880.205(e), 881.205(e), or 883.306(e) and derived from an expiring Section 8 Housing Assistance Payments contract and not otherwise distributed to the owner and made available to facilitate the Restructuring Plan pursuant to section 517(b)(6) of MAHRA, and

(B) The difference between the unpaid balance on the first mortgage immediately before and after the restructuring.

(b) *Terms and conditions.* (1) The second mortgage must have an interest

rate of at least 1 percent, but not more that the applicable federal rate.

* * * * *

(5) HUD will consider modification, assignment to the acquiring entity, or forgiveness of all or part of the second mortgage if the Secretary holds the second mortgage and if the project has been sold or transferred to a tenant organization or tenant-endorsed community-based nonprofit or public agency that meets eligibility guidelines determined by HUD, accepts additional affordability requirements acceptable to HUD, and requests such modification, assignment, or forgiveness. A community-based nonprofit group or public agency demonstrates that it is tenant-endorsed in accordance with § 401.480(e).

(c) *Additional mortgage to HUD.* (1) A Restructuring Plan shall require the owner to give an additional mortgage on the project to HUD in an amount that:

(i) For the restructuring of a mortgage insured by HUD, does not exceed the difference between:

(A) The amount of a section 541(b) claim paid under § 401.471 increased by any residual receipts pursuant to 24 CFR 880.205(e), 881.205(e), or 883.306(e); and

(B) The principal amount of the second mortgage; or

(ii) For the restructuring of a mortgage held by HUD, does not exceed the difference between:

(A) The principal amount of a restructured HUD-held mortgage and the sum of, as applicable, a restructured HUD-held first mortgage at reduced principal amount, new mortgage funds paid to HUD at closing, surplus project accounts other than residual receipts pursuant to 24 CFR 880.205(e), 881.205(e), or 883.306(e); and

(B) The principal amount of the second mortgage.

(2) HUD may approve a Plan that does not require an additional mortgage, or provides for less than the full difference to be payable under the additional mortgage, or allows for subsequent modification, assignment, or forgiveness of the additional mortgage under any of the following circumstances:

(i) The anticipated recovery on the additional mortgage is less than the servicing costs; or

(ii) HUD has approved modification, assignment, or forgiveness of the second mortgage pursuant to paragraph (b)(5) of this section.

(3) With respect to the second mortgage required by paragraph (a) of this section, any additional mortgage must:

(i) Be junior in priority;

(ii) Bear interest at the same rate; and

(iii) Require no payment until the second mortgage is satisfied, when it will be payable upon demand of HUD or as otherwise agreed by HUD.

12. Revise § 401.472(b) to read as follows:

§ 401.472 Rehabilitation funding.

* * * * *

(b) *Statutory restrictions.* Any rehabilitation funded from the sources described in paragraph (a) of this section is subject to the requirements in section 517(c) of MAHRA for an owner contribution.

(1) *Addition of significant features.* With respect to significant added features, the required owner contribution will be as proposed by the PAE and approved by HUD, not to exceed 20 percent of the total cost. Significant added features include the addition of air conditioning (including conversions from window air conditioning to central air conditioning), an elevator, or additional community space.

(2) *Cap on owner contribution.* If a restructuring plan includes additions other than those specified, and the PAE considers the additions significant, the PAE may propose to make those additions subject to the cap on owner contribution. In general, the owner will contribute three percent toward the cost of each significant addition. The PAE may propose a lower or higher owner contribution, not to exceed 20 percent, with respect to significant additions.

(3) *Other rehabilitation.* With respect to other rehabilitation, the required owner contribution will be calculated as 20 percent of the total cost of rehabilitation, unless HUD or the PAE determines that a higher percentage is required. The owner contribution must include a reasonable proportion (as determined by HUD) of the total cost of rehabilitation from non-governmental resources.

(4) *Cooperatives.* The PAE may exempt housing cooperatives from the owner contribution requirement.

* * * * *

13. In § 401.480 revise paragraph (b) and add paragraph (e) to read as follows:

§ 401.480 Sale or transfer of project.

* * * * *

(b) *When must the restructuring plan include sale or transfer of the property?* If the owner is determined to be ineligible pursuant to § 401.101 or § 401.403, or if the property is subject to an approved plan of action under the Emergency Low Income Housing Preservation Act of 1987 or the Low Income Housing Preservation and Resident Homeownership Act of 1990 as described in section 524(e)(3) of MAHRA, the Restructuring Plan must include a condition that the owner sell or transfer the property to a purchaser acceptable to HUD in accordance with paragraph (c) of this section. Such sale or transfer shall be a condition to the implementation of the Restructuring Plan.

* * * * *

(e) *Tenant endorsement procedure for priority purchaser status.*

(1) *Required meetings.* A community-based nonprofit or public agency purchaser requesting tenant endorsement to obtain priority purchaser status must conduct two meetings:

(i) An Informational Meeting to disseminate information about both the endorsement request and the purchaser's plans for the project must be held with the tenants of the project. If the purchaser is acting contemporaneously with the Restructuring Plan, the Informational Meeting must occur at the second meeting of tenants convened by the PAE pursuant to § 401.500(d) to discuss the restructuring plan; and

(ii) An Endorsement Vote Meeting to conduct the voting for the endorsement must be held at least 10 days after the Informational Meeting.

(2) *Parties who must receive notice.* The purchaser must deliver notice of the Informational Meeting and the Endorsement Vote Meeting to each tenant household in the project and any tenant organization for the project, and post notices of the two meetings in the project.

(3) *Notice contents.* The notice must identify the place, dates, and times of the required meetings, include a brief description of the purpose of each meeting, and provide a narrative outlining the purchaser's plans for the project, including any request made to HUD for debt relief under § 401.461(b)(5) of the second and any additional mortgage. A notice delivered to a tenant household must also contain a ballot that includes a proxy authorizing a designated person to vote on behalf of such tenant household at the Endorsement Vote Meeting.

(4) *Tenant voting.* (i) Each tenant household in the project may cast one vote to either endorse or not endorse the purchaser.

(ii) A tenant household may cast its vote in person at the Endorsement Vote Meeting or by proxy.

(5) *Proxy vote.* (i) In lieu of casting its vote in person, a tenant household may use the proxy included in the meeting

notice to authorize a designated person to vote on its behalf. The designated person may be the purchaser, the tenant organization, the PAE, or an individual who will attend the Endorsement Vote Meeting.

(ii) Proxies to be cast at the Endorsement Vote Meeting may be collected from tenant households up to the date and time of the Endorsement Vote Meeting by the purchaser, the tenant organization, if any, for the project, the PAE, or any other entity approved by HUD at any time, including at the Informational Meeting.

(6) *Counting the vote.* At the Endorsement Vote Meeting, tenant households cast their ballots and any remaining proxies are gathered. The PAE then determines whether the total of votes cast in person or by proxy equals a quorum of at least 10 percent of the total number of tenant households in the project. If there is such quorum, the votes are tallied (including those cast by proxy), and a majority of the votes tallied determine whether or not the purchaser has the endorsement of the tenants.

14. Revise § 401.500(f)(2) to read as follows:

§ 401.500 Required notices to third parties and meeting with third parties.

* * * * *

(f) * * *

(2) Within 10 days after a determination that the Restructuring Plan will not move forward for any reason, HUD or the PAE shall provide notice to affected tenants that describes the reasons for the failure of the Plan to move forward and the availability of tenant-based assistance under § 401.602(c).

15. Revise § 401.645 to read as follows:

§ 401.645 Owner request to review HUD decision.

(a) *HUD notice of decision.* (1) HUD will provide notice to the owner of:

(i) A decision that the owner or project is not eligible for the Mark-to-Market program;

(ii) A decision not to offer a proposed Restructuring Commitment to the owner; and

(iii) A decision to offer a proposed Restructuring Commitment. The proposed Restructuring Commitment provided to the owner constitutes the notice of decision for purposes of requesting a review of a HUD decision.

(2) The notice of decision will include the reasons for the decision.

(3) The notice of decision will also notify the owner of the right to request a review of the decision or to cure any deficiencies on which the decision was based, the date by which the review request must be submitted or the deficiencies must be cured, which will be at least 30 days after the date of the notice of decision, and the address to which the review request is to be submitted.

(b) *Review request by owner.* (1) *Written statement.* The review request must specify in writing:

(i) Each item of the decision to which the owner objects;

(ii) The reasons for the owner's objections; and

(iii) All information in support of the objections that the owner wants HUD to consider.

(2) *Scope of information submitted.* HUD will not consider information first submitted to HUD in conjunction with an owner's request for review except for:

(i) Information that could not have been submitted previously; and

(ii) New health and safety information.

(c) *HUD review and final decision.* (1) HUD may expand the scope of review beyond the issues raised by the owner and may review and modify any term within the Restructuring Commitment without regard to whether the owner has raised an objection to that term, including adjustments to rents or expenses as underwritten by the PAE. If HUD does expand the scope of review, HUD will notify the owner of such action and provide an additional 30 days for the owner to raise any additional objections and provide additional information.

(2) Within 30 days of HUD's receipt of the owner's review request and any additional objections and information, HUD will review the request and, using a standard of what is reasonable in light of all of the evidence presented, issue a final decision. The final decision will:

(i) Affirm the notice of decision; or

(ii) Modify the notice of decision and, if applicable, modify the Restructuring Commitment, in which event HUD will issue an amended or restated Restructuring Commitment that incorporates the final decision; or

(iii) Revoke the notice of decision and, if applicable, terminate the Restructuring Commitment and notify the owner that the owner is not eligible for participation in the Mark-to-Market program or that a restructuring of the property is not feasible.

16. Revise § 401.650 to read as follows:

§ 401.650 When may the owner request an administrative appeal?

(a) *No review request by owner.* If the owner does not request a review of the notice of decision under § 401.645 or does not execute the proposed Restructuring Commitment within the time provided in the notice of decision, HUD will send a written notice to the owner stating that the notice of decision is HUD's final decision and that the owner has 10 days after receipt of the letter to accept the decision, including a Restructuring Commitment if applicable, or request an administrative appeal in accordance with § 401.651.

(b) *Upon receipt of final decision.* HUD will send the owner a written notice of the final decision under § 401.645 that will also provide the owner with 10 days to request an administrative appeal of the final decision.

(c) *HUD decision to accelerate the second mortgage.* Upon receipt of notice from HUD of a decision to accelerate the second mortgage under § 401.461(b)(4), the owner may request an administrative appeal in accordance with § 401.651.

17. In § 401.651, revise paragraph (b) to read as follows:

§ 401.651 Appeal procedures.

* * * * *

(b) *Written decision.* Within 20 days after the conference, or 20 days after any agreed-upon extension of time for submission of additional materials by or on behalf of the owner, HUD will review the evidence presented for the administrative appeal and, using the standard of whether the determination of the final decision was reasonable, will advise the owner in writing of the decision to terminate, modify, or affirm the original decision. HUD will act, as necessary, to implement the decision, for example, by offering a revised Restructuring Commitment to the owner.

* * * * *

Dated: February 7, 2006.

Brian D. Montgomery,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 06–2343 Filed 3–13–06; 8:45 am]

BILLING CODE 4210–67–P

Federal Register

Tuesday,
March 14, 2006

Part III

Department of Labor

Office of the Secretary

Authority and Responsibilities for the Regional Executive Committees; Notice

DEPARTMENT OF LABOR

Office of the Secretary

[Secretary's Order—06–2006]

Authority and Responsibilities for the Regional Executive Committees

1. Purpose

To establish a Regional Executive Committee (REC) in each of the ten regions to coordinate the Department of Labor's (DOL) interagency activities within each region.

2. Directives Affected

This Order cancels Secretary's Order 01–99.

3. Responsibilities of the REC

A. The RECs shall coordinate cross-cutting Department of Labor activities in the field, which may include:

(1) Coordinating implementation of the Secretary's policies in the Region, when appropriate;

(2) Providing comments and recommendations on issues significant to the Department when requested by the Secretary;

(3) Promoting and coordinating the exchange of information among the Department's agencies and bureaus in the field;

(4) Promoting joint program efforts among DOL and other agencies, such as sponsoring affirmative action activities in support of a diverse workforce;

(5) Providing a forum for discussion of Departmental policies and programs;

(6) Representing the Department to the community on matters within its purview; and

(7) Fostering communications with all employees in the region.

4. Organization of the Regional Executive Committee

A. *Members.* A REC should comprise regional agency and program heads as indicated by Attachment 1. However, an Agency's National Office may vary its REC membership as provided for below:

(1) Agencies may limit their membership by selecting as the REC member a single program head to represent the Agency.

(2) Agencies with principal field components located in a Region and with no staff in the Regional city may select one senior manager in the Region to represent the Agency (e.g., MSHA has several District Offices in the Atlanta Region, but no presence in Atlanta; MSHA should designate one District Manager as the MSHA REC member).

(3) Agencies with staff in a Regional City where the Regional Agency Head is located in another city may designate an employee in the Regional City as an alternate member to represent the Regional Agency Head (e.g., OASAM has staff in Kansas City, but the Regional Administrator is in Chicago).

(4) The Regional Inspector General for Audit and the Special Agent in Charge of the Office of Labor Racketeering and Fraud Investigations are full members of the REC; however, the OIG may decide that it is appropriate for them to abstain from participation in certain REC activities (e.g., decision-making related to DOL management or program responsibilities).

B. *Alternate members.* The REC is a management committee. Alternate members designated to represent an agency or a program should, whenever possible, be managers. When employees who are not part of management serve as alternate members, they shall have no voting privileges and may not engage in a leadership or representational role on behalf of the REC. Employees inside the bargaining unit may not represent an Agency Head at a REC meeting either on a temporary or permanent basis.

C. *Chair and Vice Chair.* Only members of the Regional Executive Committee can be elected Chair of the REC. The Chair and Vice Chair of the REC are selected by the REC members. The chairperson's term of office shall begin on the first day of the fiscal year and end on the last day of the same fiscal year.

D. *Functions of the Chairperson.* The chairperson shall provide leadership in carrying out the functions of the REC, preside over meetings, notify members of meetings, prepare the agenda, and coordinate activities sponsored by the REC. REC Chairs along with OASAM Regional Administrators (RAs) should be copied on policy correspondence from the national office. Together they will ensure that relevant policy correspondence is distributed to all REC members. As required, the chairperson will participate in meetings of the Management Review Board (MRB) via conference call and/or periodically attend meetings in the National Office.

E. *Sub-Committees.* The REC shall establish as needed such standing or special sub-committees to carry out agreed upon activities and special projects. Sub-committees may include, but need not be limited to, an administrative committee; annual awards committee; and training committee. Subcommittee chairs shall report to the REC chair.

F. *Field Committees.* The REC may establish committees as needed in sub-regional cities where substantial activities of the Department are represented. Field Committees would provide for coordination of Department-wide activities in those cities in much the same way as the REC does in the regional headquarters. The Chairperson of a field committee will report the committee activities to the REC chair.

G. *Meetings.* The REC shall meet at least quarterly, but more frequent meetings, including special meetings, may be called as appropriate by the chair.

H. *Administrative Support.* Together, the REC Chairperson and the OASAM RA will determine the appropriate level of administrative and staff support for the REC and decide how that support will be delivered. In collaboration with the REC Chair, the OASAM RA will serve as the point of contact for all information and correspondence coming to the REC.

5. Other Delegations

A. The Assistant Secretary for Administration and Management shall coordinate RECs and shall issue the necessary procedures and guidance to implement this order.

B. The Solicitor of Labor shall provide legal advice and assistance in implementing this order.

6. Review

This order shall be reviewed at least once every four years to determine if it should be revised, reissued, canceled or continued.

7. Effective Date

This order is effective immediately.

Dated: March 3, 2006.

Elaine L. Chao,

Secretary of Labor.

Attachment 1—REC Membership

Regional Representative, OCIA

Regional Administrators/Directors of:
- Employment and Training Administration (ETA)
- Occupational Safety and Health Administration (OSHA)
- Office of Federal Contract Compliance Programs (OFCCP)
- Office of Public Affairs (OPA)
- Office of Labor Management Standards (OLMS)
- Office of the Assistant Secretary for Administration and Management (OASAM)
- Office of Workers Compensation Programs (OWCP)
- Employee Benefits Security Administration (EBSA)
- Veterans Employment and Training Service (VETS)
- Wage and Hour Division (WH)
- Women's Bureau (WB)

Regional Commissioner of the Bureau of Labor Statistics (BLS)

Regional Inspector General—Audit

Special Agent in Charge—Office of Labor Racketeering and Fraud Investigations (OLRFI)

Regional Solicitor or Associate Regional Solicitor located in a Regional city (RSOL)

Area Director, Office of Labor Management Standards (OLMS) [1]

District Chief Judge, Administrative Law Judges (ALJ)

District Manager of the Mine Safety and Health Administration (MSHA)

District Supervisor, Employee Benefits Security Administration (EBSA) [2]

[1] When there is no OLMS Regional Administrator in the location.

[2] When there is no EBSA Regional Administrator in the location.

[FR Doc. 06–2424 Filed 3–13–06; 8:45 am]

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Federal Register

Tuesday,
March 14, 2006

Part IV

Department of Labor

Office of the Secretary

Coordination and Direction of Department of Labor Programs Affecting Women; Notice

DEPARTMENT OF LABOR

Office of the Secretary

[Secretary's Order—07–2006]

Coordination and Direction of Department of Labor Programs Affecting Women

1. Purpose

To reaffirm that all components of the Department of Labor (DOL) have the responsibility to work cooperatively to ensure that their missions fully address the needs and concerns of women in the workforce.

2. Authority and Directives Affected

This Order is issued pursuant to 5 U.S.C. 301; 5 U.S.C. 5315; 29 U.S.C. 551, et seq.; and 29 U.S.C. 11–14. This Order cancels Secretary's Order 03–95.

3. Background

The Women's Bureau (WB) has responsibility, under 29 U.S.C. 13, for the ''formulation of standards and policies which shall promote the welfare of wage-earning women, improve their working conditions, increase their efficiency, and advance their opportunities for profitable employment.'' The WB also has ''authority to investigate and report to the [DOL] upon all matters pertaining to the welfare of women in industry. The director of said bureau may from time to time publish the results of these investigations in such a manner and to such extent as the Secretary of Labor may prescribe.'' The WB is the single unit at the Federal government level exclusively concerned with serving and promoting the interests of women in the workforce. Within DOL, the WB provides leadership and coordination of DOL activities which impact on women in the workforce.

Through the years, that mission has become increasingly important due to the continuing expansion of women's participation in the workforce. Projections regarding the increasing participation of women in the workforce, coupled with the roles of women in the workforce, further reaffirm and reinforce the need for DOL agencies to work cooperatively.

4. Policy

It is the policy of DOL that all of its activities and programs promote the welfare of all workers and that the needs of women in the workforce are properly addressed in the development and implementation of DOL policy, programs, research, evaluations, and materials. Therefore, DOL activities and programs that relate to, or may affect the participation of women in the nation's workforce must be coordinated with the Women's Bureau.

5. Delegation of Authority and Assignment of Responsibilities

A. The Director of the Women's Bureau, as the principal advisor to the Secretary of Labor with respect to the interests and concerns of women in the workforce, is delegated authority and assigned responsibility for:

(1) Advising and assisting the Secretary of Labor in the development and formulation of standards, policies, and programs that promote the welfare of wage-earning women, improve their working conditions, increase their efficiency, and advance their opportunities for profitable employment;

(2) Ensuring coordination among DOL agencies on matters or programs related to or affecting women in the workforce;

(3) Keeping the Secretary fully informed on the results of DOL's efforts by investigating and reporting to the Secretary upon all matters pertaining to the welfare of women in industry, and from time to time, preparing timely reports of these investigations on critical issues; and

(4) Coordinating with DOL agency heads on policies and programs which impact or may impact women in the workforce.

B. Women's Bureau Regional Administrators are delegated authority and assigned responsibility for:

(1) Advising DOL Regional Agency Heads with respect to the concerns of women in the workforce;

(2) Assisting Regional Agency Heads to carry out their responsibilities to implement this Order;

(3) Serving as a member of the Regional Executive Committee;

(4) Regularly meeting with Regional Representatives; and

(5) Maintaining a liaison with the Solicitor of Labor.

C. Agency Heads are delegated authority and assigned responsibility for coordinating with the Director of the Women's Bureau. This coordination must include, without limitation, the following:

(1) Reviewing current practices and developing appropriate policies and programs to enhance the impact of agency activities on women in the workforce;

(2) Consulting with the WB in the developmental stages of the preparation of policy materials (e.g., regulations, standards and other material for publication in the **Federal Register**, proposed legislation, Congressional testimony, statistical surveys, publications);

(3) Consulting with the WB during the development of agency work plans to assure that the needs of women in the workforce are addressed and that efforts are coordinated with the WB;

(4) Providing the WB with up-to-date information concerning developments relating to policies, plans, projects, studies, evaluations, proposals, programs, and agency publications (as they relate to women in the workforce);

(5) Utilizing the expertise of the WB in the development and implementation of task forces, meetings, conferences, seminars, training sessions, and similar activities; and

(6) On a regular basis, briefing DOL staff on their agency's commitment to address the needs of women in the workforce.

D. The Regional Representatives are delegated authority and assigned responsibility to consult with the WB Regional Administrators on issues affecting women in the workforce.

E. DOL Agency Regional Administrators and other Agency Regional Heads are delegated authority and assigned responsibility for:

(1) Coordinating with WB Regional Administrators regarding regional policies, programs, and activities that impact women in the workforce;

(2) Consulting with the WB during the development of agency strategic plans to assure that the needs of women in the workforce are addressed;

(3) Providing the WB Regional Administrators with up-to-date information concerning developments relating to policies, plans, projects, studies, evaluations, proposals, programs, and agency publications (as they relate to women in the workforce);

(4) Utilizing the expertise of the WB in the development and implementation of task forces, meetings, conferences, seminars, training sessions, and similar activities; and

(5) On a regular basis, briefing regional staff on their agency's commitment to address the needs of women in the workforce.

F. The Solicitor of Labor is delegated authority and assigned responsibility for providing legal advice and assistance to all officials of the Department relating to the authorities of this Order, for bringing appropriate legal actions on behalf of the Secretary, and representing the Secretary in all civil proceedings.

6. Reservation of Authority

A. The submission of reports and recommendations to the President and the Congress concerning the administration of statutory or

administrative provisions is reserved to the Secretary.

B. This Secretary's Order does not affect the authorities and responsibilities of the Office of Inspector General under the Inspector General Act of 1978, as amended, or under Secretary's Order 04–2006 (February 21, 2006).

7. Effective Date

This Order is effective immediately.

Dated: March 3, 2006.

Elaine L. Chao,

Secretary of Labor.

[FR Doc. 06–2425 Filed 3–13–06; 8:45 am]

BILLING CODE 4510–23–P

Federal Register

Tuesday,
March 14, 2006

Part V

The President

Notice of March 13, 2006—Continuation of the National Emergency With Respect to Iran

Federal Register
Vol. 71, No. 49
Tuesday, March 14, 2006

Presidential Documents

Title 3—

The President

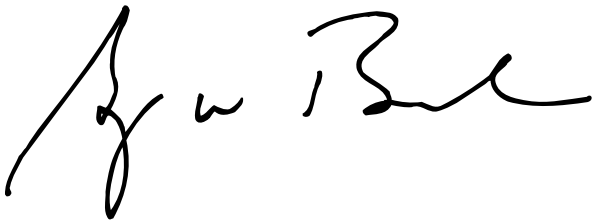
Notice of March 13, 2006

Continuation of the National Emergency With Respect to Iran

On March 15, 1995, by Executive Order 12957, the President declared a national emergency with respect to Iran pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the actions and policies of the Government of Iran. On May 6, 1995, the President issued Executive Order 12959 imposing more comprehensive sanctions to further respond to this threat, and on August 19, 1997, the President issued Executive Order 13059 consolidating and clarifying the previous orders.

Because the actions and policies of the Government of Iran continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, the national emergency declared on March 15, 1995, must continue in effect beyond March 15, 2006. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to Iran. Because the emergency declared by Executive Order 12957 constitutes an emergency separate from that declared on November 14, 1979, by Executive Order 12170, this renewal is distinct from the emergency renewal of November 2005.

This notice shall be published in the **Federal Register** and transmitted to the Congress.



THE WHITE HOUSE,
March 13, 2006.

[FR Doc. 06–2557
Filed 3–13–06; 12:48 pm]
Billing code 3195–01–P

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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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/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

S. 449/P.L. 109–179

To facilitate shareholder consideration of proposals to make Settlement Common Stock under the Alaska Native Claims Settlement Act available to missed enrollees, eligible elders, and eligible persons born after December 18, 1971, and for other purposes. (Mar. 13, 2006; 120 Stat. 283)

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