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Federal Register
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Friday, January 9, 2004

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–252–AD; Amendment 39–13420; AD 2004–01–06]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F.28 Mark 0070 and 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Fokker Model F.28 Mark 0070 and 0100 series airplanes. This AD requires a one-time general visual inspection of the left and right sides of the pedestal side cover adjacent to the rudder pedal on the cockpit floor for proper installation of the attachment bracket, and corrective actions if necessary. This action is necessary to prevent restricted movement of the rudder pedal due to a loose pedestal side cover causing interference, which could result in reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective February 13, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 13, 2004.

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez; Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1137; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Fokker Model F.28 Mark 0070 and 0100 series airplanes was published in the **Federal Register** on October 14, 2003 (68 FR 59136). That action proposed to require a one-time general visual inspection of the left and right sides of the pedestal side cover adjacent to the rudder pedal on the cockpit floor for proper installation of the attachment bracket, and corrective actions if necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

We estimate that 76 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required inspections, and that the average labor rate is $65 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $4,940, or $65 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by adding the following new airworthiness directive:

2004–01–06 Fokker Services B.V: Amendment 39–13420. Docket 2002–NM–252–AD.

Applicability: Model F.28 Mark 0070 and 0100 series airplanes, having serial numbers 11244 through 11585 inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent restricted movement of the rudder pedal due to a loose pedestal side cover causing interference, which could result in reduced controllability of the airplane, accomplish the following:

Inspection and Corrective Actions

(a) Within 12 months after the effective date of this AD, do a one-time general visual inspection of the left and right sides of the pedestal side cover adjacent to the rudder pedal on the cockpit floor for proper installation of the attachment brackets, in accordance with Part 1 of the Accomplishment Instructions of Fokker Service Bulletin SBF100–25–092, dated February 4, 2002.

Note 1: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(1) If both brackets are present and the pedestal side cover is properly installed, no further action is required by this AD.

(2) If one or both brackets are missing, or the pedestal side cover is improperly installed, before further flight, accomplish all of the applicable corrective actions in accordance with Part 2 of the Accomplishment Instructions of the service bulletin.

Alternative Methods of Compliance

(b) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, is authorized to approve alternative methods of compliance for this AD.

Incorporation by Reference

(c) The actions shall be done in accordance with Fokker Service Bulletin SBF100–25–092, dated February 4, 2002. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 2: The subject of this AD is addressed in Dutch airworthiness directive 2002–111, dated July 31, 2002.

Effective Date

(d) This amendment becomes effective on February 13, 2004.

Issued in Renton, Washington, on December 29, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–127 Filed 1–8–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–231–AD; Amendment 39–13419; AD 2004–01–05]

RIN 2120–AA64

Airworthiness Directives; Dassault Model Falcon 2000 and 900EX, and Dassault Model Mystere-Falcon 900 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Dassault Model Falcon 2000 and 900EX, and Dassault Model Mystere-Falcon 900 series airplanes. This AD requires measuring the paint thickness on the upper and lower surfaces of the left and right sides of the horizontal stabilizer, performing corrective actions if necessary, and installing maintenance caution placards on the upper surface of the left and right sides of the horizontal stabilizer. This action is necessary to prevent structural damage to the horizontal stabilizer after a direct lightning strike, which could result in reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective February 13, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 13, 2004.

ADDRESSES: The service information referenced in this AD may be obtained from Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1137; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Dassault Model Falcon 2000 and 900EX, and Dassault Model Mystere-Falcon 900 series airplanes, was published in the **Federal Register** on November 13, 2003 (68 FR 64286). That action proposed to require measuring the paint thickness on the upper and lower surfaces of the left and right sides of the horizontal stabilizer, performing corrective actions if necessary, and installing maintenance caution placards on the upper surface of the left and right sides of the horizontal stabilizer.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

We estimate that 29 airplanes of U.S. registry will be affected by this AD.

It will take approximately 16 work hours per airplane to measure the paint thickness, at an average labor rate of $65 per work hour. Based on these figures, the cost impact on U.S. operators for measuring the paint thickness is estimated to be $30,160, or $1,040 per airplane.

It will take approximately 3 work hours per airplane, at an average labor rate of $65 per work hour, to install the placards. Required parts will be provided to operators at no cost. Based on these figures, the cost impact on U.S. operators for the installation of the placards is estimated to be $5,655, or $195 per airplane.

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

planning time, or time necessitated by other administrative actions.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by adding the following new airworthiness directive:

2004–01–05 Dassault Aviation: Amendment 39–13419. Docket 2002–NM–231–AD.

Applicability: Model Mystere-Falcon 900 series airplanes, as listed in Dassault Service Bulletin F900–291, dated February 20, 2002; Model Falcon 900EX series airplanes, as listed in Dassault Service Bulletin F900EX–155, dated February 20, 2002; and Model Falcon 2000 series airplanes, as listed in Dassault Service Bulletin F2000–234, dated February 20, 2002; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent structural damage to the horizontal stabilizer after a direct lightning strike, which could result in reduced controllability of the airplane, accomplish the following:

Measurement of Paint Thickness and Corrective Actions

(a) Within 7 months after the effective date of this AD: Measure the thickness of the paint on the upper and lower surfaces of the left and right sides of the horizontal stabilizer in accordance with all of the actions specified in paragraphs 2.A. through 2.D. of the Accomplishment Instructions of Dassault Service Bulletin F900–291, dated February 20, 2002; Dassault Service Bulletin F900EX–155, dated February 20, 2002; or Dassault Service Bulletin F2000–234, dated February 20, 2002; as applicable. Any necessary corrective action must be done before further flight in accordance with the applicable service bulletin.

Installation of Placards

(b) After accomplishing the actions required by paragraph (a) of this AD, before further flight, install placards on the upper surface of the left and right sides of the horizontal stabilizer in accordance with paragraph 2.E. of the Accomplishment Instructions of Dassault Service Bulletin F900–291, dated February 20, 2002; Dassault Service Bulletin F900EX–155, dated February 20, 2002; or Dassault Service Bulletin F2000–234, dated February 20, 2002; as applicable.

Alternative Methods of Compliance

(c) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, is authorized to approve alternative methods of compliance for this AD.

Incorporation by Reference

(d) The actions shall be done in accordance with Dassault Service Bulletin F900–291, dated February 20, 2002; Dassault Service Bulletin F900EX–155, dated February 20, 2002; or Dassault Service Bulletin F2000–234, dated February 20, 2002; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 1: The subject of this AD is addressed in French airworthiness directive 2002–089(B), dated March 2, 2002.

Effective Date

(e) This amendment becomes effective on February 13, 2004.

Issued in Renton, Washington, on December 29, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–126 Filed 1–8–04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–87–AD; Amendment 39–13418; AD 2004–01–04]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–120 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain EMBRAER Model EMB–120 series airplanes, that currently requires revising the airplane flight manual (AFM), and either installing hydraulic tube assemblies incorporating a check valve, or visually inspecting the check valve if already installed and performing corrective actions if necessary. This action adds airplanes to the applicability of the existing AD. The actions specified by this AD are intended to prevent the landing gear doors from becoming blocked from opening during application of emergency procedures in the event of a loss of hydraulics. This action is intended to address the identified unsafe condition.

DATES: Effective February 13, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 13, 2004.

The incorporation by reference of certain publications listed in the regulations was approved previously by the Director of the Federal Register as of November 13, 2000 (65 FR 59708, October 6, 2000).

ADDRESSES: The service information referenced in this AD may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), PO Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington

98055–4056; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 2000–20–05, amendment 39–11916 (65 FR 59708, October 6, 2000), which is applicable to certain EMBRAER Model EMB–120 series airplanes, was published in the **Federal Register** on October 2, 2003 (68 FR 56801). That action proposed to require revising the airplane flight manual (AFM), and either installing hydraulic tube assemblies incorporating a check valve, or visually inspecting the check valve if already installed and performing corrective actions if necessary. The action also proposed to add airplanes to the applicability of the existing AD.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

We have determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

We estimate that 219 airplanes of U.S. registry will be affected by this AD. This AD adds no new requirements, but only adds airplanes to the applicability of the existing AD. This AD adds no new economic burden on affected operators, but since issuance of AD 2000–20–05, the estimated labor rate has increased from $60 to $65 per work hour, and the estimated cost for required parts has increased from $2,021 to $2,129. The current costs associated with this AD are otherwise reiterated in their entirety as follows for the convenience of affected operators:

The AFM revision that is currently required by AD 2000–20–05, and retained in this AD, takes approximately 1 work hour per airplane to accomplish, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the currently required AFM revision on U.S. operators is estimated to be $14,235, or $65 per airplane.

The general visual inspection that is currently required by AD 2000–20–05, and retained in this AD, takes approximately 1 work hour per airplane to accomplish, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the currently required general visual inspection on U.S. operators is estimated to be $14,235, or $65 per airplane.

The installation of hydraulic tube assemblies that include check valves that is currently required by AD 2000–20–05, and retained in this AD, takes approximately 2 work hours per airplane to accomplish, at an average labor rate of $65 per work hour. Required parts cost approximately $2,129 per airplane. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $494,921, or $2,259 per airplane.

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

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by removing amendment 39–11916 (65 FR 59708, October 6, 2000), and by adding a new airworthiness directive (AD), amendment 39–13418, to read as follows:

2004–01–04 Empresa Brasileira de Aeronautica S.A. (Embraer): Amendment 39–13418. Docket 2002–NM–87–AD. Supersedes AD 2000–20–05, Amendment 39–11916.

Applicability: Model EMB–120 series airplanes as listed in EMBRAER Service Bulletin 120–32–0077, Change 03, dated August 3, 2001; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent the landing gear doors from becoming blocked from opening during application of emergency procedures in the event of a loss of hydraulics, accomplish the following:

Restatement of Requirements of AD 2000–20–05: Airplane Flight Manual (AFM) Revision

(a) For airplanes subject to AD 2000–20–05: Within 10 flight hours after November 13, 2000 (the effective date of AD 2000–20–05, amendment 39–11916), revise the ''Emergency Procedures'' and ''Abnormal Procedures'' sections of the airplane flight manual (AFM) by inserting into the AFM a copy of EMB–120 AFM 120/794, Revision 45, dated October 14, 1996.

Note 1: Airplanes subject to AD 2000–20–05 are those listed in EMBRAER Service Bulletin 120–32–0077, Change 02, dated December 23, 1997.

Inspection and Corrective Actions

(b) For airplanes subject to AD 2000–20–05, on which the check valve has been installed in accordance with EMBRAER

Service Bulletin 120–32–0077, dated February 7, 1997: Within 100 flight hours after November 13, 2000, conduct a general visual inspection to detect the check valve flow direction in accordance with EMBRAER Service Bulletin 120–32–0077, Change 02, dated December 23, 1997; or Change 03, dated August 3, 2001. If the check valve is installed incorrectly, prior to further flight, reinstall the check valve in the proper position in accordance with Change 02 or Change 03 of the service bulletin.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(c) For airplanes subject to AD 2000–20–05, that are not equipped with the check valve installed in accordance with EMBRAER Service Bulletin 120–32–0077, dated February 7, 1997; Change 01, dated September 25, 1997; Change 02, dated December 23, 1997; or Change 03, dated August 3, 2001: Within 2,000 flight hours after November 13, 2000, install hydraulic tube assemblies incorporating a check valve in accordance with EMBRAER Service Bulletin 120–32–0077, Change 01, dated September 25, 1997; Change 02, dated December 23, 1997; or Change 03, dated August 3, 2001.

New Requirements of This AD

Note 3: Airplanes not subject to AD 2000–20–05 are those airplanes added by Change 03 of EMBRAER Service Bulletin 120–32–0077, dated August 3, 2001.

Airplane Flight Manual (AFM) Revision

(d) For airplanes not subject to AD 2000–20–05: Within 10 flight hours after the effective date of this AD, revise the ''Emergency Procedures'' and ''Abnormal Procedures'' sections of the airplane flight manual (AFM) by inserting into the AFM a copy of EMB–120 AFM 120/794, Revision 45, dated October 14, 1996.

Inspection and Corrective Actions

(e) For airplanes that are not subject to AD 2000–20–05, and on which the check valve has been installed in accordance with EMBRAER Service Bulletin 120–32–0077, dated February 7, 1997: Within 100 flight hours after the effective date of this AD, accomplish all of the applicable actions in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 120–32–0077, Change 03, dated August 3, 2001.

(f) For airplanes not subject to AD 2000–20–05, on which the check valve has not been installed in accordance with EMBRAER Service Bulletin 120–32–0077, dated February 7, 1997; or Change 01, dated September 25, 1997; or Change 02, dated December 23, 1997: Within 2,000 flight hours after the effective date of this AD, accomplish all of the applicable actions in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 120–32–0077, Change 03, dated August 3, 2001.

(g) Accomplishment of the specified actions before the effective date of this AD per EMBRAER Service Bulletin 120–32–0077, Change 01, dated September 25, 1997; or Change 02, dated December 23, 1997; is considered acceptable for compliance with the applicable requirements of paragraphs (e) and (f) of this AD.

Alternative Methods of Compliance

(h) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, is authorized to approve alternative methods of compliance for this AD.

Incorporation by Reference

(i) Unless otherwise specified in this AD, the actions shall be done in accordance with EMBRAER Service Bulletin 120–32–0077, Change 01, dated September 25, 1997; EMBRAER Service Bulletin 120–32–0077, Change 02, dated December 23, 1997; and EMBRAER Service Bulletin 120–32–0077, Change 03, dated August 3, 2001; as applicable.

(1) The incorporation by reference of EMBRAER Service Bulletin 120–32–0077, Change 01, dated September 25, 1997; and EMBRAER Service Bulletin 120–32–0077, Change 03, dated August 3, 2001; is approved by the Director of the Federal Register, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of EMBRAER Service Bulletin 120–32–0077, Change 02, dated December 23, 1997, was approved previously by the Director of the Federal Register as of November 13, 2000 (65 FR 59708, October 6, 2000).

(3) Copies may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), PO Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in Brazilian airworthiness directive 97–05–03R3, dated October 2, 2001.

Effective Date

(j) This amendment becomes effective on February 13, 2004.

Issued in Renton, Washington, on December 29, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–125 Filed 1–8–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–267–AD; Amendment 39–13417; AD 97–24–02 R1]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to certain Bombardier Model CL–600–1A11 (CL–600), CL–600–2A12 (CL–601), and CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604) series airplanes, that currently requires repetitive inspections to find cracks of a certain bulkhead web of the fuselage at certain locations, and repair if necessary. The actions specified by that AD are intended to prevent cracking in the pressure bulkhead at frame station (FS) 409.00, which could result in uncontrolled depressurization of the airplane and/or reduced structural integrity of the fuselage. This amendment provides an optional terminating modification for certain airplanes. This action is intended to address the identified unsafe condition.

DATES: Effective February 13, 2004.

The incorporation by reference of certain publications, as listed in the regulations, is approved by the Director of the Federal Register as of February 13, 2004.

The incorporation by reference of certain other publications, as listed in the regulations, was approved previously by the Director of the Federal Register as of December 3, 1997 (62 FR 61436, November 18, 1997).

ADDRESSES: The service information referenced in this AD may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Westbury, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Serge Napoleon, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Westbury, New York; telephone (516) 256–7512; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by revising AD 97–24–02, amendment 39–10209 (62 FR 61436, November 18, 1997), which is applicable to certain Bombardier Model CL–600–1A11, –2A12, and –2B16 series airplanes, was published in the **Federal Register** on October 21, 2003 (68 FR 60047). The action proposed to continue to require repetitive inspections to find cracks of a certain bulkhead web of the fuselage at certain locations, and repair if necessary. The action also provides an optional terminating modification for certain airplanes.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are about 237 airplanes of U.S. registry that will be affected by this AD.

The inspections that are required by AD 97–24–02 take about 2 work hours per airplane to accomplish, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the currently required actions is estimated to be $130 per airplane, per inspection cycle.

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

The optional terminating modification, if done, would take between 125 and 300 work hours per airplane, depending on the airplane configuration, at an average labor rate of $65 per work hour. Required parts would be provided by the manufacturer at no cost to operators. Based on these figures, we estimate the cost of the modification to be between $8,125 and $19,500 per airplane.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by removing amendment 39–10209 (62 FR 61436, November 18, 1997), and by adding a new airworthiness directive (AD), amendment 39–13417, to read as follows:

97–24–02 R1 Bombardier, Inc. (Formerly Canadair): Amendment 39–13417. Docket 2001–NM–267–AD. Revises AD 97–24–02, Amendment 39–10209.

Applicability: Model CL–600–1A11 (CL–600) series airplanes, serial numbers 1004 through 1085 inclusive; Model CL–600–2A12 (CL–601) series airplanes, serial numbers 3001 through 3066 inclusive; Model CL–600–2B16 (CL–601–3A/–3R) series airplanes, serial numbers 5001 through 5194 inclusive; and Model CL–600–2B16 (CL–604) series airplanes, serial numbers 5301 through 5352 inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent cracking in the pressure bulkhead at frame station (FS) 409.00, which could result in uncontrolled depressurization of the airplane and/or reduced structural integrity of the fuselage, accomplish the following:

Restatement of Requirements of AD 97–24–02

Detailed Inspections/Repair

(a) For Model CL–600–1A11 (CL–600) airplanes: Prior to the accumulation of 1,900 total landings, or within 100 landings after December 3, 1997 (the effective date of AD 97–24–02, amendment 39–10209), whichever occurs later, perform a detailed inspection to detect cracks at FS 409.00 of the bulkhead web (part number (P/N) 600–32014–71/–95/–105), in accordance with Canadair Challenger Service Bulletin 600–0679, dated September 12, 1997.

Note 1: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(1) If no crack is detected, repeat the detailed inspection thereafter at intervals not to exceed 600 landings.

(2) If any crack is detected and if all three of the conditions specified in paragraphs (a)(2)(i), (a)(2)(ii), and (a)(2)(iii) of this AD are met, within 600 landings or 12 months after the crack is detected, whichever occurs first, repair the crack in accordance with a method approved by the Manager, New York Aircraft Certification Office (ACO), FAA. Until the repair is accomplished, repeat the detailed inspection at intervals not to exceed 100 landings.

(i) No more than one crack exists at each corner radius, as specified in the service bulletin; and

(ii) No crack extends under the angles having P/N 600–32014–13 and P/N 600–32014–15 on the aft side of the bulkhead web; and

(iii) No crack exists in angles having P/N 600–32014–13 and P/N 600–32014–15 on the aft side of the bulkhead web.

(3) If any crack other than that identified in paragraph (a)(2) of this AD is detected, prior to further flight, repair it in accordance with a method approved by the Manager, New York ACO.

(b) For Model CL–600–2A12 (CL–601), CL–600–2B16 (CL–601–3A/–3R), and CL–600–

2B16 (CL–604) series airplanes: Prior to the accumulation of 1,100 total landings, or within 100 landings after December 3, 1997, whichever occurs later, perform a detailed inspection to detect cracks at FS 409.00 of the bulkhead web (P/N 600–32014–105/–137), in accordance with Canadair Challenger Service Bulletin 601–0501, dated September 12, 1997 (for Model CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A/–3R) series airplanes); or Canadair Challenger Service Bulletin 604–53–007, dated September 30, 1997 (for Model CL–600–2B16 (CL–604) series airplanes); as applicable.

(1) If no crack is detected, repeat the detailed inspection thereafter at intervals not to exceed 600 landings.

(2) If any crack is detected and if all three of the conditions specified in paragraphs (b)(2)(i), (b)(2)(ii), and (b)(2)(iii) of this AD are met, within 600 landings or 12 months after the crack is detected, whichever occurs first, repair the crack in accordance with a method approved by the Manager, New York ACO. Until the repair is accomplished, repeat the detailed inspection at intervals not to exceed 100 landings.

(i) No more than one crack exists at each corner radius, as specified in the service bulletin; and

(ii) No crack extends under the angles having P/N 600–32014–113 and P/N 600–32014–115 on the aft side of the bulkhead web; and

(iii) No crack exists in angles having P/N 600–32014–113 and P/N 600–32014–115 on the aft side of the bulkhead web.

(3) If any crack other than that identified in paragraph (b)(2) of this AD is detected, prior to further flight, repair it in accordance with a method approved by the Manager, New York ACO.

New Requirements of This AD

Optional Terminating Modification

(c) For airplanes on which no crack has been found during accomplishment of any inspection required by AD 97–24–02; or on which the pressure bulkhead was not previously repaired: Modification of the pressure bulkhead at FS 409.00 (including inspection, installation of reinforcing material, and tests) by accomplishing all the actions specified in paragraphs 2.A. through 2.D. of the Accomplishment Instructions of Bombardier Service Bulletin 601–0503 (for Model CL–601 and CL–601–3A/–3R series airplanes), Service Bulletin 600–0680 (for Model CL–600 series airplanes), or Service Bulletin 604–53–006 (for Model CL–604 series airplanes); all dated November 30, 1999; per the applicable service bulletin, terminates the repetitive inspections required by this AD.

Repair

(d) If any crack is found during any inspection specified in paragraph (c) of this AD: Before further flight, repair in accordance with a method approved by the Manager, New York ACO; or Transport Canada Civil Aviation or its delegated agent.

Alternative Methods of Compliance

(e) In accordance with 14 CFR 39.19, the Manager, New York ACO, is authorized to approve alternative methods of compliance for this AD.

Incorporation by Reference

(f) Unless otherwise specified in this AD, the actions shall be done in accordance with Canadair Challenger Service Bulletin 600–0679, dated September 12, 1997, Canadair Challenger Service Bulletin 601–0501, dated September 12, 1997, or Canadair Challenger Service Bulletin 604–53–007, dated September 30, 1997; and Bombardier Service Bulletin 601–0503, dated November 30, 1999, Bombardier Service Bulletin 600–0680, dated November 30, 1999, or Bombardier Service Bulletin 604–53–006, dated November 30, 1999; as applicable.

(1) The incorporation by reference of Bombardier Service Bulletin 601–0503, dated November 30, 1999; Bombardier Service Bulletin 600–0680, dated November 30, 1999; and Bombardier Service Bulletin 604–53–006, dated November 30, 1999; is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of Canadair Challenger Service Bulletin 600–0679, dated September 12, 1997; Canadair Challenger Service Bulletin 601–0501, dated September 12, 1997; and Canadair Challenger Service Bulletin 604–53–007, dated September 30, 1997; was approved previously by the Director of the Federal Register as of December 3, 1997 (62 FR 61436, November 18, 1997).

(3) Copies may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Westbury, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 2: The subject of this AD is addressed in Canadian airworthiness directive CF–1997–16R2, dated May 31, 2001.

Effective Date

(g) This amendment becomes effective on February 13, 2004.

Issued in Renton, Washington, on December 29, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–124 Filed 1–8–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–120–AD; Amendment 39–13416; AD 2004–01–03]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Airbus Model A320 series airplanes, that currently requires an inspection to detect moisture and migrated bushings of the guide fittings of the safety locking pins of the passenger doors, removal of any moisture, application of grease, and reinstallation of any migrated bushing. That AD also requires installation of a greasing nipple on the guide fitting of the locking pin and on three telescopic rods on the passenger doors. This amendment adds a requirement for modification of the upper guide fitting of the locking pin, and expands the applicability in the existing AD. The actions specified by this AD are intended to prevent jamming of the locking pin of the passenger door, which could result in inability to open the passenger door and delay of evacuation in an emergency, resulting in possible injury to passengers or crew. This action is intended to address the identified unsafe condition.

DATES: Effective February 13, 2004.

The incorporation by reference of a certain publication, as listed in the regulations, is approved by the Director of the Federal Register as of February 13, 2004.

The incorporation by reference of certain other publications, as listed in the regulations, was approved previously by the Director of the Federal Register as of February 17, 1998 (63 FR 1905, January 13, 1998).

ADDRESSES: The service information referenced in this AD may be obtained from Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer,

International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2141; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 98–01–12, amendment 39–10275 (63 FR 1905, January 13, 1998), which is applicable to certain Airbus Model A320 series airplanes, was published in the **Federal Register** on November 4, 2003 (68 FR 62405). The action proposed to continue to require an inspection to detect moisture and migrated bushings of the guide fittings of the safety locking pins of the passenger doors, removal of any moisture, application of grease, and reinstallation of any migrated bushing. That action also proposed to continue to require installation of a greasing nipple on the guide fitting of the locking pin and on three telescopic rods on the passenger doors. The new action proposed to add a requirement for modification of the upper guide fitting of the locking pin, and expand the applicability in the existing AD.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 168 airplanes of U.S. registry that will be affected by this AD.

The actions that are currently required by AD 98–01–12 take about 4 work hours per airplane (1 work hour per door) to accomplish, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the currently required actions is estimated to be $260 per airplane.

The new modification that is required by this AD action will take about 8 work hours per airplane (2 work hours per door) to accomplish, at an average labor rate of $65 per work hour. Required parts costs will be minimal. Based on these figures, the cost impact of the modification required by this AD on U.S. operators is estimated to be $87,360, or $520 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by removing amendment 39–10275 (63 FR 1905, January 13, 1998), and by adding a new airworthiness directive (AD), amendment 39–13416, to read as follows:

2004–01–03 Airbus: Amendment 39–13416. Docket 2001–NM–120–AD. Supersedes AD 98–01–12, Amendment 39–10275.

Applicability: Model A319, A320, and A321 series airplanes; certificated in any category; except those on which Airbus Modification 27142 has been incorporated during production.

Compliance: Required as indicated, unless accomplished previously.

To prevent jamming of the locking pin of the passenger door, which could result in inability to open the passenger door and delay of evacuation in an emergency, resulting in possible injury to passengers or crew; accomplish the following:

Restatement of Requirements of AD 98–01–12

Inspection/Corrective Action

(a) Prior to the accumulation of 450 hours, time-in-service after one year from the delivery date of the airplane, or within 450 hours, time-in-service after February 17, 1998 (the effective date of AD 98–01–12, amendment 39–10275), whichever occurs later; perform an inspection to detect moisture or migrated bushings of the guide fittings of the upper safety locking pins on each passenger door, in accordance with Airbus Industrie All Operators Telex (AOT) 52–06, dated February 4, 1994.

(1) If any moisture is found in the guide fitting, prior to further flight, remove the moisture, dry the guide fitting, fill it with low temperature grease, and reinstall the guide fitting with bolts, washers, and nuts in accordance with the AOT.

(2) If any migrated bushing is found, prior to further flight, reinstall the bushing using Loctite 672 in accordance with the AOT. If the bushing cannot be reinstalled prior to further flight, the airplane may be operated without the upper locking pin for an additional 50 hours time-in-service or three days after accomplishing the inspection, whichever occurs first, provided that the requirements specified in paragraphs (a)(2)(i), (a)(2)(ii), and (a)(2)(iii) of this AD are accomplished. This compliance time applies to each passenger door.

(i) The connecting rod to the locking shaft shall be removed.

(ii) The guide fitting shall remain installed.

(iii) The cavity in the guide fitting (which results from the removal of the upper locking pin) shall be covered with high speed tape to prevent moisture ingress.

Installation of Greasing Nipple

(b) Within 15 months after February 17, 1998, install a greasing nipple on the guide fitting of the locking pin and on three telescopic rods on the passenger doors in accordance with Airbus Industrie Service Bulletin No. A320–52–1057, dated July 26, 1994.

New Requirements of This AD

Modification

(c) Modify the upper guide fitting of the locking pin in accordance with paragraphs 3.A. through 3.D. of the Accomplishment Instructions of Airbus Service Bulletin A320–52–1105, Revision 02, dated May 21, 2002; at

the time specified in paragraph (c)(1) or (c)(2) of this AD, as applicable. Accomplishment of the modification before the effective date of this AD in accordance with Airbus Service Bulletin A320–52–1105, dated September 29, 2000; or Revision 01, dated August 7, 2001; is considered acceptable for compliance with the corresponding action in this paragraph.

(1) For Model A320 and A321 series airplanes on which Airbus Service Bulletin A320–52–1057 has been incorporated in service: Within 1 year after the effective date of this AD.

(2) For Model A319, A320, and A321 series airplanes on which Airbus Modification 24389 was done in production: Within 3 years after the effective date of this AD.

Alternative Methods of Compliance

(d)(1) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, is authorized to approve alternative methods of compliance for this AD.

(2) Alternative methods of compliance, approved previously per AD 98–01–12, amendment 39–10275, are approved as alternative methods of compliance with paragraphs (a) and (b) of this AD, as applicable.

Incorporation by Reference

(e) The actions shall be done in accordance with Airbus Industrie All Operators Telex (AOT) 52–06, dated February 4, 1994; Airbus Industrie Service Bulletin No. A320–52–1057, dated July 26, 1994; and Airbus Service Bulletin A320–52–1105, Revision 02, dated May 21, 2002; as applicable.

(1) The incorporation by reference of Airbus Service Bulletin A320–52–1105, Revision 02, dated May 21, 2002, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of Airbus Industrie All Operators Telex (AOT) 52–06, dated February 4, 1994; and Airbus Industrie Service Bulletin No. A320–52–1057, dated July 26, 1994; was approved previously by the Director of the Federal Register as of February 17, 1998 (63 FR 1905, January 13, 1998).

(3) Copies may be obtained from Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 1: The subject of this AD is addressed in French airworthiness directive 2001–100(B), dated March 21, 2001.

Effective Date

(f) This amendment becomes effective on February 13, 2004.

Issued in Renton, Washington, on December 29, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–123 Filed 1–8–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–152–AD; Amendment 39–13415; AD 2004–01–02]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767–200, –300, and –300F Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 767–200, –300, and –300F series airplanes. This action requires modification of the aft pitch load fitting of the diagonal brace of the nacelle strut of each wing. This action is necessary to prevent loss of the fuse pin of the pitch load fitting due to fatigue caused by improper clearance between the fuse pin and bushing, which could result in increased loads in the wing-to-strut joints and consequent separation of the strut and engine from the wing. This action is intended to address the identified unsafe condition.

DATES: Effective February 13, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 13, 2004.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Suzanne Masterson, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6441; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 767–200, –300, and –300F series airplanes was published in the **Federal Register** on July 9, 2003 (68 FR 40834). That action proposed to require modification of the aft pitch load fitting of the diagonal brace of the nacelle strut of each wing.

Comments

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

Extend Compliance Time

One commenter requests that the proposed compliance time for the modification be extended from 18 months to ''18 months or the first 4C check, whichever is later.'' The commenter states that this extended compliance time would allow the modification to be accomplished during the time of a regularly scheduled heavy maintenance visit. The commenter considers that the proposed compliance time of 18 months would require operators to take each airplane out of service for four to seven days to accomplish the required modification, which would impose a major disruption on the commenter's operations.

The FAA partially agrees with the commenter's request to extend the compliance time for the modification. We cannot use indefinite or non-specific intervals, such as ''first 4C check.'' Since maintenance schedules vary from operator to operator, there can be no assurance that the action will be accomplished within the time frame for safe operation of the airplane. However, we do agree to extend the compliance time from 18 months to 24 months. Our original intent was to allow the modification to be accomplished at a regularly scheduled heavy maintenance visit. Extending the compliance time by six months will not adversely affect safety, and will allow the modification to be performed during the regularly scheduled heavy maintenance visits. Paragraph (a) of the final rule has been revised to specify a compliance time of 24 months.

Allow for Alternate Sealants

One commenter requests that the proposed AD indicate whether alternate sealants (alternate specifications) are allowed, per Section 51–20–05, Figure 8, dated August 15, 2002, of the Boeing 767–200, 767–300, and 767–300F Structural Repair Manuals. The commenter's intent is to prevent future requests for alternative methods of compliance (AMOC).

We infer that the operator would like to use an alternate sealant when accomplishing the required modification. We agree with the

commenter's request. We have changed the final rule to allow alternate sealants.

Provide Instructions for Measuring Bushings

One commenter requests that the proposed AD contain instructions to operators for measuring the inside diameter of an affected bushing to ensure that it is oversized and requires replacement.

We infer that the commenter does not wish to replace a bushing unless it is necessary. The manufacturer has informed us that 100% of airplanes affected by this AD were manufactured with the wrong bushing internal diameter due to an error on the production drawing. Therefore, all bushings are oversized and measurement instructions are unnecessary. We have not changed the final rule regarding this issue.

Incorporate Information Notices in the Proposed AD

One commenter requests that the proposed AD be revised to incorporate two information notices (IN) that have been released relating to the proposed action since the original release of Boeing Alert Service Bulletin 767–54A0102, dated November 8, 2001, (which is referenced in the proposed AD as the appropriate source of service information for the required actions). The commenter states that the FAA has not yet reviewed and approved these Information Notices.

We concur with the commenter's request to revise the final rule as it relates to the two INs. We have reviewed and approved the two notices: Boeing Information Notice 767–54A0102 IN 01, dated July 18, 2002, which clarifies how to gain access to the affected area; and Boeing Information Notice 767–54A0102 IN 02, dated August 29, 2002, which clarifies the existing part number of the aft pitch load fitting prior to performing the required modification. Neither of these INs increases or decreases the scope of the work required by the AD. However, if the INs are incorporated into a new revision of the service bulletin we will consider approving the bulletin as an AMOC. We have changed the final rule to incorporate the two INs.

Conclusion

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

Change to Labor Rate Estimate

We have reviewed the figures we have used over the past several years to calculate AD costs to operators. To account for various inflationary costs in the airline industry, we find it necessary to increase the labor rate used in these calculations from $60 per work hour to $65 per work hour. The cost impact information, below, reflects this increase in the specified hourly labor rate.

Cost Impact

There are approximately 59 airplanes of the affected design in the worldwide fleet. The FAA estimates that 32 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 39 work hours per wing to accomplish the required actions (includes access and close-up), and that the average labor rate is $65 per work hour. Required parts will cost approximately $5,256 per airplane. Based on these figures, the cost impact of the actions required by this AD on U.S. operators is estimated to be $330,432, or $10,326 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by adding the following new airworthiness directive:

2004–01–02 Boeing: Amendment 39–13415. Docket 2002–NM–152–AD.

Applicability: Model 767–200, –300, and –300F series airplanes, as listed in Boeing Alert Service Bulletin 767–54A0102, dated November 8, 2001; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of the fuse pin of the aft pitch load fitting of the diagonal brace, which could result in increased loads in the wing-to-strut joints and consequent separation of the strut and engine from the wing, accomplish the following:

Modification

(a) Within 24 months after the effective date of this AD: Modify the aft pitch load fitting of the diagonal brace of the nacelle strut of each wing (including dye penetrant inspections for cracking or damage of the fitting; reworking the fitting if cracking or damage is found; honing, chamfering, measuring, and machining the fitting if no cracking or damage is found; and replacing the bushing and fuse pin with new components) by accomplishing all of the actions specified in paragraphs 3.A. through 3.J. of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–54A0102, dated November 8, 2001. Clarifications to the work required by this paragraph may be used per Boeing Information Notice 767–54A0102 IN 01, dated July 18, 2002; and per Boeing Information Notice 767–54A0102 IN 02, dated August 29, 2002. Alternate sealants are allowed when accomplishing the actions required by paragraphs 3.A. through 3.J. of the service bulletin, per Section 51–20–05,

Figure 8, dated August 15, 2002, of the Boeing 767–200, 767–300, and 767–300F Structural Repair Manuals. Any applicable follow-on corrective actions must be done before further flight.

Alternative Methods of Compliance

(b) In accordance with 14 CFR 39.19, the Manager, Seattle Aircraft Certification Office, FAA, is authorized to approve alternative methods of compliance (AMOCs) for this AD.

Incorporation by Reference

(c) Unless otherwise specified in this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin 767–54A0102, dated November 8, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(d) This amendment becomes effective on February 13, 2004.

Issued in Renton, Washington, on December 29, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–122 Filed 1–8–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–112–AD; Amendment 39–13414; AD 2004–01–01]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Bombardier Model CL–600–2B19 series airplanes (Regional Jet Series 100 & 440), that requires a one-time inspection of the dust covers for the flight data recorder (FDR) and cockpit voice recorder (CVR) equipment for the presence of markings that indicate the presence of a chemical-resistant coating, and corrective actions if necessary. The actions specified by this AD are intended to prevent peeling of the paint and markings from the dust covers for FDR and CVR equipment due to hydraulic mist from the actuators, which could result in the inability to identify FDR and CVR equipment in the event of an accident-recovery mission. The lack of data from FDR and CVR equipment could hamper discovery of the unsafe condition that caused an accident or an incident and prevent the FAA from developing and mandating actions to prevent additional accidents or incidents caused by that same unsafe condition. This action is intended to address the identified unsafe condition.

DATES: Effective February 13, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 13, 2004.

ADDRESSES: The service information referenced in this AD may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office (ACO), 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Luciano L. Castracane, Aerospace Engineer, Sytems and Flight Test Branch, ANE–172, FAA, New York ACO, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7535; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Bombardier Model CL–600–2B19 series airplanes was published in the **Federal Register** on January 30, 2003 (68 FR 4737). That action proposed to require a one-time inspection of the dust covers for the flight data recorder (FDR) and cockpit voice recorder (CVR) equipment for the presence of markings that indicate the presence of a chemical-resistant coating, and corrective actions if necessary.

Comments

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

Request To Revise Compliance Time for Corrective Action

The proposed AD specified an inspection within 18 months after the effective date of the AD, and rework or replacement of discrepant dust covers before further flight. One commenter expresses concern for the potential grounding of airplanes awaiting replacement parts and requests that the proposed AD be revised to require replacement of noncompliant dust covers within 6 months after discovery, but not later than 18 months after the effective date of the AD. The commenter adds that it would be impossible to schedule inspections for a relatively large fleet of airplanes without having a supply of potentially unnecessary spare dust covers on hand. The commenter suggests that allowing replacement of the noncompliant covers within a specified period of time after discovery would be a more reasonable approach from a logistics and cost standpoint.

The FAA concurs with the request and agrees with the commenter's rationale. Paragraphs (a)(2) and (b)(2) have been revised accordingly in this final rule.

Request To Revise Description of Unsafe Condition

One commenter questions the characterization of the unsafe condition addressed in the proposed AD. The proposed AD acknowledges that the loss of paint or markings on functionally sound FDR and CVR equipment does not put the airplane in an unsafe condition. The commenter goes on to interpret the unsafe condition as the ''potential inability to locate the equipment after a potential accident or incident that was potentially caused by an unsafe condition, due to the potential loss of paint or markings on the equipment'' (emphasis omitted). The commenter suggests that compliance with the proposed AD would do nothing to prevent the unsafe condition in an accident or incident involving an unscheduled water landing, because an underwater locating device (ULD), required to be attached to each FDR and CVR, could also be used to identify the FDR/CVR. The commenter adds that compliance with the AD would not protect against a fire intense enough to damage the paint or markings on the FDR/CVR. The commenter adds that the FDR/CVR equipment can be identified by means other than paint and markings. The commenter suggests that recovery personnel should be informed that a ULD can be used to identify an FDR or CVR.

The FAA disagrees. The timely recovery, after an accident, of the CVR and FDR is critical to the investigation and determination of probable cause. We recognize that there is more than one way (*i.e.*, the color of the boxes) to identify these pieces of equipment. It is by the use of these multiple methods of identification that the timeliness of recovery can be maximized given the conditions at an accident site. A delay in the recovery of these pieces of equipment and subsequent data analysis could prevent the timely correction of a critical safety issue affecting other airplanes of the same type design. It is in the interest of safety to ensure that all necessary methods of identification remain available to investigators.

Request To Revise Proposed Requirement

This same commenter finds the proposed one-time inspection insufficient to prevent damage to the paint and markings on the recording components. The commenter notes that there is no method available to prevent an unprotected component from being later installed in a formerly compliant airplane. The commenter adds that, since the component is not tracked for compliance with an AD, operators would have difficulty determining whether the paint and markings have been protected (in accordance with the AD) before the component is installed in an already compliant airplane. The commenter adds that components undamaged at the time of the inspection may be installed in an airplane, yet not be protected, and the proposed AD provides no means to prevent damage after compliance with the AD. The commenter asserts that the potential for the identified unsafe condition has not been reduced. The commenter requests that the proposed AD be revised to address affected components instead of airplanes and require a part number change as a means to track compliance with the AD.

The FAA does not agree. There would be clear distinction between the old and new parts even though the part numbers remain unchanged. The new parts would be marked with ''CLR CTD'' on the rear panel of the dust cover and as part of the new chemical resistant protection scheme would be unaffected by hydraulic fluid mist. Maintenance personnel will be able to readily identify whether or not the new parts are installed on an airplane. The proposed AD also included a prohibition against installing parts that had not been reworked in accordance with the service bulletin. Again, this would be readily identifiable by the presence of the marking ''CLR CTD'' on the rear panel of the dust cover.

Additional Change to Proposed AD

The identity of the affected airplanes has been changed to ''Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes'' to match the identification on the type certificate.

Conclusion

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

Revised Labor Rate

We have reviewed the figures we have used over the past several years to calculate AD costs to operators. To account for various inflationary costs in the airline industry, we find it necessary to increase the labor rate used in these calculations from $60 per work hour to $65 per work hour. The cost impact information, below, reflects this increase in the specified hourly labor rate.

Cost Impact

The FAA estimates that 220 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $65 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $14,300, or $65 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by adding the following new airworthiness directive:

2004–01–01 Bombardier, Inc. (Formerly Canadair): Amendment 39–13414. Docket 2002–NM–112–AD.

Applicability: Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, serial numbers 7003 through 7573 inclusive, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent peeling of the paint and markings from the dust covers for the flight data recorder (FDR) and cockpit voice recorder (CVR) equipment due to hydraulic mist from the actuators, which could result in the inability to identify the FDR and CVR equipment in the event of an accident-recovery mission, accomplish the following:

One-Time Inspection and Corrective Actions

(a) For airplanes having serial numbers 7003 through 7067 inclusive, and 7069 through 7570 inclusive: Within 18 months after the effective date of this AD, do a general visual inspection of the dust cover for the FDR to determine if a chemical agent resistant coating has been applied to the dust cover. Do the inspection per Part A of the Accomplishment Instructions of Bombardier Service Bulletin 601R–31–026, dated October 12, 2001. Dust covers that have had a protective coating applied are identified through the markings specified in the service bulletin.

(1) If specified markings are present: No further action is required by this paragraph.

(2) If specified markings are not present: Within 18 months after the effective date of this AD, or within 6 months after the inspection, whichever occurs first, do the action required by either paragraph (a)(2)(i) or (a)(2)(ii) of this AD:

(i) Rework the FDR dust cover per Part B of the Accomplishment Instructions of the service bulletin; or

(ii) Replace the FDR dust cover with a new dust cover per Part C of the Accomplishment Instructions of the service bulletin.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(b) For airplanes having serial numbers 7003 through 7067 inclusive, and 7069 through 7573 inclusive: Within 18 months after the effective date of this AD, do a general visual inspection of the CVR dust cover to determine if a chemical agent resistant coating has been applied to the dust cover. Dust covers that have had a protective coating applied are identified through the markings specified in the service bulletin. Do the inspection per Part A of the Accomplishment Instructions of Bombardier Service Bulletin 601R–23–056, dated October 12, 2001.

(1) If specified markings are present: No further action is required by this paragraph.

(2) If specified markings are not present: Within 18 months after the effective date of this AD, or within 6 months after the inspection, whichever occurs first, do the action required by either paragraph (b)(2)(i) or (b)(2)(ii) of this AD:

(i) Rework the CVR dust cover per Part B of the Accomplishment Instructions of the service bulletin; or

(ii) Replace the CVR dust cover with a new dust cover per Part C of the Accomplishment Instructions of the service bulletin.

Parts Installation

(c) As of the effective date of this AD, no person shall install an FDR dust cover, part number (P/N) 074E0198–00; or a CVR dust cover, P/N 075E0604–00 or 9300A218S; unless the rework action required by paragraphs (a)(2)(i) and (b)(2)(i) of this AD, as applicable, has been done.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

Special Flight Permits

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

Incorporation by Reference

(f) The actions must be done in accordance with Bombardier Service Bulletin 601R–23–056, dated October 12, 2001; and Bombardier Service Bulletin 601R–31–026, dated October 12, 2001; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York ACO, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in Canadian airworthiness directive CF–2001–45, dated December 3, 2001.

Effective Date

(g) This amendment becomes effective on February 13, 2004.

Issued in Renton, Washington, on December 29, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–121 Filed 1–8–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–185–AD; Amendment 39–13425; AD 2004–01–11]

RIN 2120–AA64

Airworthiness Directives; Hamburger Flugzeugbau G.m.b.H. Model HFB 320 HANSA Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Hamburger Flugzeugbau G.m.b.H. Model HFB 320 HANSA airplanes, that requires replacement of the elevator trim control cable assemblies with new assemblies. This action is necessary to prevent loss of elevator trim and possible loss of rudder and/or elevator function due to stress-corrosion cracking of certain cable terminals. This action is intended to address the identified unsafe condition.

DATES: Effective February 13, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 13, 2004.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Deutschland G.m.b.H., Customer Service HFB 320, Mr. Dieter Mewes, Postfach 95 01 09, D–21111 Hamburg, Germany. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Hamburger Flugzeugbau G.m.b.H. Model HFB 320 HANSA airplanes was published in the **Federal Register** on November 13, 2003 (68 FR 64282). That action proposed to require replacement of the elevator trim control cable assemblies with new assemblies.

Comments

The public had the opportunity to participate in the development of this AD. No comments have been submitted on the proposed AD or on the determination of the cost to the public.

Conclusion

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Cost Impact

The FAA estimates that 6 airplanes of U.S. registry will be affected by this AD, that it will take approximately 20 work hours to accomplish the replacement, and that the average labor rate is $65 per work hour. Required parts will cost approximately $500 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $10,800, or $1,800 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by adding the following new airworthiness directive:

2004–01–11 Hamburger Flugzeugbau G.m.b.H.: Amendment 39–13425. Docket 2002–NM–185–AD.

Applicability: Model HFB 320 HANSA airplanes, serial numbers 1023, 1027, 1030, 1032, 1033, 1035 through 1043 inclusive, 1045 through 1047 inclusive, 1050 through 1055 inclusive, 1057 through 1062 inclusive, 1064, and 1065; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of elevator trim and possible loss of rudder and/or elevator function due to stress-corrosion cracking of certain cable terminals, accomplish the following:

Replacement

(a) Within 30 flight cycles or 2 months from the effective date of this AD, whichever occurs first, replace the elevator trim control cable assemblies with new assemblies in accordance with the Accomplishment Instructions of HFB 320 Hansa (Hamburger Flugzeugbau G.m.b.H.) Service Bulletin 27–75, dated May 31, 2002.

Alternative Methods of Compliance

(b) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, FAA, is authorized to approve alternative methods of compliance for this AD.

Incorporation by Reference

(c) The actions must be done in accordance with HFB 320 Hansa (Hamburger Flugzeugbau G.m.b.H.) Service Bulletin 27–75, dated May 31, 2002. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Deutschland G.m.b.H., Customer Service HFB 320, Mr. Dieter Mewes, Postfach 95 01 09, D–21111 Hamburg, Germany. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 1: The subject of this AD is addressed in German airworthiness directive 2002–157, dated May 31, 2002.

Effective Date

(d) This amendment becomes effective on February 13, 2004.

Issued in Renton, Washington, on December 31, 2003.

Michael J. Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–270 Filed 1–8–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–336–AD; Amendment 39–13426; AD 2004–01–12]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain EMBRAER Model EMB–135 and –145 series airplanes, that requires operators to inspect the pitot-true air temperature (TAT) relays and the full authority digital engine control (FADEC) electronic interface resistor modules to detect contamination. This AD also requires operators to perform corrective action if necessary, clean the relay/connector pins and sockets, modify the seal between the cockpit console panels and the storm window, and/or install a new protective frame (protective sheets) at the cockpit relay supports. This action is necessary to detect and correct oxidation of the pitot-TAT relay, which could result in increased resistance and overheating of the relay and consequent smoke in the cockpit; and to detect and correct oxidation of the FADEC electronic interface resistor modules, which could result in in-flight uncommanded engine power roll back to idle. This action is intended to address the identified unsafe condition.

DATES: Effective February 13, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 13, 2004.

ADDRESSES: The service information referenced in this AD may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), PO Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain EMBRAER Model EMB–135 and –145 series airplanes was published as a supplemental NPRM in the **Federal Register** on September 8, 2003 (68 FR 52865). The supplemental NPRM proposed to require operators to inspect the pitot-true air temperature (TAT) relays and the full authority digital engine control (FADEC) electronic interface resistor modules to detect contamination. The supplemental NPRM also proposed to require operators to perform corrective action if necessary, clean the relay/connector pins and sockets, modify the seal between the cockpit console panels and the storm window, and/or install a new protective frame (protective sheets) at the cockpit relay supports.

Explanation of New Relevant Service Information

The supplemental NPRM identified Change 03 of EMBRAER Service Bulletin 145–30–0032 as the appropriate source of service information for the inspection and modification. EMBRAER has since revised the service bulletin; however, Change 04, issued August 11, 2003, adds no new actions. The Departmento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, approved Change 04 of the service bulletin.

Paragraph (d) of the supplemental NPRM proposed to give credit for the protective sheet installation if already done in accordance with Change 06 of EMBRAER Service Bulletin 145–25–0211. EMBRAER has since revised this service bulletin; however, Change 07, issued August 11, 2003, adds no new actions. In fact, EMBRAER considers that all versions, through Change 07, of this service bulletin accomplish the same work; *i.e.*, subsequent versions to date have introduced no new actions. The DAC has approved all revisions of this service bulletin through Change 07.

Comments

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

Request To Revise Required Service Information

One commenter requests that paragraphs (c) and (d) of the supplemental NPRM be revised to include the recently issued Change 04 of Service Bulletin 145–30–0032 as a compliance option.

The FAA agrees, and considers Change 04 the primary source of service information for those requirements in this final rule. So that all operators are subject to the same, current requirements, paragraphs (c) and (d) of this AD require Change 04 of Service Bulletin 145–30–0032. In addition, paragraph (a) has been revised in this final rule to require Change 04 of this service bulletin. And new paragraph (e) has been added to this final rule to credit the prior accomplishment of actions done in accordance with earlier service bulletin versions.

Request To Credit Additional Service Bulletin Versions

This same commenter requests that all versions of Service Bulletin 145–25–0211, through Change 06, be allowed for credit for paragraphs (c) and (d) of the supplemental NPRM. The commenter states that all of its airplanes have been modified in accordance with earlier revision levels of that service bulletin.

We agree with the request. As stated earlier, there are no essential differences among the revisions of this service bulletin. New paragraph (e) in this final rule provides credit accordingly. Change 07, issued since we received the comment, is also included.

Request To Allow Other Service Bulletin Versions

The commenter notes that, when an AD cites a service bulletin that is later revised, an operator must request an alternative method of compliance (AMOC) to take credit for having used an earlier version or to use a later version of the specified service bulletin. The commenter therefore requests that paragraphs (a) and (c) of the supplemental NPRM be revised to allow the original issue of Service Bulletin 145–30–0032, dated January 26, 2001, as well as any future revisions that have only minor changes. The commenter suggests that such a provision would reduce the requests for AMOCs.

We do not agree with the request. We find that the procedures specified in the original issue and Revision 01 of Service Bulletin 145–30–0032 may not adequately address the identified unsafe condition. In addition, allowing ''later FAA-approved revisions'' of a service bulletin in addition to an AD's specified version, would violate Office of the Federal Register (OFR) regulations for approving materials that are incorporated by reference. We must either publish the contents of the service bulletin as part of the text of the AD; or submit the service bulletin to the OFR for approval as ''referenced'' material, allowing us to simply refer to such material in the AD. To allow operators to use a revision issued after the AD was published, either we must revise the AD to refer to the specific revision, or, as the commenter notes, an operator must request an AMOC to use a later revision.

Conclusion

After careful review of the available data, including the comments noted above, we have determined that air safety and the public interest require the adoption of the rule with the changes described previously. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

We estimate that 365 airplanes of U.S. registry will be affected by this AD. The following table provides the cost estimates for each requirement.

Costs of Required Actions

Action	Work hours per airplane	Average hourly labor rate	Parts cost per airplane	Cost per airplane
Inspect the pitot-TAT relay	1	$65	$0	$65
Inspect the FADEC resistor modules	2	65	0	130

Action	Work hours per airplane	Average hourly labor rate	Parts cost per airplane	Cost per airplane
Seal the lateral console panels and install protective sheets	3	65	660	855

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by adding the following new airworthiness directive:

2004–01–12 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39–13426. Docket 2002–NM–336–AD.

Applicability: Model EMB–135 and EMB–145 series airplanes, certificated in any category; as listed in EMBRAER Service Bulletin 145–30–0032, Change 04, dated August 11, 2003.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct oxidation of the pitot-true air temperature (TAT) relay, which could result in increased resistance and overheating of the relay and consequent smoke in the cockpit; and to detect and correct oxidation of the full authority digital engine control (FADEC) electronic interface resistor modules, which could result in in-flight uncommanded engine power roll back to idle, accomplish the following:

Inspection and Cleaning of Pitot-TAT Relays

(a) For airplanes identified in paragraph 1.A.(1) (''PART I'') of EMBRAER Service Bulletin 145–30–0032, Change 04, dated August 11, 2003: Within 400 flight hours after the effective date of this AD, perform a detailed inspection to detect contamination of the pitot-TAT relays and clean the relay/connector pins and sockets, in accordance with the Accomplishment Instructions (''PART I'') of the service bulletin. If any contamination remains after cleaning: Prior to further flight, replace each contaminated relay, relay socket, and relay socket contact with a new part, in accordance with the service bulletin.

Note 1: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Inspection of FADEC Interface Resistor Modules

(b) For airplanes identified in EMBRAER Service Bulletin 145–76–0003, dated April 22, 2002: Within 400 flight hours after the effective date of this AD, perform a detailed inspection to detect contamination (including moisture and corrosion) of the left- and right-hand FADEC electronic interface resistor modules, in accordance with the Accomplishment Instructions of the service bulletin. Then do the applicable corrective actions specified in paragraphs (b)(1) and (b)(2) of this AD.

(1) If any contamination is found during the inspection: Before further flight, clean the resistor modules and/or their respective electrical connector pins, in accordance with the service bulletin.

(2) If any contamination remains after cleaning the modules and pins as specified in paragraph (b)(1) of this AD: Before further flight, replace the modules and connectors with new parts, as applicable, in accordance with the service bulletin.

(3) Following accomplishment of any corrective action specified in paragraph (b)(1) or (b)(2) of this AD: Before further flight, perform the ohmic resistance test of the left- and right-hand FADEC electronic interface resistor modules, and accomplish applicable troubleshooting procedures, in accordance with the service bulletin.

Console Panel Sealing

(c) For airplanes identified in paragraph 1.A.(2) (''PART II'') of EMBRAER Service Bulletin 145–30–0032, Change 04, dated August 11, 2003: Before further flight following accomplishment of the requirements of paragraph (a) of this AD, modify the seal between the cockpit console panels and the storm window by applying PVC foam adhesive tape and sealant, in accordance with the Accomplishment Instructions (''PART II'') of the service bulletin.

Protective Sheet Installation

(d) For airplanes identified in paragraph 1.A.(3) (''PART III'') of EMBRAER Service Bulletin 145–30–0032, Change 04, dated August 11, 2003: Before further flight following accomplishment of the requirements of paragraph (b) of this AD, install new protective sheets at the relay supports in accordance with the Accomplishment Instructions (''PART III'') of the service bulletin.

Credit for Prior Service Bulletin Revisions

(e) The FAA considers actions done before the effective date of this AD acceptable for compliance with this AD, if those actions were done in accordance with the applicable service bulletins listed in Table 1 of this AD.

TABLE 1.—ACCEPTABLE SERVICE BULLETIN REVISIONS

Operators that have—	May take credit for compliance with—	If that action was done before the effective date of this AD in accordance with EMBRAER Service Bulletin—
Inspected the pitot-TAT relays and done applicable corrective actions.	Paragraph (a) of this AD	145–30–0032, Change 02, dated December 3, 2001; or Change 03, dated January 27, 2003.
Modified the seal	Paragraph (c) of this AD	145–30–0032, Change 02, dated December 3, 2001; or Change 03, dated January 27, 2003.
Installed protective sheets	Paragraph (d) of this AD	145–25–0211, dated April 27, 2001; Part I. 145–25–0211, Change 01, dated May 25, 2001; Part I. 145–25–0211, Change 02, dated June 17, 2001; Part I. 145–25–0211, Change 03, dated December 3, 2001; Part I. 145–25–0211, Change 04, dated February 6, 2002; Part I. 145–25–0211, Change 05, dated April 16, 2002; Part I. 145–25–0211, Change 06, dated December 26, 2002; Part I. 145–25–0211, Change 07, dated August 11, 2003; Part I. 145–30–0032, Change 02, dated December 3, 2001; Part III. 145–30–0032, Change 03, dated January 27, 2003; Part III.

Alternative Methods of Compliance

(f) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, is authorized to approve alternative methods of compliance for this AD.

Incorporation by Reference

(g) Unless otherwise specified in this AD, the actions must be done in accordance with EMBRAER Service Bulletin 145–30–0032, Change 04, dated August 11, 2003; and EMBRAER Service Bulletin 145–76–0003, dated April 22, 2002; as applicable. EMBRAER Service Bulletin 145–30–0032, Change 04, contains the following effective pages:

Page No.	Change level shown on page	Date shown on page
1, 2, 7, 8, 21, 22	04	August 11, 2003.
3–6, 9–20	02	December 3, 2001.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 2: The subject of this AD is addressed in Brazilian airworthiness directives 2001–05–01R2, dated April 22, 2003; and 2002–10–03, dated October 24, 2002.

Effective Date

(h) This amendment becomes effective on February 13, 2004.

Issued in Renton, Washington, on December 31, 2003.

Michael J. Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–269 Filed 1–8–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–SW–24–AD; Amendment 39–13423; AD 2004–01–09]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model AS355E, F, F1, F2, and N 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 revising the Limitations section of the Rotorcraft Flight Manual (RFM) to prohibit using the landing light except for landing and takeoff until the 40 amp 10P1 and 10P2 contactors are replaced with 50 amp circuit breakers. Also, this amendment requires upgrading the electrical master boxes. This amendment is prompted by three reports of complete loss of electrical power generating systems, except for the direct battery power, due to a combination of high outside temperature and long flight duration with the landing light on that causes the nontemperature compensated trip switches to prematurely trip. The actions specified by this AD are intended to prevent failure of the helicopter power generator systems, loss of the use of flight instruments, and subsequent loss of control of the helicopter.

DATES: Effective February 13, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 13, 2004.

ADDRESSES: The service information referenced in this AD may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Carroll Wright, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations and Guidance Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5120, 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 September 18, 2003 (68 FR 54688). That action proposed to require temporarily revising the Limitations section of the RFM to prohibit use of the landing light except for landing and takeoff by making pen and ink changes or adding a copy of the AD to the RFM. Also proposed was, within 6 months, or before the next instrument flight rule (IFR) flight, whichever occurs first, replacing nontemperature compensated 40-amp contactors 10P1 and 10P2 with temperature compensated 50-amp circuit breakers.

The Direction Generale De L'Aviation Civile (DGAC), the airworthiness authority for France, notified the FAA that an unsafe condition may exist on the specified ECF model helicopters. The DGAC advises of three reports of complete electrical power failure, except direct battery power, that occurred during flights with high outside air temperature (above 25 degrees Celsius) and use of the landing light for more than 1 hour. The failures were due to the disengagement of 40-ampere (amp) contactors (trip switches MP 1648) in the electrical power systems below their nominal threshold. These trip switches are not temperature compensated and accordingly may trip based on the internal temperature of the electrical master boxes.

Eurocopter has issued Service Telex No. 25.00.63, dated August 2, 2000 (Telex), specifying to not use the landing light outside the landing and takeoff phases and Alert Service Bulletin AS 355, No. 24.00.14, dated November 28, 2002, specifying an upgrade of the electrical master boxes on or before August 1, 2003. The DGAC classified these service bulletins as mandatory and issued AD Nos. 2000–339–060(A), dated August 23, 2000; 2000–339–060(A) R1, dated September 6, 2000; and 2000–339–060(A) R2, dated December 24, 2002, 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 airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of these type designs 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.

The FAA estimates that this AD will:

- Affect 442 helicopters of U.S. registry,
- Take ½ work hour per helicopter to add information to the Limitations section of the RFM, and
- Take 4 hours to upgrade the electrical boxes.

The average labor rate is $65 per work hour. The required parts will cost approximately $1707. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $883,779.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2004–01–09 Eurocopter France: Amendment 39–13423. Docket No. 2003–SW–24–AD.

Applicability: Model AS355E, F, F1, F2, and N helicopters, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the electrical power generating systems, loss of the use of flight instruments, and subsequent loss of control of the helicopter, accomplish the following:

(a) Before further flight and until you replace the circuit breakers in accordance with paragraph (b) of this AD, revise the Limitations section of the Rotorcraft Flight Manual (RFM) to prohibit use of the landing light except for the landing and takeoff phases of flight by making pen and ink changes, or inserting a copy of this AD into the Limitations section of the RFM.

Note 1: Eurocopter France Service Telex 25.00.63, dated August 2, 2000, pertains to the subject of this AD.

(b) Within 6 months or before the next instrument flight rule (IFR) operation, whichever occurs first, upgrade the electrical master boxes and replace the nontemperature compensated 40-amp contactors (circuit breakers) 10P1 and 10P2 with temperature compensated 50-amp circuit breakers, part number P/N 84–306–050 (B) or 5TC50–50 (C), in accordance with the Accomplishment Instructions, paragraph 2.B, of Eurocopter Alert Service Bulletin AS355, No. 24.00.14, dated November 28, 2002.

(c) 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 Manager, Safety Management Group, Rotorcraft Directorate, FAA, for information about previously approved alternative methods of compliance.

(d) Modifying the electrical master boxes and replacing the nontemperature compensated 40-amp contractors (circuit breakers) must be done in accordance with Eurocopter Alert Service Bulletin AS 355, No. 24.00.14, dated November 28, 2002. 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 FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on February 13, 2004.

Note 2: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) ADs 2000–339–060(A) dated August 23, 2000; 2000–339–060(A) R1, dated September 6, 2000; and 2000–339–060(A) R2, dated December 24, 2002.

Issued in Fort Worth, Texas, on December 23, 2003.

Kim Smith,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 04–268 Filed 1–8–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–SW–41–AD; Amendment 39–13428; AD 2004–01–14]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model EC130B4 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for Eurocopter France (Eurocopter) Model EC130B4 helicopters with a certain air intake cowling attachment fitting (fitting) installed. This action requires inspecting for broken or cracked forward fittings. If a broken or cracked fitting is found, inspecting the four center and aft fittings for cracks is required. Replacing broken fittings or certain cracked fittings is also required. This amendment is prompted by reports of cracked and broken fittings; one fitting failed after only 418 hours time-in-service (TIS). This condition, if not corrected, could result in failure of a forward fitting, an excess load on the other fittings, which could cause them to crack and break, which could result in loss of the air intake cowling in flight, and subsequent damage or loss of control of the helicopter, or both.

DATES: Effective January 26, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 26, 2004.

Comments for inclusion in the Rules Docket must be received on or before March 8, 2004.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2003–SW–41–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: *9-asw-adcomments@faa.gov.*

The service information referenced in this AD may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ed Cuevas, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Safety Management Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5355, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: The Direction Generale De L'Aviation Civile (DGAC), the airworthiness authority for France, notified the FAA that an unsafe condition may exist on Eurocopter Model EC130B4 helicopters with fittings, part number (P/N) 350A25–0405–00, –01, –02, –03, –04, and –05, installed. The DGAC advises that there have been cases of cracks and failures of fittings.

Eurocopter France has issued Eurocopter Alert Service Bulletin No. 53A004, dated September 11, 2003, which specifies inspecting the fittings for cracks and replacing failed fittings or those with more than 2 cracks or 1 crack that exceeds 10 mm in length. The alert service bulletin permits operators to stop-drill up to two cracks provided that no crack exceeds 10 mm in length and that the fitting is inspected every 20 flying hours, at the lastest. The DGAC classified this alert service bulletin as mandatory and issued AD 2003–358(A), dated October 15, 2003, to ensure the continued airworthiness of these helicopters in France.

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

This unsafe condition is likely to exist or develop on other helicopters of the same type design registered in the United States. Therefore, this AD is being issued to prevent failure of a forward fitting, an excess load on the other fittings, which could cause them to crack and break, which could result in loss of the air intake cowling in flight, and subsequent damage or loss of control of the helicopter, or both. This AD requires:

- For helicopters with less than 100 hours TIS, inspecting the forward fittings no later than 110 hours TIS, then at intervals not to exceed 110 hours TIS;
- For helicopters with 100 or more hours TIS, inspecting the forward fittings within the next 10 hours TIS, then at intervals not to exceed 110 hours TIS;
- If one or two forward fittings are broken or cracked, inspecting the center and aft fittings for breaks or cracks before further flight;
- If any fitting is broken, has a crack that exceeds 10 mm in length, or has more than 2 cracks, replacing the fitting with an airworthy fitting before further flight; and
- For helicopters with one or more cracked fitting with no more than two cracks on each fitting, and each crack length is less than or equal to 10mm, stop-drilling the cracks and inspecting the fitting at intervals not to exceed 20 hours TIS.

The actions must be done in accordance with the alert service bulletin described previously. The unsafe condition must be corrected in a very short time period because loss of an air intake cowling in flight can adversely affect the controllability or structural integrity of the helicopter. Therefore, the previously described actions are required, and this AD must be issued immediately. This AD is an interim action; Eurocopter is investigating to determine the cause of the cracked and failed fittings. Upon completion of that investigation, we may issue another AD with terminating action for the requirements of this AD.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

The FAA estimates that this AD will affect 28 helicopters and will take approximately 1 work hour to inspect the two forward fittings. If cracked or broken fittings are found, an additional 2 work hours will be required to inspect the center and aft fittings, and an additional 0.5 work hour will be required to replace each cracked or broken fitting. We estimate that the average labor rate will be $65 per work hour. We estimate that forward fittings cost $240 each and center and aft fittings cost $225 each. The estimated total cost of the AD for each year will

be approximately $11,995, assuming that (1) The entire fleet is inspected 5 times per year, (2) cracked forward fittings are found on two helicopters during 2 inspections, (3) 2 forward and 2 center fittings are replaced on one helicopter, and (4) 2 forward, 2 center, and 2 aft fittings are replaced on the other helicopter.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2003–SW–41–AD.'' The postcard will be date stamped and returned to the commenter.

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

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2004–01–14 Eurocopter France: Amendment 39–13428. Docket No. 2003–SW–41–AD.

Applicability: Eurocopter France Model EC130B4 helicopters with an air intake cowling forward attachment fitting (fitting), part number (P/N) 350A25–0405–00, –01, –02, –03, –04, and –05, installed, certificated in any category.

Compliance: Required as indicated.

To prevent failure of a forward fitting, an excess load on the other fittings, which could cause them to crack and break, which could result in loss of the air intake cowling in flight, and subsequent damage or loss of control of the helicopter, or both, accomplish the following:

(a) Visually inspect the forward fittings for breaks or cracks by following paragraph 2.B.1. of the Operational Procedure in Eurocopter Alert Service Bulletin No. 53A004, dated September 11, 2003 (ASB).

(1) For helicopters with less than 100 hours time-in-service (TIS), inspect before the helicopter reaches 110 hours TIS, unless accomplished previously, and thereafter, at intervals not to exceed 110 hours TIS.

(2) For helicopters with 100 or more hours TIS, inspect within 10 hours TIS, unless accomplished previously, and thereafter at intervals not to exceed 110 hours TIS.

(b) If one or two forward fittings are broken or cracked, inspect the center and aft fittings for breaks or cracks before further flight by following paragraph 2.B.2.b. of the ASB.

(c) Before further flight, replace any fitting that is broken or has more than two cracks, or any fitting with a crack that exceeds 10 mm in length by following paragraph 2.B.2.c. of the Operational Procedure in the ASB.

(d) For any cracked fitting that has no more than two cracks, and neither crack exceeds 10 mm in length, you are not required to replace that cracked fitting provided that you stop-drill each crack and re-inspect that fitting at intervals not to exceed 20 hours TIS. During a later inspection, if you discover that the fitting has failed, another crack has developed, or a stop-drilled crack has grown to exceed 10mm in length, replace the fitting before further flight.

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

(f) The inspections and replacements, if necessary, shall be done using Eurocopter Alert Service Bulletin No. 53A004, dated September 11, 2003. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from 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 FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on January 26, 2004.

Note: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD 2003–358(A), dated October 15, 2003.

Issued in Fort Worth, Texas, on December 31, 2003.

Kim Smith,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 04–368 Filed 1–8–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 558

New Animal Drugs; Lasalocid

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 Ridley Block Operations, Inc. The NADA provides for the use of a lasalocid Type A medicated article to manufacture free-choice, Type C medicated protein feed blocks used for increased rate of weight gain in pasture cattle (slaughter, stocker, feeder cattle, and dairy and beef replacement heifers).

DATES: This rule is effective January 9, 2004.

FOR FURTHER INFORMATION CONTACT: Eric S. Dubbin, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0232, e-mail: *edubbin@cvm.fda.gov.*

SUPPLEMENTARY INFORMATION: Ridley Block Operations, Inc., 424 North Riverfront Dr., P.O. Box 8500, Mankato, MN 56002–8500, filed NADA 141–187 that provides for use of BOVATEC 68 (lasalocid) Type A medicated article to manufacture CRYSTALYX IONO-LYX, free-choice Type C medicated protein feed blocks containing 300 grams lasalocid per ton. The free-choice medicated feed protein block is used for increased rate of weight gain in pasture cattle (slaughter, stocker, feeder cattle, and dairy and beef replacement heifers). The NADA is approved as of December 12, 2003, and the regulations are amended in 21 CFR 558.311 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In addition, Ridley Block Operations, Inc., has not been previously listed in the animal drug regulations as a sponsor of an approved application. At this time, 21 CFR 510.600(c) is being amended to add entries for the firm.

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.

Under section 512(c)(2)(F)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(ii)), this approval qualifies for 3 years of marketing exclusivity beginning.

The agency has determined under 21 CFR 25.33(a)(6) 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

21 CFR Part 510

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

21 CFR Part 558

Animal drugs, Animal feeds.

■ 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 parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

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

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

■ 2. Section 510.600 is amended in the table in paragraph (c)(1) by alphabetically adding a new entry for ''Ridley Block Operations Inc.'' and in the table in paragraph (c)(2) by numerically adding a new entry for ''068287'' to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Ridley Block Operations Inc., 424 North Riverfront Dr., P.O. Box 8500, Mankato, MN 56002–8500.	068287
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
068287	Ridley Block Operations Inc., 424 North Riverfront Dr., P.O. Box 8500, Mankato, MN 56002-8500
* * * * *	

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

■ 3. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

■ 4. Section 558.311 is amended by adding paragraphs (b)(9) and (e)(1)(xix) to read as follows:

§ 558.311 Lasalocid.

* * * * *

(b) * * *

(9) 15 percent activity to No. 068287 for use in free-choice protein blocks for cattle as in paragraphs (e)(1)(xix) of this section.

* * * * *

(e) * * *

(1) * * *

Lasalocid sodium activity in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
* * *	* * *	*		
(xix) 300		Pasture cattle (slaughter, stocker, feeder cattle, and dairy and beef replacement heifers): for increased rate of weight gain.	Feed continuously on a free-choice basis at a rate of not less than 60 mg nor more than 200 mg of lasalocid per head per day.	068287

* * * * *

Dated: December 29, 2003.

Linda Tollefson,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. 04–429 Filed 1–8–04; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 302

[BOP–1115–I]

RIN 1120–AB15

Comments on UNICOR Business Operations: Clarification of Addresses

AGENCY: Bureau of Prisons, Justice.

ACTION: Interim final rule.

SUMMARY: In this document, the Bureau of Prisons (Bureau) changes the addresses of the Chief Operating Officer and the Board of Directors of Federal Prison Industries, Inc. (also known as UNICOR), to correct and update them.

DATES: This rule is final January 9, 2004. Please send comments on this rulemaking by March 9, 2004.

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

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

SUPPLEMENTARY INFORMATION: In this document, the Bureau changes the addresses of the Chief Operating Officer and the Board of Directors of Federal Prison Industries, Inc. (also known as UNICOR), to correct and update them. The current addresses were published on July 26, 1990 (55 FR 30668) and, in the intervening ten years, both offices have since been relocated within the same buildings. We make this rule change to correct an obsolete room number. We do, however, want to assure the public that any mail sent to the addresses in the current regulation has been and will continue to be routed to the currently correct rooms.

Administrative Procedure Act

The Administrative Procedure Act (5 U.S.C. § 553) allows exceptions to notice-and-comment rulemaking ''when the agency for good cause finds * * * that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.''

This rulemaking is exempt from normal notice-and-comment procedures because it merely updates addresses. This rulemaking makes no change to any rights or responsibilities of the agency or any regulated entities. Because this minor change is of a practical nature, normal notice-and-comment rulemaking is unnecessary. The public may, however, comment on this rule change because it is an interim final rule.

Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866, ''Regulatory Planning and Review'', section 1(b), Principles of Regulation. The Director, Bureau of Prisons has determined that this rule is not a ''significant regulatory action'' under Executive Order 12866, section 3(f), and accordingly this rule has not been reviewed by the Office of Management and Budget.

Executive Order 13132

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

Regulatory Flexibility Act

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

Unfunded Mandates Reform Act of 1995

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

Small Business Regulatory Enforcement Fairness Act of 1996

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

List of Subjects in 28 CFR Part 302

Administrative practice and procedure.

Harley G. Lappin,

Director, Bureau of Prisons.

■ Under the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons, we amend 28 CFR part 302 as follows.

PART 302—COMMENTS ON UNICOR BUSINESS OPERATIONS

■ 1. Revise the authority citation for 28 CFR part 302 to read as follows:

Authority: 18 U.S.C. 4126, and by resolution of the Board of Directors of Federal Prison Industries, Inc.

■ 2. Revise § 302.1(b) to read as follows:

§ 302.1 Public and private sector comment procedures.

* * * * *

(b) Address correspondence as follows:

(1) Chief Operating Officer, Federal Prison Industries, Inc., 320 First Street, NW., Washington, DC 20534, Attn: Comment Procedures; or

(2) Board of Directors, Federal Prison Industries, Inc., 320 First Street, NW., Washington, DC 20534, Attn: Comment Procedures.

* * * * *

[FR Doc. 04–472 Filed 1–8–04; 8:45 am]

BILLING CODE 4410–05–P

SELECTIVE SERVICE SYSTEM

32 CFR Part 1665

Privacy Act; Implementation

AGENCY: Selective Service System

ACTION: Final rule; technical amendments.

SUMMARY: These technical amendments change the address for persons to request Agency records pertaining to

them, the address for the location where remittances for fees shall be mailed or delivered, and the address to be used to request information available to the public or to former employers of registrants whenever an area office is closed. The current addresses listed under ''Privacy Act Procedures'' in the Code of Federal Regulations are outdated due to a change of location for the Agency's headquarters.

EFFECTIVE DATE: February 9, 2004.

FOR FURTHER INFORMATION CONTACT: Rudy Sanchez, Office of the General Counsel, Selective Service System, 1515 Wilson Boulevard, Arlington, VA 22209–2425. (703–605–4012).

SUPPLEMENTARY INFORMATION: The Selective Service considers this rule (32 CFR part 1665) to be a procedural rule which is exempt from the notice-and-comment under 5 U.S.C. 533 (b)(3)(A). This rule is not a significant rule for the purpose of Executive Order 12866 and has not bee reviewed by the Office of Management and Budget. As required by the Regulatory Flexibility Act, SSS certifies that these regulatory amendments will not have a significant impact on small business entities.

List of Subjects in 32 CFR Part 1665

Administrative practice and procedure, Privacy, Selective Service System.

■ For the reason set forth in the preamble, amend part 1665 of title 32 of the code of Federal Regulations as follows:

PART 1665—PRIVACY ACT PROCEDURES

■ 1. The authority citation for part 1665 continues to reads:

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*; E.O. 11623.

§ 1665.1 [Amended]

■ 2. In Sec. 1665.1 (a), revise ''Director, Selective Service System, ATTN: Records Manager, Washington, DC 20435'' to read, ''Selective Service System, ATTN: Records Manager, Public & Intergovernmental Affairs, Arlington, VA 22209–2425.''

§ 1665.6 [Amended]

■ 3. In Sec. 1665.6 (c)(3), revise ''Washington, DC 20453'' to read, ''Arlington, VA 22209–2425.''

§ 1665.7 [Amended]

■ 4. In Sec. 1665.7 (c), revise ''Washington, DC 20435'' to read, ''Arlington, VA 22209–2425.''

Dated: December 22, 2003.

Lewis C. Brodsky,

Acting Director of Selective Service.

[FR Doc. 04–282 Filed 1–8–04; 8:45 am]

BILLING CODE 8015–01–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD07–03–141]

RIN 1625–AA09

Drawbridge Operation Regulation; Biscayne Bay, Atlantic Intracoastal Waterway, Miami River, Miami-Dade County, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily changing the regulations governing the operation of the east and west spans of the Venetian Causeway bridges across the Miami Beach Channel on the Atlantic Intracoastal Waterway, and the Brickell Avenue and Miami Avenue bridges across the Miami River, Miami-Dade County. This rule will allow these bridges to remain in the closed position during the Miami Tropical Marathon on February 1, 2004.

DATES: This temporary rule is effective from 6:05 a.m. until 11:59 a.m. on February 1, 2004.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD–07–03–141] and are available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 SE. 1st Avenue, Room 432, Miami, FL, 33131, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The Seventh Coast Guard District, Bridge Branch, maintains the public docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Dragon, Project Officer, Seventh Coast Guard District, Bridge Branch, at (305) 415–6743.

SUPPLEMENTARY INFORMATION:

Regulatory History

On October 10, 2003, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulation; Biscayne Bay, Atlantic Intracoastal Waterway, Miami River, Miami-Dade County, Florida, in the **Federal Register** (68 FR 197). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

The Miami Marathon Director requested that the Coast Guard temporarily change the existing regulations governing the operation of the east and west spans of the Venetian Causeway bridges, and the Brickell Avenue and Miami Avenue bridges, to allow them to remain in the closed position during the running of the Miami Tropical Marathon on February 1, 2004. The marathon route passes over these four bridges, and any bridge opening would disrupt the race. Based on the limited amount of time the bridges will be closed, the rule will still provide for the reasonable needs of navigation on the day of the event.

The east and west spans of the Venetian Causeway bridges are located between Miami and Miami Beach. The current regulation governing the operation of the east span of the Venetian Causeway bridge is published in 33 CFR 117.269 and requires the bridge to open on signal; except that, from November 1 through April 30 from 7:15 a.m. to 8:45 a.m. and from 4:45 p.m. to 6:15 p.m. Monday through Friday, the draw need not open. However, the draw shall open at 7:45 a.m., 8:15 a.m., 5:15 p.m., and 5:45 p.m., if any vessel is waiting to pass. The draw shall open on signal on Thanksgiving Day, Christmas Day, New Year's Day and Washington's Birthday. Moreover, the bridge must open for public vessels of the United States, tugs with tows, regularly scheduled cruise vessels, and vessels in distress.

The regulation governing the west span of the Venetian Causeway bridge is published in 33 CFR 117.5 and requires the bridge to open on signal.

The operating schedule of the Brickell Avenue and Miami Avenue bridges is published in 33 CFR 117.305 and requires each bridge to open on signal; except that, from 7:30 a.m. to 9 a.m. and 4:30 p.m. to 6 p.m. Monday through Friday, except Federal holidays, the draws need not open for the passage of vessels. Public vessels of the United States and vessels in an emergency involving danger to life or property are allowed to pass at any time.

This temporary rule will not adversely affect the reasonable needs of navigation due to the limited time, six hours, the bridges will be in the closed position.

Discussion of Rule

The Coast Guard is temporarily changing the operating regulations of

the east and west spans of the Venetian Causeway bridges, and the Brickell Avenue and Miami Avenue bridges, on February 1, 2004. This temporary rule will allow the east span of the Venetian Causeway bridge to remain closed from 6:05 a.m. to 8:40 a.m. on February 1, 2004. The temporary rule will allow the west span of the Venetian Causeway to remain closed from 6:15 a.m. to 9:20 a.m. on February 1, 2004. The Brickell Avenue bridge will remain closed from 7:10 a.m. to 11:59 a.m. on February 1, 2004. The Miami Avenue bridge will remain closed from 6:25 a.m. to 10 a.m. on February 1, 2004. Public vessels of the United States and vessels in distress shall be passed at anytime.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). The temporary rule will only affect a small percentage of vessel traffic through these bridges during these times. The east and west spans of the Venetian Causeway bridges and the Miami Avenue bridge will be closed on a Sunday for about three hours from approximately 6 a.m. in the morning, when vessel traffic is minimal. The Brickell Avenue Bridge will be closed for slightly longer, for five hours, but the day, time and location of the bridge indicate that vessel traffic will be minimal as well when this rule is in effect. Overall, the temporary rule, will affect only a small percentage of vessel traffic through these bridges during these time frames.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. The small entities affected will be marine traffic requiring passage through these bridges during the Sunday morning hours of February 1, 2004. These vessels will not be able to pass through these bridges during the effective times of this rule. However, no public comments were received on this, or any other subject, with regard to the rule. Due to the limited effective times of the rule and the nominal amount of marine traffic affected, this rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the want to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If this temporary rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in **FOR FURTHER INFORMATION CONTACT.**

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e) of the Instruction, from further environmental documentation. Under figure 2–1, paragraph (32)(e), of the Instruction, an ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1(g); Department of Homeland Security Delegation No. 0170.1; section 117.255 also issued under authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. From 6:15 a.m. until 9:20 a.m. on February 1, 2004, in § 117.261, paragraph (nn) is suspended and a new paragraph (vv) is added to read as follows:

§ 117.261 Atlantic Intracoastal Waterway from St. Marys River to Key Largo

* * * * *

(vv) *West Span of the Venetian Causeway, mile 1088.6 at Miami.* The draw need not open from 6:15 a.m. until 9:20 a.m. on February 1, 2004. Public vessels of the United States and vessels in distress shall be passed at anytime.

■ 3. From 6:05 a.m. until 8:40 a.m. on February 1, 2004, in § 117.269, temporarily designate the existing regulatory text as paragraph (a), suspend newly designated paragraph (a), and add a new paragraph (b) to read as follows:

§ 117.269 Biscayne Bay

* * * * *

(b) The draw of the east span of the Venetian Causeway bridge across Miami Beach Channel need not open from 6:05 a.m. to 8:40 a.m. on February 1, 2004. Public vessels of the United States and vessels in distress shall be passed at anytime.

■ 4. From 6:25 a.m. until 11:59 a.m. on February 1, 2004, in § 117.305, temporarily designate the existing regulatory text as paragraph (a), suspend newly designated paragraph (a), and add new paragraphs (b) and (c) to read as follows:

§ 117. 305 Miami River.

* * * * *

(b) The draw of each bridge from the mouth to and including the NW. 27th Avenue bridge, mile 3.7 at Miami, except the Miami Avenue and Brickell Avenue bridges, shall open on signal: except that, from 7:30 a.m. to 9 a.m. and from 4:30 p.m. to 6 p.m. Monday through Friday, except Federal holidays, the draws need not be opened for the passage of vessels. Public vessels of the United States and vessels in an emergency involving danger to life or property shall be passed at any time.

(c) The Miami Avenue bridge, across the Miami River, need not open from 6:25 a.m. to 10 a.m. on February 1, 2004, and the Brickell Avenue bridge, across the Miami River, need not open from 7:10 a.m. to 11:59 a.m. on February 1, 2004. Public vessels of the United States and vessels in an emergency involving danger to life or property shall be passed at any time.

Dated: December 18, 2003.

Fred M. Rosa, Jr.,

Captain, U.S. Coast Guard, Acting Commander, Seventh Coast Guard District.

[FR Doc. 04–388 Filed 1–8–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–03–289]

RIN 2115–AA00

Security Zone; Renaissance Center, Cobo Hall, North American International Auto Show, Detroit River, Detroit, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone on the navigable waters of the Detroit River in the Captain of the Port Detroit Zone. This temporary security zone is necessary to protect the participants during the North American International Auto Show, as well as the public, facilities, and the surrounding area from possible sabotage or other subversive acts. This security zone is intended to restrict vessel traffic from a portion of the Detroit River in the vicinity of the Renaissance Center and Cobo Hall.

DATES: This rule is effective from 12 a.m. (noon) January 9, 2004, until 8 p.m. January 19, 2004.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD09–03–289 and are available for inspection or copying at Coast Guard Marine Safety Office Detroit, 110 Mt. Elliott Ave, Detroit, Michigan, between 8 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: LTJG Brandon Sullivan, U.S. Coast Guard Marine Safety Office Detroit, at (313) 568–9580.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B) and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for not publishing an NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard was unaware of the need for this security zone in time to publish an NPRM followed by a temporary final rule before the effective date. Delaying this rule would be contrary to the public interest of ensuring the safety of individuals at the North American International Auto Show.

Background and Purpose

This security zone is necessary to protect the participants at the North American International Auto Show, as well as the public, facilities, and the surrounding area from possible sabotage or other subversive acts. All persons other than those approved by the Captain of the Port Detroit, or his authorized representative, are prohibited from entering or moving within this security zone. The Captain of the Port Detroit may be contacted via VHF Channel 16 for further instructions before transiting through the restricted area. The Captain of the Port Detroit's on-scene representative will be the Patrol Commander. In addition to this publication of the rule in the **Federal Register**, the public will be made aware of the existence of this security zone, exact location and the restrictions involved, via Broadcast Notice to Mariners.

Discussion of Temporary Final Rule

This regulation establishes a temporary security zone commencing

on the shore-side of Cobo Hall, at 42°19′26.6″ N, 083°03′06.6″ W; then extending offshore at 160°T to the Third St. junction buoy at 42°19′24.2″ N, 83°03′4.7″ W; then northeast at 073°T to the Griswold St. junction buoy at 42°19′31″ N, 83°02′34.1″ W; then northeast at 071°T to 42°19′40″ N, 083°02′00″ W; then north at 000°T to a point on land at 42°19′46.3″ N, 083°02′00″ W (near Atwater Customs station); then southeast following the shoreline back to the point of origin. These coordinates are based upon North American Datum 1983 (NAD 83). This security zone will be enforced from 12 a.m. (noon) on January 9, 2004, until 8 p.m. on January 19, 2004.

Regulatory Evaluation

This temporary final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has exempted it from review under that order. It is not significant under the regulatory policies and procedures of the Department of Homeland Security. The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

This temporary security zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will not obstruct the regular flow of commercial traffic and will allow vessel traffic to pass around the security zone. In the event that a commercial vessel desires to transit the area, they may request permission from the Captain of the Port Detroit to transit the area. Commercial vessels may only transit the area after receiving permission from the Captain of the Port Detroit.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the office listed in **ADDRESSES** in this preamble. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

We have analyzed this temporary final rule under Executive Order 13132, Federalism, and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

We have considered the environmental impact of this temporary final rule and concluded that, under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T09–289 to read as follows:

§ 165.T09–289 Security Zone; Renaissance Center and Cobo Hall, North American International Auto Show, Detroit River, Detroit, MI.

(a) *Location.* The following is a temporary security zone: All waters and adjacent shoreline encompassed by a line commencing on the shore-side near Cobo Hall, at 42°19′26.6″ N, 083°03′06.6″ W; then extending offshore at 160°T to the Third St. junction buoy at 42°19′24.2″ N, 83°03′4.7″ W; then northeast at 073°T to the Griswold St. junction buoy at 42°19′31″ N, 83°02′34.1″ W; then northeast at 071°T to 42°19′40″ N, 083°02′00″ W; then north at 000°T to a point on land at 42°19′46.3″ N, 083°02′00″ W (near Atwater Customs station); then southeast following the shoreline back to the point of origin. These coordinates are based upon North American Datum 1983 (NAD 83).

(b) *Enforcement period.* This security zone will be enforced from 12 p.m. (noon) January 9, 2004, until 8 p.m. on January 19, 2004.

(c) *Regulations.* (1) In accordance with § 165.33, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port Detroit.

(2) Persons desiring to transit through security zone must contact the Captain of the Port at telephone number (313) 568–9580/313–568–9524, or on VHF channel 16 to seek permission prior to transiting the area. If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port or his or her designated representative.

Dated: December 31, 2003.

P.G. Gerrity,

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

[FR Doc. 04–385 Filed 1–8–04; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Parts 215 and 218

RIN 0596–AC15

Predecisional Administrative Review Process for Hazardous Fuel Reduction Projects Authorized Under the Healthy Forests Restoration Act of 2003

AGENCY: Forest Service, USDA.

ACTION: Interim final rule; request for comments.

SUMMARY: This interim final rule establishes the sole process by which the public may seek administrative review and file objections to proposed hazardous fuel reduction projects authorized by the Healthy Forests Restoration Act of 2003 (HFRA), Public Law 108–148. Section 105 of the act directs the Secretary of Agriculture to promulgate, within 30 days of HFRA's enactment, interim final regulations to establish a predecisional administrative review process for hazardous fuel reduction projects authorized under the act. The Forest Service invites written comments on this interim final rule. As provided by HFRA, this interim final rule is effective upon publication in the **Federal Register** and will be in effect until the Secretary adopts a final rule.

DATES: This interim final rule is effective January 9, 2004. Comments on this interim final rule must be received in writing by April 8, 2004.

ADDRESSES: Send written comments to USDA, Forest Service, Healthy Forests Restoration Act Objections, Content Analysis Team, PO Box 22777, Salt Lake City, UT 84122; by electronic mail to *HFRAobjections@fs.fed.us;* or by fax to (801) 517–1014; or by the electronic process available at Federal eRulemaking portal at *http://www.regulations.gov.* If comments are sent by electronic mail or by fax, the public is requested not to send duplicate written comments via regular mail. Please confine written comments to issues pertinent to the interim final rule; explain the reasons for any recommended changes; and, where possible, reference the specific section or paragraph being addressed.

All timely and properly submitted comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received on this interim final rule at the Content Analysis Team Service Center offices in Salt Lake City, Utah between the hours of 8 a.m. to 4:30 p.m. on business days. Those wishing to inspect comments should call ahead (801) 517–1020 to facilitate an appointment and entrance to the building.

FOR FURTHER INFORMATION CONTACT: Steve Segovia, Assistant Director, Appeals and Litigation at (202) 205–1066.

SUPPLEMENTARY INFORMATION: On December 3, 2003, President Bush signed into law the Healthy Forests Restoration Act of 2003 (HFRA) to reduce the threat of destructive wildfires while upholding environmental standards and encouraging early public input during planning processes. The legislation helps further the President's Healthy Forests Initiative pledge to care for America's forests and rangelands, reduce the risk of catastrophic fire to communities, help save the lives of firefighters and citizens, and protect threatened and endangered species.

One of the provisions of the act, (sec. 105) requires that the Secretary of Agriculture (Secretary) issue an interim final rule within 30 days of enactment to establish a predecisional administrative review process for hazardous fuel reduction projects authorized by the HFRA. This interim final satisfies this requirement to establish a predecisional administrative review process. Another provision of the act required the Secretary to provide a reasonable time for public comment. The Secretary is providing a 90-day comment period on the interim final rule. This 90-day provision satisfies the reasonable time requirement in the act.

Prior to passage of the HFRA, public notice and comment for hazardous fuel reduction project proposals, and procedures for appeal of decisions implementing those projects, would have been conducted according to the procedures set out at 36 CFR part 215. This interim final rule amends part 215 to exempt hazardous fuel reduction projects authorized by the HFRA from the notice, comment, and appeal procedures set out at part 215 and establishes separate review and objection procedures specifically for hazardous fuel reduction projects, pursuant to HFRA at the new part 218, subpart A.

Section-by-Section Description of Interim Final Rule

Part 215—Notice, Comment, and Appeal Procedures for National Forest System Projects and Activities

Section 215.3—Proposed Actions Subject to Legal Notice and Opportunity To Comment

Paragraphs (a) and (b) are amended to clarify that the notice and comment provisions of part 215 do not apply to proposed hazardous fuel reduction projects conducted pursuant to the HFRA.

Section 215.4—Actions Not Subject to Legal Notice and Opportunity To Comment

Paragraph (f) is added to identify that proposed hazardous fuel reduction projects authorized by the HFRA are not subject to the notice and comment provisions of part 215.

Section 215.12—Decisions and Actions Not Subject to Appeal

Paragraph (i) is added to clarify that proposed hazardous fuel reduction projects conducted under the provisions of the HFRA are not subject to appeal procedures in part 215 and that they are subject to the administrative review process found in part 218, subpart A.

Part 218—Predecisional Administrative Review

Subpart A—Predecisional Administrative Review for Proposed Hazardous Fuel Reduction Projects Authorized by the Healthy Forests Restoration Act of 2003

Section 218.1—Purpose and Scope

This section establishes a predecisional administrative review (hereinafter ''objection'') process for those proposed hazardous fuel reduction projects authorized by the HFRA.

Section 218.2—Definitions

This section defines some of the commonly used terms and phrases in the interim final rule.

Section 218.3—Authorized Hazardous Fuel Reduction Projects Subject to the Objection Process

This section describes projects subject to the objection process.

Section 218.4—Legal Notice of Objection Process for Proposed Authorized Hazardous Fuel Reduction Projects

This section describes the method to be used when giving notice that an environmental assessment or environmental impact statement for a proposed authorized hazardous fuel reduction project is available for administrative review and how the proposed authorized hazardous fuel reduction project must be described in this notice.

Paragraph (a) requires that the Responsible Official must mail the final environmental impact statement or the environmental assessment to those who have submitted specific written comments related to the proposed authorized hazardous fuel reduction project during the opportunity for public comment provided during preparation of the environmental assessment or environmental impact statement.

Paragraph (b) states that the Responsible Official must announce through notice in a previously designated newspaper of record when an environmental assessment or environmental impact statement is available for administrative review, except for proposals of the Chief where **Federal Register** publication is provided in addition to publication in the newspaper of record for the unit where the proposed hazardous fuel reduction project is undertaken. The legal notice begins the 30-day objection-filing period for a proposed authorized hazardous fuel reduction project.

Paragraph (b) further outlines the format and content of the legal notice, including a statement that incorporation of documents by reference is not allowed. This provision ensures that the contents of an objection, including all attachments, are readily available to the Reviewing Officer for timely completion of the objection process. Similarly, objectors cannot meet the requirements of this process by attempting to incorporate substantive materials and arguments from other objectors. The Federal courts have taken a similar view of such procedural maneuvers; *see Swanson* v. *U.S. Forest Service,* 87 F.3d 339 (9th Cir. 1996).

Paragraph (c) requires annual publication in the **Federal Register** of the newspapers to be used for giving legal notice of proposed authorized hazardous fuel reduction projects subject to this rule. The annual publication of the newspapers to be used for giving legal notice of proposed authorized hazardous fuel reduction projects subject to this rule may occur in tandem with the annual publication requirement found in part 215.

Section 218.5—Reviewing Officer

This section provides the Reviewing Officer with the authority to make all procedural determinations not specifically explained in this subpart, including those procedures necessary to ensure compatibility, to the extent practicable, with the administrative review processes of other Federal agencies when undertaking a joint proposed authorized hazardous fuel reduction project. The section also provides that such procedural determinations are not subject to further review.

Section 218.6—Who May File an Objection

This section of the rule identifies the qualifying requirements for who may file an objection under this subpart.

Paragraph (a) provides that those individuals and organizations who have submitted specific written comments related to the proposed authorized hazardous fuel reduction project during the opportunity for public comment provided during preparation of an environmental assessment or environmental impact statement for the proposed authorized hazardous fuel reduction project, as characterized in section 104(g) of the HFRA are eligible to file an objection. Paragraph (a) further states that for a proposed authorized hazardous fuel reduction project described in an environmental impact statement, the requirements of section 104(g) would be satisfied during the formal comment process for draft environmental impact statements set forth in 40 CFR 1506.10. For proposed authorized hazardous fuel reduction projects described in an environmental assessment, the requirements at section 104(g) will be satisfied by submission of specific written comment related to the proposed authorized hazardous fuel reduction project during scoping and other public involvement opportunities as environmental assessments are not circulated for public comment in draft form.

Paragraph (b) states that when an organization submits comments, eligibility is conferred on that organization only, not on individual members of that organization. The Department believes an organization is its own entity for purposes of submitting comments and that it is appropriate to accord an organization eligibility to file objections as an organization when it submits comments. However, the Department does not believe it is appropriate to allow individual members in that organization eligibility to file individual objections by virtue of membership in an organization that submitted comments. Nothing in this section prohibits an individual member of an organization

from submitting comments on his or her own behalf.

Paragraph (c) clarifies that if an objection is submitted on behalf of a number of named individuals or organizations, each individual or organization listed must meet the eligibility requirement of having submitted comments during scoping or the other opportunity to comment as prescribed by HFRA.

Paragraph (d) states that Federal agencies are not allowed to file an objection. Other avenues are available to Federal agencies for working through concerns regarding a proposed authorized hazardous fuel reduction project. It is expected that the various Federal agencies will work cooperatively during project development.

Paragraph (e) allows Federal employees to file objections as individuals in a manner consistent with Federal conflict of interest requirements.

Section 218.7—Filing an Objection

This section provides information on how to file an objection.

Paragraph (a) provides for an objection to be filed with the Reviewing Officer in writing.

Paragraph (b) describes the objector's responsibility.

Paragraph (c) provides that incorporation of documents by reference shall not be allowed. The reasons for not permitting documents by reference are addressed in the discussion in preceding section 218.4(b).

Paragraph (d) provides a detailed list of information that must be included in an objection. The list is comparable to the Department's requirements in appeal regulations for land and resource management plans (part 217) and projects implementing land and resource management plans (part 215).

Section 218.8—Objections Set Aside From Review

This section sets out the conditions under which objections shall not be reviewed.

Paragraph (a) specifies when the Reviewing Officer must set aside an objection without review or response on the concerns raised, including when an objection is not filed within the objection period; when the proposed project is not subject to the provisions of the HFRA and, therefore, is not subject to the objections process; when the objector did not submit specific written comments related to the proposed authorized hazardous fuel reduction project during the opportunity for public comment provided during preparation of an environmental assessment or environmental impact statement for the proposed authorized hazardous fuel reduction project; and when there is insufficient information to review and respond.

Paragraph (b) states that when an objection is set aside and not processed, the Reviewing Officer shall give written notice to the objector and Responsible Official.

Section 218.9—Objection Time Periods and Process

This section describes the various time periods involved in the objection process. One of the purposes of the HFRA is to reduce the threat of destructive wildfires while upholding environmental standards and encouraging early public input during review and planning processes. The time periods established in this section are predicated on that statutory purpose.

Paragraph (a) specifies that the objection-filing period is 30 days following publication of the legal notice.

Paragraph (b) describes how time periods are computed.

Paragraph (c) describes how evidence of timely filing is determined.

Paragraph (d) states that time extensions are not permitted.

Paragraph (e) states that a written response to the objection shall be issued within 30 days following the end of the objection-filing period.

Section 218.10—Resolution of Objections

This section describes the objection resolution process.

Paragraph (a) allows for either the Reviewing Officer or the objector to request a meeting to discuss the objection and attempt resolution.

Paragraph (b) provides for a written response to the objection. The Reviewing Officer may issue a single response to multiple objections of the same proposed authorized hazardous fuel reduction project. Paragraph (b) also states that there is no higher level review of the Reviewing Officer's written response to the objection.

Section 218.11—Timing of Authorized Hazardous Fuel Reduction Project Decision

This section describes when a Responsible Official may make a final decision regarding a proposed authorized hazardous fuel reduction project pursuant to the HFRA.

Paragraph (a) allows decisions to be made on proposed authorized hazardous fuel reduction projects when the objection period has ended and when responses have been made to all objections.

To provide reasonable assurance that objections are received before decisionmaking, paragraph (b) states that a decision can be made on a proposed authorized hazardous fuel reduction project on the 5th business day following the close of the filing period when no timely objections are filed. For all environmental impact statements, there must be a minimum of 30 days between notice of the final environmental impact statement and issuance of a Record of Decision.

Section 218.12—Secretary's Authority

Paragraph (a) details the Secretary's authority.

Paragraph (b) exempts authorized hazardous fuel reduction projects proposed by the Secretary or Under Secretary of Agriculture from the provisions of this rule. Nothing in the HFRA alters the Secretary's long-established authority to make decisions affecting the Forest Service. The Department's position has always been that Secretarial decisions are not subject to an administrative review or appeal process under any of the Forest Service's administrative review systems and there is no indication that Congress intended to make such a change through the HFRA.

Section 218.13—Judicial Proceedings

Section 218.13 reflects the Department's interpretation and implementation of section 105 of the HRFA. Statutory and judicial exhaustion requirements ensure that an agency is able to develop full factual records, to apply technical and managerial expertise to identified problems, to exercise its judgment and discretion, and to correct its own mistakes. Exhaustion requirements are credited with promoting accuracy, efficiency, public participation, agency autonomy, and judicial economy.

Generally, statutory exhaustion requirements are jurisdictional and cannot be waived by courts. The HFRA does permit plaintiffs to undertake the burden of demonstrating that a ''futility or inadequacy'' exception should be invoked as to a specific plaintiff or claim. The Department understands these provisions are to be read together, narrowly construed, and invoked only in rare instances such as where information becomes available only after the conclusion of the administrative process.

Congress stated that National Environmental Policy Act (NEPA) documents are to be in complete or final form when made available for objection.

The objection process is, therefore, not a second comment period on a draft document, but rather a final opportunity to ensure full understanding of public concerns shortly preceding a decision.

Congress's view on the purpose or intent for the objection process likewise narrows the operation of the futility exemption to those situations where information, which dramatically changes the picture with regard to environmental effects, or the need for the project, comes to light after the NEPA document has been completed.

A contrary reading would be inconsistent with Congress's expectation that the exception provisions are not applicable to information which has not been brought to the attention of the agency. The objection process protects against the possibility of a ''futile'' appeal due to delay because final decisions on authorized hazardous fuel reduction projects cannot be issued prior to conclusion of the objection process and any issue relevant to the proposed authorized hazardous fuel reduction project can be assessed during the objection process. Similarly, predecisional review of each proposed authorized hazardous fuel reduction project avoids the criticism sometimes leveled against postdecisional appeals that reviewers are unfairly disposed to a particular or predetermined outcome. Instances of futility or inadequacy should be rare indeed as the administrative review is conducted through a process Congress created specifically for this class of actions and occurs prior to the agency's final decision. Moreover, the participatory requirements for these high-priority projects are predicated on Congress's determination, expressed through the statutory scheme, that predecisional collaboration is vital to avoiding potential disputes and that the land managers are in the optimal position to identify and correct any errors and to fine-tune the design of proposed authorized hazardous fuel reduction projects if they are made aware of concerns before final decisions are made. Sweeping exceptions to the participatory requirements are at odds with Congress's intent.

Section 218.14—Information Collection Requirements

This section explains that the rule contains information collection requirements as defined in 5 CFR part 1320 by specifying the information that objectors must supply in an objection. The Office of Management and Budget (OMB) Control Number for this information collection will be included in the final rule.

Section 218.15—Applicability and Effective Date

This section sets out the effective date of this interim final rule and provides that all proposed hazardous fuel reduction projects subject to the provisions of the HFRA, for which scoping begins on or after the effective date of this interim final rule, are subject to its provisions.

Good Cause Statement

The Healthy Forests Restoration Act of 2003 (HFRA), signed by President Bush on December 3, 2003, directs that within 30 days of enactment the Secretary of Agriculture promulgate a special administrative review process to serve as the sole means by which the public can seek administrative review regarding proposed authorized hazardous fuel reduction projects. The HFRA directs that the interim final rule shall be effective upon publication in the **Federal Register**. Circulation of the interim final rule for public comment prior to the effective date is impractical given the statutory 30-day deadline; furthermore, a 90-day comment period on the interim final rule is provided, and comments will be considered for the subsequent development of the final rule.

Regulatory Certifications

Regulatory Impact

This interim final rule has been reviewed under USDA procedures and Executive Order 12866 on Regulatory Planning and Review. It has been determined that this is not a significant rule. This interim final rule will not have an annual effect of $100 million or more on the economy nor adversely affect productivity, competition, jobs, the environment, public health or safety, nor State or local governments. This interim final rule will not interfere with an action taken or planned by another agency nor raise new legal or policy issues. Finally, this action will not alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients of such programs.

Moreover, this interim final rule has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and it has been determined that this action will not have a significant economic impact on a substantial number of small entities as defined by that act. Therefore, a regulatory flexibility analysis is not required for this interim final rule.

Environmental Impacts

This interim final rule establishes a predecisional administrative review process for authorized hazardous fuel reduction projects on National Forest System lands pursuant to section 105 of the Healthy Forests Restoration Act of 2003. Section 31.1b of Forest Service Handbook 1909.15 (57 FR 43168; September 18, 1992) excludes from documentation in an environmental assessment or impact statement ''rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instruction.'' This interim final rule clearly falls within this category of actions and no extraordinary circumstances exist which would require preparation of an environmental assessment or an environmental impact statement.

Energy Effects

This interim final rule has been reviewed under Executive Order 13211 of May 18, 2001, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.'' It has been determined that this proposed rule does not constitute a significant energy action as defined in the Executive order.

Controlling Paperwork Burdens on the Public

This interim final rule represents a new information requirement as defined in 5 CFR Part 1320, Controlling Paperwork Burdens on the Public. In accordance with those rules and the Paperwork Reduction Act of 1995, as amended (44 U.S.C. 3501, *et seq.*), the Forest Service has requested emergency approval from the Office of Management and Budget (OMB) for this new information collection. The information to be collected from those who choose to participate in the predecisional administrative review process for hazardous fuel reduction projects authorized under the Healthy Forests Restoration Act of 2003 (HFRA) is the minimum needed for the Reviewing Officer to make an informed decision on an objection filed under the HFRA.

Description of Information Collection

Title: Predecisional Administrative Review Process for Hazardous Fuel Reduction Projects Authorized Under the Healthy Forests Restoration Act of 2003.

OMB Number: 0596–0172.

Expiration Date of Approval: June 30, 2004.

Type of Request: The following collection requirements are new and have not previously received approval

by the Office of Management and Budget.

Abstract: The information collected is needed for a citizen or organization to explain the nature of the objection being made to a proposed authorized hazardous fuel reduction project undertaken under the authority of the Healthy Forests Restoration Act of 2003, and the reason(s) why the individual or organization objects. Specifically, an objector must provide:

1. A name, mailing address, and if possible, telephone number;

2. Signature or other verification of authorship upon request;

3. The name of the proposed authorized hazardous fuel reduction project, the name and title of the Responsible Official, the National Forest(s) and/or Ranger District(s) on which the proposed authorized hazardous fuel reduction project will be implemented; and

4. Any specific changes that the objector seeks and the rationale for those changes.

Estimate of Burden: The public reporting burden to provide information when filing an objection to a proposed authorized hazardous fuel reduction project is estimated to average 8 hours per response.

Respondents: Individuals, businesses, not-for-profit institutions, State, local or Tribal Government.

Estimated Number of Respondents: 121.

Estimated Number of Responses per Respondent: 1 response per year.

Estimated Total Annual Burden on Respondents: 968 hours.

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 will have practical utility; (b) the accuracy of this agency's estimate of the burden of the collection of information, 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 collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Use of Comments: All comments received in response to this information collection will be summarized and included in the request for final OMB approval. All comments, including names and addresses when provided will become a matter of public record.

Federalism

The agency has considered this interim final rule under the requirements of Executive Order 13132, Federalism, and Executive Order 12875, Government Partnerships. The agency has made a preliminary assessment that the interim final rule conforms with the federalism principles set out in these Executive orders; would not impose any compliance costs on the States; and would 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. Based on comments received on this interim final rule, the agency will consider if any additional consultation will be needed with State and local governments prior to adopting a final rule.

Consultation and Coordination With Indian Tribal Governments

This interim final rule does not have tribal implications as defined in Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, and, therefore, advance consultation with tribes is not required.

No Takings Implications

This interim final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12630. It has been determined that the interim final rule does not pose the risk of a taking of private property.

Civil Justice Reform

This interim final rule has been reviewed under Executive Order 12988 on civil justice reform. After adoption of this interim final rule, (1) all State and local laws and regulations that conflict with this interim final rule or that impede its full implementation will be preempted; (2) no retroactive effect will be given to this interim final rule; and (3) it will not require administrative proceedings before parties may file suit in court challenging its provisions.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the agency has assessed the effects of this interim final rule on State, local, and tribal governments and the private sector. This interim final rule does not compel the expenditure of $100 million or more by any State, local, or tribal governments or anyone in the private sector. Therefore, a statement under section 202 of the act is not required.

List of Subjects

36 CFR Part 215

Administrative practice and procedure, National Forests.

36 CFR Part 218

Administrative practice and procedure, National Forests.

■ Therefore, for the reasons set forth in the preamble, amend part 215 and add subpart A to part 218 of title 36 of the Code of Federal Regulations to read as follows:

PART 215—NOTICE, COMMENT, AND APPEAL PROCEDURES FOR NATIONAL FOREST SYSTEM PROJECTS AND ACTIVITIES

■ 1. Amend section 215.3 to revise paragraphs (a) and (b) to read as follows:

§ 215.3 Proposed actions subject to legal notice and opportunity to comment.

* * * * *

(a) Proposed projects and activities implementing land and resource management plans (§ 215.2) for which an environmental assessment (EA) is prepared, except hazardous fuel reduction projects conducted under provisions of the Healthy Forests Restoration Act (HFRA), as set out at part 218, subpart A of this title.

(b) Proposed projects and activities described in a draft environmental impact statement (DEIS) for which notice and comment procedures are governed by 40 CFR parts 1500 through 1508, except hazardous fuel reduction projects conducted under provisions of the HFRA, as set out at part 218, subpart A, of this title.

* * * * *

■ 2. Amend section 215.4 to add paragraph (f) to read as follows:

§ 215.4 Actions not subject to legal notice and opportunity to comment.

* * * * *

(f) Hazardous fuel reduction projects conducted under the provisions of section 105 of the HFRA, except as provided in part 218, subpart A, of this title.

■ 3. Amend section 215.12 to add paragraph (i) to read as follows:

§ 215.12 Decisions and actions not subject to appeal.

* * * * *

(i) Hazardous fuel reduction projects conducted under provisions of the HFRA, as set out at part 218, subpart A, of this title.

■ 4. Add part 218, subpart A, to read as follows:

PART 218—PREDECISIONAL ADMINISTRATIVE REVIEW PROCESSES

Subpart A—Predecisional Administrative Review Process for Hazardous Fuel Reduction Projects Authorized by the Healthy Forests Restoration Act of 2003

Sec.

Authority: Pub. L. 108–148, 117 Stat 1887 (Healthy Forests Restoration Act of 2003).

§ 218.1 Purpose and scope.

This subpart establishes a predecisional administrative review (hereinafter referred to as ''objection'') process for proposed authorized hazardous fuel reduction projects as defined in the Healthy Forests Restoration Act of 2003 (HFRA). The objection process is the sole means by which administrative review of a proposed authorized hazardous fuel reduction project on National Forest System land may be sought. This subpart identifies who may file objections to those proposed authorized hazardous fuel reduction projects, the responsibilities of the participants in an objection, and the procedures that apply for review of the objection.

§ 218.2 Definitions.

Address—An individual's or organization's current physical mailing address. An e-mail address is not sufficient.

Authorized hazardous fuel reduction project—A hazardous fuel reduction project authorized by the HFRA.

Comments—Specific written comments related to a proposed authorized hazardous fuel reduction project pursuant to the HFRA.

Decision Notice (DN)—A concise written record of a Responsible Official's decision based on an environmental assessment and a finding of no significant impact (FONSI) (40 CFR 1508.13; FSH 1909.15, Chapter 40).

Environmental Assessment (EA)—A public document that provides sufficient evidence and analysis for determining whether to prepare an environmental impact statement (EIS) or a finding of no significant impact, aids an agency's compliance with the National Environmental Policy Act (NEPA) when no EIS is necessary, and facilitates preparation of a statement when one is necessary (40 CFR 1508.9; FSH 1909.15, Chapter 40).

Environmental Impact Statement (EIS)—A detailed written statement as required by section 102(2)(C) of the National Environmental Policy Act of 1969 (40 CFR 1508.11; FSH 1909.15, Chapter 20).

Forest Service line officer—A Forest Service official who serves in a direct line of command from the Chief and who has the delegated authority to make and execute decisions approving hazardous fuel reduction projects subject to this subpart.

Lead objector—For objections submitted with multiple individuals and/or organizations listed, the individual or organization identified to represent all other objectors for the purposes of communication, written or otherwise, regarding the objection.

Name—The first and last name of an individual or the name of an organization. An electronic username is insufficient for identification of an individual or organization.

National Forest System land—All lands, water, or interests therein administered by the Forest Service (§ 251.51).

Newspaper(s) of record—Those principal newspapers of general circulation annually identified in a list and published in the **Federal Register** by each Regional Forester to be used for publishing notices of projects and activities implementing land and resource management plans.

Objection—The written document filed with a Reviewing Officer by an individual or organization seeking predecisional administrative review of a proposed authorized hazardous fuel reduction project as defined in the Healthy Forests Restoration Act of 2003.

Objection period—The 30-calendar-day period following publication of the legal notice in the newspaper of record of an environmental assessment or final environmental impact statement for a proposed authorized hazardous fuel reduction project during which an objection may be filed with the Reviewing Officer.

Objection process—Those procedures established for predecisional administrative review of proposed authorized hazardous fuel reduction projects subject to the Healthy Forests Restoration Act of 2003.

Objector—An individual or organization filing an objection who submitted comments specific to the proposed authorized hazardous fuel reduction project during scoping or other opportunity for public comment as described in the Healthy Forests Restoration Act of 2003. The use of the term ''objector'' applies to all persons that meet eligibility requirements associated with the filed objection.

Record of Decision (ROD)—A document signed by a Responsible Official recording a decision that was preceded by preparation of an environmental impact statement (40 CFR 1505.2; FSH 1909.15, Chapter 20).

Responsible Official—The Forest Service employee who has the delegated authority to make and implement a decision approving proposed authorized hazardous fuel reduction projects subject to this subpart.

Reviewing Officer—The USDA or Forest Service official having the delegated authority and responsibility to review an objection filed under this subpart. The Reviewing Officer is the next higher level supervisor of the Responsible Official.

§ 218.3 Authorized hazardous fuel reduction projects subject to the objection process.

Only authorized hazardous fuel reduction projects as defined by the Healthy Forests Restoration Act of 2003, section 101(2), occurring on National Forest System lands that have been analyzed in an environmental assessment or environmental impact statement are subject to this subpart. Authorized hazardous fuel reduction projects processed under the provisions of the HFRA are not subject to the notice, comment, and appeal provisions set forth in part 215 of this chapter.

§ 218.4 Legal notice of objection process for proposed authorized hazardous fuel reduction projects.

(a) The Responsible Official shall promptly mail the final environmental impact statement (FEIS) or the environmental assessment (EA) to those who have previously requested to be included on the proposed authorized hazardous fuel reduction project mailing list or are known to have submitted specific written comments related to the proposed authorized hazardous fuel reduction project during the opportunity for public comment provided during preparation of the environmental assessment or environmental impact statement.

(b) Upon completion and mailing of the FEIS or EA, legal notice of the

opportunity to object to a proposed authorized hazardous fuel reduction project shall be published in the applicable newspaper of record identified in paragraph (c) of this section for each National Forest System unit. When the Chief is the Responsible Official, notice shall also be published in the **Federal Register**. The legal notice shall:

(1) Include the name of the proposed authorized hazardous fuel reduction project and a concise description of the preferred alternative, name and title of the Responsible Official, name of the Forest and/or District on which the proposed authorized hazardous fuel reduction project will occur, instructions for obtaining a copy of the FEIS or EA, and instructions on how to obtain additional information on the proposed authorized hazardous fuel reduction project.

(2) State that the proposed authorized hazardous fuel reduction project is subject to the objection process pursuant to 36 CFR part 218, subpart A, and include the following:

(i) Name and address of the Reviewing Officer with whom an objection is to be filed. The notice shall specify a street, postal, fax, and e-mail address, the acceptable format(s) for objections filed electronically, and the Reviewing Officer's office business hours for those filing hand-delivered objections.

(ii) A statement that objections will be accepted only from those who have previously submitted written comments specific to the proposed authorized hazardous fuel reduction project during scoping or other opportunity for public comment (§ 218.6(a)).

(iii) A statement that the publication date of the legal notice in the newspaper of record is the exclusive means for calculating the time to file an objection (§ 218.9(a)) and that those wishing to object should not rely upon dates or timeframe information provided by any other source. A specific date shall not be included in the legal notice.

(iv) A statement that an objection, including attachments, must be filed (regular mail, fax, e-mail, hand-delivery, express delivery, or messenger service) with the appropriate Reviewing Officer (§ 218.7) within 30 days of the date of publication of the legal notice for the objection process. Incorporation of documents by reference shall not be allowed.

(v) A statement describing the minimum content requirements of an objection (§ 218.7(b)–(c)).

(vi) A statement that the proposed authorized hazardous fuel reduction project is not subject to the notice, comment, and appeal procedures found at part 215 of this chapter (§ 218.3).

(c) *Publication.* Through notice published annually in the **Federal Register**, each Regional Forester shall advise the public of the newspaper(s) of record utilized for publishing legal notice required by this subpart.

§ 218.5 Reviewing officer.

The Reviewing Officer determines procedures to be used for processing objections when the procedures are not specifically described in this subpart, including such procedures as needed to be compatible to the extent practicable, with the administrative review processes of other Federal agencies, for authorized hazardous fuel reduction projects proposed jointly with other agencies. Such determinations are not subject to further administrative review.

§ 218.6 Who may file an objection.

(a) Individuals and organizations who have submitted specific written comments related to the proposed authorized hazardous fuel reduction project during the opportunity for public comment provided during preparation of an environmental assessment or environmental impact statement for the proposed authorized hazardous fuel reduction project as characterized in section 104(g) of the HFRA may file an objection. For proposed authorized hazardous fuel reduction projects described in a draft environmental impact statement, such opportunity for public comment will be fulfilled by the comment procedures set forth in 40 CFR 1506.10. For proposed authorized hazardous fuel reduction projects described in an environmental assessment, such opportunity for public comment will be fulfilled during scoping or other public involvement opportunities as environmental assessments are not circulated for public comment in draft form.

(b) Comments received from an authorized representative(s) of an organization are considered those of the organization only. Individual members of that organization do not meet objection eligibility requirements solely on the basis of membership in an organization. A member or an individual must submit comments independently in order to be eligible to file an objection in an individual capacity.

(c) When an objection lists multiple individuals or organizations, each individual or organization shall meet the requirements of paragraph (a) of this section. Individuals or organizations listed on an objection that do not meet eligibility requirements shall not be considered objectors. Objections from individuals or organizations that do not meet the requirements of paragraph (a) shall not be accepted. This shall be documented in the objection record.

(d) Federal agencies may not file objections.

(e) Federal employees who otherwise meet the requirements of this subpart for filing objections in a non-official capacity, shall comply with Federal conflict of interest statutes at 18 U.S.C. 202–209 and with employee ethics requirements at 5 CFR part 2635. Specifically, employees shall not be on official duty nor use Government property or equipment in the preparation or filing of an objection. Further, employees shall not incorporate information unavailable to the public, such as Federal agency documents that are exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552 (b)).

§ 218.7 Filing an objection.

(a) Objections must be filed with the Reviewing Officer in writing. All objections shall be open to public inspection during the objection process.

(b) It is the objector's responsibility to provide sufficient narrative description of those aspects of the proposed authorized hazardous fuel reduction project addressed by the objection, specific issues related to the proposed authorized hazardous fuel reduction project, and suggested remedies which would resolve the objection.

(c) Incorporation of documents by reference shall not be allowed.

(d) At a minimum, an objection must include the following:

(1) Objector's name and address (§ 218.2), with a telephone number, if available;

(2) Signature or other verification of authorship upon request (a scanned signature for electronic mail may be filed with the objection);

(3) When multiple names are listed on an objection, identification of the lead objector (§ 218.2). Verification of the identity of the lead objector shall be provided upon request;

(4) The name of the proposed authorized hazardous fuel reduction project, the name and title of the Responsible Official, and the name(s) of the National Forest(s) and/or Ranger District(s) on which the proposed authorized hazardous fuel reduction project will be implemented.

§ 218.8 Objections set aside from review.

(a) The Reviewing Officer shall set aside and not review an objection when one or more of the following applies:

(1) Objections are not filed in a timely manner (§ 218.4(b)(2)(iv), § 218.9(c)).

(2) The proposed project is not subject to the objection procedures of this subpart (§ 218.3).

(3) The individual or organization did not submit written comments during scoping or other opportunity for public comment (§ 218.6(a)).

(4) The objection does not provide sufficient information as required by § 218.7(b) through (d) for the Reviewing Officer to review.

(5) The objector withdraws the objection.

(6) An objector's identity is not provided or cannot be determined from the signature (written or electronically scanned) and a reasonable means of contact is not provided (§ 218.7(c)(1)).

(7) The objection is illegible for any reason, including submissions in an electronic format different from that specified in the legal notice.

(b) The Reviewing Officer shall give written notice to the objector and the Responsible Official when an objection is set aside from review and shall state the reasons for not reviewing the objection. If the objection is set aside from review for reasons of illegibility or lack of a means of contact, the reasons shall be documented in the project record.

§ 218.9 Objection time periods and process.

(a) Time to file an objection. Written objections, including any attachments, must be filed with the Reviewing Officer within 30 days following the publication date of the legal notice of the EA or FEIS in the newspaper of record (§ 218.4(b)). It is the responsibility of objectors to ensure that their objection is received in a timely manner.

(b) Computation of time periods. (1) All time periods are computed using calendar days, including Saturdays, Sundays, and Federal holidays. However, when the time period expires on a Saturday, Sunday, or Federal holiday, the time is extended to the end of the next Federal working day as stated in the legal notice or to the end of the calendar day (11:59 p.m.) for objections filed by electronic means such as e-mail or facsimile machine.

(2) The day after publication of the legal notice for this subpart of the EA or FEIS in the newspaper of record (§ 218.4(b)) is the first day of the objection-filing period.

(3) The publication date of the legal notice of the EA or FEIS in the newspaper of record is the exclusive means for calculating the time to file an objection. Objectors may not rely on dates or timeframe information provided by any other source.

(c) Evidence of timely filing. Timeliness shall be determined by:

(1) The date of the postmark, e-mail, fax, or other means of filing (for example, express delivery service) of an objection and any attachment;

(2) The time and date imprint at the correct Reviewing Officer's office on a hand-delivered objection and any attachments; or

(3) When an objection is electronically mailed, the objector should normally receive an automated electronic acknowledgment from the agency as confirmation of receipt. If the objector does not receive an automated acknowledgment of the receipt of the objection, it is the objector's responsibility to ensure timely receipt by other means.

(d) Extensions. Time extensions are not permitted.

(e) Other timeframes. The Reviewing Officer shall issue a written response to the objector(s) concerning their objection(s) within 30 days following the end of the objection-filing period.

§ 218.10 Resolution of objections.

(a) Meetings. Prior to the issuance of the Reviewing Officer's written response, either the Reviewing Officer or the objector may request to meet to discuss issues raised in the objection and potential resolution. The Reviewing Officer has the discretion to determine whether or not adequate time remains in the review period to make a meeting with the objector practical. All meetings are open to the public.

(b) Response to objections. (1) A written response shall set forth the reasons for the response, but need not be a point-by-point review, and may contain instructions to the Responsible Official, if necessary. In cases involving more than one objection to a proposed authorized hazardous fuel reduction project, the Reviewing Officer may consolidate objections and issue one or more responses.

(2) There shall be no further review from any other Forest Service or USDA official of the Reviewing Officer's written response to an objection.

§ 218.11 Timing of authorized hazardous fuel reduction project decision.

(a) The Responsible Official may not issue a Record of Decision (ROD) or Decision Notice (DN) concerning an authorized hazardous fuel reduction project subject to the provisions of this subpart until the Reviewing Officer has responded to all pending objections.

(b) When no objection is filed within the 30-day time period, the Reviewing Officer shall notify the Responsible Official, and approval of the authorized hazardous fuel reduction project in a Record of Decision or Decision Notice may occur on, but not before, the fifth business day following the end of the objection-filing period.

§ 218.12 Secretary's authority.

(a) Nothing in this section shall restrict the Secretary of Agriculture from exercising any statutory authority regarding the protection, management, or administration of National Forest System lands.

(b) Authorized hazardous fuel reduction projects proposed by the Secretary of Agriculture or the Under Secretary, Natural Resources and Environment are not subject to the procedures set forth in this subpart. A decision by the Secretary or Under Secretary constitutes the final administrative determination of the Department of Agriculture.

§ 218.13 Judicial proceedings.

The objection process set forth in this subpart fully implements Congress' design for a predecisional administrative review process for proposed hazardous fuel reduction projects authorized by the HFRA. These procedures present a full and fair opportunity for concerns to be raised and considered on a project-by-project basis. Individuals and groups must structure their participation so as to alert the local agency officials making particular land management decisions of their positions and contentions. Further, any filing for Federal judicial review of an authorized hazardous fuel reduction project is premature and inappropriate unless the plaintiff has submitted specific written comments relating to the proposed action during scoping or other opportunity for public comment as prescribed by the HFRA, and the plaintiff has challenged the authorized hazardous fuel reduction project by exhausting the administrative review process set out in this subpart. Further, judicial review of hazardous fuel reduction projects that are subject to these procedures is strictly limited to those issues raised by the plaintiff's submission during the objection process, except in exceptional circumstances such as where significant new information bearing on a specific claim only becomes available after conclusion of the administrative review.

§ 218.14 Information collection requirements.

The rules of this subpart specify the information that objectors must provide in an objection to a proposed authorized hazardous fuel reduction project as defined in the HFRA (§ 218.7). As such,

these rules contain information collection requirements as defined in 5 CFR part 1320. These information requirements are assigned OMB Control Number 0596–0172.

§ 218.15 Applicability and effective date.

The provisions of this subpart are effective as of January 9, 2004 and apply to all proposed authorized hazardous fuel reduction projects conducted under the provisions of the HFRA for which scoping begins on or after January 9, 2004.

Subpart B—[Reserved]

Dated: January 5, 2004.

David P. Tenny,

Deputy Under Secretary, Natural Resources and Environment.

[FR Doc. 04–473 Filed 1–8–04; 8:45 am]

BILLING CODE 3410–11–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IA 200–1200; FRL–7608–3]

Approval and Promulgation of Implementation Plans; State of Iowa; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correcting amendments.

SUMMARY: On October 8, 2003, EPA published a direct final action approving revisions to the Iowa State Implementation Plan (SIP). In the October 8, 2003, rule, EPA inadvertently deleted a clarifying statement in the Comments column for Polk County Board of Health Rules and Regulations Air Pollution Chapter V. We are making a correction in this document.

DATES: This action is effective January 9, 2004.

FOR FURTHER INFORMATION CONTACT: Heather Hamilton (913) 551–7039, or e-mail her at *hamilton.heather@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA published a SIP revision for Iowa for Polk County Board of Health Rules and Regulations Air Pollution Chapter V, on June 13, 1995 (60 FR 31084). Section 52.820(c), Polk County, included a statement that Article VIII and Article XIII of the Polk County rules are not a part of the SIP. This clarification was inadvertently omitted in the prior rule. Therefore, in this correction notice we are reinserting this information into the table.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedures are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is such good cause for making today's rule final without prior proposal and opportunity for comment because we are merely reinserting an explanation which was included in a previous action. Thus, notice and public procedure are unnecessary.

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 corrects a table consistent with a prior EPA action, and imposes no 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 merely reinserts clarifying language included in a previous action, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), for the reasons stated above, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act (CAA). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, our role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), we have 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 CAA. 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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, we have taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive Order. 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 (CRA), 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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. As stated previously, we made such a good cause finding, including the reasons therefore and established an effective date of January 9, 2004. We will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This correction to the Iowa SIP table is not a ''major rule'' as defined by 5 U.S.C. 804 *et seq* (2).

Dated: December 22, 2003.

James B. Gulliford,

Regional Administrator, Region 7.

■ 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 Q—Iowa

■ 2. In § 52.820 the table in paragraph (c) is amended by revising the entry in the Comments column for ''Chapter V'' under ''Polk County'' to read as follows:

§ 52.820 Identification of plan.

* * * * *

(c) * * *

EPA—APPROVED IOWA REGULATIONS

Iowa citation	Title	State effective date	EPA approval date	Comments
Iowa Department of Natural Resources, Environmental Protection Commission [567]				
*	*	*	*	*
Polk County				
Chapter V	Polk County Board of Health Rules and Regulations Air Pollution Chapter V.	4/15/1998 10/4/2000	1/09/04 FR page and cite	Article I, Board of Section 5–2, definition of ''variance''; Article VI, Sections 5–16(n), (o) and (p); Article VIII, Article IX, Sections 5–27(3) and (4), Article XIII, and Article XVI, Section 5–75(b) are not a part of the SIP.

* * * * *

[FR Doc. 04–374 Filed 1–8–04; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 030908224–3325–02; I.D. 080403B]

RIN 0648–AM23

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Amendment 10

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement the approved measures of Amendment 10 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (Amendment 10), as prepared and submitted by the Gulf of Mexico Fishery Management Council (Council). This final rule requires, with limited exceptions, the use of NMFS-certified bycatch reduction devices (BRDs) in shrimp trawls in the Gulf of Mexico exclusive economic zone (Gulf EEZ) east of 85°30′ W. long. (approximately Cape San Blas, FL). In addition, this final rule identifies the certified BRDs currently authorized for use in the Gulf EEZ east of 85°30′ W. long. and modifies the *Gulf Of Mexico Bycatch Reduction Device Testing Protocol Manual* to reflect the specific bycatch reduction criterion applicable for certification of BRDs used in this area of the Gulf EEZ. The intended effect of this final rule is to reduce bycatch in the Gulf of Mexico shrimp fishery to the extent practicable.

DATES: This final rule is effective February 9, 2004.

ADDRESSES: The final regulatory flexibility analysis (FRFA) is available from the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Dr. Steve Branstetter, telephone: 727–570–5305, fax: 727–570–5583, e-mail: *Steve.Branstetter@noaa.gov.*

SUPPLEMENTARY INFORMATION: The fishery for shrimp in the Gulf EEZ is managed under the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP). The FMP was prepared by the Council, approved by NMFS, and implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

On August 14, 2003, NMFS announced the availability of Amendment 10 and requested comments on it (68 FR 48592). NMFS published the proposed rule to implement Amendment 10 and requested comments on the proposed rule through November 14, 2003 (68 FR 56252, September 30, 2003). NMFS partially approved Amendment 10 on November 2, 2003; the bycatch reporting methodology was disapproved based on inconsistency with national standard 2. The rationale for the measures in Amendment 10 is provided in Amendment 10 and in the preamble to the proposed rule and is not repeated here.

Comments and Responses

NMFS received five comment letters during the public comment periods on the amendment and the proposed rule. The comments and NMFS' responses follow.

Comment 1: National standard 9 (NS9) of the Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act requires that fishery management plans include conservation and management measures that shall, to the extent practicable, minimize bycatch and to the extent bycatch cannot be avoided, minimize the mortality of such bycatch. Implementing bycatch reduction device (BRD) requirements for the eastern Gulf of Mexico would contribute to meeting that requirement.

Response: In partially approving the Council's Generic Sustainable Fisheries Act Amendment in 1999, NMFS concluded that bycatch was not reduced to the extent practicable for the entire Gulf of Mexico shrimp fishery because no bycatch reduction methods had been proposed for the eastern Gulf of Mexico. NMFS urged the Council to develop management actions to reduce bycatch in the shrimp fishery in the eastern Gulf of Mexico to be in compliance with NS9. NMFS partially approved Amendment 10 on November 2, 2003, including approval of the proposed action to require BRDs in the eastern

Gulf of Mexico. Promulgation of this final rule gives effect to that decision.

Comment 2: The bycatch reporting methodology proposes to use fishery independent data, where data are collected using single nets equipped without turtle excluder devices (TEDs) or BRDs. This bi-annual fishery-independent survey does not include sampling in the eastern Gulf of Mexico. Recent studies have demonstrated that current shrimp fishing effort data do not appear to have the spatial accuracy necessary for the estimation of bycatch. More accurate estimates of bycatch in the shrimp fishery could be generated by the use of logbooks, an observer program, and a better approach to measure shrimp fishery effort in the Gulf of Mexico.

Response: NMFS partially approved Amendment 10 on November 2, 2003. In a letter explaining its rationale for the partial approval of the actions in the amendment, NMFS informed the Council that the proposed bycatch reporting methodology ignored the large database of catch and bycatch in the fishery that has been documented by observers since the 1980s, and, thus, any estimates derived from the Council's proposed methodology would not be based on the best available scientific information. NMFS has recommended to the Council that the most scientifically valid estimates of bycatch catch-per-unit-effort in the Gulf of Mexico shrimp trawl fishery would be generated by using a combination of the fishery-independent (SEAMAP survey) and fishery dependent (observer) data, NMFS' best available estimates of shrimp fishing effort, and any other relevant data sources that might become available. The Council is already considering alternative methods of assessing bycatch in the Gulf of Mexico shrimp fishery for inclusion in Amendment 13 to the FMP, which is currently under development and consideration.

Comment 3: The reduced revenues being reported by shrimp vessel owners are inaccurate. No one verifies those income figures. Therefore, the economic concerns of the fishery in regards to the proposed actions should be discounted.

Response: Economic impacts to the shrimp fishery and estimated per-vessel revenues, in regards to the proposed actions, are not based on any declaration of income by the shrimp vessel owners. Per-vessel revenues are based on the number of vessels known to be operating in the area and the quantity and value of the shrimp products landed that were reported to be caught in the affected area. Economic impacts of the proposed action are then calculated from, among other things, the purchase and installation costs of the BRDs and the potential for shrimp loss attributable to the use of the BRDs in the affected area.

Comment 4: One respondent suggested that the economic impact analysis conducted for the rule contained a discrepancy between the estimated revenue loss and the estimates of shrimp loss due to BRDs, presented questionable estimates of current performance for the average shrimp trawler and estimates of average annual revenue loss within the fishery, and over-estimated gear-up costs of approximately $200 per vessel. It is intuitively discordant to accept that any small or family business would operate for any length of time at a loss. NMFS should report net cash flow from shrimping operations to vessel owners in order to draw proper conclusions, including any going-out-of-business projections or statements, regarding what the true economic consequences would be to those vessel owners from implementation of the proposed rule. In summary, it appears that the costs to the industry were nominal compared to the benefits that would be derived from reducing finfish bycatch in the fishery.

Response: NMFS prepared a ''Supplemental Economic Analysis for Amendment 10 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico, U.S. Waters,'' (SEA). The SEA acknowledges that there will be substantial reductions in bycatch, and that the ecosystem and societal benefits of the rule justify its implementation; nevertheless, NMFS is obligated to identify the adverse impacts that participants in the shrimp trawl fishery are likely to experience. To assess those impacts the SEA utilized the General Bioeconomic Simulation Model of the Gulf shrimp fishery (GBFSM). The GBFSM is a nationally recognized and extensively reviewed model of the fishery and, as such, represents the best available analytical model for the determination of the expected impacts of proposed actions for this fishery.

Footnote ''*i*'' of the SEA notes that the model utilizes a more complex and dynamic procedure that captures the interactions of shrimp harvest—in both abundance and size—according to species, area, depth and vessel class for estimating revenue loss rather than simply reducing harvest by a fixed percent. This results in revenue losses that exceed shrimp loss and provides a more accurate assessment of expected shrimp revenue losses. With regards to the estimates of current performance of shrimp trawlers, NMFS believes that the assessment accurately portrays the fleet and is consistent with the conclusion that many participants will leave the fishery as a result of the poor economic conditions. It should be clear, however, that the statements refer to the average shrimp trawler, and the assessment does not conclude that all entities are equally unprofitable. In regard to a ''net cash flow'' approach, the GBFSM does not consider depreciation, and, in fact, estimates profits (losses) in a manner very similar to the suggested ''net cash flow'' approach. Finally, NMFS disagrees that gear-up costs are over-stated. Available data suggest that the current average cost per BRD is approximately $50. Total nets for a vessel would be expected to range from 2 nets for a small vessel with no spares to 8 nets for a large vessel with a complete set of spares (4 nets and 4 spares). The assessment assumes average gear-up costs at $200 per vessel, when, in fact, costs could be as high as $400 for the large shrimp trawls. The assumption of lower average gear-up costs would imply no spares and/or an unrealistically low price per BRD. The figures reported in the assessment and the assumption that multiple BRDs are necessary are, therefore, concluded to more realistically capture expectations.

Comment 5: Two respondents made suggestions for additional management measures that should be considered to reduce bycatch in the shrimp fishery and improve bycatch estimations. One respondent supported the establishment of marine protected areas and reduced quotas for all fisheries. One respondent suggested that the Council reconsider alternatives that were considered but rejected in the amendment, such as closed areas, closed seasons, and bycatch quotas, and address research needs to better establish bycatch estimates.

Response: NMFS and the Council have established numerous closed areas in the Gulf of Mexico. These areas have been determined to be especially sensitive to the impacts of fishing or are especially important to various marine resources (*e.g.* spawning area closures). In Amendment 10, the GMFMC rejected alternatives to seasonally or permanently close additional areas, concluding that the use of BRDs in all areas all year would provide greater biological benefits. Previous evaluations of the benefits of seasonal area closures indicate that effort is not reduced; effort is transferred to areas that remain open. Thus, overall impacts to bycatch are not substantially altered. As noted in the response to Comment 2, the Council is currently considering additional alternatives to address bycatch

reporting, such as bycatch quotas, in developing Amendment 14. In regards to quota reductions, the shrimp fishery is not managed by quotas, and reducing quotas on all fisheries is beyond the scope of the proposed actions. NMFS and the Council carefully monitor the status of the stocks in each fishery and establish quotas based on the status of each stock. These quotas allow continued harvest without overfishing the available resource.

Classification

The Administrator, Southeast Region, NMFS, determined that the approved measures of Amendment 10 are necessary for the conservation and management of the Gulf shrimp fishery and that the approved measures are consistent with the Magnuson-Stevens Act and other applicable laws.

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

NMFS prepared a FRFA, based on the RIR, for this final rule. A summary of the FRFA follows:

The objective of this rule is to further reduce bycatch in the Gulf shrimp fishery to the extent practicable. The rule will require the use of BRDs in all NMFS statistical areas (areas 1 through 8) of the eastern Gulf of Mexico EEZ. The Magnuson-Stevens Act, as amended, provides the statutory basis for the rule.

No changes were made in the final rule as a result of public comments.

No duplicative, overlapping, or conflicting Federal rules have been identified. The rule will not require any reporting or record-keeping or other compliance requirements other than the requirement to use BRDs. The use and maintenance of BRDs will not require professional skills that materially differ from the skills required to operate a shrimp trawl vessel.

In 2001, approximately 946 shrimp trawl fishing craft were known to operate in statistical areas 1 through 8 off the west coast of Florida and will be affected by the rule. Within this group of affected entities, 460 operate in statistical areas 1 through 3, 283 operate in statistical areas 4 and 5, and 592 operate in statistical areas 6 through 8. Of these 946 shrimp trawlers, 736 craft are Coast Guard-registered vessels and 210 are state-registered boats; 474 are considered large vessels, while 472 are considered small vessels/boats; 868 (91.8 percent) shrimp trawlers landed shrimp in Florida, 102 landed shrimp in Alabama, 4 landed shrimp in Mississippi, and 31 landed shrimp in Texas; 49 landed in both Florida and Alabama, 7 landed in both Florida and Texas, and 1 each landed in Mississippi/Florida and Alabama/Texas.

Overall, average gross revenue per shrimp trawler from areas 1 through 8 is $26,440. Average total costs per shrimp trawler are $38,991, resulting in an average annual loss of $12,551. The average number of crew is 2.3 for small shrimp trawlers and 3.5 for large shrimp trawlers, resulting in an overall average of 2.9 crew per trawler. Each small trawler is assumed to use two nets, each large trawler is assumed to use 4 nets and, in each case, each trawler is assumed to have at least one spare set of nets. A commercial fishing business is considered a small entity if it is independently owned and operated, is not dominant in its field of operation, has annual gross revenues less than or equal to $3.5 million. Based on the information provided above, all harvesting operations within this fishery are determined to be small entities.

In addition to commercial shrimp trawlers, 61 shrimp dealers will be affected by the rule. Average Gulf shrimp purchases per dealer is $2,029,221, with an average of $692,622 coming from harvests in areas 1 through 8. Employment data within the dealer sector are sparse. However, for 12 of the affected shrimp dealers, the number of employees ranges from 1 to 168, with an average of 37 employees. Further, only the single, largest shrimp processor in the Gulf employed more than 500 workers on average per year. Since shrimp dealers are typically smaller operations than shrimp processors in terms of volume and employment, it can be assumed that all dealers affected by the rule employ less than 500 workers per year on average. A dealer is considered a small business entity if it employs less than or equal to 500 employees. All of the 61 shrimp dealers are, therefore, assumed to be small entities.

Since all shrimp harvest and dealer operations affected by the rule are determined to be small entities, the issue of disproportional effects between small and large entities does not arise.

As previously stated, the average gross revenue per shrimp trawler is estimated to be $26,440, and the average annual profit is negative, estimated to be a loss of $12,511. Under the rule, the average reduction in revenue and profits per shrimp trawler is estimated to be $1,444 and $1,112, or reductions of 5.5 percent and 8.9 percent, respectively. Detailed break-outs of impacts by vessel size category, area of fishing, and state of landing are provided in the FRFA and are generally representative of the results presented in this summary. However, for shrimp trawlers that operate primarily in lower Florida, particularly large shrimp trawlers, the percentage increase in annual losses due to the rule likely ranges from 9.2 percent to as much as 23.4 percent.

In order for a firm to continue operating, in the short-run, revenues must at least cover variable costs where variable costs are those costs that change with the amount of fishing activity. Due to the large losses throughout the west Florida shrimp fishery, many shrimp trawlers cannot currently cover their variable costs. Additional costs stemming from new regulatory burdens would accelerate the rate at which these vessels are forced to shut down. It is not possible, however, to accurately determine how many operations, if any, will, in fact, shut down as a result of the rule.

In terms of the value of shrimp purchases, the loss per dealer is estimated to be $22,393, which represents an average of 1.1 percent for all dealers, but 2 percent for dealers in Florida. Since profitability is unknown for this sector, the significance of such losses cannot be determined with certainty. However, given that the number of dealers purchasing shrimp from the west Florida fishery declined from 84 in 1998 to 61 in 2001, and the poor economic health of the harvesting sector, it seems likely that losses are being incurred in the dealer sector. Dealers in Key West, Ft. Myers Beach, Tampa, St. Petersburg, and Tarpon Springs, FL will likely be most susceptible to potential impacts of the rule.

Significant alternatives to the rule include area closures, seasonal closures, and modifications to BRD requirements. The rule will retain the status quo area and seasonal closures and, thus, impose no additional adverse economic impacts on small entities associated with these types of management measures. With regards to BRD requirements, two alternatives would require BRDs over the identical geographic range, statistical areas 1 through 8, and would not reduce the expected negative economic impacts. Two alternatives would limit the BRD requirement to statistical areas 4 through 8 and would significantly reduce the negative economic impacts attributable to the rule. Two other alternatives, the status quo, which would not require BRDs, and an alternative that would limit the requirement to statistical areas 6 through 8, would further reduce the negative economic impacts of the rule. However, none of these alternatives would satisfy the requirement and the Council's intent to minimize bycatch ''to the extent practicable.'' Of the

various alternatives that require BRDs, the rule would accomplish the greatest total bycatch reduction since BRDs will be required over a greater geographic range. Requiring BRDs over statistical areas 1–8 will result in the bycatch reduction of approximately 4.006 million lb (1.817 million kg), whereas requiring BRDs in only statistical areas 4–8 would result in the bycatch reduction of approximately 1.91 million lb (0.87 million kg).

Copies of the FRFA and RIR are available upon request (*see* **ADDRESSES**).

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: January 5, 2004.

Rebecca Lent,

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

■ For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.41, paragraphs (h)(1) and (2) are revised to read as follows:

§ 622.41 Species specific limitations.

* * * * *

(h) * * *

(1) *BRD requirement*—(i) *West of 85°30′ W. long.* On a shrimp trawler in the Gulf EEZ west of 85°30′ W. long. and shoreward of the 100-fathom (183-m) depth contour, each net that is rigged for fishing must have a certified BRD listed in paragraph (h)(2)(i) of this section installed, unless exempted as specified in paragraphs (h)(1)(iii) through (v) or paragraph (h)(3)(iii) of this section.

(ii) *East of 85°30′ W. long.* On a shrimp trawler in the Gulf EEZ east of 85°30′ W. long., each net that is rigged for fishing must have a certified BRD listed in paragraph (h)(2)(ii) of this section installed, unless exempted as specified in paragraphs (h)(1)(iii) through (v) or paragraph (h)(3)(iii) of this section.

(iii) A shrimp trawler is exempt from the requirement to have a certified BRD installed in each net provided that at least 90 percent (by weight) of all shrimp on board or offloaded from such trawler are royal red shrimp.

(iv) A shrimp trawler is exempt from the requirement to have a BRD installed in a single try net with a headrope length of 16 ft (4.9 m) or less provided the single try net is either pulled immediately in front of another net or is not connected to another net.

(v) A shrimp trawler is exempt from the requirement to have a certified BRD installed in up to two rigid-frame roller trawls that are 16 ft (4.9 m) or less in length used or possessed on board. A rigid-frame roller trawl is a trawl that has a mouth formed by a rigid frame and a grid of rigid vertical bars; has rollers on the lower horizontal part of the frame to allow the trawl to roll over the bottom and any obstruction while being towed; and has no doors, boards, or similar devices attached to keep the mouth of the trawl open.

(vi) A trawl net is rigged for fishing if it is in the water, or if it is shackled, tied, or otherwise connected to a sled, door, or other device that spreads the net, or to a tow rope, cable, pole, or extension, either on board or attached to a shrimp trawler.

(2) *Certified BRDs.* The following BRDs are certified for use by shrimp trawlers in the respective areas of the Gulf EEZ specified in paragraphs (h)(2)(i) and (ii) of this section. Specifications of these certified BRDs are contained in appendix D to this part.

(i) *West of 85°30′ W. long.*

(A) Fisheye.

(B) Gulf fisheye.

(C) Jones-Davis.

(ii) *East of 85°30′ W. long.*

(A) Fisheye.

(B) Gulf fisheye.

(C) Jones-Davis.

(D) Extended funnel.

(E) Expanded mesh.

* * * * *

Note: The *Gulf Of Mexico Bycatch Reduction Device Testing Protocol Manual* and appendices H and I to the Manual are published as appendices to this document. These appendices will not appear in the Code of Federal Regulations.

Appendix—Gulf of Mexico Bycatch Reduction Device Testing Protocol Manual

Definitions

Bycatch reduction criterion means—

(1) In the Gulf EEZ west of 85°30′ W. long., that the BRD reduces the mortality of juvenile (age 0 and age 1) red snapper by a minimum of 44 percent from the average level of bycatch mortality (F=2.06) on these age classes during the years 1984–1989.

(2) In the Gulf EEZ east of 85°30′ W. long., that the BRD reduces the bycatch of total finfish by at least 30 percent by weight.

Bycatch reduction device (BRD) is any gear or trawl modification designed to allow finfish to escape from a shrimp trawl.

BRD candidate is a bycatch reduction device to be tested for certification for use in the commercial shrimp fishery of the Gulf of Mexico.

Catch per unit of effort (CPUE) means the number or pounds of fish (*e.g.*, red snapper) or shrimp taken during a pre-defined measure of fishing activity (*e.g.*, per hour).

Certification phase is a required testing phase whereby an individual so authorized by the RA may conduct a discrete testing program, with a sample size adequate for statistical analysis (no less than 30 tows), to determine whether a BRD candidate meets the bycatch reduction criterion.

Certified BRD is a BRD that has been tested according to this protocol and has been determined by the RA as having met the bycatch reduction criterion.

Control trawl means a trawl used during the certification testing that is not equipped with a BRD. The catch of this trawl is compared to the catch of the experimental trawl.

Experimental trawl means the trawl used during the certification tests that is equipped with the BRD candidate.

Evaluation and oversight personnel includes scientists, observers, and other technical personnel who, by reason of their occupational or other experience, scientific expertise or training, are approved by the RA as qualified to evaluate and oversee the application and testing process. Scientists and other technical personnel will (1) review a BRD certification test application for its merit, and (2) critically review the scientific validity of the certification test results.

Observer means a person on the list maintained by the RA of individuals qualified to supervise and monitor a BRD certification test. Applicants may obtain the list of individuals qualified to be an observer from the RA. The observer chosen by the applicant may not have any current or prior financial relationship with the entity seeking BRD certification. For information on observer qualification criteria and the observer application process, see Appendix I.

Pre-certification phase is an optional testing phase whereby an individual, so authorized by the RA, can experiment with the design, construction, and configuration of a BRD and gather data.

Regional Administrator (RA) means the Southeast Regional Administrator, National Marine Fisheries Service, 9721 Executive Center Drive North, St. Petersburg, FL 33702, phone 727–570–5301.

Required measurements refers to the quantification of the dimensions and configuration of the trawl, the BRD candidate, the doors, the location of the BRD in relation to other parts of the trawl gear, and other quantifiable criteria used to assess the performance of the BRD candidate.

Sample size means the number of successful tows (a minimum of 30 tows per test are required).

Shrimp loss means the percent difference in average CPUE (*e.g.* kg/hr) between the amount of shrimp caught in the control trawl and the amount of shrimp caught in the experimental trawl.

Successful tow means that the control and experimental trawl were fished in accordance with the requirements set forth in the protocol and the terms and conditions of the letter of authorization; that no indication exists that problematic events, such as those

listed in Appendix D–5, occurred during the tow which would impact or influence the fishing efficiency (catch) of one or both nets; and, in the Gulf EEZ west of 85°30′ W. long., that the control or experimental net caught at least five red snapper during the tow.

Tow time means the total time (hours and minutes) an individual trawl was fished while being towed (*i.e.*, the time between ''dog-off'' and start of haul back).

Trawl means a net and associated gear and rigging, as illustrated in Appendix B–5 of this manual, used to catch shrimp. The terms trawl and net are used interchangeably throughout the manual.

Tuning a net means adjusting the trawl and its components to minimize the differences in shrimp catch between the two nets that will be used as the control and experimental trawls during the certification tests.

I. Introduction

Purpose of the Protocol

This protocol sets forth a standardized scientific procedure for the testing of a BRD candidate and for the evaluation of its ability to meet the bycatch reduction criterion. For a BRD candidate to be certified by the RA, the BRD candidate must meet the bycatch reduction criterion.

There are two phases to this procedure: An optional, but recommended, pre-certification phase and a required certification phase. An applicant is encouraged to take advantage of the pre-certification phase which allows experimentation with different BRD designs and configurations prior to certification phase testing (see below for details). The certification phase requires the applicant to conduct a discrete testing program, with a sample size of no less than 30 tows to determine whether the BRD candidate meets the bycatch reduction criterion. There is no cost to the applicant for the RA's administrative expenses such as preparing applications, issuing letters of authorization (LOAs), or evaluating test results or certifying BRDs. However, all other costs associated with either phase (*e.g.*, field testing) are at the applicant's expense.

II. Pre-Certification Phase (Optional)

The pre-certification phase provides a mechanism whereby an individual can experiment with the design, construction, and configuration of a prototype BRD for up to 60 days to improve the design's effectiveness at reducing bycatch and to determine whether it is likely to meet the bycatch reduction criterion. To conduct pre-certification phase evaluations of a prototype BRD, the applicant must apply for, receive, and have on board the vessel during testing, an LOA from the RA.

A. Application

In order to obtain an LOA to conduct pre-certification phase evaluations of a prototype BRD, an individual must submit a complete application to the RA. A complete application consists of a completed application form, Application to Test A Bycatch Reduction Device in the Exclusive Economic Zone (the form is appended as Appendix J–1), and the following: (1) A brief statement of the purpose and goal of the activity for which the LOA is requested; (2) a statement of the scope, duration, dates, and location of the testing; (3) an 8.5-inch x 11-inch (21.6-cm x 27.9-cm) diagram drawn to scale of the BRD design; (4) an 8.5-inch x 11-inch (21.6-cm x 27.9-cm) diagram drawn to scale of the BRD and approved TED in the shrimp trawl; (5) a description of how the BRD is supposed to work; (6) a copy of the testing vessel's documentation or its state registration; and (7) a copy of the vessel's Federal shrimp permit.

An applicant requesting a pre-certification LOA of an unapproved hard or soft TED as a BRD must first apply for and obtain from the RA an experimental TED authorization pursuant to 50 CFR 223.207(e). The pre-certification phase LOA application must also append a copy of that authorization.

B. Issuance

The RA will review the application for completeness. If the application is incomplete, the RA will inform the applicant of the incompleteness and give the applicant an opportunity to cure. If incompleteness is not cured within 30 days, the application will be returned to the applicant. Upon receipt of a complete application, the RA will issue a LOA to conduct pre-certification phase testing upon the vessel specified in the application if the BRD design is substantially unlike BRD designs previously determined not to meet the current performance criterion, or if the design is substantially similar to BRD designs previously determined not to meet the current performance criteria and the application demonstrates that the design could meet the bycatch reduction criterion through design revision or upon retesting (*e.g.*, the application shows that statistical results could be improved upon retesting by such things as a larger sample size than that previously used). If a pre-certification phase LOA is denied, the RA will return the application to the applicant along with a letter of explanation including relevant recommendations as to curing the deficiencies which caused the denial. In arriving at a decision, the RA may consult with evaluation and oversight personnel. Issuance of a LOA allows the applicant to remove or disable the existing BRD in one net (to create a control net), and to place the prototype BRD in another net in lieu of a certified BRD (to create an experimental net). All other trawls under tow during the test must be equipped with a certified BRD. All trawls under tow during the pre-certification phase tests must be equipped with an approved TED unless operating under an authorization issued pursuant to 50 CFR 223.207(e). The LOA, and experimental TED authorization if applicable, must be on board the vessel while the pre-certification phase tests are being conducted. The term of the LOA will be 60 days.

C. Applicability

The pre-certification phase allows an individual to compare the catches of a control net to the catches of the experimental net (net equipped with the prototype BRD) to estimate the potential efficiency of the prototype BRD. If that individual subsequently applies for a certification phase LOA to test this design, he/she must include the results of the pre-certification phase evaluation with the certification application. The RA will use this information to determine if there is a reasonable scientific basis to conduct certification phase testing. Therefore, for each paired tow, the applicant should keep a written record of the weight of the shrimp catch, the weight of the finfish catch, and, if the testing is related to potential certification of the BRD for use in the Gulf EEZ west of 85°30′ W. long., the total catch (in numbers) of red snapper of each net. The form contained in Appendix D should be used to record this information.

III. Certification Phase (Required)

In order to have a BRD certified, it must, under certification phase testing, be consistent with the requirements of the testing protocol and LOA and be determined by the RA to meet the bycatch reduction criterion.

A. Application

To conduct certification phase testing, an individual must obtain a certification phase LOA. To obtain a certification phase LOA, an individual must submit a complete application to the RA. The complete test application consists of an Application to Test A Bycatch Reduction Device in the Exclusive Economic Zone (Appendix J–1), a copy of the vessel's current Coast Guard certificate of documentation or, if not documented, its state registration certificate; a copy of the vessel's Federal shrimp permit; the name of a qualified observer who will be on board the vessel during all certification test operations (*see* Appendix I); and a test plan showing: (1) An 8.5-inch x 11-inch (21.6-cm x 27.9-cm) diagram drawn to scale of the BRD candidate; (2) an 8.5-inch x 11-inch (21.6-cm x 27.9-cm) diagram drawn to scale of the BRD candidate and approved TED in the shrimp trawl; (3) a description of how the BRD candidate is supposed to work; (4) the results of previous pre-certification phase tests; (5) the location, time, and area where the certification phase tests would take place; and (6) the identity of the observer from the list of qualified individuals maintained by the RA and certification that the observer has no current or prior financial relationship with the applicant or entity seeking BRD certification.

An applicant requesting a certification phase LOA to test an unapproved hard or soft TED as a BRD must first apply for and obtain from the RA an experimental TED authorization pursuant to requirements of 50 CFR part 223.207(e). The application for the certification phase LOA also must append a copy of that authorization.

A.1 Special Circumstances Not Covered by Protocol

Because actual testing conditions may vary, it may be necessary to deviate from the prescribed protocol to determine if a BRD candidate meets the bycatch reduction criterion. Any foreseeable deviations from the protocol must be described and justified in the application, and if scientifically acceptable will be approved by the RA in the LOA. The RA may consult with evaluation personnel to determine whether the

deviations are scientifically acceptable. Without the RA's approval in the LOA, results from any tests deviating from the protocol may be rejected as scientifically unacceptable, and could result in a denial of certification.

B. Observer Requirement

A qualified observer must be on board the vessel during all certification testing operations (*See* Appendix I). A list of qualified observers is available from the RA. Observers may include employees or individuals acting on behalf of NMFS, state fishery management agencies, universities, or private industry who meet the minimum requirements outlined in Appendix I, but the individual chosen may not have a current or prior financial relationship with the entity seeking BRD certification. It is the responsibility of the applicant to ensure that a qualified observer is on board the vessel during the certification tests. Compensation to the observer, if necessary, must be paid by the applicant. Any change in information or testing circumstances, such as replacement of the observer, must be reported to the RA within 30 days. Under 50 CFR 600.746, the owner and operator of any fishing vessel required to carry an observer as part of a mandatory observer program under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801, *et seq.*) is required to comply with guidelines, regulations, and conditions to ensure their vessel is adequate and safe to carry an observer, and to allow normal observer functions to collect scientific information as described in this protocol. A vessel owner is deemed to meet this requirement if the vessel displays one of the following: (i) A current Commercial Fishing Vessel Safety Examination decal, issued within the last 2 years, that certifies compliance with regulations found in 33 CFR, chapter I, and 46 CFR, chapter I; (ii) a certificate of compliance issued pursuant to 46 CFR 28.710; or (iii) a valid certificate of inspection pursuant to 46 U.S.C. 3311.

C. Issuance

The RA will review the application for completeness. If the application is not complete, the RA will notify the applicant of the incompleteness and give the applicant an opportunity to cure. If the incompleteness is not cured within 30 days, the RA will return the application to the applicant. Upon receipt of a complete application, the RA will issue a LOA to conduct certification phase testing of the BRD candidate specified in the application if: (1) The test plan meets the requirements of the protocol; (2) the qualified observer named in the application has no current or prior financial relationship with the entity seeking BRD certification; (3) the BRD candidate design is substantially unlike BRD designs previously determined not to meet the current bycatch reduction criterion, or if the BRD candidate design is substantially similar to a BRD design previously determined not to meet the current bycatch reduction criterion, the application demonstrates that the design could meet the bycatch reduction criterion upon retesting (*e.g.*, the application shows that statistical results could be improved upon retesting by such things as a larger sample size than that previously used); and (4) the results of any pre-certification phase testing conducted indicate a reasonable scientific basis for further testing. The submission of pre-certification phase data to provide a scientific basis for the conduct of certification testing is not an absolute requirement for the issuance of a certification phase LOA. For example, a request to conduct certification phase testing of a minor modification of a certified BRD design would not need to include pre-certification phase data. Similarly, a request for certification phase testing of a previously failed design that under a different test plan (*e.g.*, larger sample sizes) could yield improved statistical results would likewise not need pre-certification phase data. However, pre-certification phase data would normally be needed to establish a reasonable scientific basis for conducting certification phase testing (*e.g.*, that the BRD could meet the certification criterion upon certification testing). In making these determinations, the RA may consult with evaluation and oversight personnel. If a LOA to conduct certification phase testing is denied, the RA will provide a letter of explanation to the applicant, together with relevant recommendations to address the deficiencies resulting in the denial. Issuance of a LOA allows the applicant to remove or disable the existing certified BRD in one net (to create a control net) and to place the BRD candidate in another net in lieu of a certified BRD (to create an experimental net). All other trawls under tow during the tests must be equipped with a BRD. All trawls under tow during the certification tests must be equipped with an approved TED unless operating under an authorization issued pursuant to 50 CFR 223.207(e). The LOA will specify the date when the applicant may begin to test the BRD candidate, the observer who will conduct the onboard data collection, and the vessel to be used during the test. The LOA and experimental TED authorization, if applicable, must be onboard the vessel while the certification phase tests are being conducted.

D. Testing Protocol

Certification testing must be conducted in areas and at times when commercial quantities of penaeid shrimp and finfish pertinent to the certification testing are available to the gear.

Certification testing of BRDs for use in the Gulf EEZ west of 85°30′ W. long., must be conducted in areas and at times when juvenile (age 0 and age 1) red snapper are available to the gear. The best time for testing such a BRD candidate is July and August (July 1–August 31) due to the availability of red snapper on the penaeid shrimp commercial grounds located shoreward of the 100-fm (183-m) depth contour west of 85°30′ W. long., the approximate longitude of Cape San Blas, FL. A certification test conducted for BRD use west of 85°30′ W. long. may also be evaluated for BRD use east of 85°30′ W. long. because the requirement that ''finfish'' were available to the gear would have been satisfied. However, it is preferable that certification testing for BRD use east of 85°30′ W. long. be conducted in that same area.

Data for all certification testing should be recorded on the forms found in Appendices B through G, using the instructions provided for each form.

D.1. Tuning the Control and Experimental Trawls Prior to BRD Certification Trials

The primary assumption in assessing the bycatch reduction efficiency of the BRD candidate during paired-net tests is that the inclusion of the BRD candidate in the experimental net is the only factor causing a difference in catch from that of the control net. Therefore, it is imperative that the fishing efficiency of the two nets be as similar as possible prior to starting the certification tests. Catch data from no more than 20 tuning tows should be collected on nets that will be used as control and experimental trawls to determine if there is a between-net or between-side (port vs. starboard) difference in fishing efficiency (bias). Any net/side bias will be reflected as differing catch rates of shrimp and total finfish between two nets that were towed simultaneously. During the tuning tows, these nets should be equipped with identical approved hard TEDs, without the BRD candidate being installed. Using this information, the applicant should identify and minimize the causes for any net/side bias, to the extent practicable, by making appropriate trawl gear adjustments. Form D–1 from Appendix D should be used to record the net/side bias data collected from these tows. These data will enable the RA to determine if any net/side bias existed in either trawl in assessing the BRD candidate's performance.

If the applicant is testing a soft TED as a BRD, it will be imperative that little or no position or side bias with the trawl nets be demonstrated before the certification trials are initiated. Once any net/side bias is corrected using identical approved hard TEDs in both nets, any alterations in catch rate following the substitution of the soft TED into the experimental net can then be attributed to that TED's influence.

D.2. Retention of Data Collected During Tuning Trials

All data collected during tuning trials and used for minimizing the net/side bias must be documented and submitted to the RA along with the testing data for evaluation. Additional information on tuning shrimp trawls is available from the Harvesting Technology Branch, Mississippi Laboratories, Pascagoula Facility, 3209 Frederic Street, Pascagoula, Mississippi 39568–1207; phone (601) 762–4591.

D.3. Certification Tests

The certification tests must follow the testing protocol where paired identical trawls are towed by a trawler in acceptable testing areas (*see* introductory paragraph of section D). For tests of BRD candidates that do not encompass testing a hard or soft TED as the BRD candidate, identical approved hard TEDs are required in each trawl and one of the trawls must be equipped with a functioning BRD candidate. To test a hard or soft TED as a BRD candidate, the control net

must be equipped with an approved hard TED, and the experimental net must be equipped with the TED that is acting as the BRD candidate.

A minimum sample size of 30 successful tows per test is required. Additional tows may be necessary for sufficient statistical evidence, especially if catch of the species upon which the bycatch reduction criterion is based (*e.g.*, red snapper) is highly variable. A gear change (*i.e.*, changing nets, doors, or rigging) during a test constitutes the beginning of a new test. All certification tows must be no less than 2 hours and no more than 8 hours in duration. The applicant may select any tow time within this range. Once a tow time is selected, no tow time during a series of tests may vary by more than 10 percent.

To avoid potential biases associated with trynet catches, the outside trawls on quad-rigged vessels must be used as the control and experimental trawls, and for double-rigged vessels, the use of a trynet is prohibited.

The functioning BRD candidate must be switched every 4–6 tows (approximately every 2 days) between the two trawl nets. This process must be repeated, ensuring that an equal number of successful tows are made with the BRD candidate employed in both the port and starboard nets, until a minimum of 30 successful tows have been completed. For BRDs incorporated in the codend of the net, this process can be facilitated by the use of zippers, or other quick-connection devices, to more easily move the codends between nets; however, simply switching the entire net will not satisfy this requirement because doing so would not resolve net bias. Such quick-connection devices must be attached behind the TED. The TED must not be moved unless the BRD is actually incorporated into the TED portion of the net. Where a hard TED is being tested as a BRD candidate, that portion of the net including the TEDs must be moved, and again, quick-connection devices located in front of the TEDs may be used.

A different procedure must be followed to conduct tests of an approved or experimental soft TED as a BRD candidate. To conduct these tests, the applicant must first demonstrate that little or no side/net bias exists between the two nets to be used in the test (see D.1.). Removing the soft TED from one trawl net and installing it in the other net is not required. For these tests, the control (with a hard TED) and experimental (with the soft TED) nets must be disconnected from the doors and their positions switched from one side of the vessel to the other. The first switch must be made after successfully completing approximately 25 percent of the total number of intended tows. This process must be repeated, at 25 percent intervals, until at least 30 successful tows are completed (*i.e.*, every 7–8 successful tows).

Following each paired tow, the catches from the control and experimental nets must be examined separately. This requires that the catch from each net be kept separate from each other, as well as from the catch taken in other nets fished during that tow. First, the observer must weigh the total catch of each test net (control and experimental nets). If the catch in a net does not fill one standard 1-bushel (ca. 10 gallon) (30 liters) polyethylene shrimp basket (ca. 70 pounds) (31.8 kg), but the tow is otherwise considered successful, data must be collected on the entire catch of that net, and recorded as a ''select'' sample (see Appendix E). If the catch in a net exceeds 70 pounds (31.8 kg), a well-mixed sample consisting of one standard 1-bushel (ca. 10 gallon) (30 liters) polyethylene shrimp basket must be taken from the total catch of that net.

Data must be collected on Form E–1 for the following species or general groups found in each of the samples: (1) Penaeid shrimp—brown, white and pink shrimp from each sample must be separated by species, counted and weighed; in addition, the weight for those penaeid shrimp species caught in each test net, but that were not included in the sample, must be recorded so that a total shrimp catch for each net (by weight) is documented; (2) crustacea—mantis shrimp, sugar shrimp, seabobs, crabs, lobsters and other similar species—must be weighed as an aggregate; (3) other invertebrates—squid, jellyfish, starfish, sea pansies, shells, and other similar species—must be weighed as an aggregate; (4) each finfish species or species group listed in Appendix E must be weighed and counted; (5) other finfish—including all other fish not listed on the above-referenced form must be weighed as an aggregate; and (6) debris (mud, rocks, and related matter) must be weighed as an aggregate.

''Select'' finfish species (page E–3 of this Manual) (*i.e.*, particular species to be quantified from the total catch and not just the sample) are red snapper, Spanish mackerel, and king mackerel. All individuals of the ''Select'' species from each test net (control and experimental net) must be collected, counted, weighed, and recorded. Lengths for as many as 30 individuals of each select species must be recorded on Form F–1. These data are necessary to robustly determine age-class composition, and specific mortality reductions attributable to each of the age classes.

Applicants must also collect qualitative information, using Form G–1, on the condition (alive or dead) and fate (floated off, swam down, eaten) of the discards whenever possible, and note the presence of any predator species such as sharks, porpoises, and jacks that are observed. The condition and fate of the bycatch is important for determining the fishing mortality and waste associated with this discard.

E. Reports

A report on the BRD candidate test results must be submitted for certification. The report must contain a comprehensive description of the tests, copies of all completed data forms used during the certification trials, and photographs, drawings, and similar material describing the BRD. The captain or owner must sign and submit the cover form (Appendix A). The report must include a description and explanation of any unforeseen deviations from the protocol which occurred during the test. Applicants must provide information on the cost of materials, labor, and installation of the BRD candidate. In addition, any unique or special circumstances of the tests, including special operational characteristics or fishing techniques which enhance the BRD's performance, should be described and documented as appropriate.

F. Certification

The RA will determine whether the required reports and supporting materials are sufficient to evaluate the BRD candidate's efficiency. The RA also will determine whether the applicant adhered to the prescribed testing protocol, and whether the BRD candidate meets the bycatch reduction criterion. In making a decision, the RA may consult with evaluation and oversight personnel.

The RA will determine the effectiveness of the BRD candidate. For the western Gulf, the statistical protocol in Appendix H provides the methodology that the RA will use to estimate the reduction in bycatch mortality on age-1 juvenile red snapper if the test is conducted during the primary period (July or August). Tests conducted during other parts of the year will, most likely, catch both age 0 and age 1 red snapper. To evaluate the overall reduction in mortality rate of these juvenile age classes attributable to the BRD candidate will require alternative extensive analysis, involving use of the Goodyear (1995) stock assessment model to assign mortality reductions by specific size classes within the age 0 and age 1 red snapper catch.

For the eastern Gulf the RA will determine the effectiveness of the BRD candidate to, on average, reduce the bycatch of finfish by 30 percent by weight compared to the bycatch of finfish in the designated control net. To evaluate the efficiency of the BRD candidate, the RA will rely on the Southeast Fisheries Science Center to provide statistically valid mean reduction rates in finfish bycatch attributable to the BRD candidate.

Following a favorable determination of these criteria, the RA will certify the BRD (with any appropriate conditions as indicated by test results) and publish the certification in the **Federal Register**.

IV. BRDs Not Certified and Resubmission Procedures

The RA will advise the applicant, in writing, if a BRD is not certified. This notification will explain why the BRD was not certified and what the applicant may do to either modify the BRD or the testing procedures to improve the chances of having the BRD certified in the future. If certification was denied because of insufficient information, the RA will explain what information is lacking. The applicant must provide the additional information within 60 days from receipt of such notification; thereafter, the applicant must re-apply. If the RA subsequently certifies the BRD, the RA will announce the certification in the **Federal Register**.

V. Decertification of BRDs

The RA will decertify a BRD whenever it is determined that it no longer satisfies the bycatch reduction criterion. Before determining whether to decertify a BRD, the Council and public will be advised and provided an opportunity to comment on the advisability of any proposed decertification.

The RA will consider any comments from the Council and public, and if the RA elects to proceed with decertification of the BRD, the RA will publish proposed and final rules in the **Federal Register** with a comment period of not less than 15 days on the proposed rule.

VI. Interactions With Sea Turtles

The following section is provided for informational purposes. Sea turtles are listed under the Endangered Species Act as either endangered or threatened. The following procedures apply to incidental take of sea turtles under 50 CFR 223.206(d)(1):

Any sea turtles taken incidentally during the course of fishing or scientific research activities must be handled with due care to prevent injury to live specimens, observed for activity, and returned to the water according to the following procedures:

(A) Sea turtles that are actively moving or determined to be dead (as described in paragraph (B)(4) below) must be released over the stern of the boat. In addition, they must be released only when fishing or scientific collection gear is not in use, when the engine gears are in neutral position, and in areas where they are unlikely to be recaptured or injured by vessels.

(B) Resuscitation must be attempted on sea turtles that are comatose or inactive by:

(1) Placing the turtle on its bottom shell (plastron) so that the turtle is right side up and elevating its hindquarters at least 6 inches (15.2 cm) for a period of 4 to 24 hours. The amount of elevation depends on the size of the turtle; greater elevations are needed for larger turtles. Periodically, rock the turtle gently left to right and right to left by holding the outer edge of the shell (carapace) and lifting one side about 3 inches (7.6 cm) then alternate to the other side. Gently touch the eye and pinch the tail (reflex test) periodically to see if there is a response.

(2) Sea turtles being resuscitated must be shaded and kept damp or moist but under no circumstance be placed into a container holding water. A water-soaked towel placed over the head, carapace, and flippers is the most effective method in keeping a turtle moist.

(3) Sea turtles that revive and become active must be released over the stern of the boat only when fishing or scientific collection gear is not in use, when the engine gears are in neutral position, and in areas where they are unlikely to be recaptured or injured by vessels. Sea turtles that fail to respond to the reflex test or fail to move within 4 hours (up to 24, if possible) must be returned to the water in the same manner as that for actively moving turtles.

(4) A turtle is determined to be dead if the muscles are stiff (rigor mortis) and/or the flesh has begun to rot; otherwise, the turtle is determined to be comatose or inactive and resuscitation attempts are necessary.

Any sea turtle so taken must not be consumed, sold, landed, offloaded, transshipped, or kept below deck.

References

Gulf of Mexico Fishery Management Council, 1997. Amendment 9 to the Fishery Amendment 9 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico, Including a Final Supplemental Environmental Impact Statement and Regulatory Impact Review and Social Impact Assessment. Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619, 153 p.

Goodyear, C. P.; 1995. Red snappers in U.S. waters of the Gulf of Mexico. National Marine Fisheries Service, Southeast Fisheries Science Center, Miami Laboratory, Miami, FL. Laboratory Report, Contribution # MIA 95/96–05, 171 p.

Hoese, H. Dickson and Richard H. Moore; 1977. Fishes of the Gulf of Mexico, Texas, Louisiana, and Adjacent Waters. Texas A&M University Press. College Station, TX, 327 p.

SAFMC; 1997. Final Bycatch Reduction Device Testing Protocol Manual. South Atlantic Fishery Management Council, 1 Southpark Cir., Ste 306, Charleston, S.C. 29407, 34 p.

Ward, John M., Teofilo Ozuma and Wade Griffen; 1995 Cost and Revenues in the Gulf of Mexico Shrimp Fishery. NOAA Tech. Mem. NMFS–SEFSC–371, 76 p.

Appendix H—Statistical Procedures for Analyzing BRD Evaluation Data Relative to the Western Gulf Criterion

NMFS will calculate the reduction in bycatch mortality (F) based on data gathered during the testing. Both age 0 and age 1 red snapper, ranging in length from 10 mm to 200 mm, occur frequently in shrimp trawls. During the July/August (July 1–August 31) period, the most recently spawned year class of fish have not fully recruited to the shrimp grounds; thus the catch is represented by a relatively narrow length range of individuals, all of which are considered to be age 1. The numerical reduction in catch-per-unit-effort (CPUE) of this specific age class is expected to be a good predictor of fishing mortality (F) reduction, although the size composition data will be checked for any particular test. The analysis of the data collected under this testing protocol will be based on a modified paired t-test. Because of the varying age and size composition of the red snapper catch taken at other times of the year, more detailed analyses through use of a stock assessment model (Goodyear 1995) incorporating the size-specific reduction performance of the device and the seasonal progression of F must be conducted to determine if the BRD candidate will meet the bycatch reduction criterion. Based on the time of the year that the test is conducted, NMFS will utilize the appropriate technique to assess the performance of the BRD candidate as a service for the BRD sponsor.

All experimental tows must be conducted in conformance with the requirements of the BRD testing protocol. Data collected from no more than 20 tuning tows of the control and experimental trawls (without the BRD candidate installed) must be included to determine if any net bias exists prior to beginning certification phase testing. To further reduce problems caused by no or low catches, a tow being considered for certification in the western Gulf must contain a minimum catch of 5 red snapper in at least one trawl for inclusion in the analysis. Once conducted, the tow and the corresponding collected data become the permanent part of the record and cannot be discarded. Only the successful tows will count toward the minimum required; however, information from other tows, if appropriate, will be used in the analysis.

Statistical Approach for Calculation of Bycatch Mortality (F) Reduction for Devices Tested in July/August

The statistical approach assumes that the BRD to be tested does not achieve the minimum required reduction rate, (R_o). The hypotheses to be tested are as follows:

H_o : BRD does not achieve the minimum required reduction rate,

$$R = \frac{\mu_c - \mu_b}{\mu_c} \le R_o, \text{ i.e. } \left(1 - R_o\right)\mu_c - \mu_b \le 0.$$

H_a : BRD does achieve the minimum required reduction rate,

$$R = \frac{\mu_c - \mu_b}{\mu_c} > R_o, \text{ i.e. } \left(1 - R_o\right)\mu_c - \mu_b > 0.$$

R denotes the actual reduction rate (unknown), R_o denotes the minimum required reduction rate, μ_c denotes the actual mean CPUE with the control, and μ_b denotes the actual mean CPUE with the BRD.

With any hypothesis testing, there are two risks involved known as type I error (rejection of true H_o) and type II error

(acceptance of false H_o). The probabilities of committing these errors are denoted by alpha and beta, respectively. The probabilities are inversely related to each other. As alpha increases, beta decreases and vice versa. An alpha of 10 percent will be used. The two hypotheses are tested using a 'modified' paired t-test.

The CPUE values for the control and BRD trawls for each successful tow is computed first and is used in the following computations:

$$t = \frac{(1 - R_o)\,\bar{x} - \bar{y},}{s_{do} / \sqrt{n}}$$

Where:

$\bar{X}$ is the observed mean CPUE for the control,

$\bar{y}$ is the observed mean CPUE for the BRD,

s_{d0} is the standard deviation of $d_i = \{ (1–R_o)x_i–y_i\}$ values,

n is the number of successful tows used in the analysis, and

i = 1,2,...,n.

The H_o will be rejected if $t > t_{alpha,\ n–1}$ where $t_{alpha,\ n–1}$ denotes the (1–alpha) 100th percentile score in the t distribution with (n–1) degrees of freedom.

A (1–alpha) 100-percent two-sided confidence interval on R consists of all values of R_o for which H_o: $R = R_o$ (versus H_a $R \neq R_o$) cannot be rejected at the level of significance of alpha. One-sided confidence intervals on R could also be computed appropriately.

Appendix I—Qualifications of Observer

An observer:

1. Must have a Bachelor's degree in fisheries biology or closely related field from an accredited college, have at least 6 months experience working with a university, college, state fisheries agency, NMFS, or private research organization such as the Gulf and South Atlantic Fisheries Development Foundation as an observer on a trawler (including research trawlers) in the southeast region, or have successfully completed a training course conducted or approved by the Director of the NMFS Southeast Fisheries Science Center.

2. Must not have a current or prior financial relationship with the entity seeking BRD certification.

In addition, any individual:

1. Applying to serve as an observer must provide the names, addresses, and telephone numbers of at least three references who can attest to the applicant's background, experiences, and professional ability. These references will be contacted; unsatisfactory references may be a basis for disapproval of an applicant as an observer.

2. Wishing to serve as an observer should submit a resume and supporting documents to the Director, Southeast Fisheries Science Center, 75 Virginia Beach Drive, Miami, FL 33149. The Center will use this information to determine which names will to be included on a list of qualified observers. If an applicant is not approved as an observer, the RA will notify the applicant of the disapproval and will provide an explanation for the denial.

[FR Doc. 04–463 Filed 1–8–04; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 69, No. 6
Friday, January 9, 2004

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

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 381

[Docket No. 99–017E]

Classes of Poultry

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule: reopening and extension of comment period.

SUMMARY: The Food Safety and Inspection Service (FSIS) is reopening and extending the comment period for the proposed rulemaking, ''Classes of Poultry.'' The comment period for the proposed rule closed on November 28, 2003. This action responds to a request from an industry trade association to allow additional time to comment on a specific issue raised in the preamble to the proposed rule.

DATES: Comments are due February 9, 2004.

ADDRESSES: Send one original and two copies of written comments to FSIS Docket No. 99–017P, Department of Agriculture, Food Safety and Inspection Service, Room 102, 300 12th Street, SW., Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Robert C. Post, Ph.D., Director, Labeling and Consumer Protection Staff, Office of Policy and Program Development, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250–3700; (202) 205–0279

SUPPLEMENTARY INFORMATION: On September 29, 2003, FSIS published a proposed rule, ''Classes of Poultry,'' in the **Federal Register** (68 FR 55902). In that document, the Agency proposed to amend the definitions and standards for the official U.S. classes of poultry so that they more accurately and clearly describe the characteristics of poultry in the market today. Poultry classes are defined primarily in terms of the age and the sex of the bird. In the preamble to the proposed rule, FSIS requested, among other things, comments on whether the Agency should establish ready-to-cook carcass weights or maximum weights for certain poultry classes.

An industry trade association submitted a comment stating that this issue would require considerable consultation with various segments of the chicken industry. The commenter requested additional time to discuss the issue with the industry and to try to arrive at a consensus of workable market weights for certain chicken classes.

FSIS has considered the request and believes that the information that the commenter is interested in providing will be useful in informing the Agency's decision on whether to establish ready-to-cook market weights for certain poultry classes, and if so, what those weights should be. Therefore, the Agency will reopen and extend the comment period for the proposed rule for an additional 30 days. The Agency believes that this will provide additional time for comments to be made, while ensuring that the rulemaking proceeds in a timely manner. As a result of this reopening and extension, the comment period for the proposed rule will close on February 9, 2004.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and make copies of this **Federal Register** publication available through the FSIS Constituent Update. FSIS provides a weekly Constituent Update, which is communicated via Listserv, a free e-mail subscription service. In addition, the update is available on-line through the FSIS Web page located at *http://www.fsis.usda.gov.* The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent Listserv consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through the Listserv and Web page, FSIS is able to provide information to a much broader, more diverse audience.

For more information contact the Congressional and Public Affairs Office, at (202) 720–9113. To be added to the free e-mail subscription service (Listserv) go to the ''Constituent Update'' page on the FSIS Web site at *http://www.fsis.usda.gov/oa/update/update.htm.* Click on the ''Subscribe to the Constituent Update Listserv'' link, then fill out and submit the form.

Done in Washington, DC on January 5, 2004.

Garry L. McKee,

Administrator.

[FR Doc. 04–402 Filed 1–8–04; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–204–AD]

RIN 2120–AA64

Airworthiness Directives; Dassault Model Mystere-Falcon 50 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Dassault Model Mystere-Falcon 50 series airplanes. This proposal would require a one-time inspection for improper installation of the electrical wiring for the optional lighting in the cabin, and corrective actions if necessary. This action is necessary to prevent overheating of optional lighting wiring that was improperly installed in the cabin, and consequent smoke/fire in the cabin. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by February 9, 2004.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–204–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain ''Docket No. 2002–NM–204–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 Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1137; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NM–204–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–204–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Dassault Model Mystere-Falcon 50 series airplanes. The DGAC advises that due to incorrect routing, wiring for the optional lighting in the cabin may be directly connected to the direct power supply line of the battery bus instead of through a dedicated circuit breaker. In this configuration, an electrical current is generated even after the starter generators and batteries are switched off. This condition, if not corrected, could result in overheating of electrical wiring and consequent smoke/fire in the cabin.

Explanation of Relevant Service Information

Dassault has issued Service Bulletin F50–138, Revision 1, dated June 12, 2002, which describes procedures for inspecting the wiring installation for the optional lighting in the cabin, measuring the electrical current at a certain circuit breaker, and performing corrective actions if necessary. The corrective actions include installing circuit breakers, modifying the existing wiring installation, doing a detailed inspection of any modified wiring installation to ensure it matches the wiring diagram, and testing the modified wiring installation. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 2002–086–036(B) R1, dated March 20, 2002, to ensure the continued airworthiness of these airplanes in France.

FAA's Conclusions

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept 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.

Explanation of Requirements of Proposed AD

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

Cost Impact

We estimate that 175 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 2 work hours per airplane to accomplish the proposed inspection at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the proposed inspection is estimated to be $22,750, or $130 per airplane.

Should an operator have to modify the optional lighting wiring, it would take approximately 60 work hours at an average labor rate of $65 per work hour. Required parts would be provided by the manufacturer at no charge. Based on these figures, the cost impact of the proposed modification on U.S. operators is estimated to be $682,500, or $3,900 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Dassault Aviation: Docket 2002–NM–204–AD.

Applicability: Model Mystere-Falcon 50 series airplanes having serial numbers 2 to 270 inclusive, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent overheating of optional lighting wiring that was improperly installed in the cabin, and consequent smoke/fire in the cabin, accomplish the following:

Inspection

(a) Within 13 months after the effective date of this AD: Do a detailed inspection (including measurement of electrical current) of the electrical wiring installation for optional lighting in the cabin to determine if any wiring is directly connected to the battery bus. Do all of the applicable actions per the Accomplishment Instructions of Dassault Service Bulletin F50–318, Revision 1, dated June 12, 2002.

Note 1: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Corrective Actions

(b) If any electrical wiring is found to be directly connected to the battery bus during the inspection required by paragraph (a) of this AD, before further flight, do all the applicable corrective actions (*e.g.*, modifying the existing wiring, doing a detailed inspection of any modified wiring installation to ensure it matches the wiring diagram, and testing the modified wiring installation) per the Accomplishment Instructions of Dassault Service Bulletin F50–318, Revision 1, dated June 12, 2002.

Alternative Methods of Compliance

(c) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, is authorized to approve alternative methods of compliance for this AD.

Note 2: The subject of this AD is addressed in French airworthiness directive 2002–086–036(B) R1, dated March 20, 2002.

Issued in Renton, Washington, on December 31, 2003.

Michael J. Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–425 Filed 1–8–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NM–74–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 and –11F Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–11 and –11F airplanes, that currently requires, among other actions, replacing the ground support bracket(s); and rerouting the ground cables of the galley external power and main external power, as applicable. This action would require replacing ground support brackets with new brackets, and replacing ground cables of the galley external power and main external power with new cables; as applicable. This action also would require an inspection to detect the presence of a fillet seal at the ground brackets and to detect excessive length and correct terminations of the ground cables of the galley and main external power, as applicable; and corrective actions if necessary. The actions specified by the proposed AD are intended to prevent arcing and heat damage to the attachment points of the main external and galley power receptacle ground wire, insulation blankets outboard and aft of the receptacle area, and adjacent power cables, which could result in smoke and fire in the forward cargo compartment. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by February 23, 2004.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2003–NM–74–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2003–NM–74–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 Aircraft Group, 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: Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; 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 2003–NM–74–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2003–NM–74–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On July 2, 2002, the FAA issued AD 2002–14–11, amendment 39–12811 (67 FR 47651, July 19, 2002), applicable to certain McDonnell Douglas Model MD–11 and –11F airplanes, to require replacing the ground support bracket(s); and rerouting the ground cables of the galley external power and main external power, as applicable. That AD also requires an inspection of the ground cables of the main external power and galley external power for excessive length, as applicable; and corrective actions, if necessary. That action was prompted by FAA's determination that currently required actions may not adequately address the identified unsafe condition. The requirements of that AD are intended to prevent arcing and heat damage to the attachment points of the main external and galley power receptacle ground wire, insulation blankets outboard and aft of the receptacle area, and adjacent power cables, which could result in smoke and fire in the forward cargo compartment.

Actions Since Issuance of Previous Rule

Since the issuance of that AD, Boeing has informed the FAA that Revision 01 of McDonnell Douglas Alert Service Bulletin MD11–24A138, dated June 5, 2001 (referenced as the appropriate source of service information for accomplishing the required actions), references an incorrect termination code and does not specify procedures for a general visual inspection of the ground bracket to detect a fillet seal. Therefore, we have determined that more work is necessary on airplanes that accomplished the requirements of AD 2002–14–11 in order to adequately address the identified unsafe condition.

Other Related Rulemaking

The FAA, in conjunction with Boeing and operators of Model MD–11 and –11F airplanes, has reviewed all aspects of the service history of those airplanes to identify potential unsafe conditions and to take appropriate corrective actions. This proposed AD is one of a series of corrective actions identified during that process. We have previously issued several other ADs and may consider further rulemaking actions to address the remaining identified unsafe conditions.

Explanation of Relevant Service Information

We have reviewed and approved Revision 2 of Boeing Alert Service Bulletin MD11–24A138, dated July 11, 2003, which describes the following procedures depending on the airplane configuration:

• Replacing ground support brackets with new brackets, and replacing ground cables of the galley external power and main external power with new cables; and

• Doing a general visual inspection to detect the presence of a fillet seal at the ground brackets and to detect excessive length and correct terminations of the ground cables of the galley and main external power, and applicable corrective actions if necessary. The corrective actions include replacing brackets with new brackets, and replacing ground cables with new cables; as applicable.

Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 2002–14–11 to require accomplishment of the actions specified in Revision 02 of the service bulletin described previously.

Cost Impact

There are approximately 154 airplanes of the affected design in the worldwide fleet. The FAA estimates that 69 airplanes of U.S. registry would be affected by this proposed AD.

The new actions that are proposed in this AD action would take approximately 1 work hour per airplane to accomplish, at an average labor rate of $65 per work hour. Required parts would cost approximately between $175 and $2,002 per airplane depending on airplane configuration. Based on these figures, the cost impact of the proposed requirements of this AD on U.S. operators is estimated to between $240, or $2,067 per airplane depending on airplane configuration.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or 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. The manufacturer may cover the cost of replacement parts associated with this

proposed AD, subject to warranty conditions. Manufacturer warranty remedies may also be available for labor costs associated with this proposed AD. As a result, the costs attributable to the proposed AD may be less than stated above.

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 removing amendment 39–12811 (67 FR 47651, July 19, 2002), and by adding a new airworthiness directive (AD), to read as follows:

McDonnell Douglas: Docket 2003–NM–74–AD. Supersedes AD 2002–14–11, Amendment 39–12811.

Applicability: Model MD–11 and –11F airplanes, as listed in Boeing Alert Service Bulletin MD11–24A138, Revision 2, dated July 11, 2003; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent arcing and heat damage to the attachment points of the main external and galley power receptacle ground wire, insulation blankets outboard and aft of the receptacle area, and adjacent power cables, which could result in smoke and fire in the forward cargo compartment, accomplish the following:

Replacement, Inspection, and Corrective Actions if Necessary

(a) Within 12 months after the effective date of this AD, accomplish the actions specified in paragraph (a)(1) through (a)(4) of Table 1 of this AD, as applicable, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin MD11–24A138, Revision 2, dated July 11, 2003. Any applicable corrective action must be accomplished before further flight.

TABLE 1.—REQUIRED ACTIONS

For Group 1 airplanes listed in Revision 2 the service bulletin on which previous issues of the service bulletin—	Actions—
(1) Have not been done	Replace the ground support brackets with new brackets, and replace the ground cables of the galley external power and main external power with new cables.
(2) Have been done	Do a general visual inspection to detect the presence of a fillet seal at the ground brackets and to detect excessive length and correct terminations of the ground cables of the galley and main external power. If any discrepancy is detected, do applicable corrective actions per Figure 3 of the service bulletin.
For Group 2 airplanes listed in Revision 2 of the service bulletin on which previous issues of the service bulletin—	**Actions—**
(3) Have not been done	Replace the ground support bracket with a new bracket, and replace the ground cables of the main external power with new cables.
(4) Have been done	Do a general visual inspection to detect the presence of a fillet seal at the ground brackets and to detect excessive length and correct terminations of the ground cables of the main external power. If any discrepancy is detected, do applicable corrective actions per Figure 4 of the service bulletin.

Note 1: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Alternative Methods of Compliance

(b) In accordance with 14 CFR 39.19, the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, is authorized to approve alternative methods of compliance (AMOCs) for this AD.

Issued in Renton, Washington, on January 2, 2004.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–477 Filed 1–8–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–CE–55–AD]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Pilatus Aircraft Ltd. (Pilatus) Models PC–12 and PC–12/45 airplanes. This proposed AD would require you to determine whether certain main landing gear shock absorber attachment bolts have been replaced and, if not replaced would require you to replace shock absorber attachment bolts on main landing gear assemblies that had a serial number beginning with AM. This proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. We are issuing this proposed AD to detect and correct hydrogen embrittlement in the main landing gear shock absorber attachment bolts, which could result in failure of the main landing gear. This failure could lead to main landing gear collapse during operation with consequent loss of airplane control.

DATES: We must receive any comments on this proposed AD by February 19, 2004.

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

- *By mail:* FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003–CE–55–AD, 901 Locust, Room 506, Kansas City, Missouri 64106.
- *By fax:* (816) 329–3771.
- *By e-mail: 9-ACE–7-Docket@faa.gov.* Comments sent electronically must contain ''Docket No. 2003–CE–55–AD'' in the subject line. If you send comments electronically as attached electronic files, the files must be formatted in Microsoft Word 97 for Windows or ASCII.

You may get the service information identified in this proposed AD from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 63 19; facsimile: +41 41 619 6224; or from Pilatus Business Aircraft Ltd., Product Support Department, 11755 Airport Way, Broomfield, Colorado 80021; telephone: (303) 465–9099; facsimile: (303) 465–6040.

You may view the AD docket at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003–CE–55–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. Office hours are 8 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

How do I comment on this proposed AD? We invite you to submit any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''AD Docket No. 2003–CE–55–AD'' in the subject line of your comments. If you want us to acknowledge receipt of your mailed comments, send us a self-addressed, stamped postcard with the docket number written on it. We will date-stamp your postcard and mail it back to you.

Are there any specific portions of this proposed AD I should pay attention to? We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. If you contact us through a nonwritten communication and that contact relates to a substantive part of this proposed AD, we will summarize the contact and place the summary in the docket. We will consider all comments received by the closing date and may amend this proposed AD in light of those comments and contacts.

Discussion

What events have caused this proposed AD? The Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, recently notified FAA that an unsafe condition may exist on Pilatus Models PC–12 and PC–12/45 airplanes. The FOCA reports that certain shock absorber attachment bolts (part number 532.10.12.110) in the main landing gear assemblies could fail during operation. Investigations revealed that an improper cadmium plating process applied to the high strength steel part causes the problem. This can cause hydrogen embrittlement.

The only bolts affected are those installed on main landing gear assemblies with a serial number that starts with AM.

What are the consequences if the condition is not corrected? Failure of the main landing gear could lead to main landing gear collapse during operation with consequent loss of airplane control.

Is there service information that applies to this subject? Pilatus has issued PC12 Service Bulletin No. 32–015, dated September 12, 2003.

What are the provisions of this service information? The service bulletin includes procedures for:

—Inspecting the left and right main landing gear assemblies if the assemblies have a serial number beginning with AM; and

—Replacing the shock absorber attachment bolts if any main landing gear assembly has a serial number beginning with AM.

What action did the FOCA take? The FOCA classified this service bulletin as mandatory and issued Swiss AD Number HB 2003–522, dated November 14, 2003, to ensure the continued airworthiness of these airplanes in Switzerland.

Did the FOCA inform the United States under the bilateral airworthiness agreement? These Pilatus Models PC–12 and PC–12/45 airplanes are manufactured in Switzerland 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.

Under this bilateral airworthiness agreement, the FOCA has kept us informed of the situation described above.

FAA's Determination and Requirements of This Proposed AD

What has FAA decided? We have examined the FOCA's findings, 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.

Since the unsafe condition described previously is likely to exist or develop on other Pilatus Models PC–12 and PC–12/45 airplanes of the same type design that are registered in the United States, we are proposing AD action to detect and correct hydrogen embrittlement in the main landing gear shock absorber attachment bolts, which could result in failure of the main landing gear.

What would this proposed AD require? This proposed AD would require you to determine whether certain main landing gear shock absorber attachment bolts have been replaced and, if not replaced would require you to replace shock absorber attachment bolts on main landing gear assemblies that had a serial number beginning with AM.

How does the revision to 14 CFR part 39 affect this proposed AD? On July 10, 2002, we published a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs FAA's AD system. This regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. This material previously

was included in each individual AD. Since this material is included in 14 CFR part 39, we will not include it in future AD actions.

Costs of Compliance

How many airplanes would this proposed AD impact? We estimate that this proposed AD affects 260 airplanes in the U.S. registry.

What would be the cost impact of this proposed AD on owners/operators of the affected airplanes? The manufacturer will provide parts free of charge and will pay for the estimated 3 workhours required to do the inspection and replacement of the shock absorber attachment bolts.

Compliance Time of This Proposed AD

What would be the compliance time of this proposed AD? The compliance time of this proposed AD is within the next 30 calendar days after the effective date of this AD.

Why is this proposed compliance time presented in calendar time instead of hours time-in-service (TIS)? The unsafe condition exists or could develop on airplanes equipped with the affected parts regardless of airplane operation. For example, the unsafe condition has the same chance of occurring on an airplane with 50 hours TIS as it does on one with 5,000 hours TIS. Therefore, we are presenting the compliance time of the proposed AD in calendar time instead of hours TIS.

Regulatory Findings

Would this proposed AD impact various entities? 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.

Would this proposed AD involve a significant rule or regulatory action? For the reasons discussed above, I certify that this proposed AD:

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 summary of the costs to comply with this proposed AD and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include ''AD Docket No. 2003–CE–55–AD'' in your request.

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 Federal Aviation Administration 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):

Pilatus Aircraft Ltd.: Docket No. 2003–CE–55–AD.

When Is the Last Date I Can Submit Comments on This Proposed AD?

(a) We must receive comments on this proposed airworthiness directive (AD) by February 19, 2004.

What Other ADs Are Affected by This Action?

(b) None.

What Airplanes Are Affected by This AD?

(c) This AD affects Models PC–12 and PC–12/45 airplanes, all serial numbers, that are certificated in any category.

What Is the Unsafe Condition Presented in This AD?

(d) This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The actions specified in this AD are intended to detect and correct hydrogen embrittlement in the main landing gear shock absorber attachment bolts, which could result in failure of the main landing gear. This failure could lead to main landing gear collapse during operation with consequent loss of airplane control.

What Must I Do To Address This Problem?

(e) To address this problem, you must do the following:

Actions	Compliance	Procedures
(1) Maintenance Records Check: (i) Check the maintenance records to determine whether the main landing gear (MLG) shock absorber attachment bolts (part number (P/N) 532.10.12.110) have been replaced. The bolts must have been replaced by following Pilatus PC12 Service Bulletin No: 32–015, dated September 12, 2003. The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may perform this check. (ii) If, by checking the maintenance records, the owner/operator can definitely show that the MLG gear shock absorber attachment bolts (P/N 532.10.12.110) have been replaced (by following Pilatus PC12 Service Bulletin No: 32–015, dated September 12, 2003), then report the removal of any bolts to FAA at the address in paragraph (f) of this AD. You must make an entry into the aircraft records that shows compliance with this portion of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).	Within the next 30 calendar days after the effective date of this AD, unless already done.	No special procedures necessary to check the maintenance records.

Actions	Compliance	Procedures
(2) If you find as a result of the check in paragraph (e)(1) that there is no record of bolt replacement, inspect the left and right MLG assemblies (P/N 532.10.12.049 and P/N 532.10.12.050) for any serial number beginning with AM. You may choose to do the inspection without doing the logbook check.	Within the next 30 calendar days after the effective date of this AD, unless already done.	Follow the Accomplishment Instructions of Pilatus PC12 Service Bulletin No: 32–015, dated September 12, 2003.
(3) If during the inspection required by paragraph (e)(2) of this AD, you find any MLG assembly with a serial number beginning with AM, replace the shock absorber bolts (P/N 532.10.12.110) with new bolts.	Before further flight after the inspection required by paragraph (e)(2) of this AD.	Follow the Accomplishment Instructions of Pilatus PC12 Service Bulletin No: 32–015, dated September 12, 2003.
(4) After removal of the shock absorber bolts (P/N 532.10.12.110), send the old removed bolts to Pilatus. Report this to FAA at the address in paragraph (f) of this AD.	Within the next 30 calendar days after the effective date of this AD, unless already done.	Not Applicable.
(5) Before installing any left or right MLG assembly (P/N 532.10.12.049 or P/N 532.10.12.050) that has a serial number beginning with AM, ensure that the shock absorber bolts (P/N 532.10.12.110) have been replaced, and, if not, replace with new bolts.	As of the effective date of this AD.	Not Applicable.

May I Request an Alternative Method of Compliance?

(f) You may request a different method of compliance or a different compliance time for this AD by following the procedures in 14 CFR 39.13. Send your request to the Manager, Standards Office, Small Airplane Directorate, FAA. For information on any already approved alternative methods of compliance, contact Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

May I Get Copies of the Documents Referenced in This AD?

(g) You may get copies of the documents referenced in this AD from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 63 19; facsimile: +41 41 619 6224; or from Pilatus Business Aircraft Ltd., Product Support Department, 11755 Airport Way, Broomfield, Colorado 80021; telephone: (303) 465–9099; facsimile: (303) 465–6040. You may view these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Is There Other Information That Relates to This Subject?

(h) Swiss AD Number HB 2003–522, dated November 14, 2003, also addresses the subject of this AD.

Issued in Kansas City, Missouri, on January 2, 2004.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–476 Filed 1–8–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD08–03–049]

RIN 1625–AA09

Drawbridge Operation Regulations; Belle River, Belle River, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to temporarily change the regulation governing the operation of the State Route 70 pontoon drawbridge across Belle River, mile 23.8, near Belle River, Louisiana. The temporary change would allow the bridge operations to be adjusted to facilitate the relocation of the tender's house. The duration of the temporary change will be for eight months from the effective date of the temporary rule.

DATES: Comments and related material must reach the Coast Guard on or before March 9, 2004.

ADDRESSES: You may mail comments and related material to Commander (obc), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana 70130–3396. The Commander, Eighth Coast Guard District, Bridge Administration Branch maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the Bridge Administration office between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. David Frank, Bridge Administration Branch, 504–589–2965.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD08–03–049], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed temporary rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. You may submit a request for a meeting by writing to Commander, Eighth Coast Guard District, Bridge Administration Branch at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Louisiana Department of Transportation and Development (LDOTD) plans to replace the bridge tender's house of the State Route 70 pontoon drawbridge across Belle River (on the Gulf Intracoastal Waterway Morgan City to Port Allen Alternate Route (Landside Route)), mile 23.8, at Belle River, Louisiana. During construction of the bridge tender's house, vehicular traffic will be limited to one lane. Since the bridge tender's house will be removed and replaced, the tender will have no place to stay at night or during inclement weather. The proposed temporary rule allows for the continued operation of the bridge with minor changes to the operating schedule. Presently, 33 CFR 117.424 requires that the draw of the S70 bridge, mile 23.8 (Landside Route) near Belle River, must open on signal; except that, from 10 p.m. to 6 a.m., the draw must open on signal if at least four hours notice is given. During the advance notice period, the draw must open on less than four hours notice for an emergency and open on demand should a temporary surge in waterway traffic occur.

LDOTD indicates that approximately 60 vessels per month pass through the bridge site.

Discussion of Proposed Rule

This proposed temporary rule would allow the bridge to continue to operate normally from 8 a.m. to 5 p.m. Monday through Friday while opening on signal with four hours notice at all other times. The advance notice requirement would affect marine traffic for an additional two hours in the mornings and five hours in the evenings. Additionally, mariners would be required to give advance notification on weekends. This proposed change allows for the replacement of the bridge tender's house while not significantly inconveniencing the mariners transiting the waterway. An alternate route is available via the Morgan City to Port Allen Alternate Route. This proposed temporary rule would become effective 30 days after the temporary rule is published and would be in effect for 8 months.

Regulatory Evaluation

This proposed temporary rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security.

We expect the economic impact of this proposed temporary rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Prior to proposing this temporary rule, the Coast Guard reviewed the project and determined that the additional advanced notification requirements during the repair work would have minimal impact on commercial vessel traffic. This proposed temporary rule allows vessels ample opportunity to transit this waterway during the normal workday and with notification at all other times. An alternate route is also available.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed temporary rule would not have a significant economic impact on a substantial number of small entities. This proposed temporary rule would affect the following entities, some of which may be small entities: The owners or operators of vessels who need to transit through mile 23.8 on the Belle River (on the Gulf Intracoastal Waterway Morgan City to Port Allen Alternate Route (Landside Route)) from 5 p.m. to 8 a.m. nightly and all day on weekends. The impacts to small entities will not be significant because of the limited number of openings required by these vessels. Also the bridge may be opened during non-manned hours with prior notification.

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

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed temporary rule so that they can better evaluate its effects on them and participate in the rulemaking. If the temporary rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the Eighth Coast Guard District Bridge Administration Branch at the address above.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

We have analyzed this proposed temporary rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety

Risks. This temporary rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

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

Energy Effects

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

Environment

We have analyzed this proposed temporary rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this proposed temporary rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation. Paragraph (32)(e) excludes the promulgation of operating regulations or procedures for drawbridges from the environmental documentation requirements of NEPA. Since this temporary rule will alter the normal operating schedule of the drawbridge, it falls within this exclusion.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.424 is suspended and a new temporary § 117.T426 is added to read as follows:

§ 117.T426 Belle River.

The draw of S70 bridge, mile 23.8 (Landside Route) shall open on signal from 8 a.m. to 5 p.m., Monday through Friday. At all other times, the bridge will open on signal if at least four hours advance notice is given.

Dated: December 22, 2003.

R.F. Duncan,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 04–386 Filed 1–8–04; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP Pittsburgh–03–030]

RIN 1625–AA00

Security Zone; Ohio River Mile 119.0 to 119.8, Natrium, WV

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to remove an established security zone that encompasses all waters extending 200 feet from the water's edge of the left descending bank of the Ohio River, beginning from mile marker 119.0 and ending at mile marker 119.8. This security zone protects Pittsburgh Plate Glass Industries (PPG), persons and vessels from subversive or terrorist acts. Under the Maritime Transportation Security Act of 2002, owners or operators of this facility will be required to take specific action to improve facility security. As such, a security zone around this facility will no longer be necessary under normal conditions. This proposed rule would remove the established security zone.

DATES: Comments and related material must reach the Coast Guard on or before February 9, 2004.

ADDRESSES: You may mail comments and related material to Marine Safety Office Pittsburgh, Suite 1150 Kossman Bldg., 100 Forbes Ave., Pittsburgh, PA 15222–1371. Marine Safety Office Pittsburgh maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Marine Safety Office Pittsburgh, Suite 1150 Kossman Bldg., 100 Forbes Ave., Pittsburgh, PA 15222–1371, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (LT) Luis Parrales, Marine Safety Office Pittsburgh at (412) 644–5808, ext. 2114.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [COTP Pittsburgh–03–030], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not plan to hold a public meeting. However, you may submit a request for a meeting by writing to Marine Safety Office Pittsburgh at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that a public meeting would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

On March 24, 2003, the Coast Guard published a final rule entitled ''Security Zone; Ohio River Mile 119.0 to 119.8, Natrium, West Virginia,'' in the **Federal Register** (68 FR 14150). That final rule established a security zone that encompasses all waters extending 200

feet from the water's edge of the left descending bank of the Ohio River, beginning from mile marker 119.0 and ending at mile marker 119.8. This security protects Pittsburgh Plate Glass Industries (PPG), persons and vessels from subversive or terrorist acts.

Under the authority of the Maritime Transportation Security Act of 2002, the Coast Guard published a final rule on October 22, 2003 entitled ''Facility Security'' in the **Federal Register** (68 FR 60515) that established a permanent 33 CFR part 105. That final rule became effective November 21, 2003, and provides security measures for certain facilities, including PPG. Section 105.200 of 33 CFR requires owners or operators of this facility to designate security officers for facilities, develop security plans based on security assessments and surveys, implements security measures specific to the facility's operations, and comply with Maritime Security Levels. Under 33 CFR 105.115, the owner or operator of this facility must, by December 31, 2003, submit to the Captain of the Port, a Facility Security Plan as described in subpart D of 33 CFR part 105, or if intending to operate under an approved Alternative Security Program as described in 33 CFR 101.130, a letter signed by the facility owner or operator stating which approved Alternative Security Program the owner or operator intends to use. Section 105.115 of 33 CFR also requires the facility owner or operator to be in compliance with 33 CFR part 105 on or before July 1, 2004. As a result of these enhanced security measures, the security zone around PPG will no longer be necessary under normal conditions. The removal of this security zone would become effective on July 1, 2004.

Discussion of Proposed Rule

For the reasons stated above in *Background and Purpose,* we propose to remove 33 CFR 165.822, Security Zone; Ohio River, Mile 119.0 to 119.8, Natrium, WV. This proposed removal would become effective on July 1, 2004. We invite your comments on our proposed action to terminate this security zone.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary as this proposed rule removes a regulation that is no longer necessary.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the proposed rule would affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact LT Luis Parrales, Marine Safety Office Pittsburgh at (412) 644–5808, ext. 2114.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph 34(g), of the Instruction, from further environmental documentation because this rule is not expected to result in any significant adverse environmental impact as described in NEPA.

Under figure 2–1, paragraph (34)(g), of the Instruction, an ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are not required for this rule.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

§ 165.822 [Removed]

2. Remove § 165.822.

Dated: December 10, 2003.

W.W. Briggs,

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

[FR Doc. 04–387 Filed 1–8–04; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122 and 123

[FRL–7608–5]

National Pollutant Discharge Elimination System (NPDES) Permit Requirements for Municipal Wastewater Treatment Discharges During Wet Weather Conditions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: On November 7, 2003, EPA published for public comment a proposed policy regarding NPDES permit requirements for treatment plants in publicly owned treatment works (POTWs) under peak wet weather flow conditions. The original comment period was to expire on January 9, 2004; today's action extends the comment period to February 9, 2004.

DATES: Written comments on this proposed policy must be received by EPA or postmarked by February 9, 2004.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: If you have questions, contact Kevin Weiss (e-mail at *weiss.kevin@epa.gov* or phone at (202) 564–0742) at Office of Wastewater Management, United States Environmental Protection Agency, (Mailcode 4203M), 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

I. General Information

This document extends the public comment period established in the **Federal Register** issued on November 7, 2003 (68 FR 63043). In that document, EPA requested comment on a proposed policy regarding NPDES permit requirements for treatment plants in publicly owned treatment works (POTWs) under peak wet weather flow conditions. EPA is extending the comment period, which was set to end on January 9, 2004 to February 9, 2004.

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

1. Docket

EPA has established an official public docket for this action under Docket ID No. OW–2003–0025. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Water Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426. You may copy 266 pages per day free of charge. Beginning with page 267, you will be charged $0.15 per page plus an administrative fee of $25.00.

2. Electronic Access

You may access this **Federal Register** document electronically through the EPA Internet under the **Federal Register** listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in section I.A.1. EPA intends to work toward providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in

EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

For additional information about EPA's electronic public docket visit EPA Dockets online or *see* 67 FR 38102 (May 31, 2002).

B. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. Late comments may be considered if time permits.

1. Electronically

If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. 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.

i. *EPA Dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket,* and follow the online instructions for submitting comments. To access EPA's electronic public docket from the EPA Internet Home Page, select ''Information Sources,'' ''Dockets,'' and ''EPA Dockets.'' Once in the system, select ''search,'' and then key in Docket ID No. OW–2003–0025. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail.* Comments may be sent by electronic mail (e-mail) to *OW–Docket@epa.gov,* Attention Docket ID No. OW–2003–0025. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in section I.B.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. By Mail

Send an original and three copies of your comments to: Water Docket, Environmental Protection Agency, Mailcode 4101T, 1200 Pennsylvania Ave., NW., Washington, DC, 20460, Attention Docket ID No. OW–2003–0025.

3. By Hand Delivery or Courier

Deliver your comments to: EPA Docket Center, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC, Attention Docket ID No. OW–2003–0025. Such deliveries are only accepted during the Docket's normal hours of operation as identified in section I.A.1.

C. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You should send information that you consider to be CBI in one of two ways: (1) By U.S. Mail to: Kevin Weiss, Office of Wastewater Management, U.S. Environmental Protection Agency (Mailcode 4203M), 1200 Pennsylvania Ave., NW., Washington, DC 20460—Attention Docket ID No. OW–2003–0025; or (2) By courier or delivery to: Kevin Weiss, Office of Wastewater Management, U.S. Environmental Protection Agency, EPA East Building (Room 7334), 1301 Constitution Ave., NW., Washington, DC 20004—Attention Docket ID No. OW–2003–0025. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

D. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at your estimate.

5. Provide specific examples to illustrate your concerns.

6. Offer alternatives.

7. Make sure to submit your comments by the comment period deadline identified.

8. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your response. It

would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

Dated: January 6, 2004.

Benjamin H. Grumbles,

Acting Assistant Administrator, Office of Water.

[FR Doc. 04–553 Filed 1–8–04; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AG09

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Three Plants From the Mariana Islands and Guam

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973, as amended (Act), provides notice of the reopening of the comment period on the proposed endangered status for three plants (no common names), *Nesogenes rotensis, Osmoxylon mariannense,* and *Tabernaemontana rotensis*, to allow peer reviewers and all interested parties to submit comments on the proposal. Comments already submitted on the June 1, 2000, proposed rule need not be resubmitted as they will be fully considered in the final determination.

DATES: Comments from all interested parties must be received by January 26, 2004.

ADDRESSES: Comments and materials concerning the proposal should be sent to the Acting Field Supervisor, Pacific Islands Office, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, Room 3–122, Box 50088, Honolulu, HI 96850. For further instructions on commenting, refer to the Public Comments Solicited section of this notice.

FOR FURTHER INFORMATION CONTACT: Gina Schultz, Acting Field Supervisor, at the above address (telephone 808–792–9400; facsimile 808–792–9580).

SUPPLEMENTARY INFORMATION:

Background

On June 1, 2000, we published a proposed rule to list *Nesogenes rotensis, Osmoxylon mariannense*, and *Tabernaemontana rotensis* as endangered species (65 FR 35025). At the time of the proposed listing, we also proposed that designation of critical habitat for these three species was prudent.

Nesogenes rotensis, Osmoxylon mariannense, and *Tabernaemontana rotensis* all occur on the island of Rota in the Commonwealth of Northern Mariana Islands (CNMI); only *Tabernaemontana rotensis* is found in the United States Territory of Guam. On Rota, *Osmoxylon mariannense* and *Tabernaemontana rotensis* occur on private lands; *Nesogenes rotensis* occurs on public park land (Poña Point Fishing Cliff) owned by the CNMI under jurisdiction of the Department of Lands and Natural Resources. On Guam, *Tabernaemontana rotensis* occurs on private and Federal lands (Andersen Air Force Base). Currently, there are at least 250 individuals of *Tabernaemontana rotensis* known on Guam and at least 8 individuals on Rota. Only 80 individuals of *Nesogenes rotensis* and 8 individuals of *Osmoxylon mariannense* occur on Rota. The three plant species and their habitats have been affected or are now threatened by one or more of the following: habitat degradation or destruction by feral deer and pigs; competition for space, light, water, and nutrients with introduced vegetation; road construction and maintenance activities; recreational activities; natural disasters or random environmental events; fire; vandalism; development of agricultural homesteads; resorts and golf courses; limited reproductive vigor; and potential insect, mouse, or rat predation.

In our June 1, 2000, proposed rule and associated notifications, we requested that all interested parties submit comments, data, or other information that might contribute to the development of a final rule. A 60-day comment period closed on July 31, 2000. Appropriate CNMI and Government of Guam agencies, Federal agencies and other interested parties were contacted and requested to comment. A legal notice announcing the publication of the listing proposal was published in the Marianas Variety newspaper on June 16, 2000 and the Pacific Daily News on June 23, 2000. During this period we received one request for a public hearing from the CNMI Department of Fish and Wildlife. On October 30, 2000, we gave notice in the **Federal Register** (65 FR 64649) and the Marianas Variety of the public hearing to be held on the island of Rota and reopened the public comment period until November 29, 2000. On November 16, 2000, we held a public hearing at the Rota Resort, Rota.

Our final listing decision for *Nesogenes rotensis, Osmoxylon mariannense*, and *Tabernaemontana rotensis* was deferred due to lack of resources because the Service's Pacific Islands Office (where the proposed listing was initiated) staff were under Federal court-orders to designate critical habitat for 255 Hawaiian plants and four Hawaiian invertebrates. Pursuant to a settlement agreement approved by the United States District Court for the District of Hawaii on August 21, 2002, the Service must make a final decision on this proposal by April 1, 2004, (*Center for Biological Diversity* v. *Norton,* Civil No. 99–00603 (D. Haw.)).

Comments already submitted on the June 1, 2000, proposed rule need not be resubmitted as they will be fully considered in the final determination.

Public Comments Solicited

When we published the proposed rule, we solicited scientific and technical peer review from three appropriate and independent specialists—biologists with expertise in the fields of botany or Pacific Islands ecology. We did not receive any comments from these reviewers during the original comment period. We believe that because 3 years have passed since publication of the proposed rule, that additional review is warranted at this time. In order to address any additional comments received in response to reopening the comment period and to meet the August 21, 2002, court order to submit to the **Federal Register** a final listing decision for these three plants no later than April 1, 2004, we are reopening the comment period until the date specified in **DATES.** The reopening of the comment period gives additional time for all interested parties to consider the proposed rule's information and submit comments on the proposal. We seek comments especially concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to these species;

(2) The location of any additional populations of these species and reasons why any habitat should or should not be designated as critical habitat;

(3) Additional information on the range, distribution, and population size of these species; and

(4) Current or planned activities in the subject area and their possible impacts on these species.

If you wish to comment, you may submit your comments and materials concerning the proposal by any of the following methods:

(1) You may submit written comments and information to the Acting Field

Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Office, 300 Ala Moana Blvd., P.O. Box 50088, Honolulu, HI 96850–0001.

(2) You may send comments by electronic mail (e-mail) to: *Mariana_3Plants@r1.fws.gov*. If you submit comments by e-mail, please submit them as an ASCII file and avoid the use of special characters and any form of encryption. Please also include ''Attn: RIN 1018–AG09'' and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Honolulu Fish and Wildlife Office at telephone number 808/792–9400.

(3) You may hand-deliver comments to our Honolulu Fish and Wildlife Office at the address given above.

Comments and materials received, as well as supporting documentation used in preparation of the proposal to list *Nesogenes rotensis, Osmoxylon mariannense*, and *Tabernaemontana rotensis* as endangered species, will be available for inspection, by appointment, during normal business hours at our Honolulu Fish and Wildlife Office at the address given above.

Author

The primary author of this notice is John Nuss, U.S. Fish and Wildlife Service, 911 NE 11th Avenue, 4th Floor, Portland, Oregon, 97232–4181.

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: December 11, 2003.

Steve Williams,

Director, Fish and Wildlife Service.

[FR Doc. 04–384 Filed 1–8–04; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 031229327–3327–01; I.D. 121603B]

RIN 0648–AR58

Fisheries of the Northeastern United States; Atlantic Deep-Sea Red Crab Fishery

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

ACTION: Proposed 2004 specifications for the Atlantic deep-sea red crab fishery; request for comments.

SUMMARY: NMFS proposes specifications for the 2004 Atlantic deep-sea red crab (red crab) fishery. The regulations for the red crab fishery require NMFS to publish specifications for the upcoming red crab fishing year and to provide an opportunity for public comment. The proposed target total allowable catch (TAC) and fleet days at sea (DAS) for fishing year (FY) 2004 is 5.928 million lb (2.69 million kg) and 780 fleet DAS, respectively. Accordingly, since one qualified limited access vessel has opted out of the fishery for FY2004, the four remaining vessels would each be allocated 195 DAS. The intent of the specifications is to conserve and manage the red crab resource and provide for a sustainable fishery.

DATES: Comments must be received no later than 5 p.m., Eastern Standard Time, on February 9, 2004.

ADDRESSES: Copies of supporting documents, including the Environmental Assessment, Regulatory Impact Review, and the Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) for the 2004 Red Crab Fishing Year, are available from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. The EA/RIR/IRFA is accessible via the Internet at *http://www.nero.nmfs.gov/ro/doc/nero.html*.

Written comments on the proposed specifications should be sent to Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope: ''Comments—2004 Red Crab Specifications.'' Comments may also be sent via facsimile (fax) to (978) 281–9135. Comments submitted via e-mail or the Internet will not be accepted.

FOR FURTHER INFORMATION CONTACT: E. Martin Jaffe, Fishery Policy Analyst, (978) 281–9272.

SUPPLEMENTARY INFORMATION: Regulations implementing the Red Crab Fishery Management Plan (FMP) require the New England Fishery Management Council (Council) to review annually the red crab specifications. The Council's Red Crab Plan Development Team (PDT) meets at least annually to review the status of the stock and the fishery. Based on this review, the PDT reports to the Council's Red Crab Committee, no later than October 1, any necessary adjustments to the management measures and recommendations for the specifications. Specifications include the specification of optimum yield (OY), the setting of any target TAC, allocation of DAS, and/or adjustments to trip/possession limits. In developing the management measures and recommendations for the annual specifications, the PDT reviews the following data, if available: Commercial catch data; current estimates of fishing mortality and catch-per-unit-effort (CPUE); stock status; recent estimates of recruitment; virtual population analysis results and other estimates of stock size; sea sampling, port sampling, and survey data or, if sea sampling data are unavailable, length frequency information from port sampling and/or surveys; impact of other fisheries on the mortality of red crabs; and any other relevant information. Recommended specifications are presented to the Council for adoption and recommendation to NMFS.

Proposed 2004 Specifications

FY2003 (March 1, 2003, through February 29, 2004) is the first full fishing year the FMP will have been in place. Therefore, the analysis for the development of annual specifications was based on information from FY2002 (October 21, 2002, through February 28, 2003), a partial year that began when the FMP was implemented, and the first part of FY2003, which began on March 1, 2003, and continues through the present. Since the FMP has not been in place for a full fishing year, data from the two partial fishing years were combined for analysis.

Based on available biological information, the Council has recommended that the maximum sustainable yield (MSY) and OY for FY2004 should remain the same as in FY2003. The FMP defines the target TAC to equal OY, and OY is set at 95 percent of MSY, unless adjusted through the annual specifications process. The MSY for FY2004 is still estimated to be 6.24 million lb (2.83 million kg); therefore, absent any new information on which to base a change in OY, OY and the target TAC would remain 5.928 million lb (2.69 million kg).

Five vessels qualified for a limited access permit in the red crab fishery for the 2002 and 2003 fishing years. The fleet was allocated 780 DAS for FY2003, which translated into 156 DAS for each of the five limited access vessels. For the portion of FY2002 under which the limited access and DAS program was effective, individual qualified limited access vessels were each allocated 49 DAS. According to the DAS database, four of the five vessels that received a

limited access permit used a total of 191 days in FY2002, 65 percent of the full 294 DAS that were allocated (the fifth vessel did not fish in FY2002). That amount of fishing effort resulted in 1,137,462 lb (515.9 mt) of red crab landed by the limited access fleet. FY2003 began on March 1, 2003, and, as of September 1, 2003, four of the five limited access vessels had used 234 DAS and landed 1,744,961 lb (791.5 mt) of red crab. Since the fleet has only used 30 percent of the allocated DAS for FY2003, it is likely that the fleet will fish additional DAS during the remainder of FY2003.

There seems to be some seasonal variability in fishing activity, but data collection under the FMP has not been implemented long enough to evaluate seasonal trends accurately at this time. For the portions of both fishing years combined (October 21, 2002, through September 1, 2003), 425 DAS have been used, and 2,882,423 lb (1,307.5 mt) of red crab have been landed. This period covers 315 calendar days, not a full calendar year, so there is potential for the effort values to increase as FY2003 continues. As of September 1, 2003, all of the five vessels with limited access permits had DAS remaining for FY2003.

In addition to the vessels with limited access permits, there are about 865 vessels with open access incidental take red crab permits. These permits allow a vessel to land up to 500 lb (226.8 kg) of whole red crab per trip. Some anecdotal reports suggest that bycatch levels of red crab may occasionally be quite high, and that the mortality of red crabs caught may be high, as well. To determine the scope and extent of red crab bycatch and bycatch mortality and whether it may be a problem requires more information on the level of bycatch of red crabs in the monkfish fishery (as well as other deep-water fisheries, such as lobster and tilefish), the mortality rates associated with this red crab bycatch, and the sex and size distributions of the red crab bycatch.

The Council considered six alternative ways to calculate fleet DAS. Each alternative would result in a different fleet DAS allocation. A complete description of each alternative is found in section 4.0 of the Council's Red Crab Specifications document and is not repeated here. The total fleet DAS for FY2004 would vary from 745 under Alternative 1, to 874 under Alternative 4. (An explanation of the reasons the Council selected the preferred alternative is found in the Classification section.)

Based on the Council's analysis in its annual Red Crab Specifications document, the Council recommended that the current FY2003 specifications be maintained for FY2004. NMFS concurs that the Council's recommended specifications meet the objectives of the FMP and, therefore, proposes the following specifications for FY2004:

Proposed Target TAC and Fleet DAS

Target TAC: 5.928 million lb (2.69 million kg)

Fleet DAS: 780 (since one vessel has opted out of the fishery for FY2004, the remaining four vessels would thus receive 195 DAS each)

Classification

This action is exempt from review under Executive Order 12866.

The Council and NMFS prepared an IRFA as required under section 603 of the Regulatory Flexibility Act. The IRFA describes the economic impact that these proposed specifications, if adopted, would have on small entities. A summary of the analysis follows.

A description of the legal basis and reasons for the action, and its objectives, can be found in the preamble of these proposed specifications and are not repeated here. This action does not contain any new collection-of-information, reporting, or recordkeeping requirements. It would not duplicate, overlap, or conflict with any other Federal rules.

All of the affected businesses (fishing vessels) are considered small entities under the standards described in NMFS guidelines because they have gross receipts that do not exceed $3.5 million annually. All fishing vessels with limited access permits are considered affected businesses; there are currently five vessels. The economic impacts of this action may vary based on which method is selected to calculate annual fleet DAS. If the individual DAS were less than what was allocated in FY2003, resulting in fewer landings, then it is probable that the economic impacts would be negative for the limited access fleet compared to FY2003. On the other hand, if an alternative were selected that allocates a greater number of individual DAS to each vessel than in FY2003, thereby increasing landings, economic impacts would likely be equal to or greater compared to FY2003. It is important to note that a vessel has temporarily opted out of this fishery for FY2004, resulting in that vessel's DAS being allocated equally among the remaining limited access vessels. Thus, individual DAS of active vessels during FY2004 are higher than each active vessel received in FY2003. Sections 8.8 and 8.9 of the RIR and IRFA section of the Council's Red Crab Specifications document highlights the economic impacts that would be expected from each of the alternatives.

Preferred Alternative

The preferred alternative would consist of no changes in the target TAC available to the fishery or in the total number of fleet DAS from FY2003, but because one vessel opted out of the FY2004 fishery, the allocation of DAS per vessel would be increased to 195.

Under Alternatives 1 through 4, the allocation of DAS per vessel for each of the four vessels in the FY2004 fishery would vary from 186 to 218. Alternative 1 would result in an allocation of 186 DAS to each of the four participating vessels, based on a fleet allocation of 745 DAS. Alternative 2 would result in an allocation of 215 DAS to each participating vessel, based on an allocation of 861 DAS to the fleet. Alternative 3 would result in an allocation of 210 DAS per participating vessel, based on a fleet allocation of 840 DAS. Alternative 4 would result in an allocation of 218 DAS to each of the participating vessels, based on an allocation of 874 DAS to the fleet. The PDT also evaluated an additional alternative, referred to as alternative 4a. This alternative would provide for an annual fleet allocation of 794 DAS. This would translate into 198 DAS per vessel for each of the four vessels in the fishery in FY2004. A complete description of each alternative is found in section 4.0 of the Council's Red Crab Specifications document and is not repeated here.

The No Action/Status Quo Alternative was selected because the current management measures have been in place for only a short time, and there is no basis to revise the allocation at this time. Consequently, this alternative, as was determined for FY2003 specifications, is reasonable because it is most likely to allow vessels to harvest the 2004 TAC without exceeding it, based on preliminary data available for the same specifications in place for FY2003.

Summary of Economic Impacts

Uncertainty about the status of the red crab stock, as well as the limited time-series available in the data, makes it difficult to accurately predict the economic outcomes of the various alternatives.

The level of landings and revenue expected is considered directly related to the allocated number of DAS, and Alternative 4 provides the most fleet DAS. The ranking of alternatives (using FY2002 and FY2003 combined data) based solely on fleet DAS, from highest

to lowest, would be Alternative 4, Alternative 2, Alternative 3, Alternative 4a, the preferred alternative, and finally, Alternative 1. As expected, the highest number of fleet DAS (Alternative 4) would have the greatest potential to ensure that vessels harvest the TAC, but at the expense of possibly exceeding the TAC.

According to section 8.8 of the Red Crab Specifications document, Alternative 1 would be expected to generate the lowest level of landings and revenue because it allocates 35 fewer fleet DAS than the preferred alternative. On the other hand, Alternatives 2, 3, and 4 would allocate more fleet DAS than the preferred alternative; 81, 60, and 94 more fleet DAS, respectively. The additional allocated DAS would enable each vessel to take extra trips, and the economic benefits would be expected to increase compared to FY2003 with more DAS available, depending on which alternative is selected. But each of these other alternatives would be more likely to result in exceeding the TAC. The opting out of one red crab vessel, however, means that the remaining four vessels will have 195 DAS each instead of 156 under the preferred alternative. This increase in individual DAS significantly increases the landings and economic benefits for these vessels, compared to FY2003. In balancing the FMP objectives of providing the fleet with the greatest number of landings without exceeding the TAC, the preferred alternative is considered to be the best. Section 5.0 of the FMP includes more detailed economic impact analysis of DAS measures.

Authority: 16 USC 1801 *et seq.*

Dated: January 6, 2004.

Rebecca Lent,

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

[FR Doc. 04–465 Filed 1–8–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 031230329–3329–01; I.D. 120903B]

RIN 0648–AR82

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Advance Notice of Proposed Rulemaking regarding a Trawl Individual Quota Program and to Establish a Control Date

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

ACTION: Advance notice of proposed rulemaking; notice of control date for the Pacific Coast groundfish fishery; request for comments.

SUMMARY: The Pacific Fishery Management Council (Council) is considering implementing an individual quota (IQ) program for the Pacific Coast groundfish limited entry trawl fishery off Washington, Oregon and California. The trawl IQ program would change management of harvest in the trawl fishery from a trip limit system with cumulative trip limits for every 2–month period to a quota system where each quota share could be harvested at any time during an open season. The trawl IQ program would increase fishermen's flexibility in making decisions on when and how much quota to fish. This document announces a control date of November 6, 2003, for the trawl IQ program. The control date for the trawl IQ program is intended to discourage increased fishing effort in the limited entry trawl fishery based on economic speculation while the Pacific Council develops and considers a trawl IQ program.

DATES: Comments may be submitted in writing by February 9, 2004.

ADDRESSES: Comments may be mailed to Don Hansen, Chairman, Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: The Pacific Fishery Management Council at 866–806–7204; or Bill Robinson at 206–526–6140; or Svein Fougner at 562–980–4000.

SUPPLEMENTARY INFORMATION: The Pacific Fishery Management Council (Pacific Council) established under section 302(a)(1)(F) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1)(F)) is considering implementing an individual quota (IQ) program for the Pacific Coast groundfish limited entry trawl fishery off Washington, Oregon and California. The Pacific Coast groundfish limited entry trawl fishery is managed under the Pacific Coast Groundfish Fishery Management Plan (FMP) approved on January 4, 1982 (47 FR 43964, October 5, 1982), as amended 15 times. Implementing regulations for the FMP and its amendments are codified at 50 CFR part 660, subpart G. Additional implementing regulations can be found in the specifications and management measures for the Pacific Coast groundfish fishery published in the **Federal Register**, as amended through inseason actions. If the Pacific Council recommends and NMFS adopts a trawl IQ program, the program would be implemented through a proposed and final rulemaking, and possibly an FMP amendment.

The trawl IQ program would change management of harvest in the trawl fishery from a trip limit system with cumulative trip limits per vessel for every 2 month period to a quota system where each quota share could be harvested at any time during an open season. The trawl IQ program would increase fishermen's flexibility in making decisions on when and how much quota to fish.

With the lapse of the moratorium on new individual fishing quotas (IFQs) in October 2002, the Regional Fishery Management Councils may propose new IFQs and the Secretary of Commerce will review them for consistency with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), in particular section 303(d).

In advance of a rulemaking on the trawl IQ program, this document announces a control date of November 6, 2003, for the trawl IQ program. The control date for the trawl IQ program is intended to discourage increased fishing effort in the limited entry trawl fishery based on economic speculation while the Pacific Council develops and considers a trawl IQ program. This control date will apply to any person potentially eligible for IQ shares. Persons potentially eligible for IQ shares may include vessel owners, permit owners, vessel operators, and crew. The control date announces to the public that the Pacific Council may decide not to count activities occurring after the control date toward determining a person's qualification for an initial allocation or determining the amount of initial allocation of quota shares.

Groundfish landed from limited entry trawl vessels after November 6, 2003, may not be included in the catch history used to qualify for initial allocation in the trawl IQ program.

Implementation of any management measures for the fishery will require amendment of the regulations implementing the FMP and may also require amendment of the FMP itself. Any action will require Council development of a regulatory proposal with public input and a supporting analysis, NMFS approval, and publication of implementing regulations in the **Federal Register**. The Pacific Council has established an ad-hoc Groundfish Trawl Individual Quota Committee to make recommendations on the development of IQs in the groundfish fisheries. Meetings of this committee are open to the public. Interested parties are urged to contact the Pacific Council office to stay informed of the development of the planned regulations. Fishers are not guaranteed future participation in the groundfish fishery, regardless of their date of entry or level of participation in the fishery.

This advance notice of proposed rulemaking has been determined to be not significant for purposes of Executive Order 12866.

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

Dated: January 6, 2004.

Rebecca Lent,

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

[FR Doc. 04–464 Filed 1–8–04; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 69, No. 6
Friday, January 9, 2004

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collection Requirements Submitted to OMB for Review

SUMMARY: U.S. Agency for International Development (USAID) has submitted the following information collection to OMB for review and clearance under the Paperwork Reduction Act of 1995. Pub. L. 104–13. Comments regarding this information collection are best assured of having their full effect if received within 30 days of this notification. Comments should be addressed to: Desk Officer for USAID. *David__Rostker@omb.eop.gov* and fax number (202) 395–7285. Copies of submission may be obtained by calling (202) 712–1365.

SUPPLEMENTARY INFORMATION:

OMB Number: OMB 0412–0562.

Form Number: AID 1570–13.

Title: Narrative/Time-Line Report.

Type of Submission: Renewal.

Purpose: This collection is a management and monitoring report used by the Bureau for Democracy. Conflict and Humanitarian assistance, Office of American Schools and Hospitals Abroad. The collection will ascertain that grant financed programs meet authorized objectives within the terms of agreements between its office and the recipients, which are United States Organizations that sponsor Overseas Institutions.

Annual Reporting Burden:

Respondents: 80.

Total annual responses: 380.

Total annual hours requested: 200 hours.

Dated: December 31, 2003.

Joanne Paskar,

Chief, Information and Records Division, Office of Administrative Services, Bureau for Management.

[FR Doc. 04–413 Filed 1–8–03; 8:45 am]

BILLING CODE 6116–01–M

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collection Requirements Submitted to OMB for Review

SUMMARY: U.S. Agency for International Development (USAID) has submitted the following information collection to OMB for review and clearance under the Paperwork Reduction Act of 1995. Pub. L. 104–13. Comments regarding this information collection are best assured of having their full effect if received within 30 days of this notification. comments should be addressed to: Desk Officer for USAID, *David_Rostker@omb.eop.gov* and fax number (202) 395–7285. Copies of submission may be obtained by calling (202) 712–1365.

SUPPLEMENTARY INFORMATION:

OMB Number: OMB 0412–0563.

Form Number: AID 1570–14.

Title: Report on Commodities.

Type of Submission: Renewal.

Purpose: The purpose of this information collection is to properly respond to the annual competition among applicants who apply on behalf of their sponsored overseas institutions and independent reviewers. ASHA needs to assess the strength and capability of the U.S. organizations, the overseas institutions and the merits of their proposed projects. Easily accessible historical records on past accomplishments and performance by repeat USOs, would speed the grant making process and provide documented reasons for both successful and unsuccessful applications.

Annual Reporting Burden:

Respondents: 45.

Total annual responses: 1,120.

Total annual hours requested: 613 hours.

Dated: December 31, 2003.

Joanne Paskar,

Chief, Information and Records Division, Office of Administrative Services, Bureau for Management.

[FR Doc. 04–414 Filed 1–8–04; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Notice of the Research, Education, and Economics Task Force Meeting

AGENCY: Research, Education, and Economics, USDA.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App., the United States Department of Agriculture announces a meeting of the Research, Education, and Economics Task Force.

DATES: The Research, Education, and Economics Task Force will meet on January 28, 2004. The public may file written comments before or up to two weeks after the meeting with the contact person.

ADDRESSES: On January 28, the meeting will take place at the Donald Danforth Plant Science Center, 975 N. Warson Road, St. Louis, MO 63132.

Written comments from the public may be sent to the Contact Person identified in this notice at: the Research, Education, and Economics Task Force; Office of the Under Secretary, Room 214–W, Jamie L. Whitten Building, United States Department of Agriculture, 1400 Independence Ave., SW., Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Kathryn Boots, Executive Director, Research, Education, and Economics Task Force; telephone: (202) 690–0826; fax: (202) 690–2842; or e-mail: *katie.boots@usda.gov.*

SUPPLEMENTARY INFORMATION: On Wednesday, January 28, the Research, Education, and Economics Task Force will hold a general meeting at the Donald Danforth Plant Science Center. The Task Force will continue its evaluation of the merits of establishing one or more National Institutes focused on disciplines important to the progress of food and Agricultural science. In the morning there will be welcoming remarks made by the Chairman of the Task Force, Dr. William Danforth, Chancellor Emeritus, Vice Chairman, Board of Trustees, Washington University in St. Louis, and host, Roger Beachy. Remarks will also be made by the USDA Under Secretary for Research, Education, and Economics (REE), Dr. Joseph J. Jen. Welcoming remarks will

be followed by a discussion about the first draft of the Task Force report. Following the discussion, Peter Raven, President of the Missouri Botanical Garden will speak about why plant research is important for the world. Martin Apple, President, Council of Scientific Society Presidents will follow Peter Raven to speak about the challenges facing agriculture. Following Martin Apple will be a continuation of the discussion of the draft report.

The Task Force Meeting will adjourn on Wednesday, January 28, around 4 p.m. This meeting is open to the public. Written comments for the public record will be welcomed before and up to two weeks following the Task Force meeting (by close of business Wednesday, February 11, 2004). All statements will become part of the official record of the Research, Education, and Economics Task Force and will be kept on file for public review in the Office of the Under Secretary for Research, Education, and Economics.

Done in Washington, DC this 1st day of January, 2004.

Joseph J. Jen,

Under Secretary, Research, Education, and Economics.

[FR Doc. 04–400 Filed 1–8–04; 8:45 am]

BILLING CODE 3401–03–M

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 02–026N]

FSIS Policy on Delinquent Payments for Reimbursable Overtime and Holiday Meat, Poultry, and Egg Products Inspection Services

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Food Safety and Inspection Service (FSIS) is providing notice that it will not provide reimbursable overtime and holiday meat, poultry, and egg product inspection services to persons who have delinquent accounts. FSIS charges fees for the overtime and holiday meat, poultry, and egg product inspection services it provides to official establishments, official plants, importers, and exporters. In addition, FSIS will pursue the collection of debts owed to it for such services.

DATES: This notice is effective February 9, 2004.

FOR FURTHER INFORMATION CONTACT: For further information contact Michael B. Zimmerer, Director, Financial Management Division, Office of Management, FSIS, U.S. Department of Agriculture, 5601 Sunnyside Avenue, Mail Drop 5262 Beltsville, MD 20705, (301) 504–5885.

SUPPLEMENTARY INFORMATION:

Background

FSIS is providing notice of the actions it will take in regard to the provision of reimbursable overtime and holiday meat, poultry, and egg products inspection services to persons who are delinquent in paying for such services. The Agency is authorized to charge fees for the overtime and holiday meat, poultry, and egg product inspection services it provides by 7 U.S.C. 2219a and 21 U.S.C. 468, 695, and 1053.

FSIS regulations provide that reimbursable overtime and holiday meat, poultry, and egg products inspection services will not be performed for persons who have a delinquent account. These regulations are set forth in Title 9 of the Code of Federal Regulations (CFR) in sections 307.6(c), 381.39(c), and 590.130. The regulations provide that bills are payable upon receipt and become delinquent 30 days from the date of the bill.

As of the effective date of this notice, if payment for reimbursable overtime and holiday meat, poultry, and egg products inspection services, including payment of interest, penalty, and administrative charges, is delinquent, the Agency will take the following actions:

- FSIS will send the recipient of the service a ''dunning notice.''
- FSIS will send a certified letter, along with a second dunning notice, to the recipient of the services if the requested payment in full is not received within 30 days of the initial dunning. If payment in full of the delinquent account is not received by FSIS within 14 days from the date the certified letter and second dunning notice are received, no further reimbursable overtime or holiday meat, poultry, and egg products inspection services will be provided until payment in full of the delinquent debt, including any interest, penalty, and administrative charges assessed, is received.
- If a debtor either has failed to make payment in full, of a delinquent debt or has not entered into a written repayment agreement with FSIS, the Agency will transfer the delinquent debt to the U.S. Department of Treasury for cross-servicing in accordance with the Debt Collection Improvement Act of 1996. At the discretion of the Secretary of the U.S. Department of Treasury, referral of a delinquent nontax debt may be made to (A) any executive department or agency operating a debt collection center for collection action; (B) a private collection contractor operating under a contract for servicing or collection action; or (C) the U.S. Department of Justice for litigation.

This notice applies to the provision of reimbursable overtime and holiday meat, poultry, and egg products inspection services provided pursuant to 7 U.S.C. 2219a and 21 U.S.C. 468, 695, and 1053, and regulations enacted thereunder. FSIS will continue to provide non-overtime and non-reimbursable holiday meat, poultry, and egg products inspection services under the Federal Meat Inspection Act (21 U.S.C. 601 *et. seq.*), the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*, and the Egg Products Inspection Act (21 U.S.C. 1031 *et seq.*) to persons, regardless of whether they are delinquent in paying for the reimbursable overtime or holiday meat, poultry, or egg products inspection services provided to them.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and make copies of this **Federal Register** publication available through the FSIS Constituent Update. FSIS provides a weekly Constituent Update, which is communicated via Listserv, a free e-mail subscription service. In addition, the update is available on-line through the FSIS web page located at *http://www.fsis.usda.gov*. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent Listserv consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through the Listserv and web page, FSIS is able to provide information to a much broader, more diverse audience than would otherwise be possible.

For more information contact the Congressional and Public Affairs Office, at (202) 720–9113. To be added to the free e-mail subscription service (Listserv) go to the ''Constituent Update'' page on the FSIS Web site at *http://www.fsis.usda.gov/oa/update/update.htm*. Click on the ''Subscribe to

the Constituent Update Listserv'' link, then fill out and submit the form.

Done at Washington, DC, on January 5, 2004.

Garry L. McKee,

Administrator.

[FR Doc. 04–401 Filed 1–8–04; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Public Meetings of the Black Hills National Forest Advisory Board

AGENCY: Forest Service, USDA.

ACTION: Notice of meetings.

SUMMARY: The Black Hills National Forest Advisory Board (NFAB) will hold meetings to become informed about Black Hills National Forest issues and to reach consensus on those issues so as to make management recommendations to the forest supervisor. The meetings are open, and the public may attend any part of the meetings.

Dates and Agenda Issues:

Wednesday, March 17, 2004 from 1 to 5 p.m.—Fragmentation

Wednesday, April 14, 2004 from 1 to 5 p.m.—Forest Health/Wildlife Management

Wednesday, May 19, 2004 from 1 to 5 p.m.—Invasive Species

Wednesday, June 9, 2004 from 1 to 5 p.m.—Travel Management

ADDRESSES: SDSU West River Ag Center, 1905 Plaza Boulevard, Rapid City, SD

FOR FURTHER INFORMATION CONTACT: Frank Carroll, Black Hills National Forest, 25041 North Highway 16, Custer, SD, 57730, (605) 673–9200.

Dated: January 5, 2004.

Brad Exton,

Black Hills National Forest Deputy Supervisor.

[FR Doc. 04–422 Filed 1–8–04; 8:45 am]

BILLING CODE 3410–11–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletion

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from procurement list.

SUMMARY: This action adds to the Procurement List products and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List a product previously furnished by such agencies.

EFFECTIVE DATE: The effective date for addition of the product Forest Fire Shovel (5120–00–965–0609) will be November 8, 2004. The addition for all other products and services in this notice will be effective February 8, 2004.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603–7740.

SUPPLEMENTARY INFORMATION:

Additions

On October 10, October 24, November 7, and November 14, 2003, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (68 FR 58651, 60908, 63057/63058, and 64589) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and services and impact of the additions on the current or most recent contractors, the Committee has determined that the products and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. The action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products and services are added to the Procurement List:

Products

Product/NSN: Forest Fire Shovel, 5120–00–965–0609.
NPA: Mississippi Industries for the Blind, Jackson, Mississippi.
Contract Activity: GSA, Southwest Supply Center, Fort Worth, Texas.
Product/NSN: Nylon Duffel Bag, 8465–01–117–8699 (Surge requirements only above current contractor capacity, not to exceed 180,000 units).
NPA: Industrial Opportunities, Inc., Andrews, North Carolina.
Contract Activity: Defense Supply Center Philadelphia, Philadelphia, Pennsylvania.
Product/NSN: Type C Pallet, 3990–00–NSH–0002.
NPA: Goodwill Industries of South Texas, Inc., Corpus Christi, Texas.
Contract Activity: Corpus Christi Army Depot, Texas.

Services

Service Type/Location: Administrative Support Services, USDA, Rural Development Agency, St. Louis, Missouri.
NPA: MGI Services Corporation, St. Louis, Missouri.
Contract Activity: USDA, Rural Development Agency, St. Louis, Missouri.
Service Type/Location: Mailing Services, U.S. Mint, Washington, DC.
NPA: ServiceSource, Inc., Alexandria, Virginia.
Contract Activity: U.S. Mint, Washington, DC.
Service Type/Location: Virtual Call Center Services, Internal Revenue Service, Oxon Hill, Maryland.
NPA: National Telecommuting Institute, Inc., Boston, Massachusetts.
Contract Activity: U.S. Treasury, IRS Headquarters, Oxon Hill, Maryland.

Deletion

On November 7, 2003, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (68 FR 63058) of proposed deletion to the Procurement List. After consideration of the relevant matter presented, the Committee has determined that the product listed below is no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the product to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the product deleted from the Procurement List.

End of Certification

Accordingly, the following product is deleted from the Procurement List:

Product

Product/NSN: Scraper, Ice, 7920–01–323–0793.
NPA: L.C. Industries For The Blind, Inc., Durham, North Carolina.
Contract Activity: GSA, Southwest Supply Center, Fort Worth, Texas.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 04–461 Filed 1–8–04; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletion

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletion from procurement list.

SUMMARY: The Committee is proposing to add to the Procurement List products and a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete a service previously furnished by such agencies.

Comments Must be Received On or Before: February 8, 2004.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603–7740.

SUPPLEMENTARY INFORMATION:

This notice is published pursuant to 41 U.S.C 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice for each product or service will be required to procure the products and service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and service to the Government.

2. If approved, the action will result in authorizing small entities to furnish the products and service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and service proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following products and service are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Products

Product/NSN: Hydramax Hydration System, 8465–00–NIB–0100—Scout Woodland, 8465–00–NIB–0101—Scout Desert, 8465–00–NIB–0102—Scout Black, 8465–00–NIB–0103—Reflector Orange, 8465–00–NIB–0104—Stinger Woodland, 8465–00–NIB–0105—Stinger Desert, 8465–00–NIB–0106—Stinger Black.
Product/NSN: One Quart Black Flexible Canteen, 8465–00–NIB–0109.
Product/NSN: Two Quart Black Flexible Canteen, 8465–00–NIB–0111.
NPA: The Lighthouse for the Blind, Inc. (Seattle Lighthouse), Seattle, Washington.
Contract Activity: Office Supplies & Paper Products Acquisition Center, New York, New York.

Service

Service Type/Location: Grounds Maintenance, Navy & Marine Corps Reserve Center, 995 E. Mission Street, San Jose, California.
NPA: Social Vocational Services, Inc., Torrance, California.
Contract Activity: Naval Facilities Engineering Command, Alameda, California.

Deletion

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action may result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. If approved, the action may result in authorizing small entities to furnish the service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for deletion from the Procurement List.

End of Certification

The following service is proposed for deletion from the Procurement List:

Service

Service Type/Location: Microfilming of EEG Records, Department of Veterans Affairs, William S. Middleton Memorial, Veterans Hospital, Madison, Wisconsin.
NPA: Lester and Rosalie ANIXTER CENTER, Chicago, Illinois.
Contract Activity: Department of Veterans Affairs, Madison Wisconsin.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 04–462 Filed 1–8–04; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Presidential Memorandum on Spectrum Policy for the 21st Century

AGENCY: National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce.

ACTION: Notice, Memorandum for the Heads of Executive Departments and Agencies.

SUMMARY: On May 29, 2003, President George W. Bush issued the Presidential Memorandum on Spectrum Policy to the Heads of Executive Departments and Agencies announcing the Administration's commitment to promote the development and implementation of a United States spectrum policy for the 21st Century.[1] Due to the Federal Government's extensive use of spectrum and the dramatic changes in available spectrum-based technologies and uses of wireless voice and data communications systems, the Administration has determined that it is necessary to examine the existing legal and policy framework for spectrum management in order to unlock the economic value and entrepreneurial potential of U.S. spectrum assets for businesses, consumers, and Federal Government users. The Presidential Memorandum on Spectrum Policy establishes the ''Spectrum Policy Initiative,'' a comprehensive program consisting of activities, including the creation of an interagency task force and a series of public meetings, that will lead to the development of legislative and other recommendations for improving spectrum management procedures and policies for the Federal Government and to address State, local and private spectrum uses. The Spectrum Policy Initiative is designed to revise policies and procedures that promote more efficient and beneficial use of spectrum without harmful interference to critical incumbent spectrum users. This Notice, published by the National Telecommunications and Information Administration (NTIA) on behalf of the Secretary of Commerce, prints the text of the Presidential Memorandum on Spectrum Policy for the 21st Century in the **Federal Register**, as directed in section 8 of the Memorandum. The text of the Presidential Memorandum is printed in its entirety below.

DATES: Memorandum issued on May 29, 2003.

FOR FURTHER INFORMATION CONTACT: Fredrick R. Wentland, Associate Administrator, National Telecommunications and Information Administration, Office of Spectrum Management, (202) 482–1850.

Background

On May 29, 2003, the President of the United States signed a Memorandum on Spectrum Policy for the 21st Century for the Heads of Executive Departments and Agencies which established the Administration's goals and policies for improving all elements of the spectrum management process. The Executive Memorandum, released by the White House Office of the Press Secretary on June 5, 2003, authorized and directed the Secretary of Commerce to publish the Memorandum in the **Federal Register**.[2] The NTIA, under delegated authority from the Secretary of Commerce, is publishing the Memorandum in the **Federal Register**. NTIA is the President's principal advisor on domestic and international telecommunications and spectrum policy. The text of the Presidential Memorandum on Spectrum Policy is printed below in its entirety.

Presidential Memorandum on Spectrum Policy for the 21st Century

Presidential Memo on Spectrum Policy

Memorandum for the Heads of Executive Departments and Agencies

Subject: Spectrum Policy for the 21st Century

The radio frequency spectrum is a vital and limited national resource. Spectrum contributes to significant technological innovation, job creation, and economic growth, and it enables military operations, communications among first responders to natural disasters and terrorist attacks, and scientific discovery.

Recent years have witnessed an explosion of spectrum-based technologies and uses of wireless voice and data communications systems by businesses, consumers, and Government. Today there are over 140 million wireless phone customers and, increasingly, businesses and consumers are installing systems that use unlicensed spectrum to allow wireless data, called Wireless Fidelity (WiFi), on their premises. The Federal Government makes extensive use of spectrum for radars, communications, geolocation/navigation, space operations, and other national and homeland security needs. We must unlock the economic value and entrepreneurial potential of U.S. spectrum assets while ensuring that sufficient spectrum is available to support critical Government functions.

The existing legal and policy framework for spectrum management has not kept pace with the dramatic changes in technology and spectrum use. Under the existing framework, the Government generally reviews every change in spectrum use, a process that is often slow and inflexible, and can discourage the introduction of new technology. Some spectrum users, including Government agencies, maintain that the existing spectrum process is insufficiently responsive to the need to protect current critical uses.

My Administration is committed to promoting the development and implementation of a U.S. spectrum policy for the 21st century that will: (a) Foster economic growth; (b) ensure our national and homeland security; (c) maintain U.S. global leadership in communications technology development and services; and (d) satisfy other vital U.S. needs in areas such as public safety, scientific research, Federal transportation infrastructure, and law enforcement. My Administration has already proposed several legislative changes or program initiatives to improve elements of the spectrum management process. These proposals would greatly enhance the Government's ability to efficiently manage spectrum. To further promote the development and implementation of a U.S. spectrum policy for the 21st century, I hereby direct the following:

Section 1. Establishment. There is established the ''Spectrum Policy Initiative'' (the ''Initiative'') that shall consist of activities to develop recommendations for improving spectrum management policies and procedures for the Federal Government and to address State, local, and private spectrum use. The Secretary of Commerce shall chair and direct the work of the Initiative. The Initiative shall consist of two courses of spectrum-related activity: (a) an interagency task force that is created by section 3 of this memorandum; and (b) a series of public meetings consistent with section 4 of this memorandum. The interagency task force and the public meetings shall be convened under the auspices of the Department of Commerce and used by the Department to develop spectrum management reform proposals.

Sec. 2. Mission and Goals. The Initiative shall undertake a comprehensive review of spectrum management policies (including any relevant recommendations and findings of the study conducted pursuant to section 214 of the E-Government Act of 2002) with the objective of identifying recommendations for revising policies and procedures to promote more efficient and beneficial use of spectrum without harmful interference to critical incumbent users. The Department of Commerce shall prepare legislative and other recommendations to:

(a) Facilitate a modernized and improved spectrum management system;

(b) facilitate policy changes to create incentives for more efficient and beneficial use of spectrum and to provide a higher degree of predictability and certainty in the spectrum management process as it applies to incumbent users;

(c) develop policy tools to streamline the deployment of new and expanded services and technologies, while preserving national security, homeland security, and public safety, and encouraging scientific research; and

(d) develop means to address the critical spectrum needs of national security, homeland security, public safety, Federal transportation infrastructure, and science.

Sec. 3. Federal Government Spectrum Task Force. There is hereby established the Federal Government Spectrum Task Force (the ''Task Force'') to focus on improving spectrum management policies and procedures to stimulate more efficient and beneficial use of Government spectrum. The

[1] Presidential Memorandum for the Heads of Executive Departments and Agencies on Spectrum Policy for the 21st Century, released by the White House Office of the Press Secretary on June 5, 2003 (referred to as ''Presidential Memorandum on Spectrum Policy'' or ''the Memorandum'') available at *http://www.whitehouse.gov.*

[2] *Id.* at sec. 8.

Secretary of Commerce, or the Secretary's designee under this section, shall serve as Chairman of the Task Force.

(a) Membership of the Task Force. The Task Force shall consist exclusively of the heads of the executive branch departments, agencies, and offices listed below:

(1) The Department of State;
(2) The Department of the Treasury;
(3) The Department of Defense;
(4) The Department of Justice;
(5) The Department of the Interior;
(6) The Department of Agriculture;
(7) The Department of Commerce;
(8) The Department of Transportation;
(9) The Department of Energy;
(10) The Department of Homeland Security;
(11) The National Aeronautics and Space Administration;
(12) The Office of Management and Budget;
(13) The Office of Science and Technology Policy;
(14) Such other executive branch departments, agencies, or offices as the Chairman of the Task Force may designate; and
(15) Subject to the authority of the Director of the Office of Management and Budget, the Office of Project SAFECOM.

A member of the Task Force may designate, to perform the Task Force functions of the member, any person who is a part of the member's department, agency, or office, and who is a full-time officer or employee of the Federal Government.

(b) Functions of the Task Force. The functions of the Task Force are advisory and shall include, but are not limited to, producing a detailed set of recommendations for improving spectrum management policies and procedures to stimulate more efficient and beneficial use of spectrum by the Federal Government. The recommendations shall be consistent with the objectives set out in section 2 of this memorandum. The Task Force may hold meetings to obtain information and advice concerning spectrum policy from individuals in a manner that seeks their individual advice and does not involve collective judgment or consensus advice or deliberation. At the direction of the Chairman, the Task Force may establish subgroups consisting exclusively of Task Force members or their designees under this section, as appropriate.

Sec. 4. Recommendations to Address State, Local, and Private Spectrum Use. Consistent with the objectives set out in section 2 of this memorandum, the Department of Commerce, separately from the Task Force process, shall, in accordance with applicable law, conduct public meetings that will assist with that Department's development of a detailed set of recommendations for improving policies and procedures for use of spectrum by State and local governments and the private sector, as well as the spectrum management process as a whole. These meetings will involve public events to provide an opportunity for the input of the communications industry and other interested parties. Participants may include spectrum users, wireless equipment vendors, financial and industry analysts, economists, technologists, and consumer groups. Interested Federal, State, and local government agencies will be welcome to attend and participate. The Federal Communications Commission is also encouraged to participate in these activities and to provide input to the National Telecommunications and Information Administration at the Department of Commerce on these issues.

Sec. 5. Reports. The Secretary of Commerce, or the Secretary's designee, shall present to me, through the Assistant to the President for Economic Policy and Director of the National Economic Council and the Assistant to the President for National Security Affairs, in consultation with the Assistant to the President for Homeland Security, two separate reports no later than 1 year from the date of this memorandum, one of which shall contain recommendations developed under section 3 of this memorandum by the Task Force and the other containing recommendations developed under section 4.

Sec. 6. General Provisions.

(a) The heads of Federal Government departments and agencies shall assist the Chairman of the Task Force established by section 3 and provide information to the Task Force consistent with applicable law as may be necessary to carry out the functions of the Task Force. Each Federal department and agency shall bear its own expense for participating in the Task Force. To the extent permitted by law and within existing appropriations, the Department of Commerce shall provide funding and administrative support for the Task Force.

(b) Nothing in this memorandum shall be construed to impair or otherwise affect the functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

Sec. 7. Judicial Review. This memorandum is intended only to improve the internal management of the Federal Government and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies, instrumentalities or entities, its officers or employees, or any other person.

Sec. 8. Publication. The Secretary of Commerce is authorized and directed to publish this memorandum in the **Federal Register**.

George W. Bush

* * * * *

Dated: January 6, 2004.

Kathy D. Smith,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. 04–454 Filed 1–8–04; 8:45 am]

BILLING CODE 3510–60–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY: Commodity Futures Trading Commission.

ACTION: Sunshine Act Meetings.

TIME AND DATE: 11 a.m., Friday, January 9, 2004.

PLACE: 1155 21st St., NW., Washington, DC, Room 1012.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

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

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 04–518 Filed 1–6–04; 4:12 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY: Commodity Futures Trading Commission.

ACTION: Sunshine Act Meetings.

TIME AND DATE: 11 a.m., Friday, January 16, 2004.

PLACE: 1155 21st St., NW., Washington, DC, Room 1012.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

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

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 04–519 Filed 1–6–04; 4:12 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY: Commodity Futures Trading Commission.

ACTION: Sunshine Act Meetings.

TIME AND DATE: 11 a.m., Friday, January 23, 2004.

PLACE: 1155 21st St., NW., Washington, DC, Room 1012.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

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

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 04–520 Filed 1–6–04; 4:12 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY: Commodity Futures Trading Commission.

ACTION: Sunshine Act Meetings.

TIME AND DATE: 11 a.m., Friday, January 30, 2004.

PLACE: 1155 21st St., NW., Washington, DC, Room 1012.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

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

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 04–521 Filed 1–6–04; 4:12 pm]

BILLING CODE 6351–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed New Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed. This form is available in alternate formats. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 606–5256 between the hours of 9 a.m. and 4:30 p.m. Eastern time, Monday through Friday.

Currently, the Corporation is soliciting comments concerning a new information collection for the Parent Corps Evaluation. Copies of the information collection request can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section by March 9, 2004.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) By mail sent to: Corporation for National and Community Service, Attn: Kevin Cramer, Department of Research and Policy Development, Room 8109, 1201 New York Avenue, NW, Washington, DC 20525.

(2) By hand delivery or by courier to the Corporation's mailroom, Room 6010, at the mail address given in paragraph (1) above, between 9 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

(3) By fax to: (202) 565–2785, Attn: Kevin Cramer, Department of Research and Policy Development.

(4) Electronically through the Corporation's e-mail address system: *kcramer@cns.gov*.

SUPPLEMENTARY INFORMATION:

The Corporation is particularly interested in comments which:

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

Background

Parent Corps Evaluation: The Corporation proposes to conduct an evaluation of its Parent Corps program. The Parent Corps, whose funds were made available under the authority provided in Public Law 108–7, the Omnibus Appropriations Act for fiscal year 2003, is a special volunteer program under section 122 of the Domestic Volunteer Service Act of 1972, as amended (42 U.S.C. 4992), and is three-year effort to create a national training system and network of volunteer parents engaged in a nationwide substance abuse prevention effort. Using a ''training the trainer'' model, organizations will work with volunteer coordinators to train and support volunteer parents of children aged 18 and under in providing drug prevention training.

The specific aims of this evaluation are to describe the implementation of the Parent Corps program (implementation evaluation) and to evaluate its impact on desired outcomes (experimental impact evaluation). The implementation evaluation will include all 20 schools to be targeted by the Parent Corps. The randomized experiment impact evaluation will include parents and children at 18 schools (9 schools targeted by the Parent Corps and 9 control schools). These 18 treatment and control schools will be selected via the Parent Corps' request for applications process.

Key research questions include changes in the following outcomes: perceived risk/harm from youth substance use (tobacco, alcohol, or illicit drug us), accuracy of perceptions about youth substance use, perceived susceptibility of their own youth to substance use, self-efficacy to influence their youth's substance use, intervention activities among parents aware of their youth's substance use, treatment-seeking for their youth's substance use, parenting skills, parent substance use, exposure to prevention program activities, and demographic characteristics. In addition, information will be collected from youths aged 12 to 18 living with surveyed parents about involvement in drug-free activities, their parents' parenting skills, parent-child communication, perceived risk/harm from youth substance use, accuracy of perceptions about youth substance use, association with drug-using peers, perceived susceptibility to substance use and intentions to use substances, substance use, exposure to prevention program activities, and demographic characteristics. Implementation evaluation data will be collected primarily through questionnaires mailed to parent leaders and parent volunteers delivering the program, and impact evaluation data will be collected via computer-assisted telephone interview (CATI) with parents and their children aged 12 to 18 who attend treatment or control schools.

Type of Review: New collection.

Agency: Corporation for National and Community Service.

Title: Parent Corps Evaluation.

OMB Number: New.

Agency Number: None.

Affected Public: Individuals and households.

Total Respondents: 8,220.

Frequency: Annually.

Average Time Per Response: 15 minutes.

Estimated Total Burden Hours: 2,055 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

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

Dated: January 5, 2004.

David A. Reingold,

Director, Department of Research and Policy Development.

[FR Doc. 04–467 Filed 1–8–04; 8:45 am]

BILLING CODE 6050–$$–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed New Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''corporation''), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed. This form is available in alternate formats. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 606–5256 between the hours of 9 a.m. and 4:30 p.m. eastern time, Monday through Friday.

Currently, the Corporation is soliciting comments concerning its proposed Program Reporting and Performance Measurement form, which is designed to collect annual program description and outcome reporting data from organizations receiving grants and/or subgrants through the Learn and Serve America program. This information will be used by the Corporation to assess the growth and development of the Learn and Serve program and to document the reported outcomes of Learn and Serve grants. Copies of the proposed information collection request may be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Comments on this notice must be received by March 9, 2004, to be assured of consideration.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) By mail sent to: Corporation for National and Community Service, Attn: Ms. Kimberly Spring, Department of Research and Policy Development, Room 8100, 1201 New York Avenue, NW., Washington, DC, 20525.

(2) By hand delivery or by courier to the Corporation's mailroom, Room 6010, at the mail address given in paragraph (1) above, between 9 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

(3) By fax to: (202) 565–2785, Attn: Ms. Kimberly Spring, Department of Research and Policy Development.

(4) Electronically through the Corporation's e-mail address system: *lsaprogramreport@cns.gov.*

FOR FURTHER INFORMATION CONTACT: Kimberly Spring, (202) 606–5000, ext. 543 or *lsaprogramreport@cns.gov.*

SUPPLEMENTARY INFORMATION:

The Corporation is particularly interested in comments which:

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

Background

The Learn and Serve America Program was established by the National and Community Service Act of 1990, as amended, (42 U.S.C. 12501, *et seq.*) (Pub.L. 103–82) to support efforts in schools, higher education institutions and community-based organizations to involve young people in meaningful service to their communities while improving academic, civic, social and career-related skills. The Learn and Serve program is administered by the Corporation for National and Community Service and is funded through grants to states, national organizations, and institutions of higher education, and through them to individual schools and school districts, community-based organizations, and colleges or universities. The first round of grants under the Learn and Serve program were awarded in 1994. Approximately 2,000 local schools, colleges, and community-based organizations receive Learn and Serve funds each year.

The proposed data collection will provide an annual program reporting process for Learn and Serve: collecting program characteristics, output measures, and reported program outcomes. The proposed new system will be Web-based to provide for electronic submission of reporting information.

Current Action

The Corporation is seeking public comment for approval of the annual Program Reporting and Performance Measurement form. The form is designed to collect information on (a) the characteristics of grantee and subgrantee organizations; (b) the scope and structure of service-learning activities in the funded organizations; (c) numbers of participants in service-learning and hours of service provided; (d) institutional supports for service-learning, and (e) program outcomes. The Corporation anticipates that the form will be divided into three parts, corresponding to the three major funding streams under Learn and Serve America: K–12 school-based programs, Higher Education-based programs, and Community-Based programs.

Type of Review: New approval.

Agency: Corporation for National and Community Service.

Title: Program Reporting and Performance Measurement Form.

OMB Number: None.

Agency Number: None.

Affected Public: Learn and Serve America Grantees and Subgrantees.

Total Respondents: Approximately 2,000.

Frequency: Annual.

Average Time Per Response: One hour.

Estimated Total Burden Hours: 2,000 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

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

Dated: January 5, 2004.

David A. Reingold,

Director, Office of Research and Policy Development.

[FR Doc. 04–468 Filed 1–8–04; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0094]

Federal Acquisition Regulation; Submission for OMB Review; Debarment and Suspension

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning debarment and suspension. A request for public comments was published in the **Federal Register** at 68 FR 63073 on November 7, 2003. No comments were received.

DATES: Submit comments on or before February 9, 2004.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the General Services Administration, FAR Secretariat (MVA), 1800 F Street, NW., Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0094, Debarment and Suspension, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Craig Goral, Acquisition Policy Division, GSA (202) 501–3856.

SUPPLEMENTARY INFORMATION:

A. Purpose

The FAR requires contracts to be awarded to only those contractors determined to be responsible. Instances where a firm or its principals have been indicted, convicted, suspended, proposed for debarment, debarred, or had a contract terminated for default are critical factors to be considered by the contracting officer in making a responsibility determination. This certification requires the disclosure of this information.

B. Annual Reporting Burden

Respondents: 89,995.

Responses per respondent: 12.223.

Total Responses: 1,100,000.

Hours Per Response: 0.0833 hrs.

Total Burden Hours: 91,667.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (MVA), Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0094, Debarment and Suspension, in all correspondence.

Dated: December 15, 2003.

Laura Auletta,

Director, Acquisition Policy Division.

[FR Doc. 04–415 Filed 1–8–04; 8:45 am]

BILLING CODE 6820–EP–U

DEPARTMENT OF DEFENSE

Department of the Army

Armed Forces Epidemiological Board; Meeting

AGENCY: Department of the Army; DoD.

ACTION: Notice of open meeting.

SUMMARY: In accordance with section 10(a)(2) of Public Law 92–463, The Federal Advisory Committee Act, announcement is made of the following meeting:

Name of Committee: Armed Forces Epidemiological Board (AFEB).

Dates: February 17 and 18, 2004.

Times: 7:30 a.m.–4:30 p.m. (February 17, 2004). 1:45 p.m.–4:30 p.m. (February 18, 2004).

Location: Four Points Sheraton (*http://www.sheraton4pts.com/*), located at 1325 Miracle Strip Parkway, Highway 98 East Fort Walton Beach, FL 32548.

Agenda: The purpose of the meeting is to address pending and new Board issues, provide briefings for Board members on topics related to ongoing and new Board issues, conduct subcommittee meetings, and conduct an executive working session.

FOR FURTHER INFORMATION CONTACT: Colonel James R. Riddle, Executive Secretary, Armed Forces Epidemiological Board, Skyline Six, 5109 Leesburg Pike, Room 682, Falls Church, VA 22041–3258, (703) 681–8014/5.

SUPPLEMENTARY INFORMATION: Open sessions of the meeting will be limited by space accommodations. The meeting will be open to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof and Title 5, U.S.C., appendix 1, subsection 10(d). Any interested person may attend, appear before or file statements with the committee at the time and in the manner permitted by the committee.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 04–436 Filed 1–8–04; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Concerning Invaplex From Gram Negative Bacteria, Method of Purification and Methods of Use

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6 and 404.7, announcement is made of the availability for licensing of U.S. Patent No. 6,245,892 entitled ''Invaplex From Gram Negative Bacteria, Method of Purification and Methods of Use,'' filed June 12, 2001. Foreign rights are also available (PCT/US99/22771). The United States Government, as represented by the Secretary of the Army, has rights in this invention.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, MD 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619–6664, both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: Invaplex, a novel composition comprising invasion proteins and LPS from gram-negative bacteria is described as well as methods of using the novel composition as an adjuvant and a diagnostic tool.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 04–438 Filed 1–8–04; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of Non-Exclusive, Exclusive License or Partially Exclusive Licensing of U.S. Patent Concerning Method for Providing Gliding and Trajectory Control of a Parachute Cluster Assembly

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR Part 404.6, announcement is made of the availability for licensing of U.S. Patent No. US 6,669,146 B2 entitled ''Method For Providing Gliding and Trajectory Control of a Parachute Cluster Assembly'' issued December 30, 2003. This patent has been assigned to the United States Government as represented by the Secretary of the Army.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Rosenkrans at U.S. Army Soldier and Biological Chemical Command, Kansas Street, Natick, MA 01760, Phone: (508) 233–4928 or E-mail: *Robert.Rosenkrans@natick.army.mil.*

SUPPLEMENTARY INFORMATION: Any licenses granted shall comply with 35 U.S.C. 209 and 37 CFR Part 404.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 04–440 Filed 1–8–04; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Provisional Patent Application Concerning Non-Contact Respiration Monitor

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6 and 404.7, announcement is made of the availability for licensing of the invention described in U.S. Provisional Patent Application No. 60/501,403 entitled ''Non-Contact Respiration Monitor,'' filed September 10, 2003. The United States Government, as represented by the Secretary of the Army, has rights in this invention.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, MD 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619–6664, both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: The present invention relates to devices for detecting or monitoring a vital of a patient. More particularly, the present invention relates to a device for detecting or monitoring the respiration of a patient.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 04–439 Filed 1–8–04; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Concerning Use of Purified Invaplex From Gram Negative Bacteria as a Vaccine

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6 and 404.7, announcement is made of the availability for licensing of U.S. Patent No. 6,277,379 entitled ''Use of Purified Invaplex from Gram Negative Bacteria as a Vaccine,'' filed August 21, 2001. Foreign rights are also available (PCT/US99/22772). The United States Government, as represented by the Secretary of the Army, has rights in this invention.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, MD 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619–6664, both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: A novel composition comprising Invaplex from gram-negative bacteria is described and is effective as a vaccine against gram-negative bacterial infection.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 04–437 Filed 1–8–04; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before March 9, 2004.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.*, new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate;

(4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: January 5, 2004.

Angela C. Arrington,

Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Federal Student Aid

Type of Review: Revision.

Title: Fiscal Operations Report for 2003–2004 and Application to Participate for 2005–2006 (FISAP) and Reallocation Form E40–4P.

Frequency: Annually.

Affected Public: Not-for-profit institutions; Businesses or other for-profit; State, local, or tribal government, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 4,122.

Burden Hours: 25,876.

Abstract: This application data will be used to compute the amount of funds needed by each school for the 2005–2006 award year. The Fiscal Operations Report data will be used to assess program effectiveness, account for funds expended during the 2003–2004 award year, and as part of the school funding process. The Reallocation form is part of the FISAP on the web. Schools will use it in the summer to return unexpended funds for 2003–2004 and request supplemental Federal Work-Study (FWS) funds for 2004–2005.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2426. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivian_reese@ed.gov.* Requests may also be electronically mailed to the internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to SCHUBART at 202–708–9266. 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. 04–392 Filed 1–8–04; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Leader, Regulatory Information Management, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507(j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by January 7, 2004. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before March 9, 2004.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Melanie Kadlic, Desk Officer: Department of Education, Office of Management and Budget; 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *Melanie_Kadlic@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. 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. ED invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on respondents, including through the use of information technology.

Dated: January 5, 2004.

Angela C. Arrington,

Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: Reinstatement.

Title: Elementary and Secondary Education Act (ESEA) Title I, Part C (Education of Migratory Children) Migrant Child Count Report.

Abstract: The report collects information on the numbers of identified eligible migratory children in the States, for use in allocating State Migrant Education Program (MEP) formula grant funds and for reporting on the size of the migrant child population to Congress and the public.

Additional Information: The Department is requesting emergency processing for this information collection since failure to collect the 2002–03 migrant child count information in a timely manner will cause public harm in that the delay would diminish the reliability of the child counts and thus negatively affect the accuracy of the State MEP formula allocations. The reliability of child counts will suffer if data collection is delayed because many of the student record systems maintained by the State educational agencies (SEAs) from which these counts are generated are ''dynamic'' systems (*i.e.*, the databases are continuously updated to include newly identified children.) Delays in reporting the 2002–03 child counts beyond December 1, 2003 will increase the likelihood that some SEAs will, by re-running their child counts after

December 1, inadvertently count and report additional children who would not otherwise have been counted and reported to ED as ''Category 1'' or ''Category 2'' within the usual (*i.e.*, by December 1) reporting cycle. This will mean that not all States who ran the final counts after December 1 receiving higher allocations at the expense of the other States who ran their final counts before December 1.

Because States have always annually reported their migrant child counts to the Department for allocation purposes, the data requested through this emergency clearance is not new or unexpected. All States have already collected the requested data and are awaiting an approved reporting mechanism from the Department to submit these data. All of the MEP child count information from the 2002–2003 reporting period is readily available for collection as the SEAs maintain migrant student record systems for many purposes. In summary, we are requesting an emergency review and clearance of a MEP Child Count Report containing the following information items: 12-Month Count of Students Eligible for Funding Purposes; Summer/Intersession Count of Participants Eligible for Funding Purposes; and a written summary of the procedures the state used to collect, compile and verify the accuracy of the child counts.

We request OMB's emergency clearance of the MEP Child Count Report by January 7, 2004.

Frequency: Annually.

Affected Public: State, local, or tribal gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 52.

Burden Hours: 1560.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2430. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivan.reese@ed.gov.* Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements, contact Kathy Axt at her e-mail address *Kathy.Axt@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. 04–393 Filed 1–8–04; 8:45 am]

BILLING CODE 4000–1–P

DEPARTMENT OF ENERGY

Workers' Compensation Assistance Advisory Committee

AGENCY: Department of Energy.

ACTION: Notice of Intent to Establish the Workers' Compensation Assistance Advisory Committee.

Pursuant to Section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), and in accordance with title 41 of the Code of Federal Regulations, section 102–3.65, this is notice of intent to establish the Workers' Compensation Assistance Advisory Committee. This intent to establish follows consultation with the Committee Management Secretariat of the General Services Administration, pursuant to 41 CFR Subpart 102–3.60.

The purpose of the Committee is to provide the Secretary of Energy and the Assistant Secretary for Environment, Safety and Health with advice, information, and recommendations on the operation of the Office of Worker Advocacy, focusing on its case management and physician panel processes. The Committee will provide:

a. Advice on worker compensation policies and procedures as they relate to Subtitle D of the Energy Employees Occupational Illness Compensation Program Act of 2000.

b. Periodic reviews of Worker Advocacy Program operations and milestones.

c. Advice on improving the processing of requests for assistance in filing for state workers' compensation.

d. Advice on improving the operation and productivity of the physician panels.

Committee members will be chosen to ensure an appropriately balanced membership to bring into account a diversity of viewpoints, including state and Federal workers' compensation specialists, workers, union representatives, occupational physicians, DOE contractors, the insurance industry, and the public at large who may significantly contribute to the deliberations of the Committee. All meetings of this Committee will be published ahead of time in the **Federal Register**.

Additionally, the establishment of the Workers' Compensation Assistance Advisory Committee is essential to the conduct of Department of Energy business, and is in the public interest. Further information regarding this committee may be obtained from Tom Rollow, Director, Office of Worker Advocacy, U.S. Department of Energy, Washington, DC 20585, phone (202) 586–7449.

Issued in Washington, DC, on January 5, 2004.

James N. Solit,

Advisory Committee Management Officer.

[FR Doc. 04–442 Filed 1–8–04; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–119–000]

Dominion Transmission, Inc.; Notice of Tariff Filing

December 30, 2003.

Take notice that on December 23, 2003, Dominion Transmission, Inc. (DTI) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, with an effective date of January 22, 2004:

Fourth Revised Sheet No. 1001
Original Sheet No. 1504
Sheet Nos. 1505–1999

DTI states that it proposes to add a new section 42 to the General Terms and Conditions of its Tariff (GT&C) to authorize the sale from time to time of gas that DTI has retained or taken title to pursuant to the terms of the GT&C, effective Rate Schedules, or Commission orders and that it desires to remove from its system for operational reasons.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or § 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary. Enter

the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Magalie R. Salas,

Secretary.

[FR Doc. E4–10 Filed 1–8–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–121–000]

Eastern Shore Natural Gas Company; Notice of Tariff Filing

December 30, 2003.

Take notice that on December 23, 2003 Eastern Shore Natural Gas Company (ESNG) 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, with a proposed effective date of January 1, 2004.

ESNG states that the purpose of this filing is to track rate changes attributable to a storage service purchased from Columbia Gas Transmission Corporation (Columbia) under its Rate Schedules FSS and SST. The costs of the above referenced storage service comprises the rates and charges payable under ESNG's Rate Schedule CFSS. This tracking filing is being made pursuant to section 3 of ESNG's Rate Schedule CFSS.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or § 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Magalie R. Salas,

Secretary.

[FR Doc. E4–2 Filed 1–8–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–336–025]

El Paso Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

December 30, 2003.

Take notice that on December 22, 2003, El Paso Natural Gas Company (El Paso) tendered for filing 125 transportation service agreements (TSAs), and as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheets, with an effective date of February 1, 2004:

Twenty-First Revised Sheet No. 1
First Revised Sheet No. 2
Original Sheet Nos. 3, 4 and 5
Sheet Nos. 6 through 9
Thirty-Eighth Revised Sheet No. 30

El Paso states that the TSAs are being submitted for the Commission's review and information and have been listed on the tendered tariff sheets as potential non-conforming agreements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or § 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before the date as indicated below. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Intervention and Protests Date: January 8, 2004.

Magalie R. Salas,

Secretary.

[FR Doc. E4–4 Filed 1–8–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–433–003]

Energy West Development, Inc.; Notice of Compliance Filing

December 30, 2003.

Take notice that on December 19, 2003, Energy West Development, Inc. (Energy West), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, with an effective date of July 1, 2003:

Substitute First Revised Sheet No. 23
Substitute First Revised Sheet No. 24
Substitute First Revised Sheet No. 29
Substitute First Revised Sheet No. 33
Substitute First Revised Sheet No. 42
Substitute First Revised Sheet No. 60

Energy West states that the filing is being made in compliance with an order issued by the Commission on December 5, 2003, which rejected certain tariff sheets previously filed by Energy West as inconsistent with the Commission's pagination guidelines. Energy West states that the instant filing corrects the pagination, revises its tariff provision so that penalty revenues will be credited to all non-offending interruptible and firm shippers net of costs, and corrects the NAESB tariff and cross-references to reflect the Version 1.6 NAESB Standards incorporated verbatim in the tariff and those incorporated by reference.

Energy West further states that copies of the filing have been mailed to each of its customers and interested parties.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC

20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the e-Filing link.

Magalie R. Salas,

Secretary.

[FR Doc. E4–5 Filed 1–8–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–115–000]

Sea Robin Pipeline Company; Notice of Flowthrough Crediting Mechanism

December 30, 2003.

Take notice that on December 19, 2003, Sea Robin Pipeline Company (Sea Robin) submitted its Annual Flowthrough Crediting Mechanism Filing. Sea Robin states that this filing was made pursuant to Section 27 of the General Terms and Conditions of Sea Robin's FERC Gas Tariff which requires Sea Robin to: (1) Credit certain amounts received as a result of resolving monthly imbalances between its gas and liquefiables shippers and under its operational balancing agreements, as described in section 6 of its Tariff, and (2) accumulate amounts received as a result of imposing scheduling penalties, as described in section 5.8 of its Tariff.

Sea Robin reports that it received $805,434.08 in excess of amounts paid to shippers for the twelve months ended October 31, 2003. Sea Robin states that, in accordance with section 27.1, this excess amount will be credited to shippers, based upon shippers' transportation volumes for the twelve months ended October 31, 2003.

Sea Robin further states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or § 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Magalie R. Salas,

Secretary.

[FR Doc. E4–6 Filed 1–8–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–116–000]

Texas Eastern Transmission, LP; Notice of Tariff Filing

December 30, 2003.

Take notice that on December 19, 2003, Texas Eastern Transmission, LP (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, Original Sheet No. 521A, to be effective January 18, 2004.

Texas Eastern states that the purpose of this filing is to modify its Tariff to implement a defined timeline that will provide clarity on the timing of future sales of available capacity on Texas Eastern's system. Texas Eastern further states that this timeline clarifies when it will be required to sell available capacity, based upon the length of the contract term requested by the prospective Customer.

Texas Eastern states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or § 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Magalie R. Salas,

Secretary.

[FR Doc. E4–7 Filed 1–8–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–118–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

December 30, 2003.

Take notice that on December 22, 2003, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, certain revised tariff sheets to which tariff sheets are enumerated in Appendix B attached to the filing. The proposed effective date of the tariff sheets is January 22, 2004.

Transco states that it seeks Commission approval of an agreement included in the filing entitled ''Early

Termination of Gas Purchase Agreement and Transportation Capacities Release Agreement'' (Termination and Assignment Agreement). Transco explains that, pursuant to the Termination and Assignment Agreement, Transco has agreed to buy out of its purchase obligation under a Gas Purchase Agreement (GPA) with Dakota Gasification Company (Dakota) and to permanently release certain related transportation obligations to Dakota and Tenaska Marketing Ventures.

Transco's states that its application seeks (1) Commission approval of the Termination and Assignment Agreement; and (2) authorization for Transco to recover (i) the cost of buying out of Transco's purchase obligation under the GPA; and (ii) the cost incurred by Transco in connection with certain firm transportation agreements used to transport gas purchased under the GPA to Transco's system (collectively, Dakota Buyout Costs). Further, Transco seeks Commission approval of the revised tariff sheets which set forth a mechanism pursuant to which Transco proposes to recover the Dakota Buyout Costs.

Transco states that it is serving copies of the filing has been served to its affected customers, interested State Commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or § 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Magalie R. Salas,

Secretary.

[FR Doc. E4–9 Filed 1–8–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–120–000]

Transcontinental Gas Pipe Line Corporation; Notice of Tariff Filing

December 30, 2003.

Take notice that on December 23, 2003, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, ThirtyFifth Revised Sheet No. 27 and Forty-Ninth Revised Sheet 28A, to be effective November 1, 2003.

Transco states that the purpose of the instant filing is to track rate changes attributable to storage service purchased from Dominion Transmission, Inc. (DTI) under its Rate Schedule GSS, the costs of which are included in the rates and charges payable under Transco's Rate Schedule GSS and LSS.

Transco states that copies of the filing are being mailed to affected customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or § 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Magalie R. Salas,

Secretary.

[FR Doc. E4–11 Filed 1–8–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–117–000]

Trunkline Gas Company, LLC; Notice of Proposed Changes in FERC Gas Tariff

December 30, 2003.

Take notice that on December 22, 2003, Trunkline Gas Company, LLC (Trunkline) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the revised tariff sheets listed on Appendix A attached to the filing, to become effective January 22, 2004.

Trunkline states that copies of this filing are being served on all affected shippers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or § 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Magalie R. Salas,

Secretary.

[FR Doc. E4–8 Filed 1–8–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP04–36–000, CP04–41–000, CP04–42–000, and CP04–43–000]

Weaver's Cove Energy, LLC and Mill River Pipeline, LLC; Notice of Filing

December 30, 2003.

Take notice that on December 19, 2003, Weavery's Cove Energy, LLC (Weaver's Cove), Docket No. CP04–36–000, One New Street, Fall River, Massachusetts 02720, pursuant to section 3(a) of the Natural Gas Act (NGA), 15 U.S.C. 717b(a) and parts 153 and 380 of the Federal Energy Regulatory Commission's (Commission) Rules and Regulations, filed an application for authorization to site, construct and operate a liquefied natural gas (LNG) terminal (LNG Terminal) in Fall River, Massachusetts.

Also on December 19, 2003, Mill River Pipeline, LLC (Mill River), One New Street, Fall River, Massachusetts 02720, Docket No. CP04–41–000, pursuant to section 7(c) of the NGA and Part 157 of the Commission's Rules and Regulations file an application to construct, install, own, operate and maintain two new natural gas lateral pipelines and ancillary facilities (Laterals). Mill River also requests: (1) In Docket No. CP04–42–000, a blanket certificate pursuant to subpart F of part 157 of the Commission's Rules and Regulations to perform certain routine activities and operations; and (2) in Docket No. CP04–43–000, pursuant to subpart G of part 284 of the Commission's Rules and Regulations, authority to provide open-access transportation of natural gas for others.

Both of these filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the appropriate 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.

Weaver's Cove

Weaver's Cove proposes to site, construct, and operate an LNG terminal, including a marine berth, an LNG storage tank, regasification facilities, and an LNG truck distribution facility, on a site located on Tauton River on the north end of the city of Fall River, Massachusetts. The terminal will receive LNG and deliver pipeline quality natural gas to the laterals proposed by Mill River at a pressure of approximately 1,000 psi. The terminal also will incorporate four truck filings stations for loading trucks that will transport LNG to peak shaving storage facilities and industrial customers throughout New England. The proposed terminal will have a peak day sendout capacity of 800 MMcf/d (8000,000 Dth/d).

Mill River

Mill River proposes to construct, install, own operate and maintain two laterals: Western Lateral and Northern Lateral, connecting the outlet of the proposed Weaver's Cove LNG Terminal to the interstate facilities of Algonquin Gas Transmission Company's (Algonquin). The Western Lateral will be a 2.52 mile, 24-inch diameter pipeline originated at the Weaver's Cove LNG Terminal site and terminated at the existing Algonquin 20-inch diameter G–22 lateral pipeline. The Northern Lateral will be a 3.59 mile, 24-inch diameter pipeline originated at the Weaver's Cove LNG Terminal site and terminated at the existing Algonquin G–1 12″/20″ lateral pipelines. The two laterals have a design pressure of 1,440 psi and a normal operating pressure of up to 1,000 psi.

Any questions regarding these applications are to be directed to Ted Gehrig, President, Weaver's Cove Energy, LLC and Mill River Pipeline, LLC, One New Street, Fall River, MA 02720.

There are two ways to become involved in the Commission's review of these projects. First, any person wishing to obtain legal status by becoming a party to the proceedings for these projects 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 the 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 the Commission orders in the proceedings.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to these projects. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the projects provide copies of their protests only to the party or parties directly involved in the protest.

Persons may wish to comment only on the environmental review of these projects. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents issued by the Commission, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, environmental commenters are also not parties to the proceeding and will not receive copies of all documents filed by other parties or non-environmental documents issued by the Commission. They will not have the right to seek court review of the Commission's final order. Coincidentally, with this Notice of Application, the Commission is issuing a notice regarding the environmental comment process. This notice describes the comment procedures and comment deadline.[1]

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the projects. This preliminary determination typically considers such issues as the need for the projects and its economic effect on existing customers of the applicants, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the projects. Therefore, if a person has comments on community and

[1] *See* Notice of Status Change of Environmental Review and Expiration of Scoping Period for the Proposed Cove LNG Project, issued December 31, 2003.

landowner impacts from these proposals, it is important either to file comments or to intervene as early in the process as possible.

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: January 13, 2004.

Magalie R. Salas,

Secretary.

[FR Doc. E4–12 Filed 1–8–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL04–39–000, et al.]

City of Riverside, CA et al.; Electric Rate and Corporate Filings

December 29, 2004.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. City of Riverside, California

[Docket No. EL04–39–000]

Take notice that on December 18, 2003, the City of Riverside, California (Riverside) submitted for filing changes to its Transmission Revenue Balancing Account Adjustment (TRBAA) and to Appendix I of its Transmission Owner (TO) Tariff. Riverside requests a January 1, 2004 effective date for its filing. Riverside further requests that the Commission waive any fees for the filing of its revised TRBAA.

Comment Date: January 8, 2004.

2. City of Anaheim, California

[Docket No. EL04–40–000]

Take notice that on December 18, 2003, the City of Anaheim, California (Anaheim) submitted for filing changes to its Transmission Revenue Balancing Account Adjustment (TRBAA) and to Appendix I of its Transmission Owner (TO) Tariff. Anaheim requests a January 1, 2004 effective date for its filing. Anaheim further requests that the Commission waive any fees for the filing of its revised TRBAA.

Comment Date: January 8, 2004.

3. Bonneville Power Administration

[Docket No. EL04–44–000]

Take notice that on December 23, 2003, the Bonneville Power Administration, a federal power marketing administration within the U.S. Department of Energy, filed a Petition for Declaratory Order requesting a finding that, under the circumstances described in the Petition, the passive participants in a lease financing of certain electric transmission facilities will not be considered public utilities under Section 201 of the Federal Power Act.

Comment Date: January 8, 2004.

4. Cordova Energy Company LLC

[Docket No. ER99–2156–002]

Take notice that on December 17, 2003, Cordova Energy Company LLC submitted its First Revised FERC Electric Rate Schedule No. 1 in compliance with the Commission's June 24, 2002 Letter Order in Docket No. ER99–2156–001.

Comment Date: January 7, 2004.

5. Outback Power Marketing Inc.

[Docket No. ER01–297–002]

Take notice that on December 12, 2003, Outback Power Marketing Inc. (Outback) tendered for filing: (i) An updated market power analysis in compliance with the Federal Energy Regulatory Commission's (Commission) order authorizing Outback to engage in wholesale sales of electric power at market based rates in Docket No. ER01–297–000; and (ii) an amendment to its market-based rate tariff to adopt the Commission's new Market Behavior Rules issued in Docket Nos. EL01–118–000 and EL01–118–001.

Comment Date: January 14, 2003.

6. California Power Exchange Corporation

[Docket No. ER03–830–001]

Take notice that on December 17, 2003, the California Power Exchange Corporation (CalPX) submitted a filing to comply with the Commission's December 5, 2003 Order, 105 FERC ¶61,273.

Comment Date: January 7, 2004.

7. ANC Utility Services, Inc.

BP Energy Company, Brownsville Power I, L.L.C., Caledonia Power I, L.L.C. CAM Energy Products, LP, Cargrill Power Markets, LLC, Chanarambie Power Partners, LLC, Chehalis Power Generating Limited Partnership, Choctaw Generation Limited Partnership, Exelon Generation Company, L.L.C., Flying Cloud LLC, FPL Energy North Dakota Wind II, LLC, KeySpan-Glenwood Energy Center LLC, KeySpan-Port Jefferson LLC, KeySpan-Ravenswood LLC, Kiowa Power Partners, LLC, LMP Capital, LLC, Morgan Stanley Capital Group Inc., Morgan Stanley Capital Group Inc., Northern Indiana Public Service Company, Occidental Energy Marketing, Inc., Occidental Power Marketing, L.P., Occidental Power Services, Inc., PB Financial Services, Inc., San Diego Gas & Electric Company, Solaro Energy Marketing Corporation, Tampa Electric Company, Tenaska Frontier Partners, Ltd., Tenaska Gateway Partners, L.P., Tenaska Georgia Partners, L.P., Tenaska-Oxy Power Services, L.P., Tensaka Virginia Partners, L.P., Tractebel Energy Marketing, Inc., Trigen-Syracuse Energy Corporation, Virginia Electric and Power Company,

[Docket Nos. ER03–965–001, ER00–3614–003, ER01–826–002, ER01–282–001, ER03–736–002, ER02–2551–001, ER03–1340–002, ER03–717–001, ER98–377–002, ER00–3251–006, ER03–932–002, ER03–1105–001, ER02–1470–001, ER02–1573–001, ER99–2387–002, ER02–2509–001, ER03–653–002, ER04–310–001, ER03–168–001, ER00–2173–001, ER02–799–001, ER99–3665–003, ER02–1947–005, ER04–47–001,ER99–3426–004, ER03–752–002, ER99–2342–002, ER98–1767–006, ER99–2992–002, ER99–3165–002, ER02–2550–001, ER02–1942–001, ER94–142–028, ER00–2603–002, and ER97–3561–003]

Take notice that on December 17, 18, 19, and 22, 2003, the above referenced companies submitted a compliance filing in response to the Commission's November 17, 2003 Order Amending Market-based Rate Tariffs and Authorizations, in Docket No. EL01–118–000 and 001.

Comment Date: January 14, 2004.

8. Xcel Energy Services Inc., Northern States Power Company

[Docket No. ER03–1278–002]

Take notice that on December 16, 2003, Xcel Energy Services Inc. (XES) on behalf of Northern States Power Company (NSP) submitted a refund report. The refund report was required by the Commission's December 4, 2003 Letter Order in Docket No. ER03–1278–000 and ER03–1278–001.

Comment Date: January 6, 2004.

9. California Independent System Operator Corp.

[Docket No. ER03–1360–001]

Take notice that on December 17, 2003, the California Independent System Operator Corp. (ISO) submitted a compliance filing pursuant to the Commission's Letter Order issued November 14, 2003 in ER03–1360–000.

Comment Date: January 7, 2004.

10. Southern Company Services, Inc.

[Docket No. ER03–1381–002]

Take notice that on December 18, 2003, Southern Company Services, Inc., as agent for Georgia Power Company, submitted to the Federal Energy Regulatory Commission a compliance filing in accordance with the Commission's November 18, 2003 Order in Southern Company Services, Inc., 105 FERC ¶61,221 (2003).

Comment Date: January 8, 2004.

11. Xcel Energy Services Inc., Northern States Power Company

[Docket No. ER04–93–001]

Take notice that on December 16, 2003, Xcel Energy Services Inc. (XES) on behalf of Northern States Power Company (NSP) submitted a refund report required by the Commission's December 5, 2003 Letter Order in Docket No. ER04–93–000.

Comment Date: January 6, 2004.

12. Michigan Electric Transmission Company, LLC

[Docket No. ER04–139–001]

Take notice that on December 19, 2003, Michigan Electric Transmission Company, LLC (METC) submitted a notice of withdrawal of proposed amendments to the following agreements filed in Docket No. ER04–139–000 on October 31, 2003: (1) Project I Transmission Ownership and Operating Agreement Between Consumers Power Company and Michigan South Central Power Agency, dated November 20, 1980; (2) Campbell Unit No. 3 Transmission Ownership and Operating Agreement Between Consumers Power Company and Michigan Public Power Agency, dated October 1, 1979; and (3) Belle River Transmission Ownership and Operating Agreement Between Consumers Power Company and Michigan Public Power Agency, dated December 1, 1982. METC states it has reached an agreement regarding the proposed amendments with both Michigan South Central Power Agency and Michigan Public Power Agency and therefore filed a notice to withdraw the amendments filed with regard to those entities.

Comment Date: January 9, 2004.

13. Xcel Energy Services Inc., Northern States Power Company

[Docket No. ER04–146–001]

Take notice that on December 16, 2003, Xcel Energy Services Inc. (XES) on behalf of Northern States Power Company (NSP) submitted a refund report required by the Commission's December 4, 2003 Letter Order in the Docket No. ER04–146–000.

Comment Date: January 6, 2004.

14. Dominion Nuclear Marketing I, Inc. and Dominion Nuclear Marketing II, Inc.

[Docket Nos. ER04–189–001]

Take notice that on December 16, 2003, Dominion Nuclear Marketing I, Inc. (DNM I) and Dominion Nuclear Marketing II, Inc. (DNM II) filed an amended Notice of Cancellation to include canceled sheets in compliance with the requirements of Order No. 614, to cancel DNM I and DNM II's market-based rate schedules.

Comment Date: January 6, 2004.

15. Nordic Marketing of New Jersey, L.L.C.

[Docket No. ER04–293–000]

Take notice that on December 16, 2003, Nordic Marketing of New Jersey, L.L.C. petitioned the Commission to: (1) Accept for filing its Rate Schedule FERC No. 1, which will permit it to sell electric energy and capacity to wholesale customers at market-based rates and permit transmission capacity reassignment; (2) waive 60 days' notice and allow that rate schedule to become effective no later than February 14, 2004; and (3) grant such other waivers and blanket authorizations as have been granted to other power marketers.

Nordic Marketing of New Jersey states that it intends to engage in wholesale electric power and energy sales as a marketer, principally by reselling purchased power that it obtains for potential unbundled competitive sale at retail but which turns out to exceed its needs for that use. Nordic Marketing of New Jersey further states that it nor any of its affiliates owns or controls any currently operating or operable generation or transmission facilities, or has a franchised service area for the sale of electricity to captive customers.

Comment Date: January 6, 2004.

16. Pacific Gas and Electric Company

[Docket No. ER04–295–000]

Take notice that on December 17, 2003, Pacific Gas and Electric Company (PG&E) tendered for filing an annual update filing including revisions to its Reliability Must Run Service Agreements (RMR Agreements) with the California Independent System Operator Corporation (ISO) for Helms Power Plant, PG&E First Revised Rate Schedule FERC No. 207, San Joaquin Power Plant, PG&E First Revised Rate Schedule FERC No. 211 and Kings River Watershed, PG&E Rate Schedule FERC No. 226. PG&E states that this filing revises portions of the Rate Schedules to adjust the values for Contract Service Limits, Owner's Repair Cost Obligation and Prepaid Start-up information. PG&E further states that the changes are expressly required and/or authorized under the RMR Agreements.

PG&E states that copies of this filing have been served upon the ISO, the California Electricity Oversight Board, and the California Public Utilities Commission.

Comment Date: January 7, 2004.

17. Dynegy Midwest Generation, Inc.

[Docket No. ER04–296–000]

Take notice that on December 17, 2003, Dynegy Midwest Generation, Inc. (DMG) submitted for filing an amendment to section 2(b) of DMG's Rate Schedule FERC No. 2. DMG states that this amendment, which changes the notice period for the termination of the Primary Term of the Rate Schedule from 12 months to 9 months, is necessary to allow the parties to evaluate more fully their options after the current termination date of December 31, 2004. DMG requests that the amendment be made effective as of December 30, 2003, which is the day before the date by which the parties currently would have to provide a notice of termination.

Comment Date: January 7, 2004.

18. PJM Interconnection, L.L.C.

[Docket No. ER04–297–000]

Take notice that on December 17, 2003, PJM Interconnection, L.L.C. (PJM) submitted for filing an executed Interconnection Service Agreement (ISA) among PJM, Conectiv Energy Supply, Inc., and Delmarva Power & Light Company d/b/a/ Conectiv Power Delivery and a notice of cancellation for an interim ISA that has terminated.

PJM request a waiver of the Commission's 60-day notice requirement to permit a November 17, 2003 effective date for the ISA. PJM also states that copies of this filing were served upon the parties to the agreements and the state regulatory commissions within the PJM region.

Comment Date: January 7, 2004.

19. Howard Energy Marketing, Inc.

[Docket No. ER04–299–000]

Take notice that on December 17, 2003, Howard Energy Marketing, Inc.

tendered for filing a Notice of Cancellation of its market-based rate authority in Docket No. ER95–252–000.

Comment Date: January 7, 2004.

20. Southern California Edison Company

[Docket No. ER04–300–000]

Take notice that on December 17, 2003, Southern California Edison Company (SCE) tendered for filing a Letter Agreement between SCE and the City of Corona, California (Corona). SCE states that the purpose of the Letter Agreement is to provide an interim arrangement pursuant to which SCE will commence the engineering, design, obtaining the approval of the California Public Utilities Commission, procurement of equipment and material, and construction of Direct Assignment Facilities, Distribution System Upgrades and other system facilities, modifications and upgrades needed to effectuate interconnection and provide the requested Distribution Service for Corona's proposed Clearwater Cogeneration Project.

SCE states that copies of this filing were served upon the Public Utilities Commission of the State of California and Corona.

Comment Date: January 7, 2004.

21. New England Power Company

[Docket No. ER04–301–000]

Take notice that on December 17, 2003, the New England Power Company (NEP) tendered for filing with the Commission a Notice of Cancellation of the Quebec Interconnection Transfer Agreement between NEP and USGen New England, Inc. (USGenNE) dated September 1, 1998 (Transfer Agreement) and filed with the Commission on August 31, 1998 in Docket No. ER98–4409–000.

NEP requests that its Notice of Cancellation be made effective as of April 2, 2004. NEP states that USGenNE consents to the termination as of that date.

NEP states that copies of this filing have been served upon USGenNE, ISO New England, Inc., and the state utility commissions of Massachusetts, Rhode Island and New Hampshire.

Comment Date: January 7, 2004.

22. PJM Interconnection, L.L.C.

[Docket No. ER04–302–000]

Take notice that on December 18, 2003, PJM Interconnection, L.L.C. (PJM), submitted for filing an executed interconnection service agreement (ISA) among PJM, U.S. General Services Administration, White Oak Federal Research Center, White Oak, and Potomac Electric Power Company.

PJM requests a waiver of the Commission's 60-day notice requirement to permit a November 20, 2003 effective date for the ISA.

PJM states that copies of the filing were served upon the parties to the agreements and the state regulatory commissions within the PJM region.

Comment Date: January 8, 2004.

23. San Diego Gas & Electric Company

[Docket No. ER04–303–000]

Take notice that on December 18, 2003, San Diego Gas & Electric Company (SDG&E) tendered for filing its revised Wholesale Distribution Open Access Tariff, FERC Electric Tariff, First Revised Volume No. 6 (WDT), to reflect proposed revisions to the terms and conditions of wholesale customer service and to reflect editorial changes to enhance the clarity of the WDT Tariff.

SDG&E requests an effective date of February 17, 2004 for the WDT, in conformance with the sixty-day notice requirement.

SDG&E states that copies of the filing have been served on the California Public Utilities Commission, the California Independent System Operator Corporation, and all persons on the Secretary's official service list in Docket No. ER97–4235–000.

Comment Date: January 8, 2004.

24. Southern Company Services, Inc.

[Docket No. ER04–304–000]

Take notice that on December 18, 2003, Southern Company Services, Inc., on behalf of Alabama Power Company (APC), filed the Interconnection Agreement (Agreement) between Mobile Energy Services, L.L.C. and APC. An effective date of November 18, 2003 has been requested.

Comment Date: January 8, 2004.

25. Sierra Pacific Power Company

[Docket No. ER04–305–000]

Take notice that on December 18, 2003, Sierra Pacific Power Company (Sierra) tendered for filing an executed Interconnection and Operation Agreement between Sierra and Newmont USA Limited d/b/a Newmont Mining Corporation. Sierra requests an effective date of December 5, 2003.

Comment Date: January 8, 2004.

26. Yuba City Energy Center, LLC

[Docket No. ER04–306–000]

Take notice that on December 18, 2003, Yuba City Energy Center, LLC (Yuba City) filed a Notice of Cancellation of its Rate Schedule FERC No. 1. Yuba City requests an effective date of December 19, 2003.

Comment Date: January 8, 2004.

27. Lambie Energy Center, LLC

[Docket No. ER04–307–000]

Take notice that on December 18, 2003, Lambie Energy Center, LLC (Lambie) filed a Notice of Cancellation of its Rate Schedule FERC No. 1. Lambie requests an effective date of December 19, 2003.

Comment Date: January 8, 2004.

28. Cabrillo Power I LLC and Cabrillo Power II LLC

[Docket No. ER04–308–000]

Take notice that on December 17, 2003, Cabrillo Power I LLC and Cabrillo Power II LLC (Cabrillo I and II), tendered for filing with the Federal Energy Regulatory Commission their annual informational filing and related revisions to their Reliability Must-Run Service Agreements with the California Independent System Operator Corporation.

Cabrillo I and II state that a copy of the filing has been served on the California Independent System Operator Corporation, San Diego Gas & Electric Company, the California Electricity Oversight Board, and the California Public Utilities Commission.

Comment Date: January 7, 2004.

29. New York Independent System Operator, Inc.

[Docket No. ER04–309–000]

Take notice that on December 16, 2003, the New York Independent System Operator, Inc. (NYISO), filed proposed revisions to the Independent System Operator Agreement. NYISO states that the proposed revisions would amend the Independent System Operator Agreement to specify that ISO-designated holidays, rather than legal holidays, be excluded from the computation of the five-day meeting notice periods for announcements of upcoming Management Committee, Business Issues Committee, and Operating Committee meetings.

The NYISO states it has served a copy of this filing to all parties that have executed Service Agreements under the NYISO's OATT or Services Tariff, the New York State Public Services Commission and to the electric utility regulatory agencies in New Jersey and Pennsylvania.

Comment Date: January 6, 2004.

30. Feather River Energy Center, LLC

[Docket No. ER04–311–000]

Take notice that on December 18, 2003, Feather River Energy Center, LLC (Feather River) filed a Notice of Cancellation of its Rate Schedule FERC No. 1. Feather River requests an effective date of December 19, 2003.

Comment Date: January 8, 2004.

31. King City Energy Center, LLC

[Docket No. ER04–312–000]

Take notice that on December 18, 2003, King City Energy Center, LLC (King City) filed a Notice of Cancellation of its Rate Schedule FERC No. 1. King City requests an effective date of December 19, 2003.

Comment Date: January 8, 2004.

32. Riverview Energy Center, LLC

[Docket No. ER04–313–000]

Take notice that on December 18, 2003, Riverview Energy Center, LLC (Riverview) filed a Notice of Cancellation of its Rate Schedule FERC No. 1. Riverview requests an effective date of December 19, 2003.

Comment Date: January 8, 2004.

33. Wolfskill Energy Center, LLC

[Docket No. ER04–314–000]

Take notice that on December 18, 2003, Wolfskill Energy Center, LLC (Wolfskill) filed a Notice of Cancellation of its Rate Schedule FERC No. 1. Wolfskill requests an effective date of December 19, 2003.

Comment Date: January 8, 2004.

Standard Paragraph

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E4–1 Filed 1–8–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1960–002–WI]

Dairyland Power Cooperative; Notice of Availability of Environmental Assessment

December 30, 2003.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR part 380 (Order No. 486, 52 FR 47879), the Office of Energy Projects has reviewed the application for a new license for the Flambeau Hydroelectric Project, located on the Flambeau River, in Rusk County, Wisconsin, and has prepared an Environmental Assessment (EA). In the EA, Commission staff analyze the potential environmental effects of relicensing the project and conclude that issuing a new license for the project, with appropriate environmental measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the EA is on file with the Commission and is available for public inspection. The EA 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. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659.

Any comments should be filed within 30 days from the issuance date of this notice, and should be addressed to the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1–A, Washington, DC 20426. Please affix ''Flambeau Project No. 1960'' to all comments. Comments may be filed electronically via 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 under the ''e-Filing'' link. For further information, contact Timothy Konnert at (202) 502–6359 or by e-mail at *timothy.konnert@ferc.gov*.

Magalie R. Salas,

Secretary.

[FR Doc. E4–3 Filed 1–8–04; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6647–3]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review

Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 04, 2003 (68 FR 16511).

Draft EISs

ERP No. D–AFS–J65396–WY Rating EC2, Wyoming Range Allotment Complex, To Determine Whether or not to Allow Domestic Sheep Grazing, Bridger-Teton National Forest, Big Piney, Greys River and Jackson Ranger Districts, Sublette, Lincoln and Teton Counties, WY.

Summary: EPA expressed environmental concerns regarding adverse impacts to water quality and aquatic habitat from mass erosion from grazing. The final EIS should include information on sediment loading, ground cover, native trout populations, percent fines in stream beds, mass erosion sites and gullies.

ERP No. D–AFS–K65263–CA Rating EC2, Meteor Project, Proposal for Harvesting Timber and Conducting Associated Activities on 744 Acres, Implementation, Klamath National Forest, Salmon River Ranger District, Siskiyou County, CA.

Summary: EPA expressed environmental concerns regarding potential impacts to air and water quality. The final EIS should include specific information on project impacts related to air quality standards, types of dewatering methods and impacts to the aquatic habitat and consideration of reasonably foreseeable actions in the cumulative impacts analysis.

ERP No. D–NPS–F65043–MI Rating LO, Pictured Rocks National Lakeshore,

General Management Plan and Wilderness Study, Implementation, Lake Superior, Munising and Grand Marais, Alger County, MI.

Summary: EPA expressed lack of objections with the preferred alternative.

Final EISs

ERP No. F–AFS–F65036–WI Hoffman-Sailor West Project, Timber Harvest, Regeneration Activities, Connected Road Construction and Decommissioning, Chequamegon-Nicolet National Forest, Medford/Park Falls Ranger District, Price County, WI.

Summary: EPA's concerns with beavers and forest tent caterpillars were resolved in the FEIS. However, EPA continues to have environmental concerns regarding the impact of white-tailed deer on forest ecosystem health. EPA suggested additional monitoring focusing on the impacts of deer browsing potentially sensitive vegetation in the project area.

ERP No. F–AFS–F65042–WI Sunken Moose Project, Proposal to Restore and/or Maintain the Red and White Pine Communities, Washurn Ranger District, Chequamegon-Nicolet Forest, Bayfield County, WI.

Summary: EPA continues to believe that the cumulative impacts analysis should consider future thinning projects. EPA believes that a comparative impacts analysis regarding Non-Native invasive Species among the different alternatives would be helpful in determining future Best Management Practices and should be considered in other similar projects.

ERP No. F–AFS–K61157–CA Interface Recreation Trails Project, Recreation Route System Development, Implementation, Stanislaus National Forest, Calaveras Ranger District, Calaveras County, CA.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–AFS–K65252–CA Combined Array for Research in Millimeter-wave Astronomy (CARMA) Project, Construction, Reconstruction and Operation of 23 Antennas at the Juniper Flat Site, Special-Use-Permit Issuance, Inyo Mountain, Inyo National Forest, Inyo County, CA.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–AFS–K65258–CA Emigrant Wilderness Dams Project, Reconstruct, Repair, Maintain and Operate 12 Dams; Snow, Bigelow, Huckleberry, Emigrant Meadow, Middle Emigrant, Emigrant, Leighton, Long, Lower Buck, Y-Meadow and Bear, Stanislaus National Forest, Summer Ranger District, Tuolumne County, CA.

Summary: The Final EIS adequately addressed EPA's major concerns regarding the potential impacts to wilderness, air and water quality and wildlife.

ERP No. F–AFS–L65434–WA Crupina Integrated Weed Management Project, Control and Eradication of Crupina, Implementation, Okanogan and Wenatchee National Forests, Chelan Ranger District, Chelan County, WA.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–BOP–K80042–CA Lompoc United States Penitentiary (UPS) Construction and Operation of a New High-Security Facility and Ancillary Structures on One of Three Sites located in the City of Lopmoc, Funding, Santa Barbara County, CA.

Summary: EPA's previous issues have been resolved, therefore, EPA has no objections to the action as proposed.

ERP No. F–NPS–K65365–AZ Navajo National Monument, General Management Plan and Development Concept Plan, Implementation, Navajo Counties, AZ.

Summary: EPA expressed a lack of objections to this project.

Dated: January 6, 2004.

Ken Mittelholtz,

Environmental Specialist, Office of Federal Activities.

[FR Doc. 04–456 Filed 1–8–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6647–2]

Environmental Impact Statements; Notice of Availability

RESPONSIBLE AGENCY: Office of Federal Activities, general information (202) 564–7167 or *http://www.epa.gov/compliance/nepa.*

Weekly receipt of Environmental Impact Statements

Filed December 29, 2003, through January 2, 2004

Pursuant to 40 CFR 1506.9.

EIS No. 030591, Final EIS, AFS, ID, Big Bend Ridge Vegetation Management Project and Timber Sale, provision of forest products on a sustained yield basis, Caribou-Targhee National Forest, Ashton/Island Park Ranger District, Fremont County, ID, wait period ends: February 9, 2004, contact: Melissa Jenkins (208) 624–3151.

EIS No. 030592, Draft EIS, FHW, MI, I–75 from M–102 to M–59 proposed widening and reconstruction, transportation improvements, funding, NPDES permit and U.S. Army COE section 404 permit, Oakland County, MI, comment period ends: February 23, 2004, contact: Abdelmoez Abdalla (517) 702–1820.

EIS No. 030593, Draft EIS, AFS, UT, WY, East Fork Fire Salvage Project timber harvesting of dead and dying trees, implementation, Wasatch-Cache National Forest, Evanston Ranger District, Summit County, UT, comment period ends: February 23, 2004, contact: Steve Ryberg (307) 789–3194. This document is available on the Internet at: *http://www.fs.fed.us/r4/wcnf.*

EIS No. 030594, Final EIS, BLM, NM, Sierra and Otero Counties Resource Management Plan amendment and Federal fluid minerals leasing and development, implementation, Sierra and Otero Counties, NM, wait period ends: February 9, 2004, contact: Tom Phillips (505) 525–4377. This document is available on the Internet at: *http://www.nm.blm.gov.*

Amended Notices

EIS No. 030536, Final EIS, SFW, WA, Daybreak Mine Expansion and Habitat Enhancement Project, habitat conservation plan, and issuance of a multiple species permit for incidental take, implementation, Clark County, WA, wait period ends: January 28, 2004, contact: Tim Romanski (360) 753–5823. Revision of **Federal Register** notice published on 11/28/03: CEQ wait period ending 12/29/2003 has been extended to 01/28/2004.

EIS No. 030574, Final EIS, FHW, IN, I–69 Evansville to Indianapolis Corridor Study, I–69 completion in southwestern Indiana and corridor selection, IN, wait period ends: February 2, 2004, contact: Robert Dirks (317) 226–7492. Revision of **Federal Register** notice published on 12/24/2003: correction of wait period from 01/22/2004 to 02/02/2004.

EIS No. 030576, Final EIS, FHW, ND, US 2 highway transportation improvements from near U.S. 85 (milepost 31.93) to west of U.S. 52 (milepost 131.24), funding, NPDES and U.S. Army COE section 404 permits issuance, Williams, Mountrail and Ward Counties, ND, wait period ends: January 22, 2004, contact: Mark Schrader (701) 250–4343 Ext.111. Revision of **Federal Register** notice published on 01/02/2004. Correction to status from draft to final.

Dated: January 6, 2004.

Ken Mittelholtz,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. 04–455 Filed 1–8–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7604–2]

Proposed Agreement Pursuant to Section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) for the General Oil Site/ Ford Pond Operable Unit in Northville, MI

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice and request for public comment.

SUMMARY: In accordance with section 122(i)(1) of CERCLA, notification is hereby given of a proposed administrative settlement agreement concerning off-site discharge of PCB-contaminated oil from former oil storage lagoons at the General Oil facility in Northville, Michigan. EPA proposes to enter into this agreement under the authority of sections 122(h) and 107 of CERCLA. The proposed agreement has been executed by Allied Waste Systems, Inc., DaimlerChrysler Corporation, D.A. Stuart Company, Inc., Delphi Corporation, Eaton Corporation, Ford Motor Company, General Motors Corporation, General Oil Corporation, Honeywell, Inc., Indiana Michigan Power Company, LucasVarity Automotive Holding Company, Owens-Illinois, Inc., Reynolds Metals Company, and Tecumseh Products Company (the ''Settling Parties''). Under the proposed agreement, the Settling Parties will implement a removal action to address PCB-contaminated oil discharging to a pond in a Northville city park. Also, the Settling Parties will pay $50,000 into a special account to fund costs the Agency will incur in overseeing the work under the agreement. In addition, under the agreement, EPA will waive all of its past response costs ($50,000) incurred at the General Oil Site/Ford Pond Operable Unit. EPA incurred these past response costs in investigating the release of hazardous substances at the site, reviewing and approving remedy proposals, and negotiating a resolution of the case. For thirty days following the date of publication of this notice, the EPA will receive written comments relating to the past cost waiver provisions of this proposed agreement. EPA will consider all comments received and may decide not to enter into the past cost waiver provisions of this proposed agreement if comments disclose facts or considerations which indicate that the past cost waiver is inappropriate, improper or inadequate.

DATES: Comments on the proposed agreement must be received by EPA on or before February 9, 2004.

ADDRESSES: Comments should be addressed to the Docket Clerk, U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590, and should refer to: In the Matter General Oil Site/Ford Pond Operable Unit, EPA Docket No. V–W–04–C–768.

FOR FURTHER INFORMATION CONTACT: Reginald A. Pallesen, U.S. Environmental Protection Agency, Office of Regional Counsel, C–14J, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590, (312) 886–0555. A copy of the proposed administrative settlement agreement may be obtained in person or by mail from the EPA's Region 5 Office of Regional Counsel, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590. Additional background information relating to the settlement is available for review at the EPA's Region 5 Office of Regional Counsel.

Authority: The Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9601–9675.

William E. Muno,

Director, Superfund Division, Region 5.

[FR Doc. 04–460 Filed 1–8–04; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ELECTION COMMISSION

[Notice 2004–1]

Filing Dates for the Kentucky Special Election in the 6th Congressional District

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: Kentucky has scheduled a special general election on February 17, 2004, to fill the U.S. House of Representatives seat in the Sixth Congressional District vacated by Representative Ernie Fletcher.

Committees participating in the Kentucky Special General Election are required to file pre- and post-election reports.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin R. Salley, Information Division, 999 E Street, NW., Washington, DC 20463; Telephone: (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

All principal campaign committees of candidates participating in the Kentucky Special General Election shall file a 12-day Pre-General Report on February 5, 2004; and a 30-day Post-General Report on March 18, 2004. (*See* chart below for the closing date for each report).

Unauthorized Committees (PACs and Party Committees)

Political committees filing on a semiannual basis in 2003 are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the Kentucky Special General Election by the close of books for the applicable report(s). (*See* chart below for the closing date for each report).

Since disclosing financial activity from two different calendar years on one report would conflict with the calendar year aggregation requirements stated in the Commission's disclosure rules, unauthorized committees that trigger the filing of the Pre-General Report will be required to file this report on two separate forms. One form to cover 2003 activity, labeled as the Year-End Report; and the other form to cover only 2004 activity, labeled as the Pre-General Report. Both forms must be filed by February 5, 2004.

Committees filing monthly that support candidates in the Kentucky Special General Election should continue to file according to the monthly reporting schedule.

Disclosure of Electioneering Communications (Individuals and Other Unregistered Organizations)

As required by the Bipartisan Campaign Reform Act of 2002, the Federal Election Commission promulgated new electioneering communications rules governing television and radio communications that refer to a clearly identified Federal candidate and are distributed within 60 days prior to a special general election. 11 CFR 100.29. The statute and regulations require, among other things, that individuals and other groups not registered with the FEC who make electioneering communications costing more than $10,000 in the aggregate in a calendar year disclose that activity to the Commission within 24 hours of the distribution of the communication. *See* 11 CFR 104.20.

The 60-day electioneering communications period in connection with the Kentucky Special General runs from December 19, 2003, through February 17, 2004.

CALENDAR OF REPORTING DATES FOR KENTUCKY SPECIAL ELECTION COMMITTEES INVOLVED IN THE SPECIAL GENERAL (02/17/04) MUST FILE:

Report	Close of books[1]	Reg./Cert. mailing date[2]	Filing date
Year-End		—Waived—	
Pre-General	01/28/04	02/02/04	02/05/04
Post-General	03/08/04	03/18/04	03/18/04

[1] The period begins with the close of books of the last report filed by the committee. If the committee has filed no previous reports, the period begins with the date of the committee's first activity.

[2] Pre- and Post-General Reports sent registered or certified mail must be postmarked by the mailing date; otherwise, they must be received by the filing date. Committees should keep the mailing receipt with its postmark as proof of filing.

Dated: January 5, 2004.

Bradley A. Smith,

Chairman, Federal Election Commission.

[FR Doc. 04–395 Filed 1–8–04; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 2, 2004.

A. Federal Reserve Bank of Chicago (Patrick Wilder, Managing Examiner) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. Capital Bancorp, Ltd., Lansing, Michigan; to acquire 100 percent of the voting shares of First Carolina State Bank, Rocky Mount, North Carolina.

Board of Governors of the Federal Reserve System, January 5, 2004.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 04–428 Filed 1–8–04; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act Notice

TIME AND DATE: 9 a.m. (EST), January 20, 2004.

PLACE: 4th Floor, Conference Room, 1250 H Street NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

9 a.m. (EST) Convene meeting.

1. Approval of the minutes of the December 15, 2003, Board member meeting.

2. Thrift Savings Plan activity report by the Executive Director.

3. Barclays proxy voting.

4. Investment policy review.

FOR FURTHER INFORMATION CONTACT: Thomas J. Trabucco, Director, Office of External Affairs, (202) 942–1640.

Dated: January 6, 2004.

Elizabeth S. Woodruff,

Secretary to the Board, Federal Retirement Thrift Investment Board.

[FR Doc. 04–522 Filed 1–6–04; 4:12 pm]

BILLING CODE 6760–01–P

FEDERAL TRADE COMMISSION

Sunshine Act Meeting Notice

AGENCY: Federal Trade Commission

TIME AND DATE: 10 a.m., Tuesday, January 13, 2004.

PLACE: Federal Trade Commission Building, Room 532, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

STATUS: Part of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portion open to public:

(1) Oral argument in the matter of South Carolina State Board of Dentistry. Docket 9311.

Portion closed to the public:

(2) Executive session to follow oral argument in South Carolina State Board of Dentistry. Docket 9311.

CONTACT PERSON FOR MORE INFORMATION: Mitch Katz, Office of Public Affairs: (202) 326–2180; Recorded message: (202) 326–2711.

Donald S. Clark,

Secretary.

[FR Doc. 04–552 Filed 1–7–04; 11:44 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Subcommittee on Standards and Security (SSS).

Time and Date: 9 a.m. to 5 p.m., January 27th, 2004; 8:30 a.m. to 5 p.m., January 28th, 2004.

Place: Hubert H. Humphrey Building, 200 Independence Avenue SW., Room 705A, Washington, DC 20201.

Status: Open.

Purpose: The agenda for Tuesday, January 27th, will be devoted to final reports on standards for five domains that were prepared as part of the Consolidated Health Informatics Initiative (CHI) and a related letter on CHI recommendations to the Secretary will be finalized. The afternoon will focus on issues related to the implementation of the HIPAA Security Rule.

The morning of the second day will include an update on implementation of HIPAA transactions and code sets provisions; the development of a draft letter to the Secretary concerning the Claims Attachment Standard; and a session on dental data standards issues. The afternoon will be devoted to Subcommittee planning of future activities around E-prescriptions.

FOR FURTHER INFORMATION CONTACT: Substantive program information as well as summaries of meetings and a roster of Committee members may be obtained from Maria Friedman, Health Insurance Specialist, Security and Standards Group, Centers for Medical and Medicaid Services, MS: C5–24–04, 7500 Security Boulevard, Baltimore, MD 21244–1850, telephone: (410) 786–6333 or Marjorie S. Greenberg, Executive Secretary, NCVHS, National Center for Health Statistics, Centers for Disease Control and Prevention, Room 1100, Presidential Building, 3311 Toledo Road, Hyattsville, Maryland 20782, telephone: (301) 458–4245. Information also is available on the NCVHS home page of the HHS Web site: *http://www.ncvhs.hhs.gov/* where an agenda for the meeting will be posted when available. Should you require reasonable accommodation, please contact the CDC Office of Equal Employment Opportunity on (301) 458–4EEO (4336) as soon as possible.

Dated: December 24, 2003.

James Scanlon,

Acting Deputy Assistant Secretary for Science and Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 04–396 Filed 1–8–04; 8:45 am]

BILLING CODE 4151–05–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

Agency Information Collection Activities; Proposed Collection; Comment Request; AoA Nutrition and Physical Activity Campaign

AGENCY: Administration on Aging, HHS.

ACTION: Notice.

SUMMARY: The Administration on Aging (AoA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection requirements relating to organizations that wish to enroll as a partner with AoA in a campaign to create awareness and make nutrition and physical activity programs available to older Americans. The requested information includes providing general information about the entity, its programs, and counts of populations served.

DATES: Submit written or electronic comments on the collection of information by March 9, 2004.

ADDRESSES: Submit electronic comments on the collection of information to: *Kathleen.Loughrey@aoa.gov.*

Submit written comments on the collection of information to Administration on Aging, Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Kathleen Loughrey, U.S. Department of Health and Human Services, Administration on Aging, Washington, DC 20201.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency request or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, AoA is publishing notice of the proposed collection of information set forth in this document. With respect to the following collection of information, AoA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of AoA's functions, including whether the information will have practical utility; (2) the accuracy of AoA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

Describe Collection of Information

AoA estimates the burden of this collection of information as follows: AoA estimates a total of no more than 500 hours will be required to collect this information. This estimate is based on these assumptions: AoA estimates that 2,000 organizations will complete an entry form to become a campaign partner. Completion of each entry form will require a total of 15 minutes per organization including five minutes to answer questions, five minutes to insert a program description, and five minutes to look up data from existing program records.

Dated: January 2, 2004.

Josefina G. Carbonell,

Assistant Secretary for Aging.

[FR Doc. 04–471 Filed 1–8–04; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003N–0311]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Medical Device User Fee and Modernization Act Small Business Qualification Certification (Form FDA 3602)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Medical Device User Fee and Modernization Act Small Business Qualification Certification (Form FDA 3602)'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Peggy Robbins, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 10, 2003 (68

FR 58690), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0508. The approval expires on December 31, 2006. A copy of the supporting statement for this information collection is available on the Internet at *http://www.fda.gov/ohrms/dockets*.

Dated: December 31, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 04–394 Filed 1–8–04; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request, Determinants of Male and Female Fecundity and Fertility

SUMMARY: In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Institute of Child Health and Human Development (NICHD), the National Institutes of Health (NIH), will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection: Title: Determinants of Male and Female Fecundity and Fertility. *Type of Information Collection Request:* New. *Need and Use of Information Collection:* This study will assess the relation between select environmental factors and human fecundity and fertility. This research proposes to recruit 960 couples who are interested in becoming pregnant and willing to participate in a longitudinal study. Fecundity will be measured by the time required for the couples to achieve pregnancy, while fertility will be measured by the ability of couples to have a live born infant. Couples who are unable to conceive within 12 months of trying or who experience a miscarriage also will be identified and considered to have fecundity-related impairments. The study's primary environmental exposures include: organochlorine pesticides and polychlorinated biphenyls; metals; fluorinated compounds; phytoestrogens; and phthalates. A growing body of literature suggests these compounds may exert effects on human reproduction and development; however, definitive data are lacking serving as the impetus for this study. Couples will participate in a 20–30 minute baseline interview and be instructed in the use of home fertility monitors and pregnancy kits for counting the time required for pregnancy and detecting pregnancy. Blood and urine samples will be collected at baseline from both partners of the couple for measurement of the environmental exposures. Two semen samples from male partners and two saliva samples from female partners also will be requested. Semen samples will be used to assess male fecundity as measured primarily by sperm concentration and morphology. Saliva samples will be used for the measurement of cortisol levels as a marker of stress among female partners so that the relation between environmental factors, stress and human reproduction can be assessed. The findings will provide valuable information regarding the effect of environmental contaminants on sensitive markers of human reproduction and development, filling critical data gaps. Moreover, these environmental exposures will be analyzed in the context of other lifestyle exposures, consistent with the manner in which human beings are exposed. *Frequency of Response:* Following the baseline interview, couples will each complete a five-minute daily diary on select lifestyle factors. Women will perform daily fertility testing and pregnancy testing at day of expected menses using a dipstick test in urine. Each test will require approximately five minutes for completion. This testing and diary reporting is required only up to the time women become pregnant, which on average should be in 2–3 months. Men will provide two semen samples, a month apart, requiring approximately 20 minutes for each collection, and women will collect two saliva samples, a month apart, requiring approximately five minutes. Participating couples will be given a choice to submit their information by mail or to send it electronically to the Data Coordinating Center. This option will be available throughout data collection in the event couples change their minds about how they would like to submit information. Biospecimens will be collected by study participants and research nurses, where appropriate, and forwarded in prepaid delivery packages to the study's laboratories.

Affected Public: Individuals from participating communities. *Type of Respondents:* Men and women aged 18–40 years. *Estimated Number of Respondents:* 1,920. *Estimated Number of Response Sets Per Respondent:* 6 per women and 3 per men over approximately two years. *Average Burden Hours Per Response:* .1947 for women and .31975 for men. *Estimated Total Annual Burden Hours Requested:* 3,183 for women and 1,706 for men. There is no cost to respondents. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Germaine Buck, Chief, Epidemiology Branch, DESPR, NICHD, NIH, 6100 Executive Blvd., Room 7B03, Rockville, Maryland 20852, or call non-toll-free number (301) 496–6155 or e-mail your request, including your address to: *gb156i@nih.gov.*

Comments Due Date: Comments regarding this information are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: December 30, 2003.

Ayesha Giles,

Project Clearance Liaison, NICHD, National Institutes of Health.

[FR Doc. 04–453 Filed 1–8–04; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of Intent To Prepare an Environmental Impact Statement for the National Emerging Infectious Diseases Laboratories Facility in Boston, MA

AGENCY: National Institutes of Health, (NIH), DHHS.

ACTION: Notice of intent to prepare an environmental impact statement for the National Emerging Infectious Diseases Laboratories facility in Boston, MA.

SUMMARY: The Department of Health and Human Services (DHHS), National Institutes of Health (NIH), announces its intent to prepare an environmental impact statement (EIS) to evaluate a proposed new National Emerging Infectious Diseases Laboratories facility in Boston, MA. This EIS is being prepared and considered in accordance with the requirements for the National Environmental Policy Act (NEPA) of 1969, regulations of the President's Council on Environmental Quality (40 CFR parts 1500–1508), and NEPA Compliance Procedures of the DHHS General Administration Manual, Part 30 (Environmental Protection) 25 February 2000.

Cooperating Agencies: There are no cooperating agencies for this project.

SUPPLEMENTARY INFORMATION: The National Institute of Allergy and Infectious Diseases (NIAID), a component of the NIH, conducts and supports research of infectious diseases and the human immune system. Its resources and expertise have been applied to studying emerging infectious diseases such as SARS, West Nile virus and Lyme disease and organisms that might be used as agents of bioterrorism such as anthrax and tularemia. Knowledge of how these organisms cause disease and the response of the immune system to those organisms is desperately needed. This knowledge will be used to develop new and improved diagnostic tests, vaccines, and therapies to protect civilians.

Since fall 2001, NIAID has greatly accelerated its biodefense research program. Achievement of the research goals requires the construction and certification of biological containment laboratories with facilities and procedures for handling potentially lethal agents. Equally important is the need to minimize potential threats from infectious agents to laboratory and clinical personnel working within these facilities and to adjacent communities. The Federal Government has awarded a grant in the amount of $128 million to partially fund the National Emerging Infectious Diseases Laboratories facility in Boston, MA as a crucial element of this NIH initiative.

This proposed action is the funding of the construction of the National Emerging Infectious Diseases Laboratories in Boston, MA, a new building comprised of laboratories designed and constructed to Biosafety Levels –2, –3, and –4 standards that will allow translational and clinical research on emerging infectious diseases including agents of bioterror. The proposed new facility will have imaging capabilities and will include administrative support offices. It will occupy approximately 3 acres on the BioSquare Medical Research campus at 600–620 Albany Street, Boston, MA and will be located on the Boston University Medical Center campus.

Significant issues to analyzed in the EIS will include safety of laboratory operations; public health and safety; handling, collection, treatment, and disposal of biomedical research waste related to the proposal; and analysis of other risks, as well as concerns for pollution prevention and impacts of the proposed action on air quality, biological resources, cultural resources, water resources, land use, and socioeconomic resources. The No Action alternative under which the new facility would not be built will also be considered. Additional alternatives may be identified during the Scoping Process.

Publication Participation: The DHHS will invite full public participation to promote open communication and better decision-making. All interested persons and organizations, including minority, low income, disadvantaged, and Native American groups, are urged to participate in this NEPA environmental analysis process. Assistance will be provided upon request to anyone having difficulty with learning how to participate.

To ensure that the full range of issues related to the proposed action and the scope of this EIS are addressed, oral and written comments are invited from all interested parties, including appropriate Federal, state, and local agencies and private organizations and citizens. Pursuant to this, a Public Scoping meeting will be held on Monday, January 26, 2004 from 7 to 9 p.m. in the auditorium at the Thomas P. O'Neil, Jr. Federal Building, 10 Causeway Street, Boston, MA.

Comments on the scope of the EIS for the proposed project should be received no later than January 28, 2004. Comments and questions should be directed to the address listed below. Public comments are welcomed anytime throughout the NEPA process and should be directed to the address listed below. Additional formal opportunities for public participation after the Public Scoping are tentatively scheduled as follows:

Review and comment on Draft EIS (including a public meeting): Spring, 2004.

Review of Final EIS: Summer, 2004.

Notices of availability for the Draft EIS, Final EIS and Record of Decision will be provided through direct mail, the **Federal Register**, and other media. Notification also will be sent to Federal, State, and local agencies and persons organizations that submit comments or questions. Precise schedules and locations for public meetings will be announced in the local news media. Interested individuals and organizations may request to be included on the mailing list for public distribution of meeting announcements and associated documents.

FOR FURTHER INFORMATION CONTACT: Valerie Nottingham, Chief, Environmental Quality Branch, Division of Environmental Protection, Office of Research Facilities, National Institutes of Health, DHHS, B13/2W64, Bethesda, MD 20892; by telephone 301–496–7775; fax 301–480–8056; or e-mail *nottingv@ors.od.nih.gov*.

Dated: January 5, 2004.

Stephen A. Ficca,

Associate Director for Research Services, National Institutes of Health.

[FR Doc. 04–452 Filed 1–8–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute (NHLBI): Opportunity for Cooperative Research and Development Agreements (CRADAs) to Develop Novel Mechanical and Biological Treatments in Interventional Cardiovascular Medicine Using X-ray Fluoroscopy and/or Real-Time Magnetic Resonance Imaging

ACTION: Notice.

SUMMARY: The National Heart, Lung and Blood Institute (NHLBI) of the National Institutes of Health (NIH) announces the opportunity for Cooperative Research and Development Agreements (CRADAs) to develop novel mechanical and biological treatments in

interventional cardiovascular medicine using x-ray fluoroscopy and real-time magnetic resonance imaging. The NHLBI seeks potential collaborators wishing to provide expertise in (1) novel biological treatments for cardiovascular disease, including agents to facilitate mobilization of bone-marrow-derived stem and progenitor cells, (2) novel agents for therapeutic angiogenesis for myocardial or peripheral artery applications, (3) novel immune-modulating agents to treat or prevent manifestations of atherosclerosis, coronary artery occlusion, or myocardial ischemia/infarction, (4) novel mechanisms of drug, gene, or cell delivery to the myocardium or skeletal muscle to treat manifestations of coronary or peripheral artery atherosclerosis, and (5) intravascular devices for real-time magnetic resonance imaging-guided treatments including but not limited to angioplasty balloons, recanalization systems, percutaneous cardiac valves, stents, endografts, and bypass grafts.

The NHLBI seeks capability statements from parties interested in entering into a potential CRADA to manufacture, prototype, and test the above-specified agents or devices leading to early clinical testing and development. The availability of private sector support may increase the feasibility of particular aspects of the final design, but the primary criterion for selecting potential collaborators is the scientific merit of proposals for developing a plan to identify novel putative therapeutic agents and devices.

The NHLBI can provide extensive preclinical and clinical support in the development of collaborator deliverables, including animal experiments, advanced x-ray fluorscopic and magnetic resonance imaging laboratories, and investigations conducted in the Warren G. Magnuson Clinical Center at the Bethesda campus of the National Institutes of Health.

The control of clinical trials shall reside entirely with the Institute and the scientific participants of the trial. In the event that any adverse effects are encountered which, for legal or ethical reasons, may require communication with the U.S. Food and Drug Administration, the relevant collaborating institutions will be notified. Neither the conduct of the trial nor the results should be represented as an NHLBI endorsement of the agent, drug, or device under study.

DATES: Only written CRADA capability statements received by the NHLBI within 21 days of publication of this notice will be considered during the initial design phase. Confidential information must be clearly labeled. Potential collaborators may be invited to meet with the Selection Committee at the Collaborators' expense to provide additional information. The Institute may issue an additional notice of CRADA opportunity during the design phase if circumstances change or if the design alters substantially.

FOR FURTHER INFORMATION CONTACT: Capability statements should be submitted to Ms. Peg Koelble, Office of Technology Transfer and Development, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Suite 6018, Bethesda, MD 20892–7992; Tel: 301–594–4095; Fax: 301–594–3080; e-mail: *koelblep@nhlbi.nih.gov.*

Capability Statements: A selection committee will use the information provided in the ''Collaborator Capability Statements'' received in response to this announcement to help in its deliberations. It is the intention of the NHLBI that all qualified collaborators have the opportunity to provide information to the selection committee through their capability statements. The capability statement should not exceed 10 pages and should address the following selection criteria:

1. The statement should provide specific details of the method to be used in the development of novel candidate biological treatments, delivery systems, or real-time MRI-guided mechanical treatments for cardiovascular disease.

2. The statement should include a detailed plan demonstrating the ability to provide sufficient capacity in drug, gene, or stem cell development and manufacturing or in mechanical device prototyping, testing, development, and manufacturing.

3. The statement may include outline measures of interest to the collaborator. The specifics of the proposed outcome measures and the proposed support should include but not be limited to: expertise in the proposed field, specific personnel allocation to the proposed collaboration, specific internal or external funding commitment to support the advancement of scientific research, services, facilities, equipment, or other resources that would contribute to the conduct of the commercial development.

4. The statement must address willingness promptly to publish research results and ability to be bound by PHS intellectual property policies (*See* CRADA: *http://ott.od.nih.gov/newspages/crada.pdf*).

Dated: January 2, 2004.

Carl Roth,

Associate Director for Scientific Program Operation, National Heart, Lung, and Blood Institute.

[FR Doc. 04–451 Filed 1–8–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, SCCOR in Cardiac Dysfunction and Disease Review.

Date: February 23–25, 2004.

Time: 7 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaitherburg, MD 20878.

Contact Person: William J Johnson, PhD, Review Branch, Division of Extramural Affairs, National Heart, Lung and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7184, MSC 7924, Bethesda, MD 20892, 301/435–0275.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: January 2, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–446 Filed 1–8–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Heart, Lung, and Blood Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 5523b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Advisory Council.

Date: February 12, 2004.

Time: 8 a.m. to 2 p.m.

Agenda: For discussion of program policies and issues.

Place: National Institutes of Health, Building 31, 31 Center Drive, Bethesda, MD 20892.

Closed: 2 p.m. to adjournment.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Deborah P. Beebe, Ph.D., Director, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, Two Rockledge Drive, Bethesda, MD 20892, 301/435–0260.

Information is also available on the Institute's/Center's home page: *www.nhlbi.nih.gov/meetings/index.htm,* where an agenda and any additional information for the meeting will be posed when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS).

Dated: January 2, 2004.

LaVerne Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–448 Filed 1–8–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Review of Resource-Related Research Projects (U24s).

Date: February 4, 2004.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Patricia A. Haggerty, PhD., Scientific Review Administrator, Review Branch, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7188, Bethesda, MD 20892, (301) 435–0280.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: January 2, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–449 Filed 1–8–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Special Emphasis Panel 2 for Unsolicited Biodefense P01 Applications.

Date: January 21, 2004.

Time: 3 p.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Stefani T. Rudnick, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–496–2550, *srudnick@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: January 2, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–447 Filed 1–8–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice

is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Allergy, Immunology, and Transplantation Research Committee, Allergy, Immunology & Transplantation Research Review Committee.

Date: January 27–29, 2004.

Time: January 27, 2004, 2 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Monterey Marriott, 350 Calle Principal, Monterey, CA 93940.

Time: January 28, 2004, 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place; Monterey Marriott, 350 Calle Principal, Monterey, CA 93940.

Time: January 29, 2004, 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place; Monterey Marriott, 350 Calle Principal, Monterey, CA 93940.

Contact Person: Quirijn Vos, Ph.D., Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID/DHHS, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, (301) 496–2550, *qvos@niad.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: January 2, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–450 Filed 1–8–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection

Quarterly IRS Interest Rates Used in Calculating Interest on Overdue Accounts and Refunds on Customs Duties

AGENCY: Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: This notice advises the public of the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of Customs duties. For the calendar quarter beginning January 1, 2004, the interest rates for overpayments will be 3 percent for corporations and 4 percent for non-corporations, and the interest rate for underpayments will be 4 percent. This notice is published for the convenience of the importing public and Customs and Border Protection personnel.

EFFECTIVE DATE: January 1, 2004.

FOR FURTHER INFORMATION CONTACT: Ronald Wyman, Accounting Services Division, Accounts Receivable Group, 6026 Lakeside Boulevard, Indianapolis, Indiana 46278; telephone (317) 298–1200, extension 1349.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85–93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of Customs duties must be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Section 6621 was amended (at paragraph (a)(1)(B) by the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105–206, 112 Stat. 685) to provide different interest rates applicable to overpayments: one for corporations and one for non-corporations.

The interest rates are based on the Federal short-term rate and determined by the Internal Revenue Service (IRS) on behalf of the Secretary of the Treasury on a quarterly basis. The rates effective for a quarter are determined during the first-month period of the previous quarter.

In Revenue Ruling 2003–138, the IRS determined the rates of interest for the calendar quarter beginning January 1, 2004, and ending March 31, 2004. The interest rate paid to the Treasury for underpayments will be the Federal short-term rate (1%) plus three percentage points (3%) for a total of four percent (4%). For corporate overpayments, the rate is the Federal short-term rate (1%) plus two percentage points (2%) for a total of three percent (3%). For overpayments made by non-corporations, the rate is the Federal short-term rate (1%) plus three percentage points (3%) for a total of four percent (4%). These interest rates are subject to change for the calendar quarter beginning April 1, 2004, and ending June 30, 2004.

For the convenience of the importing public and Customs and Border Protection personnel the following list of IRS interest rates used, covering the period from before July of 1974 to date, to calculate interest on overdue accounts and refunds of Customs duties, is published in summary format.

Beginning date	Ending date	Under-payments (percent)	Over-payments (percent)	Corporate over-payments (Eff. 1–1–99) (percent)
070174	063075	6	6	
070175	013176	9	9	
020176	013178	7	7	
020178	013180	6	6	
020180	013182	12	12	
020182	123182	20	20	
010183	063083	16	16	
070183	123184	11	11	
010185	063085	13	13	
070185	123185	11	11	
010186	063086	10	10	
070186	123186	9	9	
010187	093087	9	8	
100187	123187	10	9	

Beginning date	Ending date	Under-payments (percent)	Over-payments (percent)	Corporate over-payments (Eff. 1–1–99) (percent)
010188	033188	11	10	.....
040188	093088	10	9	.....
100188	033189	11	10	.....
040189	093089	12	11	.....
100189	033191	11	10	.....
040191	123191	10	9	.....
010192	033192	9	8	.....
040192	093092	8	7	.....
100192	063094	7	6	.....
070194	093094	8	7	.....
100194	033195	9	8	.....
040195	063095	10	9	.....
070195	033196	9	8	.....
040196	063096	8	7	.....
070196	033198	9	8	.....
040198	123198	8	7	.....
010199	033199	7	7	6
040199	033100	8	8	7
040100	033101	9	9	8
040101	063001	8	8	7
070101	123101	7	7	6
010102	123102	6	6	5
010103	093003	5	5	4
100103	033104	4	4	3

Dated: January 6, 2004.

Robert C. Bonner,

Commissioner, Customs and Border Protection.

[FR Doc. 04–426 Filed 1–8–04; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4901–N–02]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: January 9, 2004.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: December 30, 2003.

John D. Garrity,

Director, Office of Special Needs Assistance Programs.

[FR Doc. 04–234 Filed 1–8–04; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection Submitted to the Office of Management and Budget (OMB) for Approval Under the Paperwork Reduction Act; Federal Aid Grant Application Booklet

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: The U.S. Fish and Wildlife Service (We) has submitted the collection of information listed below to OMB for approval under the provisions of the Paperwork Reduction Act. If you wish to obtain copies of the proposed information collection requirement, related forms, or explanatory material, contact the Service Information Collection Clearance Officer at the address listed below.

DATES: You must submit comments by February 9, 2004.

ADDRESSES: Submit your comments on this information collection renewal to the Desk Officer for the Department of the Interior at OMB-OIRA via facsimile or e-mail using the following fax number or e-mail address: (202) 395–6566 (fax); *OIRA_DOCKET@omb.eop.gov* (e-mail). Please provide a copy of your comments to the Fish and Wildlife Service's Information Collection Clearance Officer, 4401 N. Fairfax Dr., MS 222 ARLSQ, Arlington, VA 22203; (703) 358–2269 (fax); or *anissa_craghead@fws.gov* (e-mail).

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information, or related forms, contact Anissa Craghead at (703) 358–2445, or electronically to *anissa_craghead@fws.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), require that interested members of the public and affected agencies have an opportunity to comment on

information collection and recordkeeping activities (*see* 5 CFR 1320.8(d)). We have submitted a request to OMB to renew its approval of the collection of information for the Federal Aid Grant Application Booklet. We are requesting a 3-year term of approval for this information collection activity.

Federal agencies may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection of information is 1018–0109.

The Federal Aid Grant Application Booklet offers the public information on how to apply for certain Federal grants. This information collection is authorized by the Federal Aid in Sport Fish Restoration Act (16 U.S.C. 777–777l), Federal Aid in Wildlife Restoration Act (16 U.S.C. 669–669i), Partnerships for Wildlife Act (16 U.S.C. 3741), Coastal Wetlands Planning, Protection and Restoration Act (16 U.S.C. 3954), Endangered Species Act (16 U.S.C. 1531 *et seq.*), Clean Vessel Act of 1992 (16 U.S.C. 777), Migratory Bird Treaty Act (16 U.S.C. 703–712), the annual Department of the Interior and Related Agencies Appropriation Acts, and 50 CFR 80. This information collection covers many types of grant programs, including, but not limited to: Sport Fish Restoration, Wildlife Restoration, Coastal Wetland Restoration, Clean Vessel, Boating Infrastructure, Partnerships for Wildlife, and Endangered Species. We collect information relevant to eligibility, substantiality, relative value, and budget information from applicants in order to make awards of grants under applicable programs. We also collect financial and performance information to track costs and accomplishments of applicable grant programs. We need the information collected to support the grant work of our Division of Federal Assistance. In this renewal request, we are proposing minimal changes to the Federal Aid Grant Application Booklet to bring it into accord with our current authorities (such as by adding ''Annual DOI Appropriations Acts'' to our list of authorizing Acts) and to update contact information.

Title: Federal Aid Grant Application Booklet, 50 CFR 80.

Approval Number: 1018–0109.

Frequency of Collection: Annually.

Description of Respondents: The 50 U.S. States, the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, Indian Tribal Governments, and not-for-profit institutions.

TOTAL ANNUAL BURDEN HOURS

Form name	Completion time per form	Annual number of responses	Annual hour burden
Initial Proposal	80 hours	4,000	320,000
Amendment	2 hours	1,750	3,500
TOTALS		5,750	323,500

We again invite comments on: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of our estimate of the burden of the 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 collection of information on respondents, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: December 30, 2003.

Anissa Craghead,

Information Collection Officer.

[FR Doc. 04–435 Filed 1–8–04; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications of Endangered Species Recovery Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: We announce our receipt of applications to conduct certain activities pertaining to scientific research and enhancement of survival of endangered species.

DATES: Written comments on this request must be received February 9, 2004.

ADDRESSES: Written data or comments should be submitted to the Assistant Regional Director-Ecological Services, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225–0486; telephone 303–236–7400, facsimile 303–236–0027.

FOR FURTHER INFORMATION CONTACT: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 20 days of the date of publication of this notice to the address above; telephone 303–236–7400.

SUPPLEMENTARY INFORMATION: The following applicants have requested issuance of survival research and enhancement of survival permits to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

TE–050706

Applicant: David P. Young, Western Ecosystems Technology, Inc., Cheyenne, Wyoming.

The applicant requests renewal of a permit to take American burying beetle (*Nicrophorus americanus*) in conjunction with recovery activities throughout the species' range for the purpose of enhancing its survival and recovery.

TE–039100

Applicant: Rockford G. Plettner, Nebraska Public Power District, Columbus, Nebraska.

The applicant requests renewal of a permit to take Interior least terns (*Sterna antillarum*) in conjunction with recovery activities throughout the species' range for the purpose of enhancing its survival and recovery.

TE–080647

Applicant: Jerald M. Powell, Wildlife Specialties, Lyons, Colorado.

The applicant requests issuance of a permit to take Southwestern willow

flycatchers (*Empidonax traillii extimus*) in conjunction with recovery activities throughout the species' range for the purpose of enhancing its survival and recovery.

Dated: December 30, 2003.

Ralph O. Morgenweck,

Regional Director, Denver, Colorado.

[FR Doc. 04–423 Filed 1–8–04; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–600–04–1010–BN]

Notice of Public Meetings, Northwest Colorado Resource Advisory Council Meetings

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM), Northwest Colorado Resource Advisory Council (RAC) meeting will meet as indicated below.

DATES: The Northwest Colorado RAC meetings will be held February 12, 2004, May 6, 2004, August 12, 2004, and November 10, 2004.

ADDRESSES: The Northwest Colorado RAC meetings will be held February 12, 2004, at the Glenwood Springs Community Center located at 100 Wulfsohn Road, Glenwood Springs, Colorado; May 6, 2004, at the Lodore Hall located on the Browns Park National Wildlife Refuge in Moffat County, Colorado; August 12, 2004, at the Colorado State University Cooperative Extension Service Office located on the Grand County Fairgrounds in Kremmling, Colorado; and November 10, 2004, at the Holiday Inn located at 755 Horizon Drive in Grand Junction, Colorado.

The Northwest Colorado RAC meetings will begin at 9 a.m. and adjourn at approximately 4 p.m. Public comment periods will be at 9:30 a.m. and 3 p.m.

FOR FURTHER INFORMATION CONTACT: John Husband, BLM Little Snake Field Office Manager, 455 Emerson St., Craig, Colorado; Telephone (970) 826–5000.

SUPPLEMENTARY INFORMATION: The Northwest Colorado RAC advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of public land issues in Colorado.

The purpose of the February 12, 2004 meeting is to consider several resource management related topics including the Roan Plateau Draft Management Plan, BLM National Sage Grouse Conservation Strategy, and Committee Reports. Topics of discussion for all Northwest Colorado RAC meetings may include fire management, land use planning, invasive species management, energy and minerals management, travel management, wilderness, wild horse herd management, land exchange proposals, cultural resource management, and other issues as appropriate.

These meetings are open to the public. The public may present written comments to the RACs. Each formal RAC meeting will also have time, as identified above, allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited.

Dated: January 5, 2004.

John E. Husband,

Little Snake Field Office Manager and Designated Federal Official for the Northwest Colorado RAC.

[FR Doc. 04–533 Filed 1–8–04; 8:45 am]

BILLING CODE 4310–JB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–030–04–1610–DT]

Notice of Availability of the Proposed Resource Management Plan Amendment and Final Environmental Impact Statement for Federal Fluid Minerals Leasing and Development in Sierra and Otero Counties, NM

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the National Environmental Policy Act (NEPA), the Bureau of Land Management (BLM) announces the availability of the Proposed Resource Management Plan Amendment/Final Environmental Impact Statement (RMPA/FEIS) for Federal Fluid Minerals Leasing and Development in Sierra and Otero Counties, New Mexico. The planning area encompasses approximately 1.8 million surface acres and 5 million subsurface acres of public lands managed by the Las Cruces Field Office, located in Sierra and Otero Counties in southern New Mexico. The BLM has and will continue to work closely with all interested parties to identify management decisions that are best suited to the needs of the public. Final decisions will supersede the oil and gas decisions identified in the White Sands Resource Area RMP (1986) and provide direction for management of these fluid minerals resources on the public lands for approximately 20 years.

The BLM does have the authority to protect unique and sensitive areas through land management restrictions, for example, one such tool could be an Area of Critical Environmental Concern (ACEC) designation. While this Fluid Minerals Resource Management Plan Amendment addressed only oil and gas leasing, the BLM is required to consider updating and revising RMPs if there is new data of significance to the RMP that needs to be addressed pursuant to the National Environmental Policy Act. Such data to consider has surfaced in Dona Ana, Otero, and Sierra Counties that may require BLM to consider a revision to the existing RMPs in those three counties starting in 2004 which includes looking at all public land issues including nominations for ACECs.

DATES: The Proposed RMPA/FEIS for Federal Fluid Minerals Leasing and Development in Sierra and Otero Counties, New Mexico will be available for a 30-day protest period in accordance with the BLM's land-use planning regulations (43 CFR 1610.5–2). Protests must be filed within 30 days of the date the Environmental Protection Agency publishes its notice of availability of the FEIS.

ADDRESSES: Written protests must be submitted to Director, Bureau of Land Management, Attention: Ms. Brenda Williams, Protests Coordinator, WO–210, P.O. Box 66538, Washington, DC 20035.

Alternatively, and to expedite delivery, you may send your protest using an express delivery service to Director, Bureau of Land Management, Attention: Ms. Brenda Williams, Protests Coordinator, WO–210, 1620 L Street NW., Suite 1075, Washington, DC 20036.

E-mail and faxed protests will not be accepted as valid protests unless the protesting party also provides the original letter by either regular or overnight mail postmarked by the close of the protest period. Under these conditions, the BLM will consider the e-mail or faxed protest as an advance copy, and it will receive full consideration. If you wish to provide

the BLM with such advance notification, please direct faxed protests to the attention of the BLM Protests Coordinator at (202) 452–5112, and e-mails to *Brenda_Hudgens-Williams@blm.gov.*

FOR FURTHER INFORMATION CONTACT: Tom Phillips, BLM Las Cruces Field Office, 1800 Marquess, Las Cruces, New Mexico 88005 or by telephone (505) 525–4377; Fax (505) 525–4412.

SUPPLEMENTARY INFORMATION: This land-use plan amendment focuses on the principle of multiple-use management and sustained yield as prescribed by Section 202 of FLPMA. The Proposed RMPA/FEIS considers and analyzes three alternatives. These alternatives have been developed based on extensive public input following scoping (July 1999), review of the summary of the Analysis of the Management Situation (July 2000), review and comment on the Draft RMPA/EIS (October 2001–June 2002), and numerous meetings with local governments, interested groups, local citizens, and the New Mexico Resource Advisory Council. Alternative A (as modified by public comment on the Draft RMP/EIS) is the proposed plan and provides for the exploration and development of certain public lands while providing for protection of the other resources, as well as continuing to allow for other uses of the public lands. The BLM Planning Regulations, 43 CFR 1610.5–2, state that any person who participated in the planning process and has an interest, which may be adversely affected, may protest. A protest may raise only those issues, which were submitted for the record during the planning process. Any protests must be filed within 30 days of the date the Environmental Protection Agency publishes its notice of availability of the FEIS. Specific dates of the protest period will be announced through the local news media, letters or postcards, and the BLM Web site (see the Internet address below). To be considered timely, your protest must be postmarked no later than the last day of the protest period. Though not a requirement, we suggest that you send your protest by certified mail, return receipt requested. You are also encouraged, but not required, to forward a copy of your protest to the Las Cruces Field Manager at 1800 Marquess, Las Cruces, New Mexico 88005. To be considered complete, your protest must contain (at a minimum) the following information:

(1) Name, mailing address, telephone number and the affected interest of the person filing the protest(s).

(2) A statement of the issue or issues being protested.

(3) A statement of the part or parts of the proposed plan being protested. To the extent possible, reference specific pages, paragraphs, and sections of the document.

(4) A copy of all your documents addressing the issue or issues, which were discussed with the BLM for the record.

(5) A concise statement explaining why the proposed decision is believed to be incorrect. This is a critical part of your protest. Document all relevant facts, as much as possible. Disagreement, by itself, with a proposed decision or with how the data are used, or unsupported allegations of violations of regulation, law, legal precedents, or other guidance, will not meet the requirement of the regulations.

Documents pertinent to this proposal may be examined at the Las Cruces Field Office in Las Cruces, New Mexico during regular business hours (7:45 a.m. to 4:30 p.m., Monday through Friday, except holidays). Interested persons may also review the Proposed RMPA/FEIS on the Internet at *http://www.nm.blm.gov.* A hard copy or a CD–ROM of the document may be requested from the BLM Las Cruces Field Office at the address and phone number above. After resolution of any protests an Approved RMPA/Record of Decision will be prepared and is expected to be available in early-to-mid 2004.

John W. Whitney,

Acting State Director.

[FR Doc. 04–98 Filed 1–8–04; 8:45 am]

BILLING CODE 4310–VC–P

DEPARTMENT OF THE INTERIOR

National Park Service

60-Day Notice of Intention To Request Clearance of Collection of Information; Opportunity for Public Comment

AGENCY: National Park Service, National Capital Parks—Central.

ACTION: Notice and request for comments.

SUMMARY: Under the Paperwork Reduction Act of 1995 and 5 CFR part 1320, Reporting and Record Keeping Requirements, the National Park Service (NPS) invites public comments on an extension of a currently approved collection (OMB #1024–0021). The NPS specifically requests comments on: (1) The need for the information being collected, including whether the information has practical utility; (2) the validity and accuracy of the reporting burden estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

The NPS requests comments on an application form that allows the Park Programs Division of National Capital Parks—Central to process requests from individuals and organizations to hold public gatherings on NPS property. These public gatherings consist of special events and demonstrations that the NPS is charged with regulating to insure protection of cultural and natural resources within NPS property. The NPS will use the information you submit to determine whether or not to make modifications to the application form. Once the NPS makes any modifications that it may decide to adopt, the NPS plans to submit a proposed collection of information package to OMB with a request that OMB approve the package and reinstate the OMB clearance number. You may obtain copies of the application from the source listed below (see the ''Send To Comments'' section).

DATES: Public comments on the proposed Information Collection Request (ICR) will be accepted on or before March 9, 2004.

Send Comments To: Richard Merryman, National Capital Region, 1100 Ohio Dr., Rm. 128, SW., Washington, DC 20242. Phone: 202–619–7225, Fax: 202–401–2430. If you wish to comment, you may submit your comments using several methods. You may mail comments to the postal address given here. You may fax your comments to the fax number given. You may also hand-deliver comments to the address given here. 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 from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entity.

To Request Printed Copies of the Documents Contact: Richard Merryman, National Capital Region, 1100 Ohio Dr., Rm. 128, SW., Washington, DC 20242. Phone: 202–619–7225, Fax: 202–401–2430.

SUPPLEMENTARY INFORMATION:

Title: National Park Service, National Capital Region Application for a Permit to Conduct a Demonstration or Special Event in Park Areas and a Waiver of Numerical Limitations on Demonstrations for White House Sidewalk and/or Lafayette Park.

Departmental Form Number: None.

OMB Number: 1024–0021.

Expiration Date: 04/30/04.

Type of Request: Extension of a currently approved collection.

Description of Need: The information collection responds to the statutory requirement that the NPS preserve park resources and regulate the use of units of the National Park System. The information to be collected identifies: (1) Those individuals and/or organizations that wish to conduct a public gathering on NPS property in the National Capital Region, (2) the logistics of a proposed demonstration or special event that aid the NPS in regulating activities to insure that they are consistent with the NPS mission, (3) potential civil disobedience and traffic control issues for the assignment of United States Park Police personnel, (4) circumstances which may warrant a bond to be assigned to the event for the purpose of covering potential cost to repair damage caused by the event.

Description of Respondents: Respondents are those individuals or organizations that wish to conduct a special event or demonstration on NPS property within the National Capital Region.

Estimated average number of annual respondents: 4,200.

Estimated average burden hours per response: .5 hours.

Estimated annual reporting burden: 2,100 hours.

Dated: December 4, 2003.

Leonard E. Stone,

Acting National Park Service Information and Collection Clearance Officer.

[FR Doc. 04–406 Filed 1–8–04; 8:45 am]

BILLING CODE 4310–59–M

DEPARTMENT OF THE INTERIOR

National Park Service

60-Day Notice of Intention To Request Clearance of Collection of Information; Opportunity for Public Comment

AGENCY: National Park Service, The Department of Interior.

ACTION: Notice of intended submission to the Office of Management and Budget (OMB) and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507 *et seq.*) and 5 CFR part 1320, the National Park Service (NPS) invites comments on its intention to request OMB to approve information collections associated with the ''Save America's Treasures'' (SAT) grant program. These collections are in use without an OMB control number. Section 108 of the National Historic Preservation Act, as amended, (16 U.S.C. 470h) created the Historic Preservation Fund (HPF) to carry out the purposes of the Act. Each year Congress directs NPS to use part of the annual appropriation from the HPF for the ''Save America's Treasures'' grant program. The purpose of the SAT grant program is to assist in the preservation and conservation of nationally significant cultural artifacts and nationally significant historic structures and sites.

DATES: To assure that the NPS considers your comments on this notice, NPS must receive the comments on or before March 9, 2004.

Send Comments to: John W. Renaud, Project Coordinator, State, Tribal and Local Programs, Heritage Preservation Services, National Center for Cultural Resources, National Center for Cultural Resources, National Park Service, 1849 C St., NW., Org. Code 2255, Washington, DC 20240–0001, via fax at (202) 371–1961, or via e-mail at *John_Renaud@nps.gov*

FOR FURTHER INFORMATION CONTACT: John W. Renaud, Project Coordinator, State, Tribal and Local Programs, Heritage Preservation Services, National Center for Cultural Resources, National Park Service, 1849 C St., NW., Org. Code 2255 Washington, DC 20240–0001, via fax at (202) 371–1961, via e-mail at *John_Renaud@nps.gov*, or via telephone at (202) 354–2066.

SUPPLEMENTARY INFORMATION:

Title: ''Save America's Treasures'' grants.

OMB Number: 1024-xxxx.

Expiration Date of Approval: Being requested from OMB.

Type of Request: Existing collection in use without an OMB control number.

Abstract: This information collection has an impact on State, tribal, and local governments; eligible Federal agencies; and not-for-profit institutions that wish to apply for Historic Preservation Fund supported ''Save America's Treasures'' grants. Only Federal agencies that ''the Department of the Interior and Related Agencies Appropriations Act'' funds are eligible to apply for SAT grants. Each year Congress earmarks certain projects for funding and sets aside an additional pool of funds for competitive grants. Each year some of the SAT grant-supported projects are for cultural artifacts and some are for historic structures and sites. The National Park Service uses the information collections to ensure compliance with the requirements that each appropriations act specifies (Pub. L. 108–108 is the most recent) as well as the government-wide grant requirements that OMB has issued and the Department of the Interior implements through 43 CFR part 12. This information collection also will produce performance data that NPS uses to assess its progress in meeting goals set in Departmental and NPS strategic plans created pursuant to the 1993 Government Performance and Results Act, as amended.

Respondents: State, local, and tribal governments; not for profit institutions; and certain Federal agencies.

Estimate of Burden: NPS estimates that the public burden for the HPF-supported SAT grant program collections of information will average 52 hours per application and 43 hours per grant per year for all of the grant-related collections. The combined total public burden for the SAT grant program-related information collections would average 95 hours per successful applicant/grantee. These estimates of burden include time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and reviewing the collection of information.

Estimated Number of Respondents/Record Keepers: NPS estimates that there are 2,045 responses per year. This is the gross number of responses for all of the elements included in this information collection. The net numbers of applicants and grantees participating in this information collection annually are 571 applicants and from among them 140 grantees. The frequency of response varies depending upon the activity. Applicants complete the grant application once. Successful applicants execute the grant agreement once. Successful applicants for historic structures or sites projects also complete

execute an easement or covenant once. During the grant cycle, grantees seek NPS approval once for qualified consultants, plans and specifications, and the final report. Grantees usually seek NPS approval of an amendment once during the two-year cycle. Throughout the duration of the grant, grantees comply with Section 106 of the National Historic Preservation Act, as amended (16 U.S.C. 470f) as well as government-wide record-keeping requirements. Grantees provide two interim reports per year and usually make requests for payment four times a year.

Estimated average number of Applicant responses: 571 annually.

Estimated average gross number of Grantee responses: 1,474 annually.

Estimated average gross number of responses: 2,045 annually.

Estimated average burden hours per Applicant response: 52 hours.

Estimated average burden hours per Grantee response: 4 hours.

Estimated average annual burden hours per Grantee for all responses: 43 hours.

Estimated total annual burden hours per respondent: 95 hours.

Estimated Annual Burden on all Respondents: 35,061 hours.

NPS is soliciting comments regarding:

(1) Whether the collection of information is necessary for the proper performance of the functions of NPS, including whether the information will have practical utility;

(2) The accuracy of the burden estimate including the validity of the method and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected;

(4) Ways to minimize the burden of collecting the information, including through the use of appropriate automated, electronic, mechanical, or other forms of information technology; or,

(5) Any other aspect of this collection of information.

NPS will summarize and include in the request for OMB approval all responses to this notice. All comments will also become a matter of public record. You can obtain copies of the information collection from John W. Renaud, Project Coordinator, State, Tribal and Local Programs, Heritage Preservation Services, National Center for Cultural Resources, National Park Service, 1849 C St., NW., Org. Code 2255, Washington, DC 20240–0001.

Dated: December 4, 2003.

Leonard E. Stowe,

Acting Information Collection Clearance Officer, National Park Service, WAPC.

[FR Doc. 04–407 Filed 1–8–04; 8:45 am]

BILLING CODE 4310–50–M

DEPARTMENT OF THE INTERIOR

National Park Service

60-Day Notice of Intention To Request Clearance of Collection of Information; Opportunity for Public Comment

AGENCY: National Park Service, Department of The Interior.

ACTION: Notice of intended submission to the Office of Management and Budget (OMB) and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507 *et seq.*) and 5 CFR part 1320, the National Park Service (NPS) invites comments on its intention to request OMB to approve an existing collection in use without an OMB control number associated with the American Battlefield Protection Program (ABPP) grant program. Section 604(c) of the American Battlefield Protection Act (16 U.S.C. 469k) created the ABPP grant program. The purpose of the ABPP grant program is to assist (through means other than property acquisition) in the preservation of battlefields and associated sites on American soil.

DATES: To assure that the NPS considers your comments on this notice, NPS must receive the comments on or before March 9, 2004.

Send Comments To: John W. Renaud, Project Coordinator, State, Tribal and Local Programs, Heritage Preservation Services, National Center for Cultural Resources, National Park Service, 1849 C St., NW., Org. Code 2255, Washington, DC 20240–0001, via fax at (202) 371–1961, or via e-mail at *John_Renaud@nps.gov.*

FOR FURTHER INFORMATION CONTACT: John W. Renaud, Project Coordinator, State, Tribal and Local Programs, Heritage Preservation Services, National Center for Cultural Resources, National Park Service, 1849 C St., NW., Org. Code 2255, Washington, DC 20240–0001, via fax at (202) 371–1961, via e-mail at *John_Renaud@nps.gov,* or via telephone at (202) 354–2066.

SUPPLEMENTARY INFORMATION:

Title: American Battlefield Protection Program grant program.

OMB Number: 1024–xxxx.

Expiration Date of Approval: Being requested from OMB.

Type of Request: Existing collection in use without an OMB control number.

Abstract: This information collection has an impact on individuals, institutions, and State, Tribal, and Local governments who wish to apply for American Battlefield Protection grant assistance to preserve and protect (through means other than property acquisition) battlefields and associated sites on American soil. The NPS uses the information collections to ensure compliance with the requirements of the American Battlefield Protection Act, as amended and the government-wide grant requirements that OMB has issued and the Department of the Interior implements through 43 CFR part 12. This information collection also will produce performance data that NPS uses to assess its progress in meeting goals set in Departmental and NPS strategic plans created pursuant to the 1993 Government Performance and Results Act, as amended.

Respondents: Individuals or households, not for profit institutions, and State, Local, or Tribal Governments.

Estimate of Burden: NPS estimates that the public burden for the ABPP grant program collection of information will average 35 hours per application and 31 hours per grant for all of the grant-related collections. The combined total public burden for the ABPP grant program-related information collections would average 66 hours per successful applicant/grantee. These estimates of burden include time for reviewing instructions, searching existing data sources, gathering and maintaining the date needed, and reviewing the collection of information.

Estimated Number of Respondents/ Record Keepers: NPS estimates that there are 261 respondents. This is the gross number of respondents for all of the elements included in this information collection. The net numbers of applicants and grantees participating in this information collection annually are 53 applicants and from among them 16 grantees. The frequency of response varies depending upon the activity. Applicants complete the grant application once. Successful applicants execute the grant agreement once and usually seek an amendment once during the two-year grant cycle. During the grant cycle, grantees seek NPS approval once for qualified consultants, the draft product, the final produce, and the final report. Grantees comply with government-wide regulations and record-keeping requirements throughout the duration of the grant. Grantees provide quarterly progress reports and usually make requests for payment four times a year.

Estimated average number of Applicant responses: 53 annually.

Estimated average gross number of Grantee responses: 208 annually.

Estimated average gross number of responses: 261 annually.

Estimated average burden hours per Applicant response: 35 hours.

Estimated average burden hours per Grantee response: 3 hours.

Estimated average annual burden hours per Grantee for all responses: 31 hours.

Estimated total annual average burden hours per respondent: 66 hours.

Estimated Annual Burden on Respondents: 2,343 hours.

NPS is soliciting comments regarding:

(1) Whether the collection of information is necessary for the proper performance of the functions of NPS, including whether the information will have practical utility;

(2) The accuracy of the burden estimate including the validity of the method and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected;

(4) Ways to minimize the burden of collecting the informaiton, including through the use of appropriate automated, electronic, mechanical, or other forms of information technology; or,

(5) Any other aspect of this collection of information.

NPS will summarize and include in the request for OMB approval all responses to this notice. All comments will also become a matter of public record. You can obtain copies of the information collection for John W. Renaud, Project Coordinator, State, Tribal and Local Programs, Heritage Preservation Services, National Center for Cultural Resources, National Park Service, 1849 C St., NW., Org. Code 2255, Washington, DC 20240–0001.

Dated: December 4, 2003.

Leonard E. Stowe,

Acting Information Collection Clearance Officer, National Park Service, WAPC.

[FR Doc. 04–408 Filed 1–8–04; 8:45 am]

BILLING CODE 4310–50–M

DEPARTMENT OF THE INTERIOR

National Park Service

60-Day Notice of Intention To Request Clearance of Collection of Information; Opportunity for Public Comment

AGENCY: National Park Service, Department of THE Interior.

ACTION: Notice of intended submission to the Office of Management and Budget (OMB) and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507 *et seq.*) and 5 CFR part 1320, the National Park Service (NPS) invites comments on its intention to request OMB to approve information collections associated with Land and Water Conservation Fund (L&WCF) Battlefield Acquisition Grants. These are existing collections in use without an OMB control number. Section 3 of the Civil War Battlefield Protection Act of 2002 (Pub. L. 107–359, 16 U.S.C. 469k) mandated this grant program. The Act amended the American Battlefield Protection Act of 1996 (16 U.S.C. 496k) and directed that Congress appropriate funds for this grant program out of the Land and Water Conservation Fund (16 U.S.C. 4601 *et seq.*). The purpose of the L&WCF Battlefield Acquisition Grants program is to assist in the preservation of America's endangered Civil War battlefields. The grants are used for the fee simple acquisition of land (or for the acquisition of permanent, protective interests in land) at Civil War battlefields listed in the Civil War Sites Advisory Commission's 1993 *Report on the Nation's Civil War Battlefields.*

DATES: To assure that the NPS considers your comments on this notice, NPS must receive the comments on or before March 9, 2004.

Send Comments to:

John W. Renaud, Project Coordinator, State, Tribal and Local Programs, Heritage Preservation Services, National Center for Cultural Resources, National Park Service, 1849 C St., NW., Org. Code 2255, Washington, DC 20240–0001, via fax at (202) 371–1961, or via e-mail at *John_Renaud@nps.gov*

FOR FURTHER INFORMATION CONTACT: John W. Renaud, Project Coordinator, State, Tribal and Local Programs, Heritage Preservation Services, National Center for Cultural Resources, National Park Service, 1849 C St., NW., Org. Code 2255, Washington, DC 20240–0001, via fax at (202) 371–1961, via e-mail at *John_Renaud@nps.gov,* or via telephone at (202) 354–2066.

SUPPLEMENTARY INFORMATION:

Title: Land and Water Conservation Fund Battlefield Acquisition Grants.

OMB Number: 1024-xxxx.

Expiration Date of Approval: Being requested from OMB.

Type of Request: Existing collection in use without an OMB control number.

Abstract: This information collection has an impact on State or local governments that wish to apply for Land and Water Conservation Fund battlefield grants to preserve America's endangered Civil War battlefields. The NPS uses the information collections to ensure compliance with the requirements of Section 3 of the Civil War Battlefield Protection Act of 2002 (16 U.S.C. 469k). The NPS also uses the information collections to ensure compliance with the government-wide grant requirements that OMB has issued and the Department of the Interior implements through 43 CFR part 12. This information collection also will produce performance data that NPS uses to assess its progress in meeting goals set in Departmental and NPS strategic plans created pursuant to the 1993 Government Performance and Results Act, as amended.

Respondents: State and local governments.

Estimate of Burden: NPS estimates that the public burden for the L&WCF Battlefield Acquisition Grant program collection of information will average 35 hours per grant proposal and 44 hours per grant for all of the grant-related collections. The combined total public burden for the L&WCF Battlefield Acquisition Grant program-related information collections would average 79 hours per successful applicant/grantee. These estimates of burden include time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and reviewing the collection of information.

Estimated Number of Respondents/Record Keepers: NPS estimates that there are 66 responses per year. This is the gross number of responses for all of the elements included in this information collection. The net numbers of applicants and grantees participating in this information collection annually are six applicants and six grantees. The frequency of response varies depending upon the activity. Applicants complete the grant proposal once. Successful applicants execute the grant agreement once and usually seek an amendment once during the one-year grant cycle. During the grant cycle, grantees seek NPS approval once for the land appraisal, the easement/covenant, and the final report. Grantees comply with government-wide record-keeping requirements throughout the duration of the grant. Grantees usually make requests for payment four time a year.

Estimated average number of Applicant responses: 6 annually.

Estimated average gross number of Grantee responses: 60 annually.

Estimated average gross number of responses: 66 annually.

Estimated average burden hours per Applicant response: 35 hours.

Estimated average burden hours per Grantee response: 4.4 hours.

Estimated average annual burden hours per Grantee for all responses: 44 hours.

Estimated total annual average burden hours per respondent for all responses: 79 hours.

Estimated Annual Burden on Respondents: 474 years.

NPS is soliciting comments regarding:

(1) Whether the collection of information is necessary for the proper performance of the functions of NPS, including whether the information will have practical utility;

(2) The accuracy of the burden estimate including the validity of the method and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected;

(4) Ways to minimize the burden of collecting the information, including through the use of appropriate automated, electronic, mechanical, or other forms of information technology; or,

(5) Any other aspect of this collection of information.

NPS will summarize and include in the request for OMB approval all responses to this notice. All comments will also become a matter of public record. You can obtain copies of the information collection from John W. Renaud, Project Coordinator, State, Tribal and Local Programs, Heritage Preservation Services, National Center for Cultural Resources, National Park Service, 1849 C St., NW., Org. Code 2255, Washington, DC 20240–0001.

Dated: December 4, 2003.

Leonard E. Stowe,

Acting Information Collection Clearance Officer, National Park Service, WAPC.

[FR Doc. 04–409 Filed 1–8–04; 8:45 am]

BILLING CODE 4310–SO–M

DEPARTMENT OF THE INTERIOR

National Park Service

Concession Contracts and Permits

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Pursuant to the terms of existing concession contracts, public notice is hereby given that the National Park Service intends to request a continuation of visitor services for a period not-to-exceed 1 year from the date of contract expiration.

SUPPLEMENTARY INFORMATION: The contracts listed below have been extended to maximum allowable under 36 CFR 51.23. Under the provisions of current concession contracts and pending the completion of the public solicitation of a prospectus for a new concession contract, the National Park Service authorizes continuation of visitor services for a period not-to-exceed 1 year under the terms and conditions of the current contract as amended. The continuation of operations does not affect any rights with respect to selection for award of a new concession contract.

CONCID #	Concessioner name	Park
DEVA001	Scotty's Castle	Death Valley NP.
DEVA002	Stovepipe Wells	Death Valley NP.
GOGA008	Louis' Restaurant	Golden Gate NRA.
KALA001	Molokai Mule Ride	Kalaupapa NHP.
LAME002	Lake Mead RV Village	Lake Mead NRA.
LAME003	Lake Mead Resort	Lake Mead NRA.
LAME005	Calville Bay Resort	Lake Mead NRA.
LAME006	Las Vegas Boat Harbor	Lake Mead NRA.
LAME008	Overton Beach Marina	Lake Mead NRA.
LAME010	Echo Bay Resort	Lake Mead NRA.
MUWO001	Aramark Leisure Services	Muir Woods NM.
OLYM001	Kalaloch Lodge	Olympic NP.
OLYM005	Crescent West	Olympic NP.
OLYM008	Sol Duc Hot Springs Resort	Olympic NP.
ROLA003	Ross Lake Resort	Olympic NP.
WHIS001	Oak Bottom Marina	Whiskeytown NRA.

EFFECTIVE DATE: January 2, 2004.

FOR FURTHER INFORMATION CONTACT: Cynthia Orlando, Concession Program Manager, National Park Service, Washington, DC 20240, Telephone, 202/513–7156.

Dated: December 24, 2003.

Richard G. Ring,

Associate Director, Administration, Business Practices and Workforce Development.

[FR Doc. 04–410 Filed 1–8–04; 8:45 am]

BILLING CODE 4312–53–M

DEPARTMENT OF THE INTERIOR

National Park Service

Concession Contracts and Permits

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Pursuant to 36 CFR 51.23, public notice is hereby given that the National Park Service proposes to extend the following expiring concession contracts for a period of up to one year, or until such time as a new contract is executed, whichever occurs sooner.

SUPPLEMENTARY INFORMATION: All of the listed concession authorizations will expire by their terms on or before December 31, 2003. The National Park Service has determined that the proposed short-term extensions are necessary in order to avoid interruption of visitor services and has taken all reasonable and appropriate steps to consider alternatives to avoid such interruption. These extensions will allow the National Park Service to complete and issue prospectuses leading to the competitive selection of concessioners for new long-term concession contracts covering these operations.

Conc ID No.	Concessioner name	Park
CHIS003	Truth Aquatics	Channel Islands, National Park.
LACH002	House Jack Built	Lake Chelan National Recreation Area.
LACH004	McGregor Mountain	Lake Chelan National Recreation Area.
MUWO001	Muir Woods	Muir Woods National Monument.
OLYM006	Hurricane Ridge Sports Club	Olympic National Park.
SEKI001	Timothy and Patty Lovern	Sequoia and Kings Canyon National Parks.

EFFECTIVE DATE: January 2, 2004

FOR FURTHER INFORMATION CONTACT: Cynthia Orlando, Concession Program Manager, National Park Service, Washington, DC 20240, Telephone 202–513–7156.

Dated: December 24, 2003.

Richard G. Ring,

Associate Director, Administration, Business Practices and Workforce Development.

[FR Doc. 04–411 Filed 1–8–04; 8:45 am]

BILLING CODE 4312–53–M

DEPARTMENT OF THE INTERIOR

National Park Service

Going-to-the-Sun Road Rehabilitation Plan/Final Environmental Impact Statement, Glacier National Park, a Unit of Waterton-Glacier International Peace Park, Montana

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of availability of a record of decision on the final environmental impact statement for the Going-to-the-Sun Road Rehabilitation Plan, Glacier National Park.

SUMMARY: Pursuant to § 102(2) (C) of the National Environmental Policy Act of 1969, Pub. L. 91–190, 83 Stat. 852, 853, codified as amended at 42 U.S.C. 4332 (2) (C), the National Park Service announces the availability of the Record of Decision for the Going-to-the-Sun Road Rehabilitation Plan, Glacier National Park, Montana. On September 15, 2003, the Acting Director, Intermountain Region approved the Record of Decision for the project. As soon as practicable, the National Park Service will begin to implement the Preferred Alternative contained in the FEIS issued on June 6, 2003, and modified as described in the Record of Decision. The following course of action will occur under the preferred alternative. Rehabilitation of the Road will be completed over 7 to 8 years, if required funding is made available and unforeseen delays do not occur. The cost to implement proposed Road rehabilitation and visitor use improvements and mitigation is estimated to range from $140 million to $170 million. This alternative accomplishes road repairs while maintaining visitor use and access to the GTSR similar to current conditions.

Rehabilitation will include improvements and upgrades to visitor use facilities located adjacent to the Road. Visitor use improvements include: improved vehicle parking and pedestrian circulation at existing pullouts; rehabilitation of existing toilets and the addition of new toilets; construction of five new short turnouts for slow-moving vehicles; construction of a few new short roadside trails and rehabilitation of social trails; designation of transit stops at popular locations along the Road; and improved information, orientation and interpretive information for visitors. Selective vegetation trimming and clearing to restore scenic vistas at specific locations along the road will occur in accordance with an approved Vista Management Plan that is currently being developed.

To ensure that the Road remains in excellent condition following this rehabilitation effort, the Park is seeking increased funding for operations and maintenance of the Road. In the past, the annual operating budget for Road maintenance has not been adequate to keep up with necessary Road repairs. Sufficient annual funding is required to protect the investment in Road rehabilitation and visitor use improvements.

Mitigation as described in the Final EIS and summarized under Measures to Minimize Environmental Harm is also incorporated into the preferred alternative and NPS decision. NPS biologists and other park staff will work with FHWA during project development to incorporate the mitigation into the construction contract documents.

One concern raised by several members of the public on the Final EIS was the planned restrictions in traffic during the shoulder seasons prior to July 4 and after mid-September. The concern expressed was that delaying the opening of the road across Logan Pass until July 4th would be perceived as a Road closure and could result in more adverse affects on tourist visits and local businesses.

In response to these comments, the NPS has decided that shoulder season work will occur prior to mid-June and after mid-September. This is a change from the Final EIS. The specific date in June for opening the road across Logan Pass will be determined by the Superintendent. It will be dependent on the construction underway, road conditions, safety, and the weather. Prior to mid-June and after mid-September, when visitation is typically lower, traffic will be suspended within discrete work zones, while Logan Pass and the remainder of the Road remain open, dependent on weather conditions, (at least 40 miles; 65 kilometers). Between mid-June and mid-September, a maximum cumulative traffic delay of 30 minutes over the length of the Road will occur during peak visitor hours. Longer delays will be used during the early morning, evening, and at night. Glacier National Park will remain open throughout the year regardless of the various travel restrictions required during rehabilitation. This course of action and three other alternatives were analyzed in the Draft and Final Environmental Impact Statements. The full range of foreseeable environmental consequences was assessed, and appropriate mitigating measures were identified.

The Record of Decision includes a statement of the decision made, synopses of other alternatives considered, the basis for the decision, a description of the environmentally preferred alternative, a finding on impairment of park resources and values, a listing of measures to minimize environmental harm, and an overview of public involvement in the decision-making process.

FOR FURTHER INFORMATION CONTACT: Mary Riddle, Glacier National Park, West Glacier, MT 59936, 406–888–7898, *mary_riddle@nps.gov*

SUPPLEMENTARY INFORMATION: Copies of the Record of Decision may be obtained from the contact listed above or online at *http://www.nps.gov/glac/plans.htm*

Dated: September 23, 2003.

Michael D. Snyder,

Acting Regional Director, Intermountain Region, National Park Service.

[FR Doc. 04–412 Filed 1–8–04; 8:45 am]

BILLING CODE 4312–HY–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1059 (Preliminary)]

Hand Trucks and Certain Parts Thereof From China

Determination

On the basis of the record [1] developed in the subject investigation, the United States International Trade Commission (Commission) determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from China of hand trucks and certain parts thereof, provided for in subheading 8716.80.50 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigation. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of an affirmative preliminary determination in the investigation under section 733(b) of the Act, or, if the preliminary determination is negative, upon notice of an affirmative final determination in that investigation under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigation need not enter a separate appearance for the final phase of the investigation. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

Background

On November 13, 2003, a petition was filed with the Commission and Commerce by Gleason Industrial Products, Inc., Los Angeles, CA, alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV imports of hand trucks and certain parts thereof from China. Accordingly, effective November 13, 2003, the Commission instituted antidumping duty investigation No. 731–TA–1059 (Preliminary). On December 1, 2003, Gleason filed an amendment to the petition to include Precision Products, Inc., Lincoln, IL, as a co-petitioner.

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of November 21, 2003, (68 FR 65733, November 21, 2003). The conference was held in Washington, DC, on December 4, 2003, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on December 29, 2003. The views of the Commission are contained in USITC Publication 3660 (December 2003), entitled Hand Trucks and Certain Parts Thereof from China: Investigation No. 731–TA–1059 (Preliminary).

Issued: January 5, 2004.

By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 04–431 Filed 1–8–04; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Justice Management Division; Agency Information Collection Activities: Proposed Collection: Comment Request

ACTION: 60-day notice of information collection under review: Department of Justice procurement blanket clearance.

The Department of Justice, Justice Management Division, has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until March 9, 2004.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

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

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time should be directed to Larry Silvis (phone number and address listed below). If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Larry Silvis, (202) 616–3754, Management and Planning Staff, Room 1400, National Place Building, 1331 Pennsylvania Avenue, NW., Washington, DC 20530.

Overview of this Information Collection:

(1) *Type of information collection:* Extension of Currently Approved Collection.

(2) *The title of the form/collection:* Department of Justice Procurement Blanket Clearance.

(3) *The agency form number, if any, and applicable component of the Department sponsoring the collection:* Procurement Solicitation Documents, Justice Management Division, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract.* Primary: Commercial organizations and individuals who voluntarily submit offers and bids to compete for contract awards to provide

supplies and services required by the Government. All work statements and pricing data are required to evaluate the contractors bid or proposal.

(5) *An estimate of the total number of respondents and the amount of time for an average respondent to respond:* 5,996 respondents, 20 hours average response time.

(6) *An estimate of the total public burden (in hours) associated with this collection:* There are 119,920 estimated annual burden hours associated with this information collection.

If additional information is required contact: Ms. Brenda Dyer, Deputy Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street, NW., Washington, DC 20530.

Dated: December 31, 2003.

Brenda Dyer,

Deputy Clearance Officer, Department of Justice.

[FR Doc. 04–419 Filed 1–8–04; 8:45 am]

BILLING CODE 4410–26–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-day notice of information collection under review: analysis law enforcement officers killed or assaulted.

The Department of Justice (DOJ), Federal Bureau of Investigation, has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until March 9, 2004. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Gregory E. Scarbro, Unit Chief, Federal Bureau of Investigation, Criminal Justice Information Services Division (CJIS), Module E–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306, or facsimile to (304) 625–3566 or facsimile to (304) 625–3566.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(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 agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Analysis Law Enforcement Officers Killed or Assaulted.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: 1–701. Criminal Justice Information Services Division, Federal Bureau of Investigation, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State and Local Law Enforcement Agencies. This report will gather specific incident data related to Law Enforcement Officers killed or assaulted in the line of duty. The resulting data published annually.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are approximately 305 law enforcement agency respondents at 1 hour per report.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are approximately 305 annual burden hours associated with this collection.

If additional information is required contact: Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: December 31, 2003.

Brenda E. Dyer,

Deputy Clearance Officer, Department of Justice.

[FR Doc. 04–417 Filed 1–8–04; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-day notice of information collection under review: law enforcement officers killed or assaulted.

The Department of Justice (DOJ), Federal Bureau of Investigation, has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until March 9, 2004. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Gregory E. Scarbro, Unit Chief, Federal Bureau of Investigation, Criminal Justice Information Services Division (CJIS), Module E–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(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 agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(1) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Law Enforcement Officers Killed or Assaulted.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: 1–705. Criminal Justice Information Services Division, Federal Bureau of Investigation, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State and Local Law Enforcement Agencies. This report will gather specific incident data related to Law Enforcement Officers killed or assaulted in the line of duty. The resulting data published annually.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are approximately 17,324 law enforcement agency respondents at 7 minutes per report.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are approximately 24,115 annual burden hours associated with this collection.

If additional information is required contact: Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street NW, Washington, DC 20530.

Dated: December 31 , 2003.

Brenda E. Dyer,

Deputy Clearance Officer, Department of Justice.

[FR Doc. 04–418 Filed 1–8–04; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-day notice of information collection under review: Supplementary Homicide Report.

The Department of Justice (DOJ), Federal Bureau of Investigation, has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until March 9, 2004. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information should be directed to Gregory E. Scarbro, Unit Chief, Federal Bureau of Investigation, Criminal Justice Information Services Division, (CJIS), Module E–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306, or facsimile to (304) 625–3566.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(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 agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Supplementary Homicide Report.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* 1–704. Federal Bureau of Investigation, Criminal Justice Information Services Division, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* State and local law enforcement agencies. *Other:* none. This report will gather specific incident data related to murder and nonnegligent manslaughter offenses. The resulting data are published annually.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are approximately 17,324 law enforcement agency respondents at 9 minutes per report.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 31,183 total annual burden hours associated with this collection.

FOR FURTHER INFORMATION CONTACT: Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: December 31, 2003.

Brenda E. Dyer,

Deputy Clearance Officer, Department of Justice.

[FR Doc. 04–420 Filed 1–8–04; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-day notice of information collection under review: Survey of Infectious Disease in Correctional Facilities.

The Department of Justice (DOJ), Office of Justice Programs, has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments

are encouraged and will be accepted for ''sixty days'' until March 9, 2004. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Marilyn C. Moses, (202) 514–6205, National Institute of Justice, Office of Justice Programs, U.S. Department of Justice, 810 7th Street, NW., Washington, DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(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 agencies' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Survey of Infectious Disease in Correctional Facilities.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: none. National Institute of Justice (NIJ), Office of Justice Programs (OJP), Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit, Not-for-profit institutions, and the Federal Government. The Survey of Infectious Diseases in Correctional Facilities addresses the need for information about disease prevention, education, diagnosis, and treatment in prisons and jails. Sponsored by the NIJ and the Centers for Disease Control and Prevention (CDC), the survey is designed to identify and analyze practices for addressing infectious diseases in adult facilities nationwide, as well as to gather aggregate data on sexually transmitted diseases (STDs) and tuberculosis (TB) test results. The survey includes a section on Hepatitis A, B and C. Data and information collected from this section will serve as baseline documentation for levels of adherence to forthcoming CDC guidelines on the prevention and treatment of hepatitis in correctional facilities.

Survey respondents are the 50 state correctional systems, the Federal Bureau of Prisons, the 50 largest city and country jail systems, the five largest tribal facilities, five city and county jails in smaller cities, and ten regional or rural county jails. This survey will be conducted by mail, with extensive telephone follow-up. A validation survey using subset instruments will be conducted with 50 prison facilities from 10 states and the Federal system. NIJ, CDC, and Abt Associates Inc. have worked together closely to develop the survey instrument to address emerging issues and practices, including new therapies and a section that focuses on the technological capabilities with Departments of Correction and the largest city and county jails. The data will be presented in a series of short disease and activity-specific reports (*e.g.*, ''HIV'', ''Discharge Planning Policies'').

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are approximately 171 respondents which include 121 correctional institutions (prisons or jails) for the full survey, and 50 correctional institutions for the validation survey. The estimated time to complete the full survey is 4 hours and approximately 1 hour to complete the validation survey.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are approximately 534 annual burden hours associated with this collection.

If additional information is required contact: Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: December 31, 2003.

Brenda E. Dyer,

Deputy Clearance Officer, Department of Justice.

[FR Doc. 04–416 Filed 1–8–04; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-day notice of information collection under review: OVC TTAC User Feedback Form.

The Department of Justice (DOJ), Office of Justice Programs, has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until March 9, 2004. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Emily Martin, Acting Director, Technical Assistance, Publications, and Information Resources, Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice, 810 7th Street, NW., Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(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 agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the

use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* New Collection.

(2) *Title of the Form/Collection:* OVC TTAC User Feedback Form.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: T–100. Y–200, T–300, G–100, G–200, and G–300, Office of Justice Programs (OJP), Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* State, local, tribal government. *Other:* Federal Government. Individuals or households, not-for-profit institutions, businesses or other for-profit. The Office for Victims of Crime Training and Technical Assistance Center (OVC TTAC) Feedback Form Package is designed to collect the data necessary to continuously improve customer service intended to meet the needs of the victim service field. OVC TTAC will send these forms to technical assistance (TA) recipients, to capture important feedback on the recipient's satisfaction with the quality, efficiency, referrals, and resources of the OVC TTAC. The data will then be used to advise OVC TTAC on ways to improve the support that OVC TTAC provides to its users and the victim service field at-large.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are approximately 16,492 respondents who will require an average of 3–10 minutes to respond to a single form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are approximately 1,561 annual burden hours associated with this collection.

If additional information is required contact Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600 601 D Street NW., Washington, DC 20530.

Dated: December 31, 2003.

Brenda E. Dyer,

Deputy Clearance Officer, Department of Justice.

[FR Doc. 04–421 Filed 1–8–04; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment Standards Administration; Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of the decisions listed to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

None

Volume II

None

Volume III

None

Volume IV

None

Volume V

None

Volume VI

None

Volume II

None

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *http://www.access.gpo.gov/davisbacon*. They are also available electronically by subscription to the Davis-Bacon Online Service (*http://davisbacon.fedworld.gov*) of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery or modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since Subscriptions may be ordered for any or all of the six separate Volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 31 day of December 2003.

Carl Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 04–190 Filed 1–8–04; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Freedom of Information Act; Notice of Lawsuit

This notice pertains to the 13,000 employers that were identified by the Occupational Safety and Health Administration on February 25, 2002 as having the highest lost workday injury and illness (LWDII) rates based on employer-reported data from calendar year 2000. On October 22, 2003, the Department was sued in the United States District Court for the Southern District of New York under the Freedom of Information Act to compel disclosure of the 13,000 LWDII rates in *The New York Times* v. *U.S. Department of Labor*, No. 03–CV–8334 (SAS). This notice is required by 29 CFR 70.26(h).

FOR FURTHER INFORMATION CONTACT: David Schmidt, Occupational Safety and Health Administration, Office of Statistical Analysis, Room N–3644, 200 Constitution Avenue, NW., Washington, DC 20210; Telephone: 202–693–1886.

Signed at Washington, DC the 31st day of December, 2003.

John L. Henshaw,

Assistant Secretary.

[FR Doc. 04–430 Filed 1–8–04; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (04–001)]

NASA Advisory Council, Education Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Education Advisory Committee.

DATES: Wednesday, February 18, 2004, 8:30 a.m. to 5:30 p.m., Thursday, February 19, 2004, from 8:30 a.m. to 12:15 p.m.

ADDRESSES: National Aeronautics and Space Administration, 300 E Street, SW, ROOM MIC–6, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Mei Mei Peng, Code N, National Aeronautics and Space Administration, Washington, DC, 20546, 202/358–1614.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

- Opening Remarks by the Education Advisory Committee Chairman and NASA Deputy Administrator
- Introduction of Education Advisory Committee members
- Overview of the NASA Education Enterprise and Strategy by the Associate Administrator for Education
- Education highlights and issues by Division Directors and Enterprise Leads
- Open discussion and action assignments
- Next Meeting
- Closing Comments

Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID, before receiving an access badge. Foreign nationals attending this meeting will be required to provide the following information: Full name; gender; date/place of birth; citizenship; visa/greencard information (number, type, expiration date); employer/affiliation information (name of institution, address, county, phone); title/position of attendee. To expedite admittance, attendees can provide identifying information in advance by contacting Ms. Mei Mei Peng via e-mail at *mpeng@hq.nasa.gov* or by telephone at (202) 358–1614. Persons with disabilities who require assistance should indicate this.

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participant.

Michael F. O'Brien,

Assistant Administrator for External Relations, National Aeronautics and Space Administration.

[FR Doc. 04–469 Filed 1–8–04; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting:

Name: Proposal Review Panel for Materials Research (DMR) #1203.

Dates & Times: January 27, 2004; 8 a.m.–7:30 p.m. (open 10:45–12, 1:30–5); January 28, 2004: 8 a.m.–4 p.m. (open 9–10:30).

Place: California Institute of Technology, Pasadena, CA.

Type of Meeting: Part open.

Contact Person: Dr. Maija Kukla, Program Director, Materials Research Science and Engineering Centers, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 292–4940.

Purpose of Meeting: To provide advice and recommendations concerning progress of Materials Research Science and Engineering Center.

Agenda:

January 27, 2004—Open for Director's overview of Materials Research Science and Engineering Center and presentations.

January 27 & 28, 2004—Closed to review and evaluate progress of Materials Research Science and Engineering Center.

Reason for Closing: The work being reviewed may include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: January 6, 2004.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 04–433 Filed 1–8–04; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

NSF–NASA—Astronomy and Astrophysics Advisory Committee, #13883; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following NSF–NASA–Astronomy and Astrophysics Advisory Committee meeting (#13883):

Date and Time: February 5–6, 2004, 8 a.m.–5 p.m.

Place: National Aeronautics and Space Administration Headquarters, 300 E St., SW., Washington, DC 20024.

Type of Meeting: Open.

Contact Person: Dr. G. Wayne Van Citters, Director, Division of Astronomical Sciences, Suite 1045, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: 703–292–4908.

Purpose of Meeting: To provide advice and recommendations to the National Science Foundation (NSF) and the National Aeronautics and Space Administration (NASA) on issues within the field of astronomy and astrophysics that are of mutual interest and concern to the two agencies.

Agenda: To hear presentations of current programming by representatives from NSF and NASA; to discuss current and potential areas of cooperation between the two agencies; to formulate recommendations for continued and new areas of cooperation and mechanisms for achieving them.

Dated: January 6, 2004.

Susanne E. Bolton,

Committee Management Officer.

[FR Doc. 04–434 Filed 1–8–04; 8:45 am]

BILLING CODE 7555–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s):

(1) *Collection title:* RUIA Investigations and Continuing Entitlement.

(2) *Form(s) submitted:* UI–9, UI–23, UI–44, ID–4F, ID–4U, ID–4X, ID–4Y, ID–20–1, ID–20–2, ID–20–4, ID–5I, ID–5R(SUP), ID–49R, UI–48.

(3) *OMB Number:* 3220–0025.

(4) *Expiration date of current OMB clearance:* 02/29/2004.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Individuals or households, business or other for-profit, non-profit institutions, State, local or tribal government.

(7) *Estimated annual number of respondents:* 7,905.

(8) *Total annual responses:* 7,905.

(9) *Total annual reporting hours:* 1,622.

(10) *Collection description:* The information collection has two purposes. When RRB records that railroad service and/or compensation in insufficient to qualify a claimant for unemployment or sickness benefits, the RRB obtains information needed to reconcile the compensation and/or service on record with that claimed by the employee. Other forms in the collection allow the RRB to determine whether unemployment or sickness benefits were properly obtained.

FOR FURTHER INFORMATION CONTACT: Copies of the forms and supporting documents can be obtained from Charles Mierzwa, the agency clearance officer at (312) 751–3363 or *Charles.Mierzwa@RRB.GOV.*

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 or *Ronald. Hodapp@RRB.GOV* and to the OMB Desk Officer for the RRB, at the Office of Management and budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Charles Mierzwa,

Clearance Officer.

[FR Doc. 04–397 Filed 1–8–04; 8:45 am]

BILLING CODE 7905–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49012; File No. SR–CHX–2003–23]

Self-Regulatory Organizations; Order Granting Accelerated Approval to Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Stock Exchange, Incorporated To Amend Article XX, Rule 37(a)(4) Relating to the Definition of Preopening Order

December 31, 2003.

On August 1, 2003, the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend CHX Article XX, Rule 37(a)(4) to modify the definition of ''preopening order'' to provide that preopening orders for Nasdaq/NM securities must be received at or prior to 8:20 a.m. (CT), instead of the 8:25 (CT) deadline currently set forth in the rule. The Exchange submitted an amendment to the proposed rule change on November 6, 2003.[3]

The proposed rule change and Amendment No. 1 were published for comment in the **Federal Register** on December 8, 2003.[4] The Commission received no comments on the proposal and Amendment No. 1. This order grants accelerated approval to the Exchange's proposed rule change, as amended.

The CHX requested that the Commission grant accelerated approval to the proposed rule change, as amended, pursuant to Section 19(b)(2) of the Act.[5] After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and the regulations thereunder applicable to a national securities exchange.[6] Specifically, the Commission believes that the proposal is consistent with Section 6 of the Act

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Kathleen M. Boege, Associate General Counsel, CHX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated November 4, 2003 (''Amendment No. 1'').

[4] *See* Securities Exchange Act Release No. 48859 (December 1, 2003), 68 FR 68434. The 15-day comment period ran through December 23, 2003.

[5] 15 U.S.C. 78s(b)(2).

[6] In approving this proposed rule change, the Commission notes that it has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

in general,[7] and Section 6(b)(5) of the Act in particular,[8] in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest. The Commission believes that an earlier deadline for preopening orders may operate to reduce the aggregate amount of preopening orders received by a CHX specialist and may thereby better enable the CHX specialist to manage his position and fulfill his specialist duties by giving him time to fully evaluate his position and to make a professional price assessment that would inform his executions once trading commences for the day. Furthermore, the Commission believes that an 8:20 (CT) deadline for CHX preopening orders may better enable CHX specialists to comply with SuperMontage rules and procedures governing the ''trade or move'' functionality.

The Commission finds good cause for approving the proposed rule change and Amendment No. 1 before the 30th day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission believes that accelerated approval will allow the Exchange to immediately provide specialists with a greater ability to manage their risks.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[9], that the proposed rule change and Amendment No. 1 (SR–CHX–2003–23) be and hereby are approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 04–405 Filed 1–8–04; 8:45 am]

BILLING CODE 8010–01–P

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49013; File No. SR–PCX–2003–62]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 by the Pacific Exchange, Inc. To Amend Its Rules Relating to Initial Listing Requirements for Securities Listed Under the Tier I and Tier II Designations

December 31, 2003.

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 November 4, 2003, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On December 17, 2003, the Exchange 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 persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules relating to initial listing requirements for securities listed under the Tier I and Tier II designations. The text of the proposed rule change appears below. New text is in italics. Deleted text is in brackets.

Rule 5

Listings

* * * * *

Designation of Tier I Securities Initial Listing Requirements

Common Stock—Select Market Companies

Rule 5.2(c). In the case of common stock, the following Basic or Alternate Listing Requirements must be met:

Basic Listing Requirements

(1)–(3)—No change.

(4) Pre-tax income *from continuing operations* of at least $750,000 [and net income of at least $400,000, excluding non-recurring and extraordinary items] in the last fiscal year or two of the last three fiscal years.

(5)—No change.

Alternate Listing Requirements

(1)–(5)—No change.

Commentary

.01–.03—No change.

(d)–(j)—No change.

Designation of Tier II Securities Initial Listing Requirements

Common Stock—Development Stage Companies

Rule 5.2(k). In the case of common stock, the following Basic or Alternate Listing Requirements must be met:

Basic Listing Requirements

(1)–(3)—No change.

(4) *Net income from continuing operations* [Demonstrated net earnings] of at least $100,000 [after taxes, excluding nonrecurring income and extraordinary items] in the last fiscal year or in two of the last three fiscal years, or total net tangible assets of $2,500,000.

(5)–(6)—No change.

Alternate Listing Requirements

(1)–(4)—No change.

Commentary:

.01–.03—No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange's initial listing requirements for common stock under the Tier I and Tier II designations are set forth in PCXE Rules 5.2(c) and 5.2(k), respectively. In determining whether an issuer meets the applicable income requirements, each of the aforementioned rules provide for the exclusion of non-recurring and extraordinary items. The term ''non-recurring'' is not defined under

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On December 17, 2003, the Exchange filed a Form 19b–4, which replaced the original filing in its entirety (''Amendment No. 1'').

Generally Accepted Accounting Principles (''GAAP''). As such, the Exchange proposes to amend PCXE Rules 5.2(c) and 5.2(k) to remove the term ''non-recurring'' and replace it with the term ''income from continuing operations,'' a term the Exchange represents is recognized under GAAP. The Exchange believes that this change should remove any uncertainty in the initial listing process that existed for both issuers and investors.

In modifying the initial listing requirement for Tier I issuers, the Exchange also proposes to eliminate the requirement that an issuer have net income of at least $400,000, excluding non-recurring and extraordinary items. The Exchange states that this change is proposed to be consistent with the initial listing requirements of another exchange.[4] The Exchange represents that this change is not expected to make the Exchange's Tier I listing requirements any more or less restrictive.

Under the proposed modifications to the initial listing requirements for Tier II issuers, the Exchange states that it does not propose to change the method upon which it calculates whether an issuer meets the income requirement. Under the existing rules, the Exchange states that it currently does not include both the income and corresponding expenses from nonrecurring and extraordinary items in calculating a potential issuers net earnings. The Exchange represents that the proposed change will have no effect on the Exchange's Tier II listing requirements.

2. Statutory Basis

The Exchange believes that the proposal furthers the objectives of Section 6(b)(5) of the Act[5] in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest.

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.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received with respect to the proposed rule change.

[4] See American Stock Exchange LLC Company Guide Section 101(a)(2).

[5] 15 U.S.C. 78(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments may also be submitted electronically at the following e-mail address: *rule-comments@sec.gov.* All comment letters should refer to File No. SR–PCX–2003–62. 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, comments should be sent in hardcopy or by e-mail but not by both methods. 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 PCX. All submissions should refer to File No. SR–PCX–2003–62 and should be submitted by January 30, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 04–404 Filed 1–8–04; 8:45 am]

BILLING CODE 8010–01–P

[6] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance, Gerald R. Ford International Airport, Grand Rapids, MI

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent of waiver with respect to land; correction.

SUMMARY: This document contains one correction to a notice and request for comments that was published in the **Federal Register** on Monday, December 22, 2003 (68 FR 71219). **Federal Register** document 03–31418, published December 22, 2003 (68 FR 71219, concerns a proposal to change a portion of the airport from aeronautical use to non-aeronautical use and to authorize the sale of the airport property. The proposal consists of 3 parcels of land totaling approximately 16.33 acres. This correction revises the public comment period to read as follows:

DATES: Comments must be received on or before February 9, 2004.

All other information remains unchanged.

Issued in Romulus, Michigan on December 24, 2003.

Irene R. Porter,

Manager, Detroit Airports District Office, FAA, Great Lakes Region.

[FR Doc. 04–245 Filed 1–8–04; 8:45 am]

BILLING CODE 4910–73–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance; Quad City International Airport, Moline, IL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The Federal Aviation Administration (FAA) is considering a proposal to change a portion of airport land from aeronautical use to non-aeronautical use and to authorize the sale of the airport property. The proposal consists of Parcel OO–4, a 14.380-acre portion of Parcel OO (consisting of three Tracts: 1—3.787 acres, Tract 2—1.044 acres, and Tract 3—9.549 acres). Presently the land is vacant and used as open land for control of FAR Part 77 surfaces and compatible land use and is not needed for

aeronautical use, as shown on the Airport Layout Plan. Parcel OO (147.50 acres) was acquired in 1967 with partial Federal participation. Of the original 147.50 acres, 57.0 acres were purchased with Federal participation. A portion of Tract 3 (approximately 3.4 acres) of the 57.0 acres purchased with Federal Participation is included in this proposal. It is the intent of the Metropolitan Airport Authority of Rock Island County (MAARIC) to sell Parcel OO–4 (14.380 acres) in fee to the Illinois Department of Transportation, Division of Highways, for the expansion of Milan Beltway. There are no impacts to the airport by allowing the MAARIC to dispose of the property. This notice announces that the FAA intends to authorize the disposal of the subject airport property at Quad City International Airport, Moline, IL. Approval does not constitute a commitment by the FAA to financially assist in disposal of the subject airport property nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. The disposition of proceeds from the disposal of the airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999.

In accordance with section 47107(h) of Title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

DATES: Comments must be received on or before February 9, 2004.

FOR FURTHER INFORMATION CONTACT: Richard Pur, Program Manager, 2300 East Devon Avenue, Des Plaines, IL 60018. Telephone Number 847–294–7527/FAX Number 847–294–7046. Documents reflecting this FAA action may be reviewed at this same location by appointment or at the Metropolitan Airport Authority of Rock Island County, Quad City International Airport, 2200 69th Avenue, Moline, IL 61265.

SUPPLEMENTARY INFORMATION: Following is a legal description of the property located in Moline, Rock Island County, Illinois, and described as follows:

Parcel OO–4 (Part of Original Parcel OO)

A parcel of land in part of the Southwest Quarter of the Northeast Quarter, part of the West Half of the Southwest Quarter and part of the East 30 acres of the Southwest Quarter, all in Section 19, Township 17, North, Range 1 West of the Fourth Principal Meridian, Rock Island County, Illinois, consisting of three tracts, described as follows:

Tract 1

Commencing at the Southeast Corner of the Southeast Quarter of said Section 19; thence Northerly on the East Line of the Southwest Quarter of said Section 19, said line having a bearing of North 0 degree 54 minutes 19 seconds East, a distance of 1,055.82 feet to the North Line of the abandoned C.R.I. & P. Railway; thence Westerly on the North Line of said abandoned C.R.I. & P. Railway, said line having a bearing of North 85 degrees 15 minutes 36 seconds West, a distance of 617.86 feet to the Point of Beginning of the hereinafter described tract of land; thence Westerly on the North Line of said abandoned C.R.I. & P. Railway, said line having a bearing of North 85 degrees 15 minutes 36 seconds West, a distance of 232.93 feet to the Southeast Corner of the premises conveyed to Deere & Company, a Delaware Corporation from Paul A. Dugan, Trustee, by Corrective Warranty Deed recorded January 29, 1973 in Book 548, Page 48 as Document No. 733101 in the Rock Island County Recorder's Office; thence Northerly on the East Line of said premises conveyed to Deere & Company, a Delaware Corporation, said line having a bearing of North 1 degree 10 minutes 06 seconds East, a distance of 1,266.16 feet to the Southwest Corner of the premises conveyed to the Town of Black Hawk from Metropolitan Airport Authority of Rock Island County, Illinois, a Municipal Corporation by Warranty Deed recorded April 26, 1976 in Book 669, Page 25 as Document No. 784908 in said Recorders' Office; thence Easterly on the South Line of said premises conveyed to the Town of Black Hawk, said line having a bearing of South 89 degrees 31 minutes 49 seconds East, a distance of 120.00 feet; thence Northerly on the South Line of said premises conveyed to the Town of Black Hawk, said line having a bearing of North 1 degree 10 minutes 06 seconds East, a distance of 46.00 feet; thence Easterly on the South Line of said premises conveyed to the Town of Black Hawk, said line having a bearing of South 89 degrees 31 minutes 49 seconds East, a distance of 63.37 feet; thence Southwesterly on a line having a bearing of South 39 degrees 40 minutes 03 seconds West, a distance of 124.60 feet; thence Southerly on a line having a bearing of South 0 degree 16 minutes 43 seconds East, a distance of 974.99 feet; thence Southeasterly on a line having a bearing of South 10 degrees 23 minutes 47 seconds East, a distance of 140.31 feet; thence Southeasterly on a line having a bearing of South 30 degrees 37 minutes 50 seconds East, a distance of 140.31 feet to the Point of Beginning, containing 3.787 acres, more or less.

Tract 2

Commencing at the Southwest Corner of the Southeast Quarter of said Section 19; thence Northerly on the West Line of the Southeast Quarter of said Section 19, said line having a bearing of North 2 degree 54 minutes 19 seconds East, a distance of 425.77 feet to the Point of Beginning of the hereinafter described tract of land; thence Northerly on the West Line of said Southeast Quarter of Section 19, said line having a bearing of North 0 degree 54 minutes 19 seconds East, a distance of 386.72 feet; thence Southeasterly on a line having a bearing of South 70 degrees 25 minutes 52 seconds East, a distance of 57.54 feet; thence Southeasterly on a line having a bearing of South 35 degrees 53 minutes 25 seconds East, a distance of 62.18 feet; thence Southerly on a line having a bearing of South 1 degree 20 minutes 58 seconds East, a distance of 107.91 feet; thence Southeasterly on a line having a bearing of South 15 degrees 47 minutes 30 seconds East, a distance of 42.40 feet; thence Southeasterly on a line having a bearing of South 57 degrees 12 minutes 20 seconds East, a distance of 77.84 feet; thence Southerly on a line having a bearing of South 1 degree 20 minutes 58 seconds East, a distance of 85.00 feet; thence Southwesterly on a line having a bearing of South 52 degrees 08 minutes 57 seconds West, a distance of 62.20 feet; thence Westerly on a line having a bearing of South 88 degrees 39 minutes 02 seconds West, a distance of 129.22 feet to the Point of Beginning, containing 1.044 acre, more or less.

Tract 3

Commencing at the Southwest Corner of the Southeast Quarter of said Section 19; thence Northerly on the West Line of the Southeast Quarter of said Section 19, said line having a bearing of North 0 degree 54 minutes 19 seconds East, a distance of 1,169.41 feet to the East Right-of-Way Line of C.H. Route 78; thence Northeasterly on said East Right-of-Way Line of C.H. Route 78, said line being a non-tangential curve concave to the Northwest, a distance of 1,076.38 feet, having a radius of 5,829.58, a central angle of 10 degrees 34 minutes 45 seconds and the long chord bears North 10 degrees 39 minutes 31 seconds East, a chord distance of 1,074.86 feet to the Point of Beginning of the hereinafter described tract of land; thence Northeasterly on said East Right-of-Way

Line of C.H. Route 78, said line being a non-tangential curve concave to the Northwest, a distance of 467.52 feet, having a radius of 5,829.58 feet, a central angle of 4 degrees 35 minutes 42 seconds and the long chord bears North 3 degrees 04 minutes 17 seconds East, a chord distance of 467.39 feet to the Point of Tangency; thence Northerly on said East Right-of-Way Line C.H. Route 78, said line having a bearing of North 0 degree 46 minutes 26 seconds East, a distance of 135.50 feet; thence Northerly on said East Right-of-Way Line of C.H. Route 78, said line having a bearing of North 9 degrees 42 minutes 16 seconds East, a distance of 708.59 feet; thence Northerly on said East Right-of-Way Line of C.H. Route 78, said line having a bearing of North 0 degree 46 minutes 26 seconds East, a distance of 349.21 feet to the South Right-of-Way Line of S.A. Route 32 (Airport Road); thence Easterly on said South Right-of-Way Line of S.A. Route 32 (Airport Road), said line having a bearing of South 89 degrees 28 minutes 33 seconds East, a distance of 1,010.06 feet to the East Line of the Southwest Quarter of Northeast Quarter of said Section 19; thence Southerly on the East Line of the Southwest Quarter of the Northeast Quarter of said Section 19, said line having a bearing of South 0 degree 46 minutes 17 seconds West, a distance of 35.00 feet; thence Westerly on a line having a bearing of North 89 degrees 28 minutes 33 seconds West, a distance of 180.47 feet; thence Westerly on a line having a bearing of North 87 degrees 28 minutes 17 seconds West, a distance of 200.12 feet; thence Westerly on a line having a bearing of North 89 degrees 28 minutes 33 seconds West, a distance of 132.21 feet; thence Southerly on a line having a bearing of South 0 degree 31 minutes 27 seconds West, a distance of 469.66 feet; thence Southwesterly on a line having a bearing of South 33 degrees 15 minutes 12 seconds West, a distance of 235.76 feet; thence Southwesterly on a line having a bearing of South 66 degrees 41 minutes 03 seconds West, a distance of 353.96 feet; thence Southwesterly on a line having a bearing of South 56 degrees 42 minutes 16 seconds West, a distance of 126.64 feet; thence Southwesterly on a line having a bearing of South 17 degrees 39 minutes 03 seconds West, a distance of 130.02 feet; thence Southerly on a line having a bearing of South 0 degree 46 minutes 26 seconds West, a distance of 150.50 feet; thence Southerly on a line having a bearing of South 1 degree 35 minutes 47 seconds West, a distance of 169.64 feet; thence Southerly on a line having a bearing of South 7 degrees 09 minutes 48 seconds West, a distance of 299.25 feet to the Point of Beginning, containing 9.549 acres, more or less.

The above described three tracts of land together are designated Parcel OO–4, said three tracts of land together contain 14.380 acres, more or less.

For the purpose of this description the West Line of the Southeast Quarter of said Section 19 has been assigned the bearing of North 0 degree 54 minutes 19 seconds East.

Issued in Des Plaines, Illinois, on December 1, 2003.

Philip M. Smithmeyer,

Manager, Chicago Airports District Office, FAA, Great Lakes Region.

[FR Doc. 04–499 Filed 1–8–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

FAA Approval of Noise Compatibility Program, 14 CFR Part 150; Greater Rockford Airport, Rockford, IL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program (NCP) submitted by Greater Rockford Airport Authority (GRAA) under the provisions of 49 U.S.C. (the Aviation Safety and Noise Abatement Act, hereinafter referred to as ''the Act'') and 14 CFR part 150. These findings are made in recognition of the description of Federal and non-Federal responsibilities in Senate Report No. 96–52 (1980). On May, 2003, the FAA determined that the noise exposure maps submitted by GRAA under part 150 were in compliance with applicable requirements. On November 3, 2003, the FAA approved the GRAA NCP. All of the recommendations of the program were approved.

EFFECTIVE DATE: The effective date of the FAA's approval of the Greater Rockford Airport noise compatibility program is November 3, 2003.

FOR FURTHER INFORMATION CONTACT: E. Lindsay Butler, Environmental Program Manager, 2300 East Devon Avenue, Des Plaines, Illinois 60018. Telephone Number (847) 294–7723 FAX number (847) 294–7046. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for the Greater Rockford Airport, effective November 3, 2003.

Under section 47504 of the Act, an airport operator who has previously submitted a noise exposure map may submit to the FAA an NCP which sets forth the measures taken or proposed by the airport operator for the reduction of existing non-compatible land uses and prevention of additional non-compatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport NCP developed in accordance with Federal Aviation Regulations (FAR) part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measured according to the standards expressed in part 150 and the Act and is limited to the following determinations:

a. The NCP was developed in accordance with the provisions and procedures of FAR part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing non-compatible land uses around the airport and preventing the introduction of additional non-compatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport NCP are delineated in FAR part 150, section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, State, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision

on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the Chicago Airports District Office in Des Plaines, Illinois.

The Greater Rockford Airport Authority previously submitted an NCP in 1990 and a subsequent update in 1994. All 29 measures were approved in full, or withdrawn at the Airport Authority's request, by the FAA on August 2, 1995. Noise Exposure Maps (NEMs), as part of the 1994 NCP, were accepted by the FAA on January 31, 1995.

GRAA submitted comprehensive updates of the NCP to the FAA on April 22, 2003, which included the noise exposure maps, descriptions, and other documentation. The GRAA noise exposure maps were determined by FAA to be in compliance with applicable requirements on May 8, 2003. Notice of this determination was published in the **Federal Register** on May 20, 2003 (68 FR 27616).

The GRAA update contains a proposed NCP comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from 2001 to April 2003. It was requested that the FAA evaluate and approve this material as a NCP as described in section 47504 of the Act. The FAA began its review of the program on May 8, 2003, and was required by a provision of the Act to approve or disapprove the program within 180 days. Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The NCP lists 37 recommended measures, which continue or expand the intent of the two previously approved NCPs. The FAA groups these measures into three categories: noise abatement (16), land use (15) and other measures (6). The GRAA recommends 37 measures in this updated NCP to remedy existing noise problems and prevent future non-compatible land uses. Of the 16 noise abatement measures, six measures continue from the 1994 NCP without revisions, five measures were continued with revisions, three measures have either been previously withdrawn or are recommended for withdrawal, and two measures are new. Of the 15 land use measures, two measures are continued with modifications, six measures have either been previously withdrawn or are recommended for withdrawal and two of the measures are new.

Of the six other measures, two measures continue from the 1994 NCP, one measure is continued with revisions, and three of the measures are new.

The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The overall program, therefore, was approved by the FAA effective November 3, 2003.

These determinations are set forth in detail in a Record of Approval signed by the Woodie Woodward, Associate Administrator for Airports, on November 3, 2003. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the Greater Rockford Airport.

Issued in Des Plaines, Illinois on December 29, 2003.

Chad Oliver,

Acting Manager, Chicago Airports District Office, FAA, Great Lakes Region.

[FR Doc. 04–390 Filed 1–8–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–03–16841; Notice 1]

Pipeline Safety: Petition for Waiver; Columbia Gas Transmission Company

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of intent to consider petition for waiver for extension of time.

SUMMARY: The Research and Special Programs Administration's (RSPA) Office of Pipeline Safety (OPS) is considering Columbia Gas Transmission Company (Columbia) petition for a 12-month extension of time to comply with the provisions of 49 CFR 192.611(d), which require pipeline operators to confirm or revise the maximum allowable operating pressure (MAOP) within 18-months after a class location change.

DATES: Persons interested in submitting written comments on the waiver proposed in this notice must do so by February 9, 2004. Late-filed comments will be considered so far as practicable.

ADDRESSES: You may submit written comments by mailing or delivering an original and two copies to the Dockets Facility, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. The Dockets Facility is open from 10 a.m. to 5 p.m., Monday through Friday, except on Federal holidays when the facility is closed. Alternatively, you may submit written comments to the docket electronically at the following Web address: *http://dms.dot.gov.*

All written comments should identify the docket and notice numbers stated in the heading of this notice. Anyone who wants confirmation of mailed comments must include a self-addressed stamped postcard. To file written comments electronically, after logging on to *http://dms.dot.gov*, click on ''Comment/Submissions.'' You can also read comments and other material in the docket at *http://dms.dot.gov.* General information about our pipeline safety program is available at *http://ops.dot.gov.*

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: James Reynolds by phone at 202–366–2786, by fax at 202–366–4566, by mail at DOT, RSPA, OPS, 400 Seventh Street, SW., Washington, DC, 20590, or by e-mail at james.reynolds@rspa.dot.gov.

SUPPLEMENTARY INFORMATION:

Columbia petitioned RSPA/OPS for a waiver from compliance with 49 CFR 192.611(d) for two segments of its natural gas transmission pipeline. Columbia is asking for an additional 12-months beyond the 18-months allowed by § 192.611(d) to continue to operate their Line MC pipeline at its current MAOP.

Section § 192.611(d) requires an operator to complete a class location change study whenever it believes an increase in population density may have caused a change in class location as defined in § 192.5. The operator must complete a study and confirm or revise its maximum authorized operating pressure within 18-months of the class location change. The operator is required to either reduce pressure or replace the pipe with thicker-walled pipe to lower pipe wall stress to

acceptable percentages of specified minimum yield strength (SMYS).

In January 2002, Columbia confirmed that a section of its Line MC pipeline had changed from a Class 2 to a Class 3 location. To maintain the current MAOP of 899 psig, Columbia elected to replace 9,500 feet of this pipeline with new, heavier wall pipe. Two segments of the replacement project, totaling approximately 1,700 feet, involve stream crossings or wetland areas. The two segments are 1,506 feet and 200 feet in length, respectively. Columbia must receive joint Maryland/Federal environmental permits prior to replacing these two segments of pipe.

Columbia anticipated that 7,800 feet of its replacement project would be complete by October 31, 2003. However, due to unforeseen delays in obtaining permits for pipe replacement in the stream crossings and wetland areas, Columbia was unable to complete the replacement of the remaining 1,700 feet of pipe prior to expiration of the 18-month period allowed by § 192.611(d).

Because Line MC must be in service at its MAOP to maintain gas supplies to downstream customers, Columbia plans to discontinue its pipeline replacement project at the start of the winter heating season. Columbia proposes to resume the replacement project in May 2004 and expects all 9,500 feet of its Line MC to be replaced not later than July 1, 2004. For this reason, Columbia requests a time extension to July 1, 2004 to comply with § 192.611(d).

As justification for the waiver, Columbia has submitted the following information on the integrity of its 30-inch Line MC pipeline:

- In 1999 Columbia internally inspected its 30-inch pipeline using both geometry and high resolution magnetic flux leakage tools; no anomalies or dents were identified on the two streams and wetland crossing segments on Columbia's Line MC.
- Cathodic protection test stations on these two segments of Line MC are above the minimum criteria.
- There have been no leaks on these two segments of Line MC.
- The existing pipe and coating on these two segments appear to be in satisfactory condition.
- The existing pipe was manufactured using the double submerged arc welding process.
- The existing pipeline was pressure tested twice; in1962 during construction and again in 1974. The pipeline was tested above 100% SMYS during both hydrostatic tests.

Authority: 49 App. U.S.C. 60118(c) and 2015; and 49 CFR 1.53.

Issued in Washington, DC on January 5, 2004.

Stacey L. Gerard,

Associate Administrator for Pipeline Safety.

[FR Doc. 04–391 Filed 1–8–04; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–55 (Sub-No. 625X)]

CSX Transportation, Inc.—Abandonment Exemption—in Preston County, WV

On December 22, 2003, CSX Transportation, Inc. (CSXT), filed with the Surface Transportation Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a line of railroad. The 14.3-mile line extends from milepost BAJ 0.0 at Rowlesburg to milepost BAJ 14.3 near Albright in Preston County, WV. The line traverses United States Postal Service Zip Codes 26764, 26425, 26444, 26537, and 26519, and includes the stations of Manheim, Stoer, Patriot Presentation Plant, Preston, Morgans Run, Caddell, and Albright.

The line does not contain federally granted rights-of-way. Any documentation in CSXT's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by April 9, 2004.

Any offer of financial assistance under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer must be accompanied by a $1,100 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than January 29, 2004. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–55 (Sub-No. 625X) and must be sent to: (1) Surface Transportation Board, 1925 K Street NW., Washington, DC 20423–0001; and (2) Natalie S. Rosenberg, 500 Water Street, J150, Jacksonville, FL 32202. Replies to the CSXT petition are due on or before January 29, 2004.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary), prepared by SEA, will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on the Board's Web site at *http://www.stb.dot.gov.*

Decided: December 31, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 04–280 Filed 1–8–04; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–859X]

Pennsylvania Lines LLC—Abandonment Exemption—in Chester County, PA

Pennsylvania Lines LLC (PRR),[1] has filed a notice of exemption under 49

[1] In *CSX Corp. et al.—Control—Conrail Inc. et al.*, 3 S.T.B. 196 (1998), the Board approved both the acquisition, by CSX Corporation (CSXC) and Norfolk Southern Corporation (NSC), of control of Consolidated Rail Corporation (Conrail), and the division of the assets of Conrail by and between CSXC and NSC. Acquisition of control of Conrail was effected by CSXC and NSC on August 22, 1998. The division of the assets of Conrail by and between CSXC and NSC was effected on June 1, 1999, with the transfer of most of Conrail's assets to Conrail's wholly owned subsidiaries, New York Central Lines LLC (NYC) and Pennsylvania Lines LLC (PRR). The

Continued

CFR 1152 Subpart F—*Exempt Abandonments* to abandon a .34-mile line of railroad, extending from milepost 34.51 to milepost 34.85 at Coatesville, in Chester County, PA.[2] The line traverses United States Postal Service Zip Code 19320.

PRR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) no overhead traffic has moved over the line for at least 2 years and overhead traffic, if there were any, could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on February 8, 2004, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[3] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[4] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by January 20, 2004. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 29, 2004, with: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to PRR's representative: James R. Paschall, General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

PRR has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by January 16, 2004. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), PRR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by PRR's filing of a notice of consummation by January 9, 2005, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: January 6, 2004.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 04–432 Filed 1–8–04; 8:45 am]

BILLING CODE 4915–00–P

transfers to NYC and PRR were coupled with arrangements that gave CSXC and NSC exclusive authority to appoint the officers and directors of NYC and PRR, respectively, and were also coupled with arrangements that gave CSX Transportation, Inc. (CSXT), and Norfolk Southern Railway Company (NSR), authority to operate the assets that had been transferred to NYC and PRR, respectively. Thus, the transfers to NYC and PRR effected the incorporation of the transferred assets into the rail systems controlled by CSXC and NSC, respectively.

[2] The .34-mile line of railroad that is the subject of PRR's notice of exemption was transferred from Conrail to PRR on June 1, 1999. Ordinarily, the abandonment of this line would involve both an abandonment by PRR and a discontinuance by NSR. However, PRR advises that, given the unusual circumstances with respect to this line (no service has been provided over this line since before June 1, 1999, and NSR has never provided or intended to provide service over this line), NSR believes that a separate notice of exemption for NSR to discontinue its operating rights over the segment is not required.

[3] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[4] Each OFA must be accompanied by the filing fee, which currently is set at $1,100. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Office of the Secretary

List of Countries Requiring Cooperation With an International Boycott

In order to comply with the mandate of section 999(a)(3) of the Internal Revenue Code of 1986, the Department of the Treasury is publishing a current list of countries which may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

On the basis of the best information currently available to the Department of the Treasury, the following countries may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

Bahrain
Kuwait
Lebanon
Libya
Oman
Qatar
Saudi Arabia
Syria
United Arab Emirates
Yemen, Republic of

Dated: December 29, 2003.

Barbara Angus,

International Tax Counsel (Tax Policy).

[FR Doc. 04–445 Filed 1–8–04; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 2 Taxpayer Advocacy Panel (Including the States of Delaware, North Carolina, South Carolina, New Jersey, Maryland, Pennsylvania, Virginia and the District of Columbia)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 2 Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel is soliciting

public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, February 3, 2004, from 3 p.m. est to 4:30 p.m. est.

FOR FURTHER INFORMATION CONTACT: Inez E. De Jesus at 1–888–912–1227, or 954–423–7977.

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 2 Taxpayer Advocacy Panel will be held Tuesday, February 3, 2004 from 3:00pm EST to 4:30pm EST via a telephone conference call. 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 954–423–7977, or write Inez E. De Jesus, TAP Office, 1000 South Pine Island Rd., Suite 340, Plantation, FL 33324. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Inez E. De Jesus. Ms. De Jesus can be reached at 1–888–912–1227 or 954–423–7977.

The agenda will include the following: Various IRS issues.

Dated: January 6, 2004.

Bernie Coston,

Director, Taxpayer Advocacy Panel.

[FR Doc. 04–470 Filed 1–8–04; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register

Vol. 69, No. 6

Friday, January 9, 2004

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

[FAC 2001–18; Item VIII]

Federal Acquisition Regulation; Technical Amendments

Correction

In rule document 03–30479 beginning on page 69258 in the issue of Thursday, December 11, 2003 make the following corrections:

52.211–2 [Corrected]

1. On page 69259, in the first column, in section 52.211–2, in the third line ‘‘‘‘(Jan 2004)’’ ’’ should read ‘‘‘‘(Dec 2003)’’ ’’.

52.225–13 [Corrected]

2. On the same page, in section 52.225–13, in the third line ‘‘‘‘(Jan 2004)’’ ’’ should read ‘‘‘‘(Dec 2003)’’ ’’.

[FR Doc. C3–30479 Filed 1–8–04; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD05–03–204]

RIN 1625–AA00

Safety/Security Zone; Cove Point Liquefied Natural Gas Terminal, Chesapeake Bay, Maryland

Correction

In rule document 03–31788 beginning on page 75134 in the issue of Tuesday, December 30, 2003 make the following correction:

PART 165 — [CORRECTED]

On page 75135, in the third column, in amendatory instruction 2., in the second line, ‘‘February 4, 2004’’ should read ‘‘January 28, 2004’’.

[FR Doc. C3–31788 Filed 1–8–04; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Friday,

January 9, 2004

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Parts 1, 91, et al.

Enhanced Flight Vision Systems; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 1, 91, 121, 125, and 135

[Docket No. FAA–2003–14449; Amendment Nos. 1–52; 91–281; 121–303; 125–45; 135–93]

RIN 2120–AH78

Enhanced Flight Vision Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is revising its regulations for landing under instrument flight rules to allow aircraft to operate below certain specified altitudes during instrument approach procedures, even when the airport environment is not visible using natural vision, if the pilot uses certain FAA-certified enhanced flight vision systems. This action informs the public and the aviation industry of the approval of the use of new technology for certain operational benefits.

DATE: Effective February 9, 2004.

FOR FURTHER INFORMATION CONTACT: Les Smith, Flight Technologies and Procedures Division, Flight Standards Service, AFS–400, Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC 20591; telephone: (202) 385–4586.

SUPPLEMENTARY INFORMATION:

Availability of Rulemaking Documents

You can get an electronic copy of this document using the Internet by:

(1) Searching the Department of Transportation's electronic Docket Management System (DMS) Web page (*http://dms.dot.gov*); do a Simple Search for ''14449.''

(2) Visiting the Office of Rulemaking's Web page at *http://www.faa.gov/avr/arm/index.htm* or

(3) Accessing the Government Printing Office's Web page at *http://www.access.gpo.gov/su_docs/aces/aces140.html.*

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Be sure to identify docket number FAA–2003–14449, or the title of this final rule, ''Enhanced Flight Vision Systems.''

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70, pages 19477–78) or you may visit *http://dms.dot.gov.*

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires the FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact its local FAA official, or the Office of Rulemaking at (202) 267–8487. You can find out more about SBREFA on the Internet at *http://www.faa.gov/avr/arm/sbrefa.htm*, or by e-mailing us at *9–AWA–SBREFA@faa.gov.*

List of Abbreviations Used in This Document

AC—Advisory circular
AGL—Above ground level
ASR—Airport surveillance radar
AWO—All-weather operations
DH—Decision height
EFV—Enhanced flight visibility
EFVS—Enhanced flight vision system
EVS—Enhanced vision system
FPV—Flight path vector
FSB—Flight Standardization Board
HAT—Height above touchdown
HUD—Head-up display
IFR—Instrument flight rules
ILS—Instrument landing system
JAA—Joint Aviation Authorities
MDA-Minimum descent altitude
PAR—Precision approach radar
RNAV—Area navigation
SAE—Society of Automotive Engineers
SVS—Synthetic vision system
TAOARC—Terminal Area Operations Aviation Rulemaking Committee
TERPS—U.S. Standard for Terminal Instrument Procedures
TSO—Technical Standard Order
VOR—Very high frequency omnirange station
VDP—Visual descent point

Outline of Preamble

I. Background

Section 91.175 of 14 CFR contains the flight visibility requirements for conducting operations to civil airports using natural vision to identify the approach lights and runway environment. These instrument approach requirements have been modified over the years to provide for operating an aircraft during reduced visibility conditions while maintaining a high level of safety. The current rules on instrument approach procedures do not allow aircraft to operate below the decision height (DH) or minimum descent altitude (MDA) if the airport environment cannot be seen with natural vision. This final rule allows operators conducting other than Category II or Category III straight-in instrument approach procedures to operate below the DH and MDA when new technologies, such as an enhanced flight vision system (EFVS), use imaging-sensor technology that provides a real-time image of the external topography. During some reduced visibility conditions, an EFVS can display imagery that may significantly improve the pilot's capability to detect objects, such as approach lights and visual references of the runway environment that may not be visible. This final rule will allow, but not mandate, the use of this kind of technology.

II. Discussion of the Proposed Rule

By notice of proposed rulemaking (NPRM) Notice No. 03–03, February 10, 2003 (68 FR 6801), the FAA proposed to amend its rules to allow for the operational use of an EFVS, which can display imagery that may significantly improve the pilot's capability to detect objects that may not otherwise be visible. The FAA proposed that the provisions of this NPRM would apply to operations conducted under parts 91, 121, 125, 129, and 135. The comment period on the proposal closed March 27, 2003.

In the NPRM, the FAA also proposed that the pilot of an aircraft could use this system to determine ''enhanced flight visibility'' while flying a straight-in standard instrument approach procedure. An EFVS would enable the pilot to determine ''enhanced flight visibility'' at the decision height (DH) or MDA, in lieu of ''flight visibility'' (as currently defined), by using a head-up display (HUD) to display sensor imagery of the approach lights or other visual references for the runway environment at a distance no less than the visibility prescribed in the instrument approach procedure being used.

The FAA proposed to define ''enhanced flight visibility'' as the average forward horizontal distance, from the cockpit of an aircraft in flight, at which prominent topographical objects may be clearly distinguished and identified by day or night by a pilot using an EFVS. This definition would be substantially equivalent to the definition of flight visibility in part 1. The pilot would use this enhanced flight visibility and go through a similar decisionmaking process as required by existing § 91.175 (c) to continue the approach from the DH or MDA down to 100 feet above the touchdown zone elevation of the runway of intended landing. At that point and below, certain things would have to be visible to the pilot without using the EFVS in order for the aircraft to proceed to a landing on the intended runway. This rule will permit but will not require the use of this technology.

The proposed rule, therefore, could allow for operational benefits, reduced costs, and increased safety for aircraft equipped with an EFVS. Use of an EFVS with a HUD may improve the level of safety by improving position awareness, providing visual cues to maintain a stabilized approach, and minimizing missed approach situations. In addition to using an EFVS to satisfy new § 91.175 (l) requirements, an EFVS may allow the pilot to observe an obstruction on the runway, such as an aircraft or vehicle, earlier in the approach, and observe potential runway incursions during ground operations in reduced visibility conditions. Even in situations where the pilot experiences the required flight visibility at the DH or MDA, he or she could still use an EFVS to have better situational awareness than may be possible without it especially in marginal visibility conditions.

However, it should be noted that the NPRM did not propose to allow the use of a ''synthetic vision'' system as a means of determining the required enhanced flight visibility or to identify one of the visual references for the intended runway. Synthetic vision is a computer-generated image of the external scene topography from the perspective of the flight deck that is derived from aircraft attitude, a high-precision navigation solution, and a database of terrain, obstacles, and relevant cultural features. A synthetic vision system is an electronic means used to display a synthetic vision image of the external scene topography to the flight crew.

III. Related Rulemaking Actions

In a separate rulemaking project, the FAA conducted a thorough review of its rules to ensure consistency between the operating rules of 14 CFR and future proposed area navigation (RNAV) operations for the National Airspace System (NAS). On December 17, 2002, the FAA published a proposed rule entitled, ''Area Navigation (RNAV) and Miscellaneous Amendments'' (67 FR 77326; Dec. 17, 2002). In that NPRM, the FAA proposed to enable the use of space-based navigation aid sensors for aircraft RNAV systems through all phases of flight (departure, en route, arrival, and approach) to enhance the safety and efficiency of the national airspace system.

Because at the time the EFVS NPRM was issued, the comment period for the RNAV NPRM was still open, the FAA incorporated certain proposed terminology, such as ''approach procedure with vertical guidance (APV)'' and ''decision altitude (DA),'' from the RNAV NPRM into the EFVS NPRM. This is discussed in detail in the preamble to the EFVS NPRM (under ''Related NPRM'' at 68 FR 6803). The comment period on the RNAV proposed rule closed on July 7, 2003. The FAA received numerous comments on the terminology proposed in the RNAV NPRM, and must consider those comments before issuing a final rule. Since those comments are still under review, and the RNAV rulemaking action is not yet a final rule, the FAA is not adopting the RNAV-related language in the EFVS final rule.

In addition, on April 8, 2003, the FAA adopted certain terms from the December 2002 RNAV NPRM by publishing a final rule, ''Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points' (68 FR 16943). The FAA also reorganized the structure of its regulations concerning the Designation of Class A, B, C, D, and E airspace areas, and it incorporated by reference two FAA Orders—8260.3, U.S. Standard for Terminal Instrument Procedures

(TERPS) and 8260.19, Flight Procedures and Airspace. These portions of the December 2002 RNAV NPRM were issued as a final rule to facilitate the development of RNAV routes that are not restricted to ground-based navigation systems.

IV. Discussion of Comments

IV.1. General

The FAA received more than 40 comments in response to the NPRM. Commenters supporting the proposed rule commended the FAA for developing a regulation to enable the use of enhanced visibility technology that will increase levels of safety, provide operational benefits, and increase aircraft operational efficiency. Some commenters also believed that through the use of EFVS, aircrews will experience increased situational awareness, improve approach completion rates, reduce operational costs and significantly increase IFR safety margins.

Commenters opposed to the changes in the proposal requested that the FAA withdraw the NPRM because they asserted that the NPRM is inconsistent with current FAA advisory materials and the NPRM should be coordinated through one of the FAA's rulemaking committees, that have aviation industry participants. Some believed that the use of EFVS as proposed in the NPRM would be so restrictive that it would limit investment in vision system technologies and would limit the safety benefits of such systems.

FAA's response: The FAA believes that the use of EFVS-equipped aircraft will provide operational benefits and increase aircraft operational efficiency in reduced visibility conditions. The FAA believes that the NPRM is consistent with advisory materials and that the best course for approval is to use the rulemaking process. The FAA does not believe that this rule limits investment in vision-sensor technologies. Responses to these and other issues are provided in greater detail in the following subject-by-subject discussions.

IV.2. Flight Visibility and Visual References

Comment: There were several comments recommending the deletion of § 91.175(c)(2) on flight visibility because the visibility determination is readily established in § 91.175(c)(3) via identifiable airport lighting systems and/or environment. Commenters pointed out that the additional requirement of a pilot quantifying flight visibility (as defined in 14 CFR part 1) with no other means than a subjective determination adds an undue burden to the flight crew and no means of substantiation. A commenter asserted that this flight visibility requisite is especially an undue burden when the requirement of § 91.175(c)(3) has been accomplished. Conversely, commenters suggested, continuation with an approach below the MDA or DH should be predicated on the ability to see the runway environment, not a numerical determination of the current flight visibility.

FAA's response: The FAA disagrees with the recommendation to delete the ''flight visibility'' requirement of § 91.175(c)(2) because the requirement still applies to instrument approach procedures not involving the use of EFVS. Not all operators will install an EFVS. However, in accordance with the requirements in § 91.175(l)(2), this rule will allow the use of an EFVS to meet the requirement for determining enhanced flight visibility, which is substantially equivalent to the requirements in § 91.175(c)(2). The intent of this rulemaking is to allow the use of enhanced flight vision systems to operate an aircraft below DH or MDA even when ''flight visibility'' requirements are not met. The FAA did not propose to change requirements that apply to non-EFVS operations. The origin of the term ''flight visibility'' and ''visual references'' can be found in Amendment No. 91–173, (46 FR 2280, January 8, 1981). In that amendment of former § 91.116 (recodified as § 91.175 in 1989), the term ''visibility'' was clarified with the introduction of the term ''flight visibility.'' Guidance was also provided for the specific ''visual references'' that the pilot must identify at the MDA or DH to continue the approach.

Amendment No. 91–173 clarified the term ''visibility'' in § 91.116(c)(2) to specify that ''no pilot may operate an aircraft below MDA or DH unless the flight visibility is not less than the visibility prescribed in the standard instrument approach procedure being used.'' This revised requirement was necessary to make it clear that the visibility referred to is the visibility from the aircraft and not ground visibility. To simply state that, if the pilot has the runway in sight, the flight visibility requirement is satisfied, is not always valid. This concept may be valid for a Category I ILS approach but would not be valid for other straight-in approaches such as a very high frequency omnirange station (VOR) approach where the missed approach point (the VOR navaid) is located on the airport. For example, if the visibility for the VOR approach is 1 statute mile and the MDA is 600 feet (assuming no approach light system), and the pilot of an airplane does not see the runway environment until passing over the runway threshold at 600 feet, the pilot would have met the criteria for identifying the runway, but with only 600 feet of visibility assured would typically not be in a position to safely maneuver the aircraft for a landing. In this hypothetical situation, the flight visibility is less than 1 statute mile. However, if the flight visibility had been 1 statute mile, the pilot would have been able to identify the runway threshold or runway lights at a distance sufficient to make a normal rate of descent, using normal maneuvers from a visual descent point (depicted on the approach chart or determined by the pilot) and maneuver the aircraft for a landing. Simply saying that by identifying one of the visual references of § 91.175(c)(3) satisfies the requirement for flight visibility, as stated on the instrument approach procedure, is not enough for a safe operation.

It should be noted that the amendment to former § 91.116 also made it clear that the pilot must have the prescribed flight visibility from descent below MDA or DH until touchdown by using as reference items such as approach lights, threshold, threshold markings, *etc.*, instead of towers, smoke stacks, buildings, and other landmarks that may be located far from the end of the runway.

The objective of this rulemaking is to allow the use of any FAA-certified EFVS that can display a real-time image of the external scene topography and meet the requirements of § 91.175(l) and (m). A proposed EFVS could meet the requirements of § 91.175(l) and (m) and yet not be capable of distinguishing colors, and may not even be capable of detecting the approach light system or runway lights, but will provide an image of the runway surface and the metal structures that encompass the approach lights or runway lights.

IV.3. Visual Cues (Visual References)

Comment: Several commenters also stated that the visual cues should not be restricted to the two listed in the EFVS NPRM for the final descent, but broadened to include any of those listed in § 91.175(c)(3).

FAA's response: The FAA disagrees with these commenters. In the NPRM, the FAA proposed that in order for the pilot to descend below the DH or MDA when using the EFVS, one of two requirements had to be met: (1) The approach light system (if installed) had

to be seen; or (2) both the threshold and the touchdown zone had to be seen. If the approach light system was not seen (*e.g.*, because it was not installed or because it was not operating), the proposed rule would have required that the pilot see both the threshold and the touchdown zone in order to proceed below the DH or MDA. The FAA proposed a compound requirement (*i.e.*, the threshold and the touchdown zone) to have a more stringent standard than what is allowed under existing § 91.175(c)(3) when using natural vision. The FAA proposed and adopts in this final rule a more stringent standard because these EFVS devices might not display the color of the lights or the runway markings.

As proposed and as adopted in this final rule, the FAA's safety goal was to specify certain visual references that would help the pilot determine whether the aircraft was properly aligned with the runway of intended landing. Thus, if the pilot using the EFVS can see the approach light system, this is adequate to determine whether the aircraft is properly aligned to continue the approach. If, on the other hand, for whatever reason, the approach light system cannot be seen, the FAA proposed, and finds that it is necessary, to have a compound visual cue (visual references) requirement of the threshold and the touchdown zone. The safety reason for this compound visual cue requirement is that EFVS may not be capable of displaying runway markings and the color of lights to identify the touchdown zone area of the runway. Having a threshold identifying cue in sight and a touchdown zone cue in sight should give the pilot an adequate pattern of recognition to determine whether the aircraft is properly aligned with a runway and thus, enable the pilot to determine whether to continue or to execute a missed approach.

In the proposed § 91.175(l)(3)(ii), the FAA used the language, ''the runway threshold and the touchdown zone.'' In the final rule, for clarification purposes, the FAA is specifying those items that it considers as identifiers of the runway threshold and touchdown zone. Thus, in order to identify the runway threshold, the pilot needs to be able to see the beginning of the runway landing surface, the threshold lights, or the runway end identifier lights. In addition, in order to identify the runway touchdown zone, the pilot needs to see the runway touchdown zone landing surface, the touchdown zone lights, the touchdown zone markings, or the runway lights. When the FAA refers to ''runway lights'' in § 91.175(l)(3)(ii)(B)(*4*), this does not mean all of the runway lights. Instead, it means only those runway lights that together with the threshold identifier would help the pilot recognize whether he or she is approaching the runway of intended landing. Therefore, in this final rule, § 91.175(l)(3) is revised to read as follows:

(3) The following visual references for the intended runway are distinctly visible and identifiable to the pilot using the enhanced flight vision system:

(i) The approach light system (if installed); or

(ii) The following visual references in both paragraphs (l)(3)(ii)(A) and (B) of this section:

(A) The runway threshold, identified by at least one of the following:

(*1*) The beginning of the runway landing surface;

(*2*) The threshold lights; or

(*3*) The runway end identifier lights.

(B) The touchdown zone, identified by at least one of the following:

(*1*) The runway touchdown zone landing surface;

(*2*) The touchdown zone lights;

(*3*) The touchdown zone markings; or

(*4*) The runway lights.

IV.4. Restricted Visual References

Comment: One commenter noted that some visual references currently present in § 91.175(c)(3) (for example, the runway end identifier lights, the runway or runway markings, and runway lights) would be lost to EFVS users under proposed § 91.175(l)(4).

FAA's response: The FAA does not agree. Section 91.175(c)(3) of the current regulations relate to a different set of circumstances than proposed § 91.175(l)(4). In the EFVS NPRM and this rule, the pilot at 100 feet above the touchdown zone elevation of the runway of intended landing must see the lights or markings of the threshold or the lights or markings of the touchdown zone using natural vision. Some of the items listed in § 91.175(c)(3) would not be visible at 100 feet above the touchdown zone elevation.

IV.5. Harmonization

Comment: A commenter pointed out that a stated goal of both the Joint Aviation Authorities (JAA) and the FAA is harmonization. This commenter believed that deleting the reference to flight visibility and continuing to use the visual references of § 91.175(c)(3) would harmonize the FAA and JAA regulations.

FAA's response: The topic of ''flight visibility'' could be a subject for future JAA harmonization discussions, but at this time there is no corresponding JAA provision. This comment is not within the scope of this rulemaking because the FAA did not propose to remove the requirement for flight visibility in § 91.175(c)(2).

IV.6. Airport Lighting Systems

Comment: Several commenters stated that the EFVS should be compatible with the airport lighting systems. One commenter noted that recent information indicates that some newly installed airport lighting systems will use current technology light emitting diode (LED) systems that do not have a large infrared signature. According to the commenter, these LED systems potentially are not visible to current enhanced vision systems (EVS).

FAA's response: The FAA acknowledges that some EFVS may perform differently in detecting airport lighting systems. However, the rule provides the pilot with various other identifiers to meet the visual reference requirement of § 91.175(l)(3). If the pilot is unable to identify any of the required visual references in § 91.175(l)(3) with the EFVS at the DH or MDA, a missed approach must be conducted.

IV.7. Electromagnetic Spectrum

Comment: One commenter noted that an EFVS may not be limited to operations outside the visible frequencies of the electromagnetic spectrum. This system restriction is omitted for the proposed definition of EFVS in 14 CFR part 1. This commenter recommends that the FAA disregard the last phrase in the NPRM preamble background discussion for ''Previous type designs'' that states ''* * * which operates outside the visible portion of the electromagnetic spectrum'' and allow the proposed EFVS definition to provide the description.

FAA's response: The FAA agrees with this commenter that an EFVS may be designed to operate within the visible portion of the electromagnetic spectrum. The definition of an EFVS in part 1 does not prohibit these types of EFVS and therefore the rule does not have to be amended.

IV.8. Limitations of Systems

Comment: One commenter proposed that the FAA add a concluding paragraph to the revision of proposed § 91.175 in lieu of the proposed language that stated: ''Notwithstanding provisions of paragraphs above, the Administrator may approve the use of Enhanced Vision Systems (EVS) and procedures meeting requirements other than those specified, if: (1) The systems and procedures proposed are shown to have equivalent or better performance than other approved systems, are operationally safe, effective, and reliable for ground and flight operations

including: Taxi, takeoff, climb, cruise, descent, approach, landing, roll-out, or missed approach as applicable, and, (2) if visual reference requirements apply, the pilot is able to determine that flight visibility is adequate for safe takeoff or landing.'' The commenter stated that realization of EVS benefits and other significant, technology driven, operational and safety enhancements are dependent on structuring language within the NPRM that encourages further technological development and does not specifically limit system design. It is important to avoid rulemaking language that narrowly defines systems or technologies, but instead addresses fundamental requirements. The commenter believed that approval of EVS or other systems should be based on demonstrating equivalent levels of safety and performance to that of currently approved instrument approach and landing systems.

FAA's response: The FAA disagrees with the commenter and believes that the regulatory language proposed by the commenter is too open-ended and non-specific to be applied as a rule. This final rule will allow an aircraft to be operated to lower altitudes (DH or MDA) than presently permitted for straight-in instrument approach procedures other than Category II or Category III if the conditions of the proposed language are met. Thus, this final rule provides an operational benefit (operations to lower altitudes in marginal weather) for those who equip their aircraft with this new technology and who meet the other conditions of the new rule. In addition, many of the commenters' proposed uses of an EFVS are beyond the scope of this rulemaking because the FAA did not propose to allow the use of EFVS to meet any other regulatory requirements. However, the proposed rulemaking does not impose restrictions on other voluntary uses of an FAA certified EFVS where the pilot is not using the EFVS to meet a regulatory requirement, *i.e.*, situational awareness.

The FAA does not intend to discourage technical innovation, and this rule does nothing to hinder innovation. Instead, this rule provides a way for a new technology that has been developed, tested, and certified by the FAA to be used in a way that provides operational and safety benefits. The rule provides an acceptable alternative to the previously existing requirements for flight visibility and allows operations below the DH or MDA without affecting the standard instrument procedures or the prescribed visibility minima. Without the use of EFVS, it would not be possible to offer these significant operational benefits. The operational concepts for using other innovative technology may differ from that underlying this rule.

IV.9. Other Technologies

Comment: Several commenters stated that the NPRM excluded the use of other types of technology that can achieve the same results as EFVS, and that the NPRM would discourage technology and innovation by precluding or seriously discouraging the use of other technologies such as synthetic vision systems (SVS). Another commenter noted several potential advantages of an SVS over an EFVS. EFVS unpredictably has a limited vision capability while SVS capability would be reliably available for much farther distances (such as full scene capability from the final approach fix), allowing for improved approach stability and lower crew workloads.

A commenter noted that an EVS is currently using a raster (television) display technology, while SVS can be implemented in ''Stroke'' (line drawing) technology. Raster inherently obscures the entire view of the outside world through the HUD while Stroke has no obscuration at all except where the actual relevant material, such as runway outlines, are being displayed. The FAA/USAF Synthetic Vision Technology Demonstration Program documented instances where the crew using HUD EVS were unable to see real visual cues due to the EVS raster obscuration of the visual runway view, forcing unnecessary go-arounds.

This commenter also stated that EVS images in minimal weather will be limited to ''improved eyesight'' giving only a few runway lights. An SVS-enhanced solution would give complete approach lead-in, as well as outline of the load bearing boundaries of the runway.

This commenter believed that at most runways in wet, icy, or snowy weather, EVS is unpredictably incapable of providing any indication of where the desired touchdown point is on the runway or the extent of the touchdown zone (typically extending from 500 feet to 3,000 feet down the runway). SVS technology would be able to reliably provide both.

FAA's response: The FAA acknowledges that a synthetic vision system could have certain display advantages in comparison to EFVS with respect to information content and method of presentation and does not intend to prohibit future implementation of standard SVS instrument approach procedures. However, the proposed rule was intended to provide an analogous alternative to § 91.175(c)(2) (flight visibility) for descent and operation below DH or MDA, to conduct straight-in instrument approaches, other than Category II or Category III, with standard minima. The key difference between SVS and EFVS is that an EFVS provides an independent real-time view for the pilot. Whereas, an SVS is comprised, in part, of a database component, a precise navigation component, instrument data interfaces and a processing component that would compute and ''draw'' the forward view based on what the external view should be if the data base and navigation components are valid. The database-derived SVS display is not a real-time source of forward scene information as is the EFVS sensor-based image. Although an SVS may display a synthetic view of the runway, it is incapable of displaying a real-time view of the external scene and the pilot would not be able to determine if the runway were contaminated by water, ice, or snow. Therefore, an SVS display cannot serve as an alternative means of complying with § 91.175(l)(3) for descending below DH or MDA.

IV.10. Regulatory Bar To Use of Systems Such as SVS

Comment: One commenter stated there is no regulatory bar to use of systems such as SVS. In fact, systems having the characteristics of SVS were also developed and implemented for use in the 1960s and 1970s. Specific U.S. civil examples are available. Further, according to the commenter, the NPRM provided no technically sound basis to justifiably and inherently discriminate between the merits of SVS, EVS, and other systems for certain specific low-visibility related tasks or applications.

FAA's response: An SVS cannot provide enhanced flight visibility, especially the capability to show a real-time image of an aircraft or vehicle on the runway of intended landing. Although an SVS has been approved for flying an instrument approach procedure, it has not been approved for operations below the authorized DH or MDA. Therefore, an SVS cannot be used below the DH or MDA unless the flight visibility is not less than the visibility prescribed in the standard instrument approach procedure being used (§ 91.175(c)(2) and unless at least one of the items in § 91.175(c)(3) is distinguishable. Operations below the DH or MDA are only authorized if the requirements of § 91.175 (c)(2) and (c)(3) are met or the requirements of § 91.175(l)(2) and (l)(3) are met. There is a bar to using an SVS to fly a standard

instrument approach procedure and descend below the authorized minima (DH or MDA) without having the required flight visibility or enhanced flight visibility. There is also a bar to using an SVS, even above the DH or MDA, unless the FAA has specifically approved the operation.

IV.11. Differentiation Between Runway and Taxiway

Comment: A commenter stated that the NPRM would not have required that a capability exist to differentiate a taxiway or other runway similar environment (*e.g.*, lighted highway or drag-strip) from a runway environment. EVS systems are usually incapable of distinguishing taxiway lighting or even taxiway environments from runway environments, especially when considering nonprecision runways. Examples of these difficulties include that the sensor cannot determine the visual color of the lighting system, and for imaging radar-based systems, the radiated heat pattern is different than the visual light distribution (taxiway lights do not project light upwards at the same angle as runway lights). To mitigate this problem, the pilot must see the runway visually at 100 feet above the touchdown zone elevation to land the aircraft.

FAA's response: The FAA acknowledges that some enhanced flight visibility systems may not work as well as others to adequately portray the forward scene and the visual references listed in the rule. During certification of the EFVS installation, the applicant must demonstrate that pilots will be able to use the EFVS to distinctly see and identify these visual references and determine whether the enhanced flight visibility is no less than the prescribed minimum. The EFVS will be tested in a variety of environmental conditions and at several different runways. The FAA will not approve a system that is found to be prone to misidentification of the listed visual references or in other ways does not perform its intended function.

The FAA believes it is not necessary to explicitly require the EFVS to distinguish runways from taxiways. However, the rule does list specific visual references of an approach light system or a runway and touchdown zone that would distinguish a runway from other features of the airport environment, at least one of which must be distinctly visible and identifiable using the EFVS and the rule requires that the touchdown zone be distinctly visible and identifiable to the pilot. By meeting these requirements, the pilot can know that the aircraft is approaching the desired runway, and not a taxiway. If a runway feature and a touchdown zone feature cannot be distinguished from a taxiway feature, then the runway is not distinctly visible and identifiable.

The rule provides for a safe operation, because the pilot must execute a missed approach if at any time between the DH or MDA and 100 feet above the touchdown zone elevation the visual references are not distinctly visible and identifiable by using the EFVS. Furthermore, upon reaching 100 feet above the touchdown zone elevation, the pilot must be able to see and identify, without reliance on EFVS, the threshold (lights or markings) or touchdown zone (lights or markings) of the intended runway. If at 100 feet above the touchdown zone elevation, the pilot cannot see the threshold (lights or markings) or the touchdown zone (lights or markings), the pilot must execute a missed approach.

IV.12. Obstacle Clearance

Comment: One commenter stated that giving obstacle avoidance credit to EFVS is incorrect. Many nonprecision approaches are constructed such that the MDA and visibility charted provide the crew with the capability to see and avoid obstacles or obstructions in the possible paths descending from the MDA or from the terminating point of the approach.

This commenter asserted that allowing EFVS to be used in lieu of charted flight visibility may put the aircraft at serious risk, since many obstructions or obstacles are not visible to EVS sensors and thus would not be displayed to a crew relying on an EFVS to transit the area below the MDA and 100 feet above the touchdown zone elevation. Worse, according to the commenter, is the ability of EVS to see many types of natural or cultural features is generally unpredictable due to thermal characteristics.

FAA's response: The FAA agrees with the commenter that some EFVSs may not be able to consistently detect obstacles in the visual segment of an instrument approach procedure under certain conditions. Many of the obstacles the commenter refers to would not be a problem if the pilot complies with the same three requirements as § 91.175 (c) for a pilot to descend from the MDA on a nonprecision approach. The three requirements applicable to § 91.175 (c) and (l) are: (1) Pilot must observe that the enhanced flight visibility (or flight visibility) is not less than the visibility specified for the procedure; (2) at least one of the specifically listed visual references must be distinctly visible and; (3) the aircraft must continuously be in a position from which a descent to a landing on the intended runway can be made at a normal rate of descent using normal maneuvers.

If a pilot meets all of the requirements of § 91.175 (l), the pilot should have adequate visibility to see the runway environment. In addition, while an EFVS may not detect all of the obstacles the commenter refers to, an EFVS may reveal some of them. For example, there may be cues observable in the EFVS display that would indicate that an obstacle exists, other than a distinct image of an obstacle. For example, a partial obstruction of the runway may indicate terrain between the aircraft and the runway.

The FAA acknowledges a key point made by the commenter, that it is uncertain that the EFVS will always enable the pilot to detect all obstacles in the visual segment of the approach. A similar risk is present today because it is also uncertain that pilots will always be able to detect obstacles visually when operating conventionally under § 91.175 (c). Adverse visual conditions, such as low contrast, shadows, snow cover (especially coupled with falling snow and/or overcast conditions, *i.e.*, ''whiteout''), and situations of similar obstacle and background coloring can occur even when flight visibility and the other requirements for descent below MDA are satisfied.

The risk for a nonprecision approach using EFVS is significantly mitigated by the rule by only permitting reliance on an EFVS to straight-in approaches. The FAA believes it is unlikely that a pilot following straight-in instrument approach procedures will encounter an object in the flight path. The FAA does acknowledge that it is possible for an EFVS to not detect obstacles in the visual segment of an approach even if the pilot has the required enhanced flight visibility. However, the FAA believes that obstacle clearance can be maintained, if the pilot uses the recommended procedures below to fly a straight-in instrument approach procedure with a MDA, and uses the flight path vector and flight path angle reference cue displayed by the EFVS to monitor and maintain the desired vertical path and begins descent below the MDA:

(1) At the VDP, if charted, or a reasonably calculated visual descent point; or

(2) Using the descent angle published on the instrument approach procedure or if a descent angle is not published, a descent angle as high as suitable for that type of aircraft.

To clarify the FAA's intent as to which topographical features that an EFVS must detect and display, the FAA is amending proposed § 91.175 (m)(1) to state that an EFVS must be able to display topographical features of the airport environment. It is not the FAA's intent to require an EFVS to detect all obstacles while transiting the visual portion of the final approach segment.

IV.13. Weather-Related Comments

Comment: One commenter recommended that the FAA modify § 135.225 (b) and associated paragraphs to accommodate authorized operators using EFVS by allowing an approach to be initiated if reported weather minimums are lower than the minimums established for a specific EFVS. The commenter stated that reported visibility, measured by a transmissometer, is not a reliable indicator of EFVS performance at or below DH or MDA because it does not measure visibility in the same part of the electromagnetic spectrum as the EFVS. The commenter stated that this recommendation would increase the probability of a successful landing with operational and safety benefits.

FAA's Response: The FAA disagrees that modifying the reported visibility requirement for commencing the approach would increase safety. While the FAA agrees that the transmissometer does not operate in the same portion of the electromagnetic spectrum as the EFVS, its measurements are just as representative of the visibility conditions at/below 100 feet height above touchdown zone elevation as they are today. Even today, in conventional approaches, the reported visibility is not a totally reliable indicator of flight visibility at the DH or MDA, but is more representative close to the runway, where the pilot must use the visual references to complete the manual landing. This commenter's recommendations are outside the scope of the NPRM.

IV.14. Equipment-Related Weather Minimums

Comment: A commenter stated that the altitude criterion for EFVS is not based on the capability of the equipment and that specifying an absolute altitude as a minimum altitude for EFVS usage during approach and landing inhibits the incentive to advance optics technology to a level at which weather obscurations will be transparent to the EFVS. The commenter stated that by providing latitude for EFVS minimum altitude usage, the FAA could preclude additional changes to the regulation in the future or the need for imposing special conditions on equipment certification.

This commenter recommended that the minimum altitude for operation with an EFVS be predicated on the specific equipment installed and certified by the FAA (or approved by the FAA for foreign registered aircraft). The commenter proposed that the FAA change to § 91.175(l)(4) to say: ''At and below the minimum altitude at which the EFVS was certified or approved by the FAA, the * * *.''

Another commenter stated that once the performance limit for a particular EFVS is reached, the use of that particular EFVS is no longer approved for landing credits, and the requirements of § 91.175(c)(3) become applicable. As a result, § 91.175(l)(4) is no longer necessary.

FAA's response: The FAA disagrees with the commenter's premise that the transition to outside visual references at 100 feet above the touchdown zone elevation is an altitude criterion for EFVS. The rule does not establish an altitude criterion for use of EFVS, per se, nor does it establish a minimum use height, in the same sense that such limitations are placed on autopilots, for example. The purpose of the rule is to apply the same DH or MDA and visibility minima prescribed in the standard instrument approach procedure when EFVS is used (*i.e.*, EFVS does not reduce the minima), so it would be inconsistent to base an altitude criterion on the capability of a particular EFVS.

The FAA also disagrees with the comment that the rule establishes a performance limit for EFVS. Section 91.175(l)(4) requires that the pilot transition to the actual outside view by 100 feet above the touchdown zone elevation. The requirement is based on the operational need for the pilot to obtain visual contact (through the window) with the runway features to land, and is consistent with the time-tested operational concept of § 91.175(c)(3)(i). Section 91.175(l)(4) is necessary because it identifies the requirement for pilots using EFVS to make the transition to outside references by 100 feet above the touchdown zone elevation. While the commenter is correct that the references listed in (l)(4) are similar to those in listed in (c)(3), the focus of (l)(4) is on the transition to outside visual references that are especially needed for the manual landing (*e.g.*, runway threshold and touchdown zone).

The FAA recognizes that some enhanced flight vision systems may perform better than others. If, during certification, an EFVS is not found safe to use down to 100 feet above the touchdown zone elevation, then it will not be approved because it cannot perform its intended function.

IV.15. Operational Intent of the Rule

Comment: One commenter stated that in normal IFR operations, current § 91.175 requires that the pilot have clear and unobstructed visibility of the approach lights to continue below the DH or MDA. The NPRM seeks to augment the visibility requirement by permitting the use of a sensor-based imaging device in conjunction with a HUD to enhance the pilot's visibility down to the 100-foot level, at which altitude the existing visibility requirements of § 91.175 again become the operant rule, and the pilot must make the decision whether to go around or to land the airplane based on unassisted visual references only (not based on the EFVS imagery). According to this commenter, the proposed rule would apply primarily to ''fly down and take a look'' approach operations. In order to avoid controversy in application of the proposed rule, this commenter recommends that the FAA clarify the operational intent of the proposal, to include specific visibility.

FAA's response: The rule does not augment the visibility requirements of § 91.175(c), but instead provides an alternative requirement (*e.g.*, enhanced flight visibility) for operation below the DH or MDA. The use of EFVS does not alter the visibility requirements for commencing the approach. Today, part 121, 125, and 135 operators may not initiate an instrument approach procedure (§ 121.651(b), § 125.381(b), or § 135.225(b)) unless the reported visibility is equal to or more than the visibility minimums prescribed for that procedure. This requirement does not exist for part 91 operators, which implies that they may commence the approach when reported visibility is below minimums. In addition, EFVS does not affect the visibility or systems and pilot qualification requirements for Category II/III operations. By 100 feet above the touchdown zone elevation, the pilot must be able to see and identify visual references without reliance on EFVS. While use of EFVS during Category II and III operations may be permissible, such use must be specifically authorized as part of the operator's authorization for Category II and III approaches either by operations specifications for part 121, 125, or 135 operations or per § 91.189.

IV.16. Operational Benefits for Part 121, Part 125, and Part 135 Operations

Comment: Several commenters stated that there should not be any difference between part 91 and parts 121, 125, and 135 with respect to the requirements for commencing the approach with EFVS. Several commenters recommended that pilots operating under parts 121, 125, and 135 should be able to begin the approach based on having an EFVS regardless of the reported weather.

Another commenter proposed that, for part 121 and part 135, operations equipped with a certified EFVS be allowed to initiate the approach in weather conditions reported as low as 1,200 feet RVR or ¼ mile visibility.

Another commenter recommended deleting § 121.651(b) (requirements for commencing an approach) if the operator has a certified EFVS.

FAA's response: The FAA disagrees. The commenters' recommendations are outside the scope of the NPRM and would not provide for an adequate level of safety for operations conducted for compensation or hire for the following reasons. The proposal would undermine the current safety standards of not permitting a pilot to begin an instrument approach procedure if current weather reports are not available for the procedure or they report a below-authorized weather condition for operations conducted under parts 121, 125, or 135. These weather reports provide necessary safety information to pilots in addition to visibility information.

IV.17. Part 121, Part 135, and Part 129 Operations

Comment: One commenter stated that extending the NPRM text to parts 121, 135, and 129 would be potentially unsafe as written (*e.g.*, systems strictly meeting this rule could nonetheless lead pilots and aircraft into unsafe conditions), and are as yet operationally unsupported and unjustified. It would be most inappropriate to include specific EVS provisions in parts 121, 135, and 129 in the proposal at this time. Operational utility and safety of operations as implied by the NPRM, as well as legitimate ''proof of concept,'' are far from established at this point.

The commenter stated that part 129 operators, JAA, and other European representatives recently expressed concerns about such operations, particularly considering that those EVS operations are more appropriately termed Category II or III, than Category I.

FAA's response: The FAA disagrees that part 121, part 129, and part 135 operators cannot operate safely under this rule. This rule parallels the well-tested safe approach procedures of § 91.175(c). The commenter did not identify how these operations will be unsafe. The FAA did not receive any response from the JAA or European representatives regarding this rule.

IV.18. Operational Experience Before Credit for Lower Minimums

Comment: A commenter stated that, as with any new aircraft system, EFVS operational experience must be documented prior to further consideration for EFVS credit for lower minimums. Any EFVS operational limitation should be documented within the operator's AFM supplement.

FAA's response: The FAA does not believe that operational experience is necessary for an approved EFVS used in accordance with the rule because this rule does not provide for the use of EFVS to obtain credit for lower minima. The FAA agrees that any EFVS operating limitations found during certification should be stated in the AFM/RFM supplement.

IV.19. Takeoff Minimums for EFVS

Comment: Several commenters stated that proposed §§ 91.175, 121.651, 125.381, and 135.225 make no provisions for the enhanced vision flight vision system to be used to meet takeoff visibility requirements. Given that the system can be used to meet flight visibility requirements during approach, it follows that some credit should be able to be derived for takeoff operations below the established takeoff visibility.

FAA's response: The use of EFVS to meet takeoff visibility is beyond the scope of this rulemaking. This rule applies only to approach to straight-in landing operations below DH or MDA using an EFVS. The FAA did not propose the use of EFVS during takeoff.

IV.20. Rule Should Be an Advisory Circular (AC)

Comment: Several commenters asked why the FAA proceeded by rulemaking action instead of by AC. One commenter also stated that the NPRM could inappropriately set a precedent that rulemaking is required to implement new technology when rulemaking is not required.

FAA's response: The FAA is proceeding by rule instead of AC because this rule permits the use of new technology for straight-in approach landings by in essence creating an exception to the existing regulatory prohibitions in § 91.175(c)(2). An agency is required to conduct rulemaking when it considers changing an existing policy limitation in the rules. In this case, if an EFVS is approved by the FAA, meets all the requirements of § 91.175(m) and is determined to provide an equivalent level of safety, this operational rule will provide an alternative to the flight visibility requirement of § 91.175(c)(2) and allow the operator to descend below the DH or MDA if the requirements of § 91.175(l)(2) and (l)(3) are met.

IV.21. Terminology: Category I and Advisory Circulars

Comment: Several commenters stated that in accordance with the recently published AC 120–29A, ''Criteria for Approval of Category I and Category II Weather Minima for Approach,'' dated August 12, 2002, terminology for approach categories have been changed. A Category I approach is any approach that has a DH of not less than 200 feet AGL and a visibility requirement of not less than ½ statute mile. The reference to precision and nonprecision approaches is no longer applicable and the terminology has been redefined. These commenters believed that conforming to a common terminology, as presented in AC 120–29A, provides additional clarity in the regulation.

FAA Response: The FAA disagrees with the comment that the NPRM was not consistent with the intent and direction of AC 120–29A. That advisory circular discusses the terms for Category I approaches which includes nonprecision approaches, more specifically, an approach without vertical guidance. Although this definition for a Category I approach has been more commonly used in operations specifications for part 121, part 125, part 129 and part 135 operators, the FAA wants to make it clear that an EFVS could be used with a nonprecision approach for operators not using operations specifications.

AC 120–29A also mentions the generic term ''enhanced vision system'' (EVS). While this rule does not preclude the limited use of EFVS as described in AC 120–29A, it does permit an approved EFVS to be used to determine ''enhanced flight visibility'' which is a significant additional benefit for operators who were limited to using EFVS for the purposes described in the AC.

IV.22. Coordination Through TAOARC and AWO Process

Comment: Some commenters stated that the NPRM should not be issued in its current form and any subsequent revisions to the NPRM should be coordinated through both the All-Weather Operations (AWO)

harmonization process and the FAA TAOARC processes and be consistent with other related NPRMs (*e.g.*, RNAV, Docket No. FAA–2002–14002, and Special Operating Rules for the Conduct of Instrument Flight Rules (IFR) Area Navigation Systems (RNAV) in Alaska, Docket No. FAA–2003–14305).

FAA's response: The comments about the proposed changes in terminology for approach categories in the RNAV NPRM (Docket No. FAA–2002–14002) are not within the scope of the notice for this rulemaking and are not incorporated into this final rule. The Alaska Special Federal Aviation Regulation (SFAR) only addressed en route requirements for RNAV equipment and training and did not address RNAV instrument approach procedures.

The FAA disagrees with the comment that the current wording, especially definitions, of the NPRM and any subsequent revisions to the NPRM proposals should be coordinated through both the AWO harmonization and FAA TAOARC processes, and be consistent with the other noted NPRMs. This final rule action does not preclude persons from submitting recommendations concerning EFVS through their representatives on the AWO working group.

IV.23. EFVS Flight Path Performance

Comment: One commenter stated that the proposed requirements of the NPRM pose safety concerns. According to the commenter, representatives of European authorities, and others, correctly identify that some of the proposed operations with the above systems are, and should be appropriately classified and recognized as, Category II and Category III operations. Yet the proposed EFVS do not appear to come close to meeting the path performance standards necessary for safety for such operations. (*See* AC 120–28D, ''Criteria for Approval of Category III Weather Minima for Takeoff, Landing, and Rollout.'') The NPRM cited no evidence that adequate flight path performance can be demonstrated with imaging systems alone, whether TV, imaging radar (IR), or radar based. The commenter stated that current operating history with such systems in research and development programs and military operations indicates the opposite conclusion, which is why such operations often rely on use of autoland. Further, this commenter believed, there is no evidence presented in the NPRM that the ''aircraft state or guidance elements'' cited can perform to the levels necessary for either Category II or III, and particularly not for operations below 100 feet height above touchdown (HAT), flare, and rollout, or for missed approach, where such EVS systems are likely to lead a pilot without guidance assistance.

FAA's response: The FAA disagrees. The FAA believes the commenter misunderstood the purpose and applicability of the NPRM regarding the use of EFVS in the conduct of instrument approach procedures. This rule does not permit an operator to rely on an EFVS for category II or category III type approaches when an EFVS is relied upon for enhanced flight visibility pursuant to § 91.175(l). Use of the EFVS is an alternative means to comply with flight visibility requirements. To clarify any misunderstandings concerning the applicability of this rule, the FAA is adding language in the text of the rule in § 91.175(l)(1) to limit the application of this rule to straight-in instrument approach procedures other than category II and category III operations. Advisory Circular 120–28D and AC 120–29A both provide guidance for the criteria for approval of weather minima (Category I, II, III) and the use of enhanced vision systems (EVS). The guidance provided in the ACs describe the functionality of EVS to ensure the accuracy or integrity of other flight guidance or control systems in use during Category I, II, or III operations. The proposals in the NPRM described a new kind of functionality for EVS/EFVS.

EFVS can be used to enable pilots to determine ''enhanced flight visibility'' in lieu of ''flight visibility.'' Whether EFVS approved for determining ''enhanced flight visibility'' can also be approved for ensuring the accuracy or integrity of other flight guidance or control systems will depend upon whether the candidate system can be demonstrated to be acceptable to the FAA in a proof of concept evaluation as well as meeting the approval criteria in AC 120–28D or AC 120–29A.

IV.24. Inconsistency With Terminology in AC 120.28D or AC 120.29A

Comment: One commenter stated that the NPRM terminology presented an inappropriate use and meaning of Category I. Since the 1980s in operations specifications, and since 1999 in FAA criteria, this use of Category I terminology is incorrect and inappropriate. Since the 1980s, Category I applies not only to United States ILS, GLS, and other instrument approaches in operations specifications, but since 1999 has been additionally recognized in other appropriate FAA advisory circular criteria. Hence, the use of Category I and II terminology in the NPRM is incorrect and inappropriate and should be withdrawn. Accordingly, Category I, II and III definitions should be retained for U.S. use as currently described in FAA ACs 120–29A and 120–28D, and current operations specifications. If and when ICAO definitions for Category I, II, and III are updated through FAA/JAA AWO or other harmonization activities, or otherwise agreed in ICAO, the United States should consider further amendments of these terms. Hence, these provisions are much too technology-specific, misleading, and potentially unsafe as written (*e.g.*, systems strictly meeting this rule could nonetheless lead pilots and aircraft into unsafe Category II and III conditions) and are operationally unsupported and unjustified. Other commenters made similar statements.

FAA's response: The FAA disagrees with this comment for the reasons discussed in the response to the EFVS flight path performance comment. (*See* ''IV.23. EFVS flight path performance'' above.) In addition, the FAA disagrees that this final rule will potentially result in unsafe operations as written. The FAA believes that the use of EFVS will result in an equivalent level of safety for those operators who choose to equip their aircraft with that equipment. As with any aircraft system, to ensure the safety of operations in which EFVS is used, the operator must comply with the operating limitations specified in the Airplane or Rotorcraft Flight Manual and, for commercial operators, any conditions and limitations regarding its use are specified in the operator's operations specifications.

The rule will not lead pilots and aircraft into unsafe Category II or Category III conditions. The safety of the EFVS concept of operations, unlike the concept for Category II or Category III operations (*e.g.*, higher integrity, more rigorous guidance and navigation accuracy to achieve lower minima), is that EFVS provides an alternate means to satisfy the visibility requirements without reducing the visibility minima. The rule, following an operational concept analogous to that of § 91.175(c), requires the pilot to meet the prescribed visibility minima, based on ''enhanced flight visibility'' in lieu of ''flight visibility;'' to distinctly see and identify either (1) the runway threshold and the touchdown zone, or (2) the approach light system; and, by 100 feet above touchdown elevation to see the runway references needed for a manual landing without reliance on EFVS. Further, the rule does not relieve commercial operators from the visibility requirements for commencing the

approach. Based on these facts and the clarifying language added to § 91.175(l)(1), the FAA does not believe the rule will mislead a pilot into unsafe conditions.

IV.25. EFVS Use for Category II & Category III Approaches

Comment: Several commenters recommended that EFVS be used for Category II and III approaches, which the proposed rule did not seem to permit. The EFVS use should be permitted for situational awareness and for visual approach conditions as well as for Category I, II, and III approach conditions. This should apply to autoland and to hand-flown approaches.

Commenters recommended that the FAA:

- Clarify the intended usage of a certified EFVS during a Category II or III approach.
- Allow the EFVS to be operated during a Category II or III approach.
- Clarify what is meant by ''the stringent reliability, redundancy and other criteria that would be applicable for use of EFVS for Category II and III approaches'' as stated in the EFVS NPRM.

Another commenter proposed that the rule state: ''Any approach using EFVS will de facto be equivalent to a CAT2+ type of approach, as there is no more flight visibility requirements and EFVS can be used down to 100 ft.'' The commenter stated that in order to be consistent with current rules and to ensure a correct level of safety, approaches conducted with EFVS systems should offer a sufficient safety level and architecture compatible with current Category II rules. The commenter stated that EFVS software design assurance levels should be the same as for equipment used to support Category II and Category III operations. Therefore, the commenter stated, EFVS-based operations should require that: (1) The aircraft is equipped with at least 2 DO–178B Level B qualified ILS receivers, with comparison monitors; (2) ILS or MLS ground transmitters used during an EFVS approach should comply with Category II safety level; and (3) EFVS sensor imaging process should ensure that no picture lockup can happen. EFVS sensor image processing software should be at least DO–178B level C qualified.

FAA's response: The final rule does not permit an operator to rely on an EFVS for Category II and III approach procedures, and the final rule does not change the requirements for Category II and III operations. Any future proposed use of EFVS for Category II and III operations must comply with current regulatory requirements found in §§ 61.67 and 61.68, 91.189 through 91.193, 121.651(d)(3), 121.567, 125.325 or 135.78 that Category II and Category III operations must be authorized by the Administrator. Advisory Circulars AC 120.29A and AC 120.28D provide guidance concerning the stringent reliability, redundancy and other criteria for equipment used in Category II and Category III operations.

Proposed revisions to § 91.175(l) do not have provisions for Category II and III operations because that section only applies to straight-in approach operations, *i.e.,* approaches with a DH or MDA no less than 200 feet HAT. The NPRM did not intend to unconditionally prohibit the use of EFVS during Category II and Category III approaches. If EFVS is used during Category II or Category III operations, it is only in addition to the other required equipment, procedures, crew qualifications and so on, provided that the EFVS does not interfere or degrade the low visibility operation. The requirements and criteria for the equipment, procedures, training, maintenance, and airport features to be used for Category II and Category III approaches are well established and must still be complied with, regardless of EFVS. The use of EFVS in Category II or III operations, unlike its use for operations under § 91.175(l), does not result in operational credit (*e.g.,* a pilot using an EFVS on a Category II or III operation cannot fly lower than a pilot not using an EFVS in a Category II or III operation.)

The operational approval that permits an operator to conduct Category II and/or Category III approach operations must include specific provisions for the use of EFVS during such operations. EFVS must first be demonstrated to be suitable during such operations. Airborne systems used for Category II and III operations were first certified to comply with airworthiness criteria found in AC 120–28D or AC 120–29A, as applicable. EFVS changes the installed configuration of those airborne systems, and there should be airworthiness demonstrations to show that the new system configuration still complies with the applicable criteria. The FAA anticipates that there will be visibility conditions where ''flight visibility,'' but not ''enhanced flight visibility,'' is lower than the prescribed approach minima. It is important to recognize the differences between a Category II approach and an instrument approach using an EFVS under § 91.175(l), even when flown in such conditions. Category II approaches require a runway facility that satisfies the Type II criteria found in ICAO Annex 10. The Category II instrument approach procedure specifies decision height and visibility minima that are less than for a Category I ILS approach to the same runway. The airborne equipment must meet specific performance and integrity criteria outlined in AC120–29A and its Appendix 3.

Essentially, Category II and Category III operations depend on improved flight path performance and integrity as mitigation for lower visibility conditions. Instrument approach procedures other than Category II or Category III that are based on compliance with § 91.175 (l) and (m), use EFVS as an alternative means that would allow the use of an EFVS to determine enhanced flight visibility and would permit the descent and operation below the DH. The Category I ILS instrument approach procedure, which specifies a decision height and minimum visibility, is not changed when using EFVS in compliance with the rule change proposed in the NPRM. Essentially, the rule permits descent based on ''enhanced flight visibility'' rather than ''flight visibility'' being no less than the visibility prescribed in the instrument approach procedure. The FAA disagrees that an approach using EFVS is the *de facto* equivalent of a Category II or Category III approach.

Advisory Circular guidance for certification of EFVS, and perhaps even a technical standard order (TSO), might be issued in future. In the mean time, issue papers and special conditions may be used to certify EFVS based on its ability to perform its intended function and the required characteristics as specified in the rule, a system safety assessment, and existing certification criteria for software, programmed logic devices, head-up displays, and other criteria, as applicable to the EFVS design. In addition to criteria contained in issue papers from previous certifications, industry documents, such as Society of Automotive Engineers (SAE) Aerospace Standard (AS) 8055 and Aerospace Recommended Practices (ARP) 5288, provide a useful starting point for guidance material.

The FAA will consider the commenter's proposed minimum software design assurance level A for certain EFVS functions during the certification process. The FAA requires a system safety analysis, including a functional hazard assessment that will provide a basis for the design assurance levels of software-based functions, in accordance with well-established certification processes. As many commenters stated, part 91 is not the

place for certification requirements. The FAA limits its list of required features and characteristics of EFVS in § 91.175 (m) to the minimum needed to satisfy operational requirements.

IV.26. Compliance With § 91.1039

Comment: A commenter states that it has a strong interest in the NPRM's applicability to § 91.1039 IFR takeoff, approach, and landing minimums, under ''Subpart K—Fractional Ownership Operations'' as proposed on July 18, 2001 (66 FR 37520). This commenter believed that the community regulated under that proposed subpart K would achieve significant safety benefits and operational efficiencies given access to the full use of EFVS.

FAA's response: The FAA agrees. The amendment to § 91.175 applies to operators conducting operations under part 91 subpart K (*see* final rule at 68 FR 54568). The requirements in § 91.1039 will supplement those in § 91.175.

IV.27. Definitions—Italics and Capitalization

Comment: One commenter requested clarification of the italics and capitalization in the definition of EFVS.

FAA's response: The definition of EFVS contains no italics or capitalization, except for the title. The title was italicized in the same format as all part 1 definitions.

IV.28. Definitions—Scope of Enhanced Flight Vision Systems

Comment: One commenter recommended broadening the definition of EFVS and stated the definition of enhanced flight visibility is unjustified and inappropriate. Also, the commenter said that it unfairly targets or favors one technology and without more operating experience could be unsafe.

FAA's response: The FAA disagrees with this comment because the intent of this rule is to provide a basis for the use of imaging sensor technologies that can provide a real time display of the external scene. The FAA will ensure the safety of an EFVS system during the certification process.

IV.29. Definitions—Examples of Enhanced Flight Vision Systems

Comment: A commenter recommended deleting examples of EFVS technology listed in the definition of EFVS, because including those examples would inhibit the development of new technologies due to a lack of regulation and future certification guidelines.

FAA's response: The FAA disagrees with this comment. Simply listing examples of current EFVS technology in the definition of EFVS does not preclude the use of other EFVS technologies.

IV.30. Definitions—Enhanced Vision Systems

Comment: Several commenters suggested using the term enhanced vision system (EVS) instead of EFVS because EVS is an industry-recognized term.

FAA's response: The FAA considered the terminology to be used for EFVS, including alternatives such as the commonly used ''enhanced vision system.'' There are a variety of systems labeled EVS and a number of EVS definitions which the FAA believes could be confused with the system definition and operational concept found in § 91.175 (l) and (m). The FAA needed to define the term ''enhanced flight visibility'' and the system that provides it, so it was logical to label that system with a name that built on enhanced flight visibility; hence ''enhanced flight vision system.'' To be clear that not all systems now called EVS would necessarily be capable of supporting compliance with § 91.175 (l) and (m), the FAA will continue to use the term EFVS.

IV.31. Definitions—Topography and Enhanced Flight Vision Systems

Comment: Another commenter recommended removing the term topography from the definition of EFVS.

FAA's response: The FAA disagrees with this comment. The term topography was included in the definition of EFVS to be clear that the system would display objects on the ground and landscape.

IV.32. Synthetic Vision Systems

Comment: Several commenters suggested changing the definition of synthetic vision. One commenter asked that the FAA begin to identify the enabling benefits of lower-cost computer-generated SVS for use in smaller general aviation airplanes, and to ensure that SVS operational capabilities occur in concert with the development of SVS equipment.

FAA's response: As stated in the NPRM, synthetic vision system is defined to distinguish it from enhanced flight vision system; this rulemaking applies only to enhanced flight vision system. The FAA did not propose the situation where SVS might be authorized in the future.

IV.33. Enhanced Ground Visibility Systems

Comment: One commenter suggested adding the term ''enhanced ground visibility.'' The commenter proposed defining enhanced ground visibility as the average forward horizontal distance, from the cockpit of an aircraft on the ground, at which prominent topographical objects or buildings may be clearly distinguished and identified by day or night by a pilot using an EFVS.

FAA's response: The FAA disagrees because this is not within the scope of this rulemaking.

IV.34. Straight-in Approaches

Comment: One commenter stated that the NPRM would allow EVS to be used on all straight-in approaches. These are allowed to be up to ±30 degrees to the runway centerline. TERPS allow the angular intercept to be displaced from the threshold for Category I approaches. The vast majority of HUD visual systems have only ±15 degrees of visual (30 degrees total) of display capability. EVS as defined in the NPRM may not be capable of even imaging or displaying the runway environment of many ''straight-in'' approaches.

FAA's response: The rule is not limiting or predicated upon the field-of-view from a specific system. The rule simply states that if the pilot can see the required visual references at the DH or MDA using the EFVS, then he or she can continue the approach. If the field-of-view on the proposed system is limiting, the pilot would not be able to see the required visual references and could not continue the approach below the DH or MDA.

IV.35. Flight Visibility or Enhanced Flight Visibility

Comment: A commenter noted that the NPRM would require that the pilot must deliberately choose which, differing rule—§ 91.175(c) or § 91.175(l)—he or she will use to conduct an approach. This imposes upon each general aviation or commercial/transport pilot the need to mentally maintain the differences between two highly similar rules on an approach-by-approach basis. Further, the rules do not specify if the pilot is free to switch between the requirements of the two differing rules during the approach to his best advantage or if he must choose a rule set before the approach and then stick with it regardless of the advantage to switching to the other rule set.

FAA's response: This rule was written to parallel existing § 91.175(c),

therefore, for a pilot to gain the benefit of using an EFVS, he or she must know and comply with the different, but parallel requirements of § 91.175(l). If a pilot begins an approach using a certified EFVS and the visual references using natural vision become more prominent, the pilot may continue the approach by satisfying the requirements of § 91.175(c).

Conversely, if a pilot begins an approach using natural vision, and the visual references using natural vision appear less prominent, the pilot may continue the approach by satisfying the requirements of § 91.175(l).

IV.36. Reduced Approach Minima

Comment: One commenter proposed an alternative revision of § 91.175 and claimed that it updates certain outdated provisions and provides a basis for approval of future system or capabilities that can be shown to provide equivalent or better performance than currently acceptable systems or procedures. The commenter noted that the successful provisions of § 91.175 were developed, used, and improved over many years to achieve a high level of safety when operating an aircraft during reduced visibility conditions. Additionally, the commenter stated that current rules related to instrument approach procedures implicitly allow (*e.g.*, by use of Administrator authorizations under § 91.175(a) or provisions such as § 121.567 operations specifications) for the use of new technologies such as enhanced flight vision systems, required navigation performance, certain forms of GPS-related augmentation, or visual reference enhancing sensors, without having to directly address a specific performance standard for such authorizations.

FAA's response: The FAA disagrees with the commenter's proposed rule amendment and believes it would be incorrect to predicate authorization for EFVS to be used in lieu of the current provisions of § 91.175(c) based solely on the limited authority stated in § 91.175(a) for the Administrator to authorize instrument approach procedures other than those prescribed in part 97. The FAA believes it is more appropriate and more helpful to the public to publish the amended rule because it more clearly describes the requirements for operations using the EFVS to achieve an equivalent level of safety to the provisions of § 91.175(c).

IV.37. Natural Vision

Comment: One commenter questioned the validity of comparisons, stated in the NPRM, of EFVS imagery to natural vision for satisfying the visual requirements for continuing the approach. In particular, the commenter asked why the visual references as viewed in the EFVS imagery (using an imaging sensor operating in either infrared (IR) sensor or millimeter (mm) wave parts of the electromagnetic spectrum) may be any less natural if displayed to the pilot in the visual part of the spectrum.

FAA's response: The FAA believes the comparisons of EFVS imagery and natural vision to be valid rationale for publishing the amended rule. Section 91.175(l) provides an option to use EFVS to satisfy visual requirements for the approach that are analogous to the time-tested provisions of § 91.175(c), and thereby makes operational benefits available to those who wish to equip with an EFVS.

IV.38. AC 120–29A

Comment: Another commenter noted that AC 120–29A, section 4.3.4.4(b), Specified Visual Reference, provides some credit to HUD synthetic symbology as supplemental information to external red lights. The commenter suggested that in the future, when the combination of a HUD and EFVS will be certified as an airborne equipment, it may be that some other supplemental aids will be identified, and that criteria to establish practicable minima (*i.e.*, visibility prescribed) will have to be defined.

FAA's response: AC 120–29A, paragraph 4.3.4.4, describes concepts upon which FAA Order 8400.13a, Procedures for the Approval of Category II Operations and Lower Than Standard Category I Operations on Type I Facilities, is founded for approving Category I ILS operations with lower than standard minima and Category II operations at Type I facilities. Unlike the provisions of the amended rule, authorizations based on FAA Order 8400.13a require, as a prerequisite, flight crew members and installed airborne systems that are approved and authorized for Category III operations. Unlike operations authorized per FAA Order 8400.13a, operations conducted under provisions of the amended rule do not reduce the approach minima.

IV.39. Runway Environment as a Visual Reference

Comment: One commenter asked if the pilot can descend below basic minimums (usually 200 feet) on a Category I glide slope beam, using runway-environment cues obtained solely from the EFVS.

FAA's response: If the visual references of § 91.175(l)(3), the approach light system (if installed) or the runway threshold and the touchdown zone of the intended runway, are distinctly visible and identifiable to the pilot at the DH or MDA using an EFVS, the pilot can continue the descent to an altitude of 100 feet above the touchdown zone elevation. The pilot must then see, using natural vision, the required visual references of § 91.175(l)(4) that identify the runway environment without reliance upon the EFVS to land the aircraft.

IV.40. Barometric Altitude

Comment: One commenter stated that no criteria are given on an acceptable means to determine the altitude at 100 feet above the touchdown zone elevation. Radar altitude may be inappropriate since there are no controls on terrain prior to the runway threshold for nonprecision approaches and not appropriate controls for Category I ILS approaches.

FAA's response: The pilot may use the barometric altimeter to determine when the airplane has reached 100 feet above the touchdown zone elevation of the runway of intended landing.

IV.41. Reliance on EFVS

Comment: A commenter requested clarification of the words ''without reliance on the EFVS'' as stated in § 97.175(l)(4). Would this require turning off the EFVS?

FAA's response: The rule does not require the EFVS to be ''turned off.'' The HUD/EFVS displays aircraft performance and navigation information, while the normal visual cues are being enhanced for increased situational awareness and safety. However, the pilot cannot rely on the EFVS to display the required visual references in § 91.175(l)(4), once the pilot descends below 100 feet above the touchdown zone elevation.

IV.42. Touchdown Zone Determination

Comment: One commenter stated that EFVS as defined by the rule is not capable of allowing part 121 and part 135 operators to make the determination to touchdown within the touchdown zone of the runway of intended landing. HUD-style inertial flight path vector symbology can be utilized to determine where current descent rates are taking the aircraft, but they require that the EVS sensor provide indications as to the beginning and end of the touchdown zone.

FAA's response: As is true today, parts 121 and 135 operators must manage the descent rate so that the touchdown will occur within the touchdown zone of the runway of intended landing. The FAA believes

that an EFVS can provide sufficient imagery so that the pilot can define the touchdown zone. If the pilot does not have sufficient required visual cues either with the EFVS display or looking out of the window to satisfy this requirement, then a missed approach must be executed.

IV.43. Training

IV.43.a. AFM & RFM Limitations

Comment: One commenter asked the FAA to consider removing the reference in § 91.175(l)(5)(iii) to compliance with the AFM and RFM limitations section, because it is redundant to an existing rule. Section 91.9 already requires that a pilot comply with the operating limitations specified in the AFM or RFM. Restating it here might cause part 121, part 125, and part 135 operators, listed in § 91.175(l)(5)(i), to think they do not have to comply with the AFM limitations.

FAA's response: The FAA agrees and has changed § 91.175(l)(5)(iii) to delete references to the AFM and RFM. The additional requirements of parts 121, 125 and 135 are addressed in each of those respective parts and are mandated in the operator's operations specifications. The operators, once certified, are required to comply with the provisions of the operations specifications and all approved or accepted training and/or checking programs. The operator is responsible for the training and checking of each pilot using the EFVS if authorized under the pertinent and applicable parts of the Code of Federal Regulations. Operations conducted under part 91 do not require training or checking on the EFVS, although pilots who operate EFVS equipped aircraft are potentially subject to being checked on such EFVS equipment during currency and proficiency checks of part 61.

IV.43.b. No Additional Training

Comment: A commenter noted that no additional training for the use of EFVS should be required under part 61 for general aviation pilots operating under part 91.

FAA's response: FAA agrees that a specific training requirement for the use of EFVS for part 91 operators does not need to be added to the rule. However, a Flight Standardization Board (FSB) did evaluate one system and determined that additional crew training was required, documented the required training in the FSB report and all pilots operating aircraft subject to that FSB report with the FAA evaluated EFVS system will have an operating limitation in the AFM requiring pilot training.

IV.43.c. Additional Training and Proficiency

Comment: One commenter stated that the rule does not address part 61 as far as pilot training requirements, but does address parts 121, 125, and 135 and states that operations under 91 would be authorized. The rule requires pilots to be proficient and qualified in accordance with part 61. Part 61 covers basic instrument qualifications under § 61.57 and an additional requirement for Category II operations under § 61.67. The commenter suggested that additional training and proficiency requirements for operations (involving) EFVS should be established to ensure the same level of safety as for Category II operations, since this new technology is going to allow pilots to operate at lower than normal minimums.

FAA's response: The FAA believes that pilot training requirements for applicants under the Airline Transport Pilot and Aircraft Type Rating, Practical Test Standards for Airplane and Airline Transport Pilot and Aircraft Type Rating, Practical Test Standards for Helicopter should remain pilot certificate specific. Pilots obtaining certificates under the provisions of part 61 are subject to testing and proficiency checks under § 61.58, may need to obtain training in order to pass the check on all of the installed equipment on an aircraft, and must, at the least, demonstrate proficiency in the use of the installed equipment to the same standards required for the original issuance of the certificate. Also, all pilots who conduct operations under part 91 must meet the currency requirement of § 61.56, which may include the aircraft and equipment. The FAA is not proposing to modify the existing pilot requirements of part 61.

The FAA disagrees with the commenter's reasoning that additional training and proficiency requirements are necessary for EFVS operations because the new technology will enable pilots to operate at lower than normal minimums. The use of EFVS does not reduce approach minimums; EFVS is an alternate to the requirements of § 91.175(c).

Part 61 does not require training prior to authorizing Category II/III operations or other procedures beyond the initial pilot certification process. Nor does the FAA believe that it is appropriate to mandate training requirements beyond that of the initial certification process or flight review process for operators under part 91 conducting standard instrument approach procedures.

IV.43.d. Crew Training

Comment: One commenter stated that due to the specifics of interpreting an IR image, crew training will be an important issue and needs to be carefully addressed. The commenter comments that specific simulation models need to be defined as they exist for Category III HUD landing system qualifications, and that typical and worst case situations must be defined for simulator use (windshear, crosswind, visibility, obstructions, *etc.*) in order to ensure that the crew can reach an acceptable proficiency level with the system. Crew qualification should be based on performance obtained in the simulator.

FAA's response: The FAA disagrees with limiting crew training to the simulator. Holders of air carrier certificates and commercial operator's certificates are held to higher standards and are therefore required to provide FAA-approved training programs developed for the type of operation to be conducted. Such programs, whether training or checking and testing, may take advantage of any appropriate FSB Report issued.

While the FSB Report is not regulatory in nature it provides the FAA principal inspector with guidance as to the proper content, duration, and intent of any training program submitted for approval or acceptance in accordance with the operating rule. In addition, facilities that provide training on behalf of manufacturers rely on recommended training such as an FSB Report when developing training and checking programs for their customers.

IV.44. Requirements for the Airplane Flight Manual (AFM)

Comment: One commenter stated that the operational limitations for an EFVS should be included in the AFM and not included in a rule.

FAA's response: The FAA agrees with the commenter that some operating limitations, in addition to those specified in this final rule, may be placed in an AFM or RFM, depending on the certification evaluation of a particular applicant's EFVS. The FAA disagrees that all operating limitations should be specified in the AFM or RFM.

IV.45. Air Carrier Operations Specifications Requirements

Comment: One commenter stated that the NPRM includes a proposed requirement to obtain operations specifications authorization for air carriers (proposed § 91.175(l)(6)). Operations specifications approval is always required for decreased

minimums, but EFVS does not change the minimums. The EFVS allows the pilot to visually acquire the cues specified in § 91.175 to descend below DH, but does not affect the minimums given on the approach procedure. Therefore, operations specifications approval should not be required. The requirement for operations specifications approval adds an unwarranted financial burden on the operator, and may take a very long time to achieve because most principal operations inspectors do not have the background knowledge to make this evaluation. The FAA certification pilots and engineers are required to accomplish extensive testing to validate the EFVS. The commenter considers that there is no reason to require an additional approval, beyond that achieved by STC.

FAA's response: The FAA agrees that use of EFVS does not change the instrument approach minima. However, the FAA believes that § 91.175(l)(6) should not be revised to incorporate the commenter's recommendation. Part 119 and part 125 certificate holders and part 129 operations specifications holders that use a HUD today for the conduct of instrument approach procedures require authorization in their operations specifications. This authorization includes training on the equipment and procedures to fly instrument approach procedures. Likewise, the EFVS, which also includes a HUD, will require training in the use of a HUD symbology and procedures developed by the operator for the specific equipment being used. The FAA also does not agree that this is an unwarranted financial burden on the operator or that principal inspectors will not have the background or knowledge to evaluate the air carrier's program. Principal inspectors routinely authorize operations that require a HUD and in fact work directly with the operator to develop these programs and procedures. To assist the principal inspectors, the FAA will provide handbook guidance.

IV.46. Foreign Aircraft Certification

Comment: One commenter states that the proposed rule violated existing bilateral agreements, and precludes the possibility of the FAA ever accepting an EFVS approval by another authority through the bilateral process without additional rulemaking. Another commenter stated that this proposed rulemaking seems to introduce discrimination towards non-U.S. manufacturers.

FAA's response: The intent of the rule, referenced in § 91.175(l)(7), was to be fully consistent with the provisions of existing bilateral agreements for aircraft certification. Under such an agreement, a non-U.S. aviation authority may, on behalf of the FAA, find compliance to FAA certification requirements. The FAA would validate such findings and issue a U.S. type certificate (*i.e.*, type certificate, amended type certificate, or supplemental type certificate, as applicable). U.S. type certificates would be available for installation of non-U.S. manufactured EFVS, just as they are for installation of other types of equipment today, whether manufactured in the U.S. or not.

The FAA revises the language in § 91.175(l)(7) to clarify that the FAA does not discriminate against foreign operators or non-U.S. manufacturers.

IV.47. Equipment Requirements for Subpart C

Comment: One commenter stated that the proposed rulemaking did not clearly define equipment requirements, and that there was no proposed rulemaking regarding EFVS in subpart C of part 91. The commenter asked the FAA to clarify EFVS equipment requirements and establish an EFVS TSO that clarifies the design requirements for enhanced flight vision sensors or equipment, excluding the HUD.

FAA's response: The FAA disagrees that a requirement for EFVS equipment should be added to part 91 subpart C. The rule allows for the use of an EFVS to determine ''enhanced flight visibility'' in lieu of ''flight visibility.'' An EFVS is not required equipment, except for those operators choosing to use this alternative method of operation below DH or MDA.

Advisory Circular guidance for certification of EFVS, and perhaps even a TSO, might be issued in the future. In the meantime issue papers and special conditions may be used to certify EFVS based on its ability to perform its intended function and the required characteristics as specified in the rule, a system safety assessment, and existing certification criteria for software, programmed logic devices, head-up displays, and other criteria, as applicable to the EFVS design. In addition to criteria contained in issue papers from previous certifications, industry documents, such as Society of Automotive Engineers (SAE) Aerospace Standard (AS) 8055 and Aerospace Recommended Practices (ARP) 5288 provide a useful starting point.

IV.48. Clarification on Maneuvering

Comment: A commenter requested that the FAA clarify the meaning of the phrase ''which is suitable for maneuvering the aircraft'' as stated in § 91.175(l)(7).

FAA's response: The FAA means that the EFVS display, because it is being used as the pilot's primary flight reference during the approach, at least down to 100 feet above the touchdown zone elevation, needs to provide effective visual feedback to the pilot for manual control of the airplane. In particular, the alignment and motion of the EFVS imagery, attitude and guidance symbology must faithfully represent airplane motions, without significant jitter, jerkiness, or latency (*i.e.*, display lag, slow update rate) that would adversely affect the pilot's ability to manually control the airplane with satisfactory precision, stability and workload. In addition to EFVS display dynamics, many other factors such as field of view, control of display luminance, clutter, and display blooming could significantly degrade pilot performance and workload while manually controlling the airplane in the approach.

IV.49. Certification of an EFVS

Comment: Several commenters noted that the EFVS features and characteristics specified in the proposed § 91.175(m) were certification requirements, not operational requirements, and should be deleted from the rule and moved to parts 23 and 25 and/or associated advisory material. Another commenter said that the specified characteristics are not quantified and lack detail without reference to a Minimum Operational Performance Specification (MOPS) or some other technical standard. Certification requirements, processes, and regulations need to be developed and issued expeditiously.

FAA's Response: The FAA believes that in order to safely and effectively perform approach operations under the provisions of § 91.175(l), there are certain essential characteristics and features that must comprise the EFVS. Therefore, the FAA believes this list specified in paragraph (m) constitute operational requirements. The items in this list were deliberately stated in general terms, well enough to capture the essential requirements but without over-specifying the system design to permit as much design flexibility as possible.

The operationally essential features of the EFVS are that the image and spatially referenced flight symbology is displayed so that they are aligned with and scaled to the external view (conformally) on a HUD with essential flight instrument information. The image must be conformal because it

provides an alternative, enhanced forward view that could be used in lieu of flight visibility to meet the prescribed visibility requirements.

The imagery must be displayed on a HUD because the FAA believes that the safety of an approach operation conducted under § 91.175(l) depends on the pilot looking forward along the flight path (*i.e.*, looking at and through the imagery to the out-of-the window view) to readily enable a transition from reliance on the EFVS imagery above 100 feet height above the touchdown zone elevation to reliance on the out-the-window view without reliance on EFVS. The FAA believes that if the pilot must scan up and down between a head down display of the image and the out-the-window view, then the transition would be hindered by the delay of repeatedly re-focusing from one view to the other.

The imagery must be displayed with essential flight instrument information because the FAA believes that once the EFVS is being relied on for descent and operation below DH, or MDA, it should become the de facto primary flight reference. The pilot requires continuous awareness of the flight information while using the EFVS imagery. This awareness would be unsatisfactorily degraded by repeated scanning from head up, to head down, and back.

IV.50. Performance-Based Advisory Materials

Comment: Several commenters said that an advisory circular or advisory material is needed to support the rule, but that the development of new advisory material need not delay adoption of a suitable enhanced vision system rule. Another commenter recommended the FAA begin work on an AC to establish airborne equipment certification standards, training, and AFM endorsements that ensure that the items referenced in § 91.175 are distinctly visible with the EVS.

Another commenter requested that the FAA draft specific EVS technical and system design language, along with suggested certification methodologies and place in appropriate advisory material.

Still another commenter saw advisory material as the means for certification through performance standards. This commenter noted that the proposed § 91.175(m)(1) of the rule, which addresses features and characteristics, states: ''An electronic means to provide a display of the forward external scene topography (natural or manmade features of a place or region especially in a way to show their relative positions and elevation) through the use of imaging sensors, such as a forward looking infrared, millimeter wave radiometry, millimeter wave radar, and low-light level image intensifying.'' Similar wording also appears in the EFVS definition in part 1. Neither the rule nor the definition should cite specific current-generation technology, but rather should reflect a performance or implementation requirement that can be further developed in advisory material. For example, the sensor-based imaging elements of the EFVS shall be appropriately located on the aircraft, shall employ a sensor technology appropriate to the intended function, and the combination of the sensor and HUD shall provide resolution and other system attributes coincident with the generation of a high-quality conformal image. Certification criteria for future EFVS should be the subject of an AC. As an example, the use of a HUD system is required in the proposed rule. The commenter believed this language may not stand the test of time and therefore requests that the language be changed to reflect the use of a display and symbology set certified for the intended function.

FAA's response: The FAA believes that § 91.175(l) and (m) provide operational requirements that are not specific to a particular technology design. The FAA agrees that advisory material for certification of EFVS will be useful, but not that such material should replace § 91.175(m), which specifies essential operational requirements for EFVS. At this time, until more experience is gained with the potential variations of EFVS designs, it is premature to establish such guidance. Until such guidance is available, issue papers and special conditions may be used to certify EFVS based on its ability to perform its intended function and required characteristics as specified in the rule, a system safety assessment, and existing certification criteria for software, programmed logic devices, head-up displays, and other criteria, as applicable to the EFVS design. In addition to criteria contained in issue papers from previous certifications, industry documents, such as Society of Automotive Engineers (SAE) Aerospace Standard (AS) 8055 and Aerospace Recommended Practices (ARP) 5288 provide a useful starting point. The FAA expects that a working committee of the Society of Automotive Engineers (SAE) or similar group will undertake further efforts to develop industry certification standards for EFVS that could support EFVS advisory material.

The FAA believes it is necessary to include § 91.175(m) in the rule because the alternative means outlined in § 91.175(l) for descent and operation below DH or MDA requires an EFVS with such features and characteristics. Other technology solutions for conducting low visibility approach and landing operations, such as SVS, would require a different operational.

IV.51. Display Comments

IV.51.a. Head-Up or Head-Down Displays

Comment: There were several comments stating that the FAA should allow both a head-up display or a head-down display for EFVS in paragraph (m) and should permit alternate display locations. One commenter suggested revising paragraph (m)(2) to say, ''The EFVS sensor imagery and aircraft flight symbology (*i.e.*, at least airspeed, vertical speed, aircraft attitude, heading, altitude) are presented on head-up display or other certified display within the pilot's primary field of view and clearly visible to the pilot flying in his or her normal position and line of vision and looking forward along the flight path.'' This commenter also stated that when transitioning from ''enhanced flight visibility'' to ''flight visibility'' the pilot would only make a slight change in focus, very similar to the transition taking place when conducting currently regulated approaches down to low minimums.

FAA's response: The FAA disagrees with the recommendation to permit any certified head-down display for EFVS.

The rule requires that EFVS include a head-up display rather than the alternative of a head-down display because the pilot is conducting an instrument approach procedure in lower visibility conditions, but with no change in the prescribed instrument approach minima and must accomplish several visually-related judgments and control tasks in quick succession. While the regulatory requirements for the use of EFVS are analogous to the conventional requirements for descent and operation below DH or MDA, the pilot needs to use the imagery, the flight reference information, and eventually the outside view, at the same time. The pilot must be able to look for the outside visual references in the same location as they appear in the EFVS image and readily see them as soon as visibility conditions permit, without any delays or distraction due to multiple head-up/head-down transitions.

When scanning between the head-up and head-down views, it takes additional time for the pilot to reacquire the information in each view and for the pilot's eyes to readjust for differences in light level and changes in focus between

optical infinity and the distance to the instrument panel (on the order of 24 inches). Repeated scanning between the head-up and head-down views would be distracting, increase pilot workload and potentially degrade path performance during a critical phase of flight.

These effects are avoided by displaying the EFVS imagery and flight information on the HUD. Between the DH or MDA and 100 feet, the pilot will be able to look for the outside visual references in the same location as they appear in the EFVS image and readily see them as soon as visibility conditions permit, without any delays or distraction due to multiple head-up/head-down transitions and without interruption of the view of essential flight information.

IV.51.b. Head-Up Display

Comment: One commenter stated that HUD presentation and modern display symbols including flight path vector, reference flight path angle, and horizon marks (and ideally airspeed error and trend) have been repeatedly shown to dramatically decrease workload and increase landing accuracy when overlaying the actual runway environment.

FAA's response: The FAA agrees with the commenter that additional head-up display symbology should be required for the EFVS. Section 91.175(m)(2) is therefore amended to require a FPV and a flight path angle reference cue. Because this rulemaking has created an exception to the time-tested existing safety standards in § 91.175(c), it is within the scope of the notice to tighten the conditions for such an exception at the final rule stage when, as here, potential safety problems and solutions are identified by commenters. In other words, the exception language as originally proposed would not have required FPV as a condition for the EFVS to be used, adding FPV as a required feature narrows the proposed exception and thus is within the scope of the proposed exceptions.

IV.51.c. Guidance, Flight Path Vector (FPV), and Other Symbology

Comment: Several commenters stated that the rule should specifically require additional items of flight information, including the flight path, guidance, conformal flight path vector (FPV) and cues for energy state control.

One commenter stated that the rule is not clear about the need for guidance in the EFVS display and recommends that the rule be amended to include a requirement for flight director or some form of command guidance, conformal presentation of FPV, and cues for energy state control.

In a related comment, another person stated that the FAA should continue to require the use of HUD, that ILS guidance should also be displayed on the HUD, and that the EFVS should have a head-up guidance system, not just a HUD.

Similarly, other commenters stated that the FAA omitted the FPV, an important symbology cue, in its list of required features and characteristics of EFVS in paragraph (m). This symbology cue combines drift angle and flight path angle to show where the aircraft is actually going (also known as velocity vector) as opposed to where the nose is pointed (longitudinal axis).

FAA's response: The FAA agrees with the comments that the rule should be revised to require EFVS to display flight path (*i.e.*, the intended approach path as shown by lateral and vertical path deviation indications), command guidance, a conformal FPV, and a flight path angle reference cue. The FAA does not agree that the rule should be revised to mandate other suggested symbology cues, such as cues for energy state control, airspeed error and trend.

The FAA has revised the rule to require that the EFVS display lateral and vertical approach path deviation indications (*e.g.*, localizer, glideslope or course deviation indications (CDI)) and command guidance (*e.g.*, repeat display of head down flight director, or HUD unique command guidance cue) as appropriate for the kind of approach to be flown. The rule requires approach path deviations because they are essential to conduct the approach and the pilot must not be required to scan head down for the information. The rule requires command guidance because, when available and appropriate for the approach being flown, it reduces pilot workload, increases path tracking performance, and was found essential for ILS approaches during proof of concept evaluation of a previously certified enhanced vision system. For types of approaches without a vertical navigation aid, (*e.g.*, localizer-only, or VHF omni-range station (VOR)), neither vertical path deviation indications nor vertical guidance is required. The FAA believes that the addition of a FPV and a flight path angle reference cue provides effective tools to monitor and maintain a safe vertical path from the DH/MDA to the desired touchdown point on the runway. These changes are within the scope of the notice because in proposed § 91.175(m)(2) the FAA listed broad examples of the types of flight symbology that would be required for safety purposes. The items listed in § 91.175(m)(2) were intended to be the minimum flight symbology features on the HUD. The FAA is adding similar flight symbology requirements to the final rule. By adding these additional required features, the FAA is narrowing the circumstances under which an EFVS could be used as an exception to the existing standards in § 91.175(c).

The rule does not explicitly specify other flight symbology cues, such as those recommended by the commenters, because the FAA does not have sufficient data to mandate them unconditionally. Such cues have been essential features of previously approved HUD landing guidance systems, but the intended function of these systems (*e.g.*, Category III landings) is different from EFVS, which is used to satisfy § 91.175(l). Nevertheless, the FAA recognizes that such cues have been found to enhance pilot performance, reduce workload, and believes they might mitigate characteristics of EFVS imagery, compared to natural vision in visual meteorological conditions (VMC), that are significant for maneuvering the airplane. The FAA believes that the entire EFVS, which includes the image, flight information and graphic symbology, not just the imagery alone, must be suitable for maneuvering the airplane. The FAA will evaluate each EFVS, including the symbology cues, for its ability to satisfy the operational and safety objectives of the rule, including its suitability for maneuvering the airplane. Based on products already certified, the FAA anticipates that most, if not all EFVS designs would include such features anyway.

IV.51.d. EFVS for Situational Awareness

Comment: One commenter stated that the FAA should not preclude the use of EFVS for situational awareness.

FAA's response: This rule addresses only EFVS used to permit descent and operation below the DH or MDA, when flight visibility minima are not met.

IV.51.e. Design Eye Position

Comment: One commenter stated that a pilot's normal seating position may not coincide with the design eye point, the position at which the cockpit equipment was designed and certified. The commenter stated that the position from which the pilot views the EFVS HUD is critical to clearly seeing the EFVS imagery and flight symbology and recommended that § 91.175(m)(2) be revised to read: ''The EFVS sensor imagery and aircraft flight symbology (*i.e.,* at least airspeed, vertical speed, aircraft attitude, heading, altitude) are presented on a head-up display so that

they are clearly visible to the pilot viewing from the design eye position and looking forward along the flight path.''

FAA's response: The FAA agrees with the commenter that the position from which the pilot views the EFVS HUD is significant. The most significant effect of a displacement from design eye position is that some displayed information may not be visible to the pilot. For certification of head-up displays, the FAA uses criteria described in AC 25.773–1 (Pilot compartment view design considerations) and an FAA issue paper titled ''Head-up display (HUD) installation, system design policy and guidance,'' which will also be applied to EFVS, that concerns variations of the pilot's viewpoint that constitute what has been called the ''head motion box.'' This head motion box has minimum dimensions in three axes and when the pilot's eyes view the HUD while located in this volume, all essential information must be visible in the HUD. The FAA agrees with the intent of the commenter's recommendation, but believes that the recommended revision is not necessary, because current HUD certification criteria will be applied to EFVS and if the essential information is not clearly visible from the design eye point, the EFVS could not perform its intended function.

IV.51.f. Display Conformality and Parallax Errors

Comment: One commenter noted that there is no requirement in § 91.175 (m) regarding where the EFVS sensor is installed on the airplane. The commenter stated that it is of the utmost importance that EFVS imagery is displayed conformally with the outside view and that parallax error must be very small, as it is with currently-certified HUD guidance systems. The commenter recommended that the FAA revise the rule to add a requirement that the EFVS sensor be installed in a location such that the image is conformal to the outside view with no more than 4 milliradians (mrad) of parallax error.

FAA's response: The FAA agrees with the commenter that the EFVS HUD display must be conformal and that excessive parallax error, due to the displacement of the sensor location from the pilot's line of sight, would not be acceptable. Parallax is one error source that degrades conformality. In fact, all HUD's currently certified for approach and landing operations, with and without imagery, have this design feature. Therefore, the FAA revised § 91.175 (m)(2) to require that the EFVS imagery, attitude symbology, FPV and other cues referenced in the imagery and outside view must be presented aligned with, and scaled to, the external view. This change is within the scope of the rulemaking because an identified shortcoming in the draft exception (*i.e.,* § 91.175(l)), to the longstanding § 91.175(c) standard, is being corrected by narrowing the kinds of devices that would meet the exception criteria.

As the commenter stated, conformality of the image and any associated symbology means, that the angular orientation and scale match the external view. Objects visible both in the image and out the window would line up exactly when viewed by the pilot in the normal seated position (*i.e.*, at the design eye point). As the runway threshold, approach light system, and so forth come into view out the window, they would show up in the same location as they already appear in the EFVS image.

This operational rule will not quantitatively specify the maximum parallax (*i.e.*, alignment) error, because the error can vary with distance (*i.e.*, more angular error at short distances) and an acceptable limit may depend on the intended function. The amount of parallax error that is acceptable for an approach with a transition to outside visual cues no lower than 100 feet above the touchdown zone elevation might differ from what is needed for a landing system. Industry standards, for example Society of Automotive Engineers (SAE) Aerospace Standard AS8055 ''Minimum Performance Standards for Head-Up Display (HUD),'' contain different values than those recommended by the commenter.

During EFVS certification, the FAA will evaluate the display to determine that the display is sufficiently conformal to the outside view for its intended function, and that parallax error, if any, is not excessive or misleading to the pilot.

Some information displayed in the HUD is not ''spatially referenced'' and therefore does not need to be conformal. For example, airspeed, vertical speed, altitude and some other data can be shown in a variety of non-conformal formats, such as linear tapes and round dials. Both conformal and non-conformal heading formats have been found acceptable.

IV.51.g. Power System for an EFVS

Comment: One commenter stated that in case of a single failure between 200 feet and l00 feet (engine or generator), a total loss of enhanced vision would occur while the pilot most needs the EFVS to maintain clearance with obstacles and to maintain runway alignment. The commenter proposed that the rule should specify that the EFVS design would guarantee the segregation between EFVS failures and failures affecting aircraft path control and performance (ILS and HUD should not be powered by the same electrical source as the EFVS for instance).

FAA's response: The FAA disagrees that this requirement should be added to the operational rule. In cases where the EFVS fails between the decision height and 100 feet above the touchdown zone elevation, the rule, § 91.175(e), requires that a missed approach be executed if the requirements of (c) or (l) are not met. However, airworthiness certification requirements for EFVS system architecture, redundancy and independence of power supplies may result from compliance with the system safety requirements (*e.g.*, § 23.1309, § 25.1309, *etc.*).

IV.51.h. Independent Displays

Comment: One commenter requested clarification as to whether the HUD must be independent of the head-down primary instruments.

FAA's response: Flight information (*e.g.*, airspeed, altitude, direction, attitude, path deviation) displayed on a pilot's EFVS HUD does not need to be independent from the flight information displayed on the pilot's head down primary flight references. Based on past experience with HUD's approved as flight display for Category II and Category III approach operations, this independence is not necessary. However, as the certification rules require, the pilot's and co-pilot's displays of flight information must be independent.

IV.52. Comments on Economic Evaluation

Comment: A commenter stated that the NPRM could create significant unnecessary cost obstacles for both operators and manufacturers in the United States by inappropriately and unfairly favoring technology that is not mature, may not work, and may not be safe, compared with other proven technologies. This situation has significant indirect competitive costs, design costs, liability costs, and aircraft operating penalty costs, which are not addressed by the NPRM.

FAA's response: The FAA disagrees. Because the rule is optional, the FAA believes that the available technology should be allowed, especially when it can enhance safety during low visibility conditions. The FAA disagrees with the statement that this technology is unsafe

when used in accordance with the operating rules adopted today.

V. Contact With Aircraft Manufacturer for Confirmation of Performance Capabilities

During the comment period, several FAA employees worked with one aircraft manufacturer to evaluate the operational and technical performance in the use of an EVS-equipped aircraft and simulator system. This was necessary to confirm performance and limitations of this technology in an operational environment.

VI. Differences Between the NPRM and Final Rule

As discussed under ''III. Related Rulemaking Actions,'' the FAA included some terminology in the EFVS NPRM that had been proposed earlier in the RNAV NPRM. Because, as of the issuance of this final rule, the RNAV rulemaking action has not been completed, those proposed changes are not being adopted. Specifically those proposed changes are as follows.

In §§ 91.175(c), 121.651(c) and (d), 125.381(c)(2), and 135.225(c)(3)(ii) the terms ''DA'' and ''DA/DH'' are not adopted in this final rule. Therefore, all proposed references to ''DA'' and ''DA/DH'' read ''DH.''

In §§ 125.381(c)(1)(i) and 135.225(c)(1)(i) the words ''precision approaches'' are replaced with the abbreviation ''ILS.''

In § 121.651(d), the word ''person'' is replaced by the word ''pilot.'' Also, the proposed change replacing the words ''an instrument approach procedure other than a Category II or Category III'' with ''a Category I precision approach'' is not adopted. In addition, the proposed change replacing the words ''a operative ILS and an operative PAR, and both'' with ''an operative PAR and another operative precision instrument approach system, and both the PAR and the precision approach'' is not adopted.

In §§ 125.381(c)(1)(i) and 135.225(c)(1)(i) the term ''APV'' is not adopted in this final rule. Therefore, all proposed uses of the term APV are deleted.

In addition, as a result of comments received, the FAA revises the final rule as follows:

Category I operations—Section 91.175(l) is amended to include in the rule text that this exception only applies to a ''* * * straight-in instrument approach procedures other than Category II or Category III * * *.''

Visual references—Under § 91.175 (l)(3) of this final rule, the visual references that the pilot can use at the DH or MDA to continue the approach are clarified such that ''runway threshold and the touchdown zone,'' as proposed in the NPRM, includes the approach light system, if installed, or both the runway threshold and the touchdown zone. This is discussed in detail under ''IV.3. Visual cues (visual references)'' above. Combined, these references form a pattern of recognition whereby the pilot may safely continue the descent to 100 feet above the touchdown zone elevation.

Qualification requirement—Section 91.175(l)(5) is revised to change the qualification requirement to one of currency and to delete reference to the limitations specified in the Airplane or Rotorcraft Flight Manual.

Additional operational requirements—Section 91.175(m)(2) is revised to include the additional operational requirements of command guidance, path deviation indications, and flight path vector, flight path angle reference cue to be displayed on the HUD. This change narrows the scope of acceptable EFVSs by stating only those systems that have these additional features will be permitted to operate under § 91.175(l).

EFVS display—Section 91.175 (m)(2)(i) is added to include the additional operational requirement that the EFVS imagery and external scene topography must be presented so that they are aligned with and scaled to the external view. The FAA is also adding (m)(2)(ii) to specify the essential features and intended function of the ''flight path angle reference cue.'' In order to perform its intended function, the cue needs to be set by the pilot to the desired value for the approach, the pilot needs to see the cue in the context of pitch scale to verify that it is correctly set, and it needs to be shaped and located so as to allow the pilot to monitor the airplane's vertical path. This is a descending path along the selected glide path angle and is anchored to the desired touchdown point. To accommodate these changes, paragraph (m)(3) is redesignated as (m)(2)(iii); paragraph (m)(4) is redesignated as (m)(3); and (m)(5) is redesignated as (m)(4).

Topographical features—The FAA is amending § 91.175 (m)(1) to state that an EFVS must be able to display topographical features of the airport environment. It is not the FAA's intent to require an EFVS to detect all obstacles to ensure obstacle clearance in the visual portion of the final approach segment.

VII. Discussion of the Final Rule

Possible operational benefits—This final rule will not require the use of an EFVS. However, using an EFVS would allow operations in reduced visibility conditions that would not otherwise be possible.

Category I operations—This final rule will retain the existing straight-in-landing instrument approach minima for other than a Category II or III approach, and will authorize the pilot to use FAA-certified EFVS imaging-sensor technologies to determine enhanced flight visibility. This final rule will allow a pilot to fly straight-in-landing instrument approach procedures other than Category II and III procedures and descend below the DH or MDA using an EFVS.

Category II and Category III ILS approach procedures—The final rule does not prohibit the use of an EFVS for Category II and III ILS approach procedures. The use of EFVS during Category II or Category III operations must be specifically authorized by the Administrator. Any future proposed enhanced flight vision systems for these approaches would have to comply with the more stringent reliability, redundancy, other criteria as discussed in the FAA's response to comments and as prescribed in applicable sections of 14 CFR and applicable advisory circulars. But the use of EFVS in Category II or III ILS approaches does not lower minimums that would otherwise apply for aircraft not equipped with EFVS conducting Category II or III ILS approaches.

Visual references—Section 91.175 (c)(3) lists ten visual references, of which only one is required for the pilot to descend below the DH or MDA. The visual references are: (1) The approach light system, (2) threshold, (3) threshold markings, (4) threshold lights, (5) runway end identifier lights, (6) visual glideslope indicator, (7) touchdown zone or touch down zone markings, (8) touchdown zone lights, (9) runway or runway markings, and (10) the runway lights identifying the approach end of the runway. If the approach light system is used as the reference, the pilot may not descend below 100 feet above the touchdown zone elevation unless the red terminating bars or the red side row bars are also distinctly visible and identifiable. As a parallel, under paragraph (l)(3), the final rule states that, when using an EFVS, the approach light system (if installed), or the runway threshold (lights or markings), and the runway touchdown zone (lights or markings) would have to be distinctly visible and identifiable to the pilot before descending below the DH or MDA for the pilot to continue the approach. *See* the discussion under

''IV.3. Visual cues (visual references)'' above.

Because the imaging-sensor technologies may not sense or display all of the identifying features of the visual references (*e.g.*, may not distinguish colors of lights), the FAA in this final rule is clarifying the visual references listed in § 91.175(l)(3), as discussed under ''IV.3. Visual cues (visual references)'' above. Taken together, these visual references form a pattern of recognition for the pilot to safely continue the approach to 100 feet. At 100 feet above the touchdown zone elevation and below, there would have to be sufficient flight visibility (without reliance on an EFVS) for the lights or markings of the threshold; or the lights or markings of the touchdown zone of the intended runway to be distinctly visible and identifiable to the pilot to continue to a landing.

Pilot qualifications—To use the EFVS equipment while conducting an instrument approach procedure under this final rule, the pilot(s) must be current and proficient in accordance with existing applicable requirements in part 61, 121, 125 or 135. Each foreign pilot would have to be qualified in accordance with the requirements of the operator's State civil aviation authority. Foreign air carriers will be required to comply with this rule and their operations specifications. For all operators, this will include knowledge of the EFVS requirements, operational procedures, and limitations as prescribed in the approved Airplane or Rotorcraft Flight Manual for the specific system.

Certification process—An EFVS used under this final rule would have to provide the pilot with sufficient guidance and visual cues so that the pilot could manually maneuver the aircraft to a landing on the intended runway. The sensor image alone may not be suitable to maneuver the aircraft. For the pilot(s) to maximize situational awareness while maneuvering the aircraft in the visual segment of the instrument approach procedure, at low altitudes and reduced visibility conditions, the FAA requires that several key components be provided by an EFVS to provide an adequate level of safety. The EFVS sensor imagery must be presented on a HUD that is centrally located in the pilot's primary field of view and in the pilot's line of vision along the flight path. The imagery must be real-time, independent of the navigation solution derived from the aircraft avionics, and must be clearly displayed so that it does not adversely obscure the pilot field of view through the cockpit window.

Aircraft flight symbology, such as airspeed, vertical speed, attitude, heading, altitude, command guidance (*e.g.*, repeat display of head down flight director, or HUD unique command guidance cue) as appropriate for the kind of approach to be flown, and lateral and vertical approach path deviation indications (*e.g.*, localizer, glideslope or course deviation indications (CDI)) must be provided. A flight path angle reference cue and FPV also must be displayed on the HUD and be clearly visible so that the pilot can monitor and maintain a safe vertical path from the DH/MDA to the desired touchdown point on the runway.

The displayed sensor imagery and aircraft symbology may not adversely obstruct the pilot's vision looking through the aircraft's forward windshield. The EFVS imagery, attitude symbology, FPV and other cues which are referenced to the imagery and outside view must be presented so that they are aligned with and scaled to the external view.

The FAA will conduct the certification and evaluation process in accordance with published guidance and current policy. The FAA will also evaluate the capabilities, operational procedures, training and limitations for the specific system as it is designed and flight-tested. In all cases, the applicant for an airworthiness type design will provide the FAA's Aircraft Certification Office (ACO) with a certification plan. The FAA will evaluate the plan to determine if it is addressed by current regulations or if special conditions would have to be established for the certification. The EFVS will be evaluated in an operational context to determine if the system provides an equivalent level of safety when in operation compared to the present rules. The operator of a foreign-registered aircraft must comply with all of the applicable EFVS requirements of this rule.

VIII. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there are no new information collection requirements associated with this final rule.

IX. International Compatibility

In keeping with United States obligations under the Convention on International Civil Aviation, it is the FAA's policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that corresponded to these regulations.

X. Economic Evaluation

Changes to regulations must undergo several economic analyses. First, Executive Order 12866 directs each Federal agency proposing or adopting a regulation to only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of the regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Agreements Act requires agencies to consider international standards and, where appropriate, as the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation).

In conducting these analyses, FAA has determined that this rule: (1) Has benefits that justify its costs, is not a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, and is not ''significant'' as defined in DOT's Regulatory Policies and Procedures; (2) will not have a significant economic impact on a substantial number of small entities; (3) will not create barriers to international trade; and (4) does not impose an unfunded mandate on state, local, or tribal governments, or on the private sector.

For regulations with an expected minimal impact the above-specified analyses are not required. The Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review or regulations. If it is determined that the expected impact is so minimal that the proposal does not warrant a full evaluation, a statement to that effect and the basis for it is included in proposed regulation.

This rule will allow, but does not require, operators to use an enhanced flight vision system on board their

aircraft. Therefore, this final rule will not impose any cost on any operator. As discussed above under ''II. Discussion of the Proposed Rule,'' the FAA believes that this final rule will provide operational benefits and improve the level of safety.

XI. Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The FAA certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rulemaking will allow the operators the option of using an EFVS but the use of such a system is not mandated. Therefore, this rulemaking will not impose any cost on any operators

XII. International Trade Impact Analysis

The Trade Agreement Act of 1979 prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

This final rule allows EFVS to be used by foreign as well as U.S. operators; therefore, there is a neutral effect on foreign operators. In addition, the rule imposes no unnecessary obstacles to the foreign commerce of the United States.

XIII. Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104–4 on March 22, 1995 is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed final agency rule that may result in an expenditure of $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.''

The final rule does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

XIV. Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. The FAA has determined that this action 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, we determined that this notice does not have federalism implications.

XV. Environmental Analysis

FAA Order 1050.1D defines FAA action as that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), this proposed rulemaking action qualifies for a categorical exclusion.

XVI. Energy Impact

The energy impact of this proposed rule has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) (Pub. L. 94–163, as amended; 42 U.S.C. 6362) and FAA Order 1053.1. The FAA has determined that the proposed rule is not a major regulatory action under the provisions of the EPCA.

List of Subjects

14 CFR Part 1

Air transportation.

14 CFR Part 91

Agriculture, Air traffic control, Aircraft, Airmen, Airports, Aviation safety, Freight.

14 CFR Part 121

Air carriers, Aircraft, Airmen, Aviation safety, Charter Flights, Safety, Transportation.

14 CFR Parts 125 and 135

Aircraft, Airmen, Aviation safety.

The Amendments

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

PART 1—DEFINITIONS AND ABBREVIATIONS

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

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

■ 2. Amend § 1.1 by adding the following definitions in alphabetical order to read as follows:

§ 1.1 General definitions.

* * * * *

Enhanced flight visibility (EFV) means the average forward horizontal distance, from the cockpit of an aircraft in flight, at which prominent topographical objects may be clearly distinguished and identified by day or night by a pilot using an enhanced flight vision system.

Enhanced flight vision system (EFVS) means an electronic means to provide a display of the forward external scene topography (the natural or manmade features of a place or region especially in a way to show their relative positions and elevation) through the use of imaging sensors, such as a forward looking infrared, millimeter wave radiometry, millimeter wave radar, low light level image intensifying.

* * * * *

Synthetic vision means a computer-generated image of the external scene topography from the perspective of the flight deck that is derived from aircraft attitude, high-precision navigation solution, and database of terrain, obstacles and relevant cultural features.

Synthetic vision system means an electronic means to display a synthetic vision image of the external scene topography to the flight crew.

* * * * *

■ 3. Amend § 1.2 by adding the following abbreviation in alphabetical order to read as follows:

§ 1.2 Abbreviations and symbols.

* * * * *

EFVS means enhanced flight vision system.

* * * * *

PART 91—GENERAL OPERATING AND FLIGHT RULES

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

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, articles 12 and 29 of the Convention on International Civil Aviation (61 Stat. 1180).

■ 5. Amend § 91.175 by revising paragraphs (c) introductory text, (d), and (e)(1) introductory text, and by adding paragraphs (l) and (m) to read as follows:

§ 91.175 Takeoff and landing under IFR.

* * * * *

(c) *Operation below DH or MDA.* Except as provided in paragraph (l) of this section, where a DH or MDA is applicable, no pilot may operate an aircraft, except a military aircraft of the United States, at any airport below the authorized MDA or continue an approach below the authorized DH unless—

* * * * *

(d) *Landing.* No pilot operating an aircraft, except a military aircraft of the United States, may land that aircraft when—

(1) For operations conducted under paragraph (l) of this section, the requirements of (l)(4) of this section are not met; or

(2) For all other part 91 operations and parts 121, 125, 129, and 135 operations, the flight visibility is less than the visibility prescribed in the standard instrument approach procedure being used.

(e) * * *

(1) Whenever operating an aircraft pursuant to paragraph (c) or (l) of this section and the requirements of that paragraph are not met at either of the following times:

* * * * *

(l) *Approach to straight-in landing operations below DH, or MDA using an enhanced flight vision system (EFVS).* For straight-in instrument approach procedures other than Category II or Category III, no pilot operating under this section or §§ 121.651, 125.381, and 135.225 of this chapter may operate an aircraft at any airport below the authorized MDA or continue an approach below the authorized DH and land unless—

(1) The aircraft is continuously in a position from which a descent to a landing on the intended runway can be made at a normal rate of descent using normal maneuvers, and, for operations conducted under part 121 or part 135 of this chapter, the descent rate will allow touchdown to occur within the touchdown zone of the runway of intended landing;

(2) The pilot determines that the enhanced flight visibility observed by use of a certified enhanced flight vision system is not less than the visibility prescribed in the standard instrument approach procedure being used;

(3) The following visual references for the intended runway are distinctly visible and identifiable to the pilot using the enhanced flight vision system:

(i) The approach light system (if installed); or

(ii) The following visual references in both paragraphs (l)(3)(ii)(A) and (B) of this section:

(A) The runway threshold, identified by at least one of the following:

(*1*) The beginning of the runway landing surface;

(*2*) The threshold lights; or

(*3*) The runway end identifier lights.

(B) The touchdown zone, identified by at least one of the following:

(*1*) The runway touchdown zone landing surface;

(*2*) The touchdown zone lights;

(*3*) The touchdown zone markings; or

(*4*) The runway lights.

(4) At 100 feet above the touchdown zone elevation of the runway of intended landing and below that altitude, the flight visibility must be sufficient for the following to be distinctly visible and identifiable to the pilot without reliance on the enhanced flight vision system to continue to a landing:

(i) The lights or markings of the threshold; or

(ii) The lights or markings of the touchdown zone;

(5) The pilot(s) is qualified to use an EFVS as follows—

(i) For parts 119 and 125 certificate holders, the applicable training, testing and qualification provisions of parts 121, 125, and 135 of this chapter;

(ii) For foreign persons, in accordance with the requirements of the civil aviation authority of the State of the operator; or

(iii) For persons conducting any other operation, in accordance with the applicable currency and proficiency requirements of part 61 of this chapter;

(6) For parts 119 and 125 certificate holders, and part 129 operations specifications holders, their operations specifications authorize use of EFVS; and

(7) The aircraft is equipped with, and the pilot uses, an enhanced flight vision system, the display of which is suitable for maneuvering the aircraft and has either an FAA type design approval or, for a foreign-registered aircraft, the EFVS complies with all of the EFVS requirements of this chapter.

(m) For purposes of this section, ''enhanced flight vision system'' (EFVS) is an installed airborne system comprised of the following features and characteristics:

(1) An electronic means to provide a display of the forward external scene topography (the natural or manmade features of a place or region especially in a way to show their relative positions and elevation) through the use of imaging sensors, such as a forward-looking infrared, millimeter wave radiometry, millimeter wave radar, and low-light level image intensifying;

(2) The EFVS sensor imagery and aircraft flight symbology (*i.e.*, at least airspeed, vertical speed, aircraft attitude, heading, altitude, command guidance as appropriate for the approach to be flown, path deviation indications, and flight path vector, and flight path angle reference cue) are presented on a head-up display, or an equivalent display, so that they are clearly visible to the pilot flying in his or her normal position and line of vision and looking forward along the flight path, to include:

(i) The displayed EFVS imagery, attitude symbology, flight path vector, and flight path angle reference cue, and other cues, which are referenced to this imagery and external scene topography, must be presented so that they are aligned with and scaled to the external view; and

(ii) The flight path angle reference cue must be displayed with the pitch scale, selectable by the pilot to the desired descent angle for the approach, and suitable for monitoring the vertical flight path of the aircraft on approaches without vertical guidance; and

(iii) The displayed imagery and aircraft flight symbology do not adversely obscure the pilot's outside view or field of view through the cockpit window;

(3) The EFVS includes the display element, sensors, computers and power supplies, indications, and controls. It may receive inputs from an airborne navigation system or flight guidance system; and

(4) The display characteristics and dynamics are suitable for manual control of the aircraft.

PART 121—OPERATING REQUIREMENTS: DOMESTIC FLAG, AND SUPPLEMENTAL OPERATIONS

■ 6. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 40119, 41706, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44903–44904, 44912, 46105.

■ 7. Amend § 121.651 by revising paragraphs (c) introductory text and (d) introductory text to read as follows:

§ 121.651 Takeoff and landing weather minimums: IFR: All certificate holders.

* * * * *

(c) If a pilot has begun the final approach segment of an instrument approach procedure in accordance with paragraph (b) of this section, and after that receives a later weather report indicating below-minimum conditions, the pilot may continue the approach to DH or MDA. Upon reaching DH or at MDA, and at any time before the missed approach point, the pilot may continue the approach below DH or MDA if either the requirements of § 91.175(l) of this chapter, or the following requirements are met:

* * * * *

(d) A pilot may begin the final approach segment of an instrument approach procedure other than a Category II or Category III procedure at an airport when the visibility is less than the visibility minimums prescribed for that procedure if that airport is served by an operative ILS and an operative PAR, and both are used by the pilot. However, no pilot may continue an approach below the authorized DH unless the requirements of § 91.175(l) of this chapter, or the following requirements are met:

* * * * *

PART 125—CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE; AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

■ 8. The authority citation for part 125 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44705, 44710–44711, 44713, 44716–44717, 44722.

■ 9. Amend § 125.381 by revising paragraph (c) to read as follows:

§ 125.381 Takeoff and landing weather minimums: IFR.

* * * * *

(c) If a pilot initiates an instrument approach procedure based on a weather report that indicates that the specified visibility minimums exist and subsequently receives another weather report that indicates that conditions are below the minimum requirements, then the pilot may continue with the approach only if, the requirements of § 91.175(l) of this chapter, or both of the following conditions are met—

(1) The later weather report is received when the airplane is in one of the following approach phases:

(i) The airplane is on a ILS approach and has passed the final approach fix;

(ii) The airplane is on an ASR or PAR final approach and has been turned over to the final approach controller; or

(iii) The airplane is on a nonprecision final approach and the airplane—

(A) Has passed the appropriate facility or final approach fix; or

(B) Where a final approach fix is not specified, has completed the procedure turn and is established inbound toward the airport on the final approach course within the distance prescribed in the procedure; and

(2) The pilot in command finds, on reaching the authorized MDA, or DH, that the actual weather conditions are at or above the minimums prescribed for the procedure being used.

* * * * *

PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON-DEMAND OPERATIONS

■ 10. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(g), 44113, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722.

■ 11. Amend § 135.225 by revising paragraph (c) to read as follows:

§ 135.225 IFR: Takeoff, approach, and landing minimums.

* * * * *

(c) If a pilot has begun the final approach segment of an instrument approach to an airport under paragraph (b) of this section, and the pilot receives a later weather report indicating that conditions have worsened to below the minimum requirements, then the pilot may continue the approach only if the requirements of § 91.175(l) of this chapter, or both of the following conditions, are met—

(1) The later weather report is received when the aircraft is in one of the following approach phases:

(i) The aircraft is on an ILS final approach and has passed the final approach fix;

(ii) The aircraft is on an ASR or PAR final approach and has been turned over to the final approach controller; or

(iii) The aircraft is on a nonprecision final approach and the aircraft—

(A) Has passed the appropriate facility or final approach fix; or

(B) Where a final approach fix is not specified, has completed the procedure turn and is established inbound toward the airport on the final approach course within the distance prescribed in the procedure; and

(2) The pilot in command finds, on reaching the authorized MDA or DH, that the actual weather conditions are at or above the minimums prescribed for the procedure being used.

* * * * *

Issued in Washington, DC, on January 5, 2004.

Marion C. Blakey,

Administrator.

[FR Doc. 04–427 Filed 1–6–04; 1:55 pm]

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Federal Register

Friday,
January 9, 2004

Part III

The President

Memorandum of December 5, 2003—Transfer of Funds Appropriated to the President under the heading Operating Expenses of the Coalition Provisional Authority, and Delegation of the Functions of the President under the heading Iraq Relief and Reconstruction Fund, in the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004

Federal Register
Vol. 69, No. 6
Friday, January 9, 2004

Presidential Documents

Title 3—

The President

Memorandum of December 5, 2003

Transfer of Funds Appropriated to the President under the heading Operating Expenses of the Coalition Provisional Authority, and Delegation of the Functions of the President under the heading Iraq Relief and Reconstruction Fund, in the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004

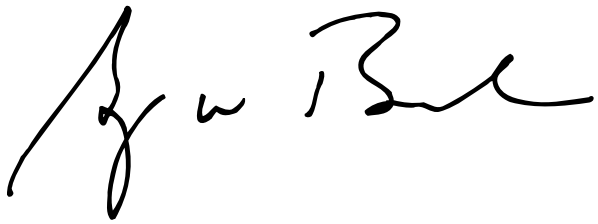
Memorandum for the Secretary of State[,] the Secretary of Defense[, and] the Director of the Office of Management and Budget

By the authority vested in me by the Constitution and the laws of the United States of America, including section 632 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2392), I hereby direct as follows:

1. The funds appropriated to the President under the heading Operating Expenses of the Coalition Provisional Authority in the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106), or in any subsequent appropriation under this heading, are transferred to the Secretary of Defense, for an account designated Operating Expenses of the Coalition Provisional Authority, International Reconstruction and Other Assistance, Army.

2. The memorandum entitled, ''Delegation of the Functions of the President under the heading Iraq Relief and Reconstruction Fund in the Emergency Wartime Supplemental Appropriations Act, 2003'', dated May 6, 2003, is amended by inserting ''or in any subsequent appropriation under this heading,'' after the phrase, ''(Public Law 108 11),''. It is further amended by deleting all references to ''the Office of Reconstruction and Humanitarian Assistance'' or ''ORHA,'' and inserting in lieu thereof ''the Coalition Provisional Authority'' or ''CPA,'' respectively.

The Secretary of Defense is authorized and directed to publish this memorandum in the **Federal Register.**



THE WHITE HOUSE,
Washington, December 5, 2003.

[FR Doc. 04–597
Filed 1–8–04; 9:24 am]
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CFR PARTS AFFECTED DURING JANUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

REMINDERS

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

Note: The List of Public Laws for the first session of the 108th Congress has been completed. It will resume when bills are enacted into public law during the next session of Congress. A cumulative List of Public Laws for the first session of the 108th Congress will appear in the issue of January 30, 2004.

Last List December 24, 2003

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