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

MERIT SYSTEMS PROTECTION BOARD

5 CFR Parts 1201, 1203, 1208, and 1209

Interim Regulatory Changes for Implementation of Electronic Filing

AGENCY: Merit Systems Protection Board.

ACTION: Interim rule with request for comments.

SUMMARY: The Merit Systems Protection Board (MSPB or the Board) is amending the rules of practice and procedure that govern how participants in Board proceedings file and receive documents in electronic form. This change reflects an upgrade to e-Appeal, the MSPB's Web-based application for electronic filing (e-filing). Previously, only new appeals could be filed via the Internet, with electronic filing thereafter restricted to using e-mail. E-filers can now use the e-Appeal site to file almost any type of pleading.

DATES: This rule is effective September 27, 2004. Written comments should be submitted on or before November 29, 2004.

ADDRESSES: Submit comments to the Office of the Clerk of the Board, Merit Systems Protection Board, 1615 M Street, NW., Washington, DC 20419. Comments may be submitted by regular mail to this address, by facsimile to (202) 653–7130, or by e-mail to *mspb@mspb.gov.*

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

SUPPLEMENTARY INFORMATION: When the MSPB instituted electronic filing on October 20, 2003 (68 FR 59859), its Web-based application was available only for the filing of new appeals. The only tool available to those who wanted to engage in e-filing thereafter was e-mail. E-Appeal (*https://e-appeal.mspb.gov*) has become quite popular over the past year, and presently accounts for about 10% of new appeals filed. By contrast, few have elected to engage in e-filing via e-mail. The Board has now upgraded e-Appeal so that it can accommodate virtually any type of pleading. Filing pleadings via e-Appeal will have several advantages for e-filers compared to filing by e-mail: (1) They will have access to context-specific Help text and links; (2) should they choose to do so, e-filers will have the option of submitting pleadings and attachments in the form of declarations made under penalty of perjury; (3) they can choose between entering their pleadings online and uploading them as electronic files; and (4) they will not be required to disclose their e-mail addresses to anyone except the MSPB.

When all participants in an appeal are e-filers, the filing process should be quick and easy. The Board as well as the parties will receive documents on the same day they are sent, rather than having to wait for mail delivery. This should facilitate quicker processing, particularly when the proceeding is pending in headquarters, because letters addressed to Washington, D.C. are first sent to Ohio for irradiation. And e-filers will be relieved of the burden of serving electronic documents on other e-filers.

Having all electronic filings go through the Board's Web-based application will enable the Board to manage these electronic documents more effectively. Because e-Appeal is now integrated with the Board's case management system and its document management system, making docket entries and placing pleadings into the appropriate electronic repository will be done automatically. Accordingly, the Board will no longer allow pleadings to be submitted via e-mail.

Electronic filing at the Board includes the following features:

- Documents can be submitted in any common electronic format, including word-processing and image formats (electronic files created by scanning paper documents). (1201.14(f)(2))
- E-filers will be able to submit ''hybrid'' pleadings, in which part of a pleading is submitted in electronic form, and the rest is submitted in paper form. (1201.14(g))
- Regardless of whether it is uploaded or entered online, each pleading will be assembled into a single PDF document, which will include all electronic attachments, and which will be sequentially paginated. Pagination will enable everyone involved to make specific citations to the record.
- Before submitting an electronic pleading, e-filers will be able to review and make changes to it.
- If unable to complete a pleading while online, an e-filer will be able to save his or her work and complete it during a later session.
- E-filers will be provided a confirmation of electronic filing, and will be able to print or download a copy of the assembled pleading as a PDF document.
- Service of pleadings on other e-filers will be automated. (1201.14(h))
- Documents issued by the Board will be served on e-filers as PDF documents, which will be sent to the e-filer's e-mail address of record. (1201.14(k))
- When a party who is an individual is represented, the party and the representative can separately decide whether to register for e-filing. If only the representative registers for e-filing, the party will continue to receive documents by regular mail. (1201.14(e)(3))
- Although registration as an e-filer permits participants to file pleadings electronically, they may file any pleading, or portion of a pleading, by non-electronic means. (1201.14(e)(4))
- Registration as an e-filer can be withdrawn at any time, but while in effect the individual consents to accept electronic service of all documents issued by the Board and all pleadings submitted by other e-filers. (1201.14(e)(1), (e)(5))

Although numerous sections of the Board's regulations required minor revision in light of the upgrade to e-Appeal, the primary rules governing e-filing can be found in § 1201.14 (formerly 1201.5).

Participation in electronic filing is entirely voluntary. As before, where only one party is registered as an e-filer, the Board will set deadlines so that parties filing and receiving documents by conventional means will have adequate time to prepare and file responses.

List of Subjects

5 CFR Part 1201

Administrative practice and procedure, Civil rights, Government employees.

5 CFR Part 1203

Administrative practice and procedure, Civil rights, Government employees.

5 CFR Part 1208

Administrative practice and procedure, Government employees, Veterans.

5 CFR Part 1209

Administrative practice and procedure, Government employees, Whistleblowing.

■ Accordingly, the Board amends 5 CFR parts 1201, 1203, 1208, and 1209 as follows:

PART 1201—[AMENDED]

■ 1. The authority citation for part 1201 continues to read as follows:

Authority: 5 U.S.C. 1204 and 7701, unless otherwise noted.

■ 2. Section 1201.4 is amended by deleting paragraph (o), and by revising paragraphs (i), and (k) through (n) as follows:

§ 1201.4 General definitions.

* * * * *

(i) *Service.* The process of furnishing a copy of any pleading to Board officials, other parties, or both, by mail, by facsimile, by commercial or personal delivery, or by electronic filing (e-filing) in accordance with § 1201.14.

* * * * *

(k) *Certificate of service.* A document certifying that a party has served copies of pleadings on the other parties or, in the case of paper documents associated with electronic filings under paragraph (g) of § 1201.14, on the Board.

(l) *Date of filing.* A document that is filed with a Board office by personal delivery is considered filed on the date on which the Board office receives it. The date of filing by facsimile is the date of the facsimile. The date of filing by mail is determined by the postmark date; if no legible postmark date appears on the mailing, the submission is presumed to have been mailed five days (excluding days on which the Board is closed for business) before its receipt. The date of filing by commercial delivery is the date the document was delivered to the commercial delivery service. The date of filing by e-filing is the date of electronic submission.

(m) *Electronic filing (e-filing).* Filing and receiving documents in electronic form in proceedings within the Board's appellate or original jurisdiction in accordance with § 1201.14.

(n) *E-filer.* A party or representative who has registered to engage in e-filing under paragraph (e) of § 1201.14.

§ 1201.5 [Redesignated and revised]

■ 3. Section 1201.5 is redesignated as § 1201.14, and revised to read as follows:

§ 1201.14 Electronic filing procedures.

(a) *General.* This section prescribes the rules and procedures by which parties and representatives to proceedings within the Board's appellate and original jurisdiction may file and receive documents in electronic form.

(b) *Matters subject to electronic filing.* Subject to the registration requirement of paragraph (e) of this section, parties and representatives may use electronic filing (e-filing) to do any of the following:

(1) File any pleading, including a new appeal, in any matter within the Board's appellate jurisdiction (§ 1201.3);

(2) File any pleading, other than the original complaint or request, in any matter within the Board's original jurisdiction (§ 1201.2);

(3) File a petition for enforcement of a final Board decision (§ 1201.182);

(4) File a motion for attorney fees as a prevailing party (§ 1201.203);

(5) File a motion for compensatory or consequential damages (§ 1201.204);

(6) Designate a representative, revoke such a designation, or change such a designation (§ 1201.31); or

(7) Notify the Board of a change in contact information such as address (geographic or electronic mail) or telephone number.

(c) *Matters excluded from electronic filing.* Electronic filing may not be used to:

(1) File the original complaint or request in a matter within the Board's original jurisdiction, which includes: a complaint filed by the Special Counsel seeking corrective or disciplinary action (§§ 1201.122, 1201.128); a request by the Special Counsel for the stay of certain personnel actions (§ 1201.134); a proposal to take action against an administrative law judge under 5 U.S.C. 7521 (§ 1201.137); or a request for a hearing on a proposed removal of a career appointee from the Senior Executive Service for performance reasons (§ 1201.143);

(2) File a request to hear a case as a class appeal or any opposition thereto (§ 1201.27);

(3) Serve a subpoena (§ 1201.83); or

(4) File a pleading with the Special Panel (§ 1201.137).

(d) *Internet is sole venue for electronic filing.* Following the instructions at the Board's e-Appeal site (*https://e-appeal.mspb.gov*) is the only method allowed for filing electronic pleadings with the Board. The Board will not accept pleadings filed by electronic mail.

(e) *Registration as an e-filer.* (1) Except when filing a new appeal within the Board's appellate jurisdiction (§ 1201.3), no party or representative may file an electronic pleading with the Board unless he or she has registered with the Board as an e-filer. Registration as an e-filer constitutes consent to accept electronic service of pleadings filed by other registered e-filers and documents issued by the Board.

(2) The exclusive means for a party or representative to register as an e-filer during a Board proceeding is to follow the instructions at the Board's e-Appeal site (*https://e-appeal.mspb.gov*).

(3) When a party who is an individual is represented, the party and the representative can make separate determinations whether to register as an e-filer. For example, an appellant may file and receive pleadings and Board documents by non-electronic means, even though his or her representative has registered as an e-filer. Similarly, when a party has more than one representative, each representative has the choice of registering as an e-filer or filing and receiving pleadings and Board documents by non-electronic means.

(4) A party or representative who has registered as an e-filer may file any pleading, or portion of a pleading as described in paragraph (g) of this section, by non-electronic means.

(5) A party or representative may withdraw his or her registration as an e-filer. Such withdrawal means that, effective upon the Board's receipt of this withdrawal, pleadings and Board documents will no longer be served on that person in electronic form. A withdrawal of registration as an e-filer may be filed at the Board's e-Appeal site, in which case service is governed by paragraph (h) of this section, or by non-electronic means, in which case service is governed by section 1201.26(b) of this part.

(f) *Form of electronic pleadings*—(1) *Options for e-filing.* An appellant or representative using e-Appeal to file a new appeal within the Board's appellate jurisdiction (§ 1201.3) must complete the structured interview at the Board's e-Appeal site (*https://e-appeal.mspb.gov*). For all other pleadings, the e-filer has the option of uploading an electronic file or entering

the text of the pleading online. Regardless of the means of filing a particular pleading, the e-filer will be allowed to submit supporting documentation as attachments, in both electronic and paper form, as described in paragraphs (f)(2) and (f)(3) of this section.

(2) *Electronic formats allowed.* The Board will accept numerous electronic formats, including word-processing and spreadsheet formats, Portable Document Format (PDF), and image files (files created by scanning). A list of formats allowed can be found at the Board's e-Appeal site. All electronic documents must be formatted so that they will print on standard 8½ inch by 11 inch paper.

(3) *Limitation on number of electronic attachments.* E-filers may upload up to three electronic files as supporting documentation, in addition to the document that constitutes the primary pleading. There is no limit on the number of non-electronic documents that may be submitted as attachments under paragraph (g) of this section.

(g) *Hybrid pleadings that include both electronic and paper documents.* An e-filer may file a hybrid pleading in which part of the pleading is submitted electronically, and part of the pleading consists of one or more paper documents filed by non-electronic means. If one or more parts of a hybrid pleading are untimely filed, the judge or the Clerk may reject the untimely part or parts while accepting timely filed parts of the same pleading.

(h) *Service of electronic pleadings.* The Board will serve electronic pleadings on other parties and representatives who have registered as e-filers. The Board's e-Appeal application will notify the e-filer of all documents that must be served by non-electronic means. The e-filer must certify that he or she will serve all such documents no later than the first business day after the electronic submission.

(i) *Documents requiring a signature.* An electronic document filed by a party who has registered as an e-filer pursuant to this section shall be deemed to be signed for purposes of any regulation in part 1201, 1203, 1208, or 1209 of this title that requires a signature.

(j) *Affidavits and Declarations made under penalty of perjury.* Registered e-filers may submit electronic pleadings in the form of declarations made under penalty of perjury under 28 U.S.C. 1746, as described in Appendix IV of this part. If the declarant is someone other than the e-filer, a physically signed affidavit or declaration should be uploaded as an image file, or submitted separately as a non-electronic document under paragraph (g) of this section.

(k) *Issuance of Board documents to e-filers.* The Board's notices, orders, and decisions will be served on e-filers as PDF files attached to electronic mail messages, which will be sent to the electronic mail address supplied by the e-filer.

(l) *Date electronic documents are received.* Pleadings and Board documents served electronically on registered e-filers are deemed received on the date of electronic submission or, if submitted on a weekend or federal holiday, on the first business day after the electronic submission.

(m) *Authority of a judge or the Clerk to regulate e-filing*—(1) In the event that the Board or any party encounters repeated or unexplained difficulties filing, serving, or receiving electronic documents, the judge or the Clerk of the Board may order one or more parties to cease filing pleadings by e-filing, cease serving documents in electronic form, or take both these actions. In such instances, filing and service shall be undertaken in accordance with § 1201.26. The authority to order the cessation of the use of electronic filing may be for a particular submission, for a particular time frame, or for the duration of the pendency of a case.

(2) A judge or the Clerk of the Board may require that any document filed electronically be submitted in non-electronic form and bear the written signature of the submitter. A party receiving such an order from a judge or the Clerk of the Board shall, within 5 calendar days, serve on the judge or Clerk of the Board by regular mail, by facsimile, or by commercial or personal delivery a signed, non-electronic copy of the document.

■ 4. Section 1201.22 is amended by revising paragraphs (d) and (e), and by deleting paragraph (f) to read as follows:

§ 1201.22 Filing an appeal and responses to appeals.

* * * * *

(d) *Method of filing an appeal.* Filing of an appeal must be made with the appropriate Board office by commercial or personal delivery, by facsimile, by mail, or by electronic filing under § 1201.14.

(e) *Filing a response.* Filing of a response must be made with the appropriate Board office by commercial or personal delivery, by facsimile, by mail, or by electronic filing under § 1201.14.

■ 5. Section 1201.24 is amended by revising paragraphs (a) introductory text, (a)(9), and (c) to read as follows:

§ 1201.24 Content of an appeal; right to hearing.

(a) *Content.* Only an appellant, his or her designated representative, or a party properly substituted under § 1201.35 may file an appeal. Appeals may be in any format, including letter form. An appeal may be filed in electronic form provided that the requirements of § 1201.14 have been satisfied. All appeals must contain the following:

* * * * *

(9) The signature of the appellant or, if the appellant has a representative, of the representative. If the appeal is electronically filed, compliance with § 1201.14 and the directions at the Board's e-Appeal site (*https://e-appeal.mspb.gov*) satisfy the signature requirement.

* * * * *

(c) *Use of Board form or electronic filing.* An appellant may comply with paragraph (a) of this section, and with § 1201.31, by completing MSPB Form 185, or by completing all requests for information marked as required at the e-Appeal site (*https://e-appeal.mspb.gov*). MSPB Form 185 can be accessed at the Board's Web site (*http://www.mspb.gov*).

■ 6. Section 1201.26 is amended by revising paragraphs (a), (b)(2), and (c) to read as follows:

§ 1201.26 Number of pleadings, service, and response.

(a) *Number.* The appellant must file two copies of both the appeal and all attachments with the appropriate Board office, unless the appellant files an appeal in electronic form under § 1201.14.

* * * * *

(b)(2) *Service by the parties.* The parties must serve on each other one copy of each pleading, as defined by § 1201.4(b), and all documents submitted with it, except for the appeal. They may do so by mail, by facsimile, by commercial or personal delivery, or by electronic filing in accordance with § 1201.14. Documents and pleadings must be served upon each party and each representative. A certificate of service stating how and when service was made must accompany each pleading. The parties must notify the appropriate Board office and one another, in writing, of any changes in the names, or addresses on the service list.

(c) *Paper size.* Pleadings and attachments must be filed on 8½ by 11-inch paper, except for good cause shown. This requirement enables the Board to comply with standards established for U.S. courts. All

electronic documents must be formatted so that they will print on 8½ by 11-inch paper.

■ 7. Section 1201.27 is amended by revising paragraph (d) to read as follows:

§ 1201.27 Class appeals.

* * * * *

(d) *Electronic filing.* A request to hear a case as a class appeal and any opposition thereto may not be filed in electronic form. Subsequent pleadings may be filed and served in electronic form, provided that the requirements of § 1201.14 are satisfied.

■ 8. Section 1201.31 is amended by revising paragraph (a) to read as follows:

§ 1201.31 Representatives.

(a) *Procedure.* A party to an appeal may be represented in any matter related to the appeal. Parties may designate a representative, revoke such a designation, and change such a designation in a signed submission, submitted as a pleading.

* * * * *

■ 9. Section 1201.114 is amended by revising paragraphs (c) and (h) to read as follows:

§ 1201.114 Filing petition and cross petition for review.

* * * * *

(c) *Place for filing.* A petition for review, cross petition for review, responses to those petitions, and all motions and pleadings associated with them must be filed with the Clerk of the Merit Systems Protection Board, Washington, DC 20419, by commercial or personal delivery, by facsimile, by mail, or by electronic filing in accordance with § 1201.14.

* * * * *

(h) *Service.* A party submitting a pleading must serve a copy of it on each party and on each representative, as required by paragraph (b)(2) of § 1201.26.

■ 10. Section 1201.122 is amended by revising paragraphs (b) and (e) to read as follows:

§ 1201.122 Filing complaint; serving documents on parties.

* * * * *

(b) *Initial filing and service.* The Special Counsel must file two copies of the complaint, together with numbered and tabbed exhibits or attachments, if any, and a certificate of service listing each party or the party's representative. The certificate of service must show the last known address, telephone number, and facsimile number of each party or representative. The Special Counsel must serve a copy of the complaint on each party or the party's representative, as shown on the certificate of service. The initial filing in a complaint may not be submitted in electronic form.

* * * * *

(e) *Electronic filing.* All pleadings, other than the complaint, may be filed and served in electronic form at the Board's e-Appeal site (*https://e-appeal.mspb.gov*), provided the requirements of § 1201.14 are satisfied.

■ 11. Section 1201.128 is amended by revising paragraphs (b) and (e) to read as follows:

§ 1201.128 Filing complaint; serving documents on parties.

* * * * *

(b) *Initial filing and service.* The Special Counsel must file two copies of the complaint, together with numbered and tabbed exhibits or attachments, if any, and a certificate of service listing the respondent agency or the agency's representative, and each person on whose behalf the corrective action is brought. The certificate of service must show the last known address, telephone number, and facsimile number of the agency or its representative, and each person on whose behalf the corrective action is brought. The Special Counsel must serve a copy of the complaint on the agency or its representative, and each person on whose behalf the corrective action is brought, as shown on the certificate of service. The initial filing in a complaint may not be submitted in electronic form.

* * * * *

(e) *Electronic filing.* All pleadings, other than the complaint, may be filed and served in electronic form at the Board's e-Appeal site (*https://e-appeal.mspb.gov*), provided the requirements of § 1201.14 are satisfied.

■ 12. Section 1201.134 is amended by revising paragraphs (d) and (g) to read as follows:

§ 1201.134 Deciding official; filing stay request; serving documents on parties.

* * * * *

(d) *Initial filing and service.* The Special Counsel must file two copies of the request, together with numbered and tabbed exhibits or attachments, if any, and a certificate of service listing the respondent agency or the agency's representative. The certificate of service must show the last known address, telephone number, and facsimile number of the agency or its representative. The Special Counsel must serve a copy of the request on the agency or its representative, as shown on the certificate of service. The initial filing in a request for a stay may not be submitted in electronic form.

* * * * *

(g) *Electronic filing.* All pleadings, other than the complaint, may be filed and served in electronic form at the Board's e-Appeal site (*https://e-appeal.mspb.gov*), provided the requirements of § 1201.14 are satisfied.

■ 13. Section 1201.137 is amended by revising paragraphs (c) and (f) to read as follows:

§ 1201.137 Covered actions; filing complaint; serving documents on parties.

* * * * *

(c) *Initial filing and service.* The agency must file two copies of the complaint, together with numbered and tabbed exhibits or attachments, if any, and a certificate of service listing each party or the party's representative. The certificate of service must show the last known address, telephone number, and facsimile number of each party or representative. The agency must serve a copy of the complaint on each party or the party's representative, as shown on the certificate of service. The initial filing in a complaint may not be submitted in electronic form.

* * * * *

(f) *Electronic filing.* All pleadings, other than the complaint, may be filed and served in electronic form at the Board's e-Appeal site (*https://e-appeal.mspb.gov*), provided the requirements of § 1201.14 are satisfied.

■ 14. Section 1201.143 is amended by revising paragraphs (c) and (f) to read as follows:

§ 1201.143 Right to hearing; filing complaint; serving documents on parties.

* * * * *

(c) *Initial filing and service.* The appointee must file two copies of the request, together with numbered and tabbed exhibits or attachments, if any, and a certificate of service listing the agency proposing the appointee's removal or the agency's representative. The certificate of service must show the last known address, telephone number, and facsimile number of the agency or its representative. The appointee must serve a copy of the request on the agency or its representative, as shown on the certificate of service. The initial filing may not be submitted in electronic form.

* * * * *

(f) *Electronic filing.* All pleadings, other than the complaint, may be filed and served in electronic form at the Board's e-Appeal site (*https://e-appeal.mspb.gov*), provided the requirements of § 1201.14 are satisfied.

■ 15. Section 1201.153 is amended by revising paragraph (b) to read as follows:

§ 1201.153 Contents of appeal.

* * * * *

(b) *Use of Board form or Internet filing option.* An appellant may comply with paragraph (a) of this section by completing MSPB Form 185, or by completing all requests for information marked as required at the e-Appeal site (*https://e-appeal.mspb.gov*). MSPB Form 185 can be accessed at the Board's Web site (*http://www.mspb.gov*).

■ 16. Section 1201.173 is amended by revising paragraph (k) to read as follows:

§ 1201.173 Practices and procedures of Special Panel.

* * * * *

(k) *Electronic filing.* Pleadings in matters before the Special Panel may not be filed or served in electronic form.

PART 1203—[AMENDED]

■ 17. The authority citation for part 1203 continues to read as follows:

Authority: 5 U.S.C. 1204(a), 1204(f), and 1204(h).

■ 18. Section 1203.13 is amended by revising paragraph (d) to read as follows:

§ 1203.13 Filing pleadings.

* * * * *

(d) *Method and date of filing.* An initial filing in a request for review of a regulation may be filed with the Office of the Clerk by mail, by commercial or personal delivery, or by facsimile. Pleadings, other than an initial request for a regulation review under this part, may be filed with the Office of the Clerk by mail, by commercial or personal delivery, by facsimile, or by e-filing in accordance with § 1201.14 of this chapter. If the document was submitted by certified mail, it is considered to have been filed on the mailing date. If it was submitted by regular mail, it is presumed to have been filed five days before the Office of the Clerk receives it, in the absence of evidence contradicting that presumption. If it was delivered personally, it is considered to have been filed on the date the Office of the Clerk receives it. If it was submitted by facsimile, the date of the facsimile is considered to be the filing date. If it was submitted by commercial delivery, the date of filing is the date it was delivered to the commercial delivery service. If it was submitted by e-filing, it is considered to have been filed on the date of electronic submission.

* * * * *

■ 19. Section 1203.14 is amended by revising paragraph (c) to read as follows:

§ 1203.14 Serving documents.

* * * * *

(c) *Electronic filing.* Other than the initial request for a regulation review, pleadings in a regulation review proceeding may be filed with the Board and served upon other parties by electronic filing, provided the requirements of § 1201.14 of this chapter are satisfied.

■ 20. Section 1203.22 is amended by revising paragraph (a) to read as follows:

§ 1203.22 Enforcement of order.

(a) Any party may ask the Board to enforce a final order it has issued under this part. The request may be made by filing a petition for enforcement with the Office of the Clerk of the Board and by serving a copy of the petition on each party to the regulation review. The request may be filed in electronic form, provided the requirements of § 1201.14 are satisfied. The petition must include specific reasons why the petitioning party believes that there has been a failure to comply with the Board's order.

* * * * *

PART 1208—[AMENDED]

■ 21. The authority citation for part 1208 continues to read as follows:

Authority: 5 U.S.C. 1204(h), 3330a, 3330b, 38 U.S.C. 4331.

■ 22. Section 1208.13 is amended by revising paragraph (c) to read as follows:

§ 1208.13 Content of appeal; request for hearing.

* * * * *

(c) *Electronic filing.* An appeal may be filed electronically by using the Board's e-Appeal site (*https://e-appeal.mspb.gov*) in accordance with § 1201.14 of this chapter.

■ 23. Section 1208.14 is revised to read as follows:

§ 1208.14 Representation by Special Counsel.

The Special Counsel may represent an appellant in a USERRA appeal before the Board. A written statement (in any format) that the appellant submitted a written request to the Secretary of Labor that the appellant's complaint under 38 U.S.C. 4322(a) be referred to the Special Counsel for litigation before the Board, and that the Special Counsel has agreed to represent the appellant, will be accepted as the written designation of representative required by 5 CFR 1201.31(a). The designation of representative may be filed by electronic filing, provided the requirements of § 1201.14 of this chapter are satisfied.

■ 24. Section 1208.23 is amended by revising paragraph (c) to read as follows:

§ 1208.23 Content of appeal; request for hearing.

* * * * *

(c) *Electronic filing.* An appeal may be filed electronically by using the Board's e-Appeal site (*https://e-appeal.mspb.gov*) in accordance with § 1201.14 of this chapter.

■ 25. Section 1208.24 is amended by revising paragraph (a) to read as follows:

§ 1208.24 Election to terminate MSPB proceeding.

(a) *Election to terminate.* At any time beginning on the 121st day after an appellant files a VEOA appeal with the Board, if a judicially reviewable Board decision on the appeal has not been issued, the appellant may elect to terminate the Board proceeding as provided under 5 U.S.C. 3330b and file a civil action with an appropriate United States district court. Such election must be in writing, signed, filed with the Board office where the appeal is being processed, and served on the parties. The election is effective immediately on the date of receipt by the Board office where the appeal is being processed. The election may be filed by electronic filing, provided the requirements of § 1201.14 of this chapter are satisfied.

* * * * *

PART 1209—[AMENDED]

■ 26. The authority citation for part 1209 continues to read as follows:

Authority: 5 U.S.C. 1204, 1221, 2302(b)(8), and 7701.

■ 27. Section 1209.6 is amended by revising paragraph (d) to read as follows:

§ 1209.6 Content of appeal; right to hearing.

* * * * *

(d) *Electronic filing.* An appeal may be filed electronically by using the Board's e-Appeal site (*https://e-appeal.mspb.gov*) in accordance with § 1201.14 of this chapter.

■ 28. Section 1209.8 is amended by deleting paragraphs (e) and (f), and by revising paragraph (d) to read as follows:

§ 1209.8 Filing a request for a stay.

* * * * *

(d) *Method of filing.* A stay request must be filed with the appropriate Board regional or field office by mail, by facsimile, by commercial or personal delivery, or by electronic filing in accordance with § 1201.14 of this chapter.

* * * * *

Dated: September 22, 2004.

Bentley M. Roberts, Jr.,

Clerk of the Board.

[FR Doc. 04–21589 Filed 9–24–04; 8:45 am]

BILLING CODE 7400–01–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 04–038–2]

Karnal Bunt; Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the regulations to make changes to the list of areas regulated because of Karnal bunt, a fungal disease of wheat. The interim rule removed certain areas in Arizona and Texas from the list of regulated areas based on our determination that the fields in those areas met our criteria for release from regulation. That action was necessary to relieve restrictions that were no longer warranted.

EFFECTIVE DATE: The interim rule became effective on May 12, 2004.

FOR FURTHER INFORMATION CONTACT: Dr. Matthew Royer, Senior Program Adviser, Pest Detection and Management Programs, PPQ, APHIS, 4700 River Road Unit 26, Riverdale, MD 20737–1236; (301) 734–7819.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective May 12, 2004, and published in the **Federal Register** on May 17, 2004 (69 FR 27821–27823, Docket No. 04–038–1), we amended the regulations in ''Subpart—Karnal Bunt'' (7 CFR 301.89–1 through 301.89–16) by removing certain areas in Arizona and Texas from the list of quarantined areas in § 301.89–3(e). That action, which was based on our determination that the fields in these areas met our criteria for release from regulation, relieved restrictions on the interstate movement of regulated articles from those areas that were no longer warranted.

Comments on the interim rule were required to be received on or before July 16, 2004. We received one comment by that date, from a private citizen. The commenter stated that the interstate movement of all wheat from States containing regulated areas should be prohibited. Given that the regulations require wheat grown in regulated areas to be tested prior to movement and restrict the interstate movement of wheat found to be Karnal-bunt positive, we do not believe it is necessary to prohibit the interstate movement of all wheat from States containing regulated areas in order to prevent the spread of Karnal bunt.

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

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

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

List of Subjects in 7 CFR Part 301

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

PART 301—DOMESTIC QUARANTINE NOTICES

■ Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 301 and that was published at 69 FR 27821–27823 on May 17, 2004.

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

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

Done in Washington, DC, this 20th day of September 2004.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 04–21575 Filed 9–24–04; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NM–90–AD; Amendment 39–13804; AD 2004–19–10]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –200C, –300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, that requires repetitive inspections for corrosion and cracking of the pivot hinge pins of the horizontal stabilizer, certain follow-on inspections, and replacement of the hinge pins with new or serviceable pins if necessary. This action is necessary to prevent failure of the outer and inner hinge pins due to corrosion or cracking, which could allow the pins to migrate out of the joint and result in intermittent movement of the horizontal stabilizer structure and consequent loss of controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective November 1, 2004.

The incorporation by reference of a certain publication listed in the regulations is approved by the Director of the Federal Register as of November 1, 2004.

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

FOR FURTHER INFORMATION CONTACT: Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6440; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION: 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 737–100, –200, –200C, –300, –400, and –500 series airplanes was published in the **Federal Register** on December 8, 2003 (68 FR 68301). That action proposed to require repetitive inspections for corrosion and cracking of the pivot hinge pins of the horizontal stabilizer, certain follow-on inspections, and replacement of the hinge pins with new or serviceable pins if necessary.

Clarification of Changes to the Proposed AD

Although paragraph (a) of the proposed AD specifies repetitive inspections, paragraph (a)(1) specifies that if the hinge pins are serviceable, ''no further action is required.'' We have removed the phrase ''no further action is required by this paragraph'' from paragraph (a)(1) of the proposed AD to clarify that the repetitive inspections are still required.

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.

Comments That Resulted in a Change to the Proposed AD

Requests To Add Certain Repair Approvals

Two commenters request that paragraphs (b)(6), (d)(6), (f)(6), and (h)(6) of the proposed AD be revised to add an additional method of repair. The proposed AD specifies that, for a pin found corroded in an area that is not threaded or in a thread relief radius, operators must repair, before further flight, per a method approved by the Manager, Seattle Aircraft Certification Office (ACO). Both commenters request that a method of repair, such as pin replacement, be provided as an additional repair approval prior to releasing the AD. The commenters request such an additional method of repair approval in order to preclude the possibility of long delays in obtaining approval of a repair from the Manager, Seattle ACO.

Another commenter requests that the same paragraphs discussed in the previous paragraph be revised to allow operators to obtain repair approval from a Boeing Company Designated Engineering Representative (DER), who has been authorized by the Manager, Seattle ACO, to make such findings.

The FAA agrees with the commenters that those additional methods of repair approval may be provided for in this AD. Therefore, we have revised paragraphs (b)(6), (d)(6), (f)(6), and (h)(6) of the final rule accordingly.

Requests To Clarify Certain Inspections

One commenter requests that we revise paragraphs (b) and (f) of the proposed rule to specify that the inspections required by those paragraphs can be accomplished per either Part 2 or Part 3 of the service bulletin. The commenter states that the hinge pin (outer) and pin insert (inner) can be removed at the same time from the airplane as an assembly. The commenter concludes that, in the case of the Model 737–200 series airplanes, the only difference is whether to perform the magnetic particle inspection of the outer pin when the outer pin is already out. Additionally, the commenter states that, although the Part 3 inspection is more comprehensive than the Part 2 inspection, it implicitly satisfies the requirement. Another commenter requests that the FAA clarify if operators are given the choice of using either Part 2 or Part 3, and if so, are both inspections still required at the same compliance times specified in the proposed AD.

We agree with the commenters that clarification for paragraphs (b) and (f) is necessary. We have revised those paragraphs to specify that the required inspections may be accomplished per the procedures specified in either Part 2 or Part 3 of the Accomplishment Instruction of the specified service bulletin. We point out, however, that the repetitive inspection intervals specified for paragraphs (c) and (g) of the AD remain the same as specified in the proposed rule, regardless of whether the inspections are performed per Part 2 or Part 3 of the Accomplishment Instructions of the service bulletin.

Comments That Resulted in No Change to the Proposed AD

Requests To Extend the Compliance Time

One commenter requests that the initial compliance time of ''within 90 days after the effective date of this AD'' for the detailed inspection specified by paragraph (a) of the proposed AD be extended to 180 days. The commenter states that the additional time is necessary to obtain spare parts. The commenter notes that revising the initial inspection compliance time to 180 days would be consistent with the 180-day interval for the repetitive inspections.

Another commenter requests that the compliance times for the inspections per Part 3 be extended to 15,000 flight hours or 96 months for Model 737–200 series airplanes and 18,000 flight hours or 96 months for the Model 737–400 series airplanes. The commenter states that those compliance times would coincide with its ''D'' check and ''SI'' check intervals.

Two commenters request that the compliance times specified in the proposed AD be adjusted to allow for anticipated part shortages. The commenters both note that replacement hinge pins that may have to be replaced are ''under management control by Boeing.'' One commenter explains that ''under management control'' means there is a very limited supply of spare hinge pins to support industry inspections.

Another commenter requests that the flight-hour intervals specified in paragraphs (d) and (h) of the proposed AD be increased from 12,000 flight hours and 16,000 flight hours, respectively, to 15,000 flight hours and 18,000 flight hours, respectively. The commenter specifies that such an extension would coincide with its normal schedule for heavy maintenance. The commenter provided no further justification for such extension of the repetitive inspection intervals.

We do not agree with the commenters' requests. We have determined that the identified unsafe condition warrants a compliance time of ''within 90 days after the effective date of the AD.'' We note that the manufacturer recommends a compliance time of ''within 90 days of the release of the service bulletin release date,'' which was December 6, 2001. We have been informed by Boeing that parts should be available. If a shortage of the supply of hinge pins does occur, paragraph (j) of this AD provides affected operators the opportunity to apply for an alternative method of compliance (AMOC) and to present data to justify the adjustment of compliance times.

We also do not agree with the commenters' request to extend the threshold compliance times for accomplishment of the requirements of Part 3 of the Boeing alert service bulletin. No technical justification was provided to substantiate this request.

Request To Delay Issuance of the Final Rule

One commenter notes that Boeing Alert Service Bulletin 737–55A1077 Information Notice (IN) 01, dated September 11, 2003, was not referenced in the proposed AD. The commenter states that the IN has revised wording of

the original service bulletin to correct certain errors. The commenter points out that having such differences between the proposed AD and the new service information could create confusion and potential compliance problems. The commenter requests revision of Boeing Service Bulletin 737–55A1077 by the manufacturer and approval by the FAA prior to the release of the AD.

We do not agree with the commenter's request. The IN was a minor clarification that has already been addressed by this AD as noted in the ''Differences'' section in the preamble of the notice of proposed rulemaking (NPRM). Delaying this action until after the release and approval of the manufacturer's planned service bulletin is not warranted. We have determined that the inspections must be conducted to ensure continued operational safety. When a new revision of the service bulletin has been developed, we will review that revision and consider approving it as an alternative method of compliance with the requirements of this AD.

Conclusion

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

Cost Impact

There are approximately 3,132 airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,250 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the detailed inspection specified in paragraph (a) of this AD, and that the average labor rate is $65 per work hour. Since the requirements of paragraph (a) of this AD apply to the total affected fleet, the cost impact of the inspections required by paragraph (a) of this AD on U.S. operators is estimated to be $81,250, or $65 per airplane, per inspection cycle.

It will take approximately 6 work hours per airplane, per inspection, to accomplish the detailed and magnetic particle inspections described in Part 2 of the Accomplishment Instructions of the specified alert service bulletin. We estimate that if all airplanes were required to accomplish those inspections, the estimated cost impact of the affected airplanes will be $487,500 or $390 airplane, per inspection cycle.

It will take approximately 12 work hours per airplane, per inspection, to accomplish the detailed and magnetic particle inspections described in Part 3 of the Accomplishment Instructions of the specified alert service bulletin. We estimate that if all airplanes were required to accomplish those inspections, the estimated cost impact of the affected airplanes will be $975,000, or $780 per airplane, per inspection cycle.

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:

Boeing: Amendment 39–13804. Docket 2003–NM–90–AD.

Applicability: Model 737–100, –200, –200C, –300, –400, and –500 series airplanes having line numbers 1 through 3132 inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the outer and inner hinge pins due to corrosion or cracking, which could allow the pins to migrate out of the joint and result in intermittent movement of the horizontal stabilizer structure and consequent loss of controllability of the airplane, accomplish the following:

(a) For all airplanes: Within 90 days after the effective date of this AD, perform a detailed inspection of the pivot hinge pin joints for corrosion and, with hand pressure, check for movement of the hinge pins within the joints of the horizontal stabilizer, per Part 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin (ASB) 737–55A1077, dated December 6, 2001. Repeat the detailed inspections and check at intervals not to exceed 180 days until the initial inspection specified in paragraph (b), (d), (f), or (h) of this AD, as applicable, is performed.

Note 1: For the purposes of this AD, a detailed inspection is defined as: ''An intensive 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 corrosion is found, and if the hinge pins cannot be moved with hand pressure, the hinge pins are serviceable.

(2) If any pin can be moved with hand pressure, before further flight, remove and inspect both pins on the left and right sides and perform follow-on corrective actions per Part 3 of the Accomplishment Instructions of the ASB.

(3) If any corrosion is found, before further flight, remove and perform a detailed inspection of the pin(s) per Figure 2 (inner pin) or Figure 3 (inner and outer pins), as applicable, of the Accomplishment Instructions of the ASB; and perform follow-on corrective actions, per the Accomplishment Instructions of the ASB.

(b) For Models 737–100, –200, and 200C series airplanes: Within 3,000 flight hours or

24 months after the effective date of this AD, whichever occurs first, perform a detailed inspection and magnetic particle inspection for corrosion and cracking of the horizontal stabilizer hinge pins, per Part 2 or Part 3 of the Accomplishment Instructions of Boeing ASB 737–55A1077, dated December 6, 2001.

(1) If no corrosion or cracking is found, before further flight, reinstall the pin unless the condition of the other pin in that joint requires that both pins be replaced. (See paragraphs (b)(3) and (b)(4) of this AD.)

(2) If an outer pin is cracked in the area that includes the tapered shank, the adjacent thread relief radius, or the threaded end, but the inner pin is damage free, before further flight, replace the outer pin with a new or serviceable pin, per the Accomplishment Instructions of the ASB.

(3) If an outer pin is cracked in the area that includes the straight shank or the head, before further flight, replace both the inner and outer pins with new or serviceable pins, per the Accomplishment Instructions of the ASB.

(4) If any cracks are found on an inner pin, before further flight, replace both the inner and outer pins with new or serviceable pins, per the Accomplishment Instructions of the ASB.

(5) On any pin, if corrosion is found on a threaded area or in the thread relief radius adjacent to the threads, before further flight, replace the pin with a new or serviceable pin, per the Accomplishment Instructions of the ASB.

(6) If any corrosion is found on an area of the pin that is not threaded or in a thread relief radius adjacent to threads, before further flight, accomplish the requirements of paragraph (b)(6)(i) or (b)(6)(ii) of this AD.

(i) Replace the pin with a new or serviceable pin, per the ASB.

(ii) Repair per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the FAA to make such findings. For a repair method to be approved, the approval must specifically reference this AD.

(c) For Models 737–100, –200, –200C series airplanes: Thereafter, repeat the inspections required by paragraph (b) of this AD at the times specified in paragraph (c)(1) or (c)(2) of this AD, as applicable.

(1) If BMS 3–27 grease (Mastinox 6856K) is used, repeat the inspection at intervals not to exceed 6,000 flight hours or 48 months, whichever occurs first.

(2) If BMS 3–33 grease is used as a substitute for BMS 3–27 grease (Mastinox 6856K), repeat the inspections at intervals not to exceed 3,000 flight hours or 24 months, whichever occurs first.

(d) For Models 737–100, –200, and –200C series airplanes: Within 12,000 flight hours or 96 months after the effective date of this AD, whichever occurs first, perform a detailed inspection and magnetic particle inspection for corrosion and cracking of the horizontal stabilizer hinge pins, per Part 3 of the Accomplishment Instructions of Boeing ASB 737–55A1077, dated December 6, 2001.

(1) If no corrosion or cracking is found, before further flight, reinstall the pin unless the condition of the other pin in that joint requires that both pins be replaced. (See paragraphs (d)(3) and (d)(4) of this AD.)

(2) If an outer pin is cracked in the area that includes the tapered shank, the adjacent thread relief radius, or the threaded end, but the inner pin is damage free, before further flight, replace the outer pin with a new or serviceable pin, per the Accomplishment Instructions of the ASB.

(3) If an outer pin is cracked in the area that includes the straight shank and the head, before further flight, replace both the inner and outer pins with new or serviceable pins, per the Accomplishment Instructions of the ASB.

(4) If any cracks are found on an inner pin, before further flight, replace both the inner and outer pins with new or serviceable pins, per the Accomplishment Instructions of the ASB.

(5) On any pin, if corrosion is found on a threaded area or in the thread relief radius adjacent to the threads, before further flight, replace the pin with a new or serviceable pin, per the Accomplishment Instructions of the ASB.

(6) If any corrosion is found on an area of the pin that is not threaded or in a thread relief radius adjacent to threads, before further flight, accomplish the actions specified in paragraph (d)(6)(i) or (d)(6)(ii) of this AD.

(i) Replace the pin with a new or serviceable pin, per the ASB.

(ii) Repair per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the FAA to make such findings. For a repair method to be approved, the approval must specifically reference this AD.

(e) For Models 737–100, –200, –200C series airplanes: Thereafter, repeat the inspections required by paragraph (d) of this AD at the times specified in paragraph (e)(1) or (e)(2) of this AD, as applicable.

(1) If BMS 3–27 grease (Mastinox 6856K) is used, thereafter, repeat the inspections at intervals not to exceed 12,000 flight hours or 96 months, whichever occurs first.

(2) If BMS 3–33 grease is used as a substitute for BMS 3–27 grease (Mastinox 6856K), thereafter, repeat the inspections at intervals not to exceed 6,000 flight hours or 48 months, whichever occurs first.

(f) For Model 737–300, –400, and –500 series airplanes: Within 4,000 flight hours or 24 months from the effective date of this AD, whichever occurs first, perform a detailed inspection and magnetic particle inspection for corrosion and cracking of the horizontal stabilizer hinge pins, per Part 2 or Part 3 of the Accomplishment Instructions of Boeing ASB 737–55A1077, dated December 6, 2001.

(1) If no corrosion or cracking is found, before further flight, reinstall the pin unless the condition of the other pin in that joint requires that both pins be replaced. (See paragraphs (f)(3) and (f)(4) of this AD.)

(2) If an outer pin is cracked in the area that includes the tapered shank, the adjacent thread relief radius, or the threaded end, but the inner pin is free of damage, before further flight, replace the outer pin with a new or serviceable pin, per the Accomplishment Instructions of the ASB.

(3) If an outer pin is cracked in the area that includes the straight shank or the head, before further flight, replace both the inner and outer pins with new or serviceable pins, per the Accomplishment Instructions of the ASB.

(4) If any cracks are found on an inner pin, before further flight, replace both the inner and outer pins with new or serviceable pins, per the Accomplishment Instructions of the ASB.

(5) On any pin, if corrosion is found on a threaded area or in the thread relief radius adjacent to the threads, before further flight, replace the pin with a new or serviceable pin, per the Accomplishment Instructions of the ASB.

(6) If any corrosion is found on an area of the pin that is not threaded or in a thread relief radius adjacent to threads, before further flight, accomplish the actions of paragraph (f)(6)(i) or (f)(6)(ii) of this AD.

(i) Replace the pin with a new or serviceable pin, per the ASB.

(ii) Repair per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the FAA to make such findings. For a repair method to be approved, the approval must specifically reference this AD.

(g) For Model 737–300, –400, and –500 series airplanes: Thereafter, repeat the inspections required by paragraph (f) of this AD at the times specified in paragraph (g)(1) or (g)(2) of this AD, as applicable.

(1) If BMS 3–27 grease (Mastinox 6856K) is used, thereafter, repeat the inspections at intervals not to exceed 8,000 flight hours or 48 months, whichever occurs first.

(2) If BMS 3–33 grease is used as a substitute for BMS 3–27 (Mastinox 6856K), repeat the inspections at intervals not to exceed 4,000 flight hours or 24 months, whichever occurs first.

(h) For Model 737–300, –400, and –500 series airplanes: Within 16,000 flight hours or 96 months from the effective date of this AD, whichever occurs first, perform a detailed inspection and magnetic particle inspection for corrosion or cracking of the horizontal stabilizer hinge pins per Part 3 of the Accomplishment Instructions of Boeing ASB 737–55A1077, dated December 6, 2001.

(1) If no corrosion or cracking is found, before further flight, reinstall the pin unless the condition of the other pin in that joint requires that both pins be replaced. (See paragraphs (h)(3) and (h)(4) of this AD.)

(2) If an outer pin is cracked in the area that includes the tapered shank, the adjacent thread relief radius, or the threaded end, but the inner pin is damage free, before further flight, replace the outer pin with a new or serviceable pin.

(3) If an outer pin is cracked in the area that includes the straight shank or the head, before further flight, replace both the inner and outer pin with new or serviceable pins.

(4) If any cracks are found on an inner pin, before further flight, replace both the inner and outer pin with new or serviceable pins.

(5) On any pin, if corrosion is found on a threaded area or in the thread relief radius adjacent to the threads, before further flight, replace the pin with a new or serviceable pin.

(6) If any corrosion is found on an area of the pin that is not threaded or in a thread relief radius adjacent to threads, before further flight, accomplish the actions specified in paragraph (h)(6)(i) or (h)(6)(ii) of this AD.

(i) Replace the pin with a new or serviceable pin, per the ASB.

(ii) Repair per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the FAA to make such findings. For a repair method to be approved, the approval must specifically reference this AD.

(i) For Model 737–300, –400, and –500 series airplanes: Thereafter, repeat the inspections required by paragraph (h) of this AD at the times specified in paragraph (i)(1) or (i)(2) of this AD, as applicable.

(1) If BMS 3–27 grease (Mastinox 6856K) is used, thereafter, repeat the inspections at intervals not to exceed 16,000 flight hours or 96 months, whichever occurs first.

(2) If BMS 3–33 grease is used as a substitute for BMS 3–27 (Mastinox 6856K), thereafter, repeat the inspections at intervals not to exceed 8,000 flight hours or 48 months, whichever occurs first.

Alternative Methods of Compliance

(j)(1) In accordance with 14 CFR 39.19, the Manager, Seattle Aircraft Certification Office (ACO), FAA, is authorized to approve alternative methods of compliance (AMOCs) for this AD.

(2) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the approval must specifically reference this AD.

Incorporation by Reference

(k) The actions shall be done in accordance with Boeing Alert Service Bulletin 737–55A1077, dated December 6, 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 Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Effective Date

(l) This amendment becomes effective on November 1, 2004.

Issued in Renton, Washington, on September 15, 2004.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–21271 Filed 9–24–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–263–AD; Amendment 39–13800; AD 2004–19–06]

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 all Boeing Model 767–200, –300, and –300F series airplanes, that requires inspections to detect cracking or corrosion of the fail-safe straps between the side fitting of the rear spar bulkhead at body station 955 and the skin; and follow-on/corrective actions. This action is necessary to detect and correct fatigue cracking or corrosion of the fail-safe straps, which could result in cracking of adjacent structure and consequent reduced structural integrity of the fuselage. This action is intended to address the identified unsafe condition.

DATES: Effective November 1, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 1, 2004.

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

FOR FURTHER INFORMATION CONTACT: 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 all Boeing Model 767–200, –300, and –300F series airplanes was published in the **Federal Register** on March 5, 2004 (69 FR 10364). That action proposed to require inspections to detect cracking or corrosion of the fail-safe straps between the side fitting of the rear spar bulkhead at body station 955 and the skin; and follow-on/corrective actions.

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 Withdraw Notice of Proposed Rulemaking (NPRM)

One commenter requests that the NPRM be withdrawn. The commenter states that none of the reported incidents described in the Discussion section of the NPRM can be attributed completely to fatigue. The commenter also states that all data to date that suggest this is a fatigue issue are flawed by the fact that there have been three separate contributing factors—corrosion, surface damage, and fretting/small gouging.

The commenter has inspected 43 airplanes and found only one case of cracking, which was the result of surface damage during installation of the fail-safe strap in the factory. The commenter discovered the damage during normal routine maintenance, using an item currently in the maintenance program, and believes that these standard inspections are sufficient to maintain the continued safety of the airplanes. The commenter also points out that this airplane and the second airplane referred to in the Background section of Boeing Alert Service Bulletin 767–53A0100, dated September 26, 2002 (referenced in the AD as the appropriate source of service bulletin for the required actions), have early line numbers and ''were [essentially] hand built.'' The commenter contends that if this is truly a fatigue issue, there would have been at least one other occurrence

of fatigue cracking in the 20-plus years that the fleet has been operating. The commenter also notes that Boeing has acknowledged that no cracking was found on its fatigue test article that was tested for 100,000 flight cycles.

We do not agree that the NPRM should be withdrawn. It was not our intention in the Discussion section of the NPRM to imply that the crack findings were attributed completely to fatigue. Because of the critical function of the fail-safe strap, we find that inspections are necessary to detect cracking or corrosion, regardless of the mode by which the crack initiates. Since the issuance of the NPRM, we have received two additional reports of cracks in the fail-safe strap: one report for an airplane that had accumulated 31,809 total flight cycles, and one report from full-scale fatigue testing on a 767 test article. The cracks on the fatigue test article were hidden and were not detected until the joint was disassembled. We have determined that the existing routine maintenance inspections are not sufficient to detect cracked fail-safe straps in a timely, reliable manner. Therefore, this AD is appropriate and warranted.

Request To Delay Issuance of AD

One commenter requests the final rule not be issued until the lack of available replacement straps is resolved. The commenter states that the strap is not repairable at this time. The commenter also states that the airplane manufacturer is working on potential repairs and an analysis to determine if the replacement strap should be strengthened from the original design. The study should be completed by April 15, 2004.

We do not agree that the strap is not repairable. All airplanes on which cracked or corroded straps were found have been successfully repaired with new fail-safe straps, which indicates to us that future crack findings can be successfully repaired. The airplane manufacturer has informed us that the commenter received preliminary information about the study, and that the study is not completed yet. In light of the critical nature of the identified unsafe condition, we do not consider that delaying this action until after the airplane manufacturer develops either an easier repair or an improved strap design is warranted. However, under the provisions of paragraph (c) of the final rule, we may consider requests for approval of an alternative method of compliance if sufficient data are submitted to substantiate that such a design change would provide an acceptable level of safety.

Request To Correct Information in the Service Bulletin

One commenter requests the following changes to Boeing Alert Service Bulletin 767–53A0100:

1. Mark the area of interest (5-inch radius) on figure 2 of the service bulletin, or add a new photo to the photos already posted on Boeing's Web site under 767–FTD–53–02004 article and refer to the new photo or article in the NPRM. The commenter believes that the instructions in step 1 of figure 2 are too general for the complexity of the structure.

We partially agree with the commenter. We agree that the structure is complex; however, the intent of the service bulletin is to determine whether cracks have begun to propagate in adjacent structure due to the existence of a crack in the fail-safe straps. The service bulletin defines the extent of the adjacent structure to be inspected as ''within 5 inches of the area of the typical crack area,'' as shown in Detail A of figure 2. This definition applies to the structure that is visible after doing the access procedures in the Work Instructions of the service bulletin. We have determined that the inspection is possible without further clarification. No change to the final rule is necessary in this regard.

2. Revise step 2 of the Work Instructions of the service bulletin to read, ''Open the Main Landing Gear (MLG) doors * * *'' instead of ''Open the Main Landing Green (MGL) door. * * *'' Revise steps 2 and 8 to refer to 767 Airplane Maintenance Manual (AMM) 32–12–00, not 32–00–20.

We partially agree. We agree with the commenter that the word ''green'' in the service bulletin is incorrect. We also agree that the 767 AMM 32–00–20 does not include instructions for opening the MLG doors. However, the correct reference is 767 AMM 32–00–15, not 767 AMM 32–12–00 as suggested by the commenter. 767 AMM 32–00–15, which is referred to in steps 3 and 7 of the Work Instructions, describes procedures for opening and closing the MLG doors using the ground release lever before installing the MLG door locks and after removing them. Boeing has no plans at this time to revise the service bulletin to fix these errors. Therefore, we have added a note in the final rule to point out the errors in the service bulletin.

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 as proposed.

Interim Action

This is considered to be interim action until final action is identified, at which time we may consider further rulemaking.

Cost Impact

There are approximately 833 airplanes of the affected design in the worldwide fleet. We estimate that 354 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 work hours 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 $46,020, or $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.

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:

2004–19–06 Boeing: Amendment 39–13800. Docket 2002–NM–263–AD.

Applicability: All Model 767–200, –300, and –300F series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking or corrosion of the fail-safe straps, which could result in cracking of adjacent structure and consequent reduced structural integrity of the fuselage, accomplish the following:

Inspections and Follow-On/Corrective Actions

(a) Except as provided by paragraph (b) of this AD, prior to the accumulation of 15,000 total flight cycles, or within 3,000 flight cycles after the effective date of this AD, whichever occurs later, perform a detailed inspection and eddy current inspection to detect cracking or corrosion of the fail-safe straps between the side fitting of the rear spar bulkhead at BS 955 and the skin, per Figure 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–53A0100, dated September 26, 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.''

(1) If no crack or corrosion is found, repeat the inspections thereafter at intervals not to exceed 6,000 flight cycles or 36 months, whichever occurs first.

(2) If any crack or corrosion is found, before further flight, repair per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved, the approval must specifically reference this AD.

(b) For airplanes on which the fail-safe strap has been replaced before the effective date of this AD: Do the actions required by paragraph (a) of this AD within 12,000 flight cycles after accomplishing the replacement.

Note 2: Steps 2 and 8 of the Work Instructions of Boeing Alert Service Bulletin 767–53A0100, dated September 26, 2002, refer incorrectly to 767 Airplane Maintenance Manual (AMM) 32–00–20 for opening the MLG doors; the correct reference is 767 AMM 32–00–15, which is referred to in steps 3 and 7 of the Work Instructions. Step 2 also should state ''Open Main Landing Gear (MLG) doors'' instead of ''Open Main Landing Green (MLG) doors.''

Alternative Methods of Compliance

(c)(1) In accordance with 14 CFR 39.19, the Manager, Seattle ACO, FAA, is authorized to approve alternative methods of compliance (AMOCs) for this AD.

(2) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings.

Incorporation by Reference

(d) Unless otherwise specified in this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin 767–53A0100, dated September 26, 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 Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Effective Date

(e) This amendment becomes effective on November 1, 2004.

Issued in Renton, Washington, on September 13, 2004.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–21272 Filed 9–24–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Bacitracin Methylene Disalicylate; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correcting amendments.

SUMMARY: The Food and Drug Administration (FDA) is correcting a document amending the animal drug regulations to reflect approval of an original abbreviated new animal drug application (ANADA) that appeared in the **Federal Register** of August 18, 2004 (69 FR 51172). FDA is removing the drug labeler code for Pennfield Oil Co. in the entry for use of single-ingredient bacitracin methylene disalicylate (BMD) in swine feed, which was added in error during document formatting; and is adding the approved source of BMD in the entry for use of BMD in combination with chlortetracycline. These corrections are being made so the BMD regulations accurately reflect approved new animal drug applications.

DATES: This rule is effective September 27, 2004.

FOR FURTHER INFORMATION CONTACT: George K. Haibel, Center for Veterinary Medicine (HFV–6), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 301–827–4567, e-mail: *ghaibel@ cvm.fda.gov.*

SUPPLEMENTARY INFORMATION: For the reasons set forth in the preamble, FDA is correcting 21 CFR part 558 to read as follows:

List of Subjects in 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 part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

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

■ 2. Section 558.76 is amended in the table by revising paragraph (d)(1)(iv) to read as follows:

§ 558.76 Bacitracin methylene disalicylate.

* * * * *

(d) * * * (1) * * *

Bacitracin methylene disalicylate in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
* *	*	* *	*	*
(iv) 10 to 30		Swine: for increased rate of weight gain and improved feed efficiency.	For growing and finishing swine	046573
	Chlortetracycline approximately 400, varying with body weight and food consumption to provide 10 milligrams per pound of body weight per day.	Swine; for increased rate of weight gain and improved feed efficiency; for treatment of bacterial enteritis caused by *Escherichia coli* and *Salmonella choleraesuis* and bacterial pneumonia caused by *Pasteurella multocida* susceptible to chlortetracycline.	Feed for not more than 14 days; bacitracin methylene disalicylate provided by No. 046573; chlortetracycline provided by Nos. 046573 and 053389 in § 510.600(c) of this chapter.	046573 053389
		Swine; for control of porcine proliferative enteropathies (ileitis) caused by *Lawsonia intracellularis* susceptible to chlortetracycline.	Feed for not more than 14 days; chlortetracycline and BMD as provided by 046573 in § 510.600(c) of this chapter.	046573
* *	*	* *	*	*

* * * * *

Dated: September 2, 2004.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 04–21560 Filed 9–24–04; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[TD 7374]

Amendment of Employment Tax Regulations and Regulations on Procedure and Administration; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to (TD 7374) which was published in the **Federal Register** on Thursday, July 24, 1975 (40 FR 30946) relating to Federal Insurance Contribution Act taxes (FICA).

DATES: This correction is effective July 24, 1975.

FOR FURTHER INFORMATION CONTACT: Warren Joseph at (202) 622–4920 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 7374) that are the subject of this correction is under section 6413(c) of the Internal Revenue Code.

Need for Correction

As published, TD 7374, contains an error that may prove to be misleading and is in need of clarification.

List of Subjects in 26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social Security, Unemployment compensation.

Correction of Publication

■ Accordingly, 26 CFR Part 31 is corrected by making the following correcting amendment:

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

■ **Paragraph 1.** The authority citation for part 31 continues to read in part as follows:

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

§ 31.6413(c)–1 [Corrected]

■ **Par. 2.** Section 31.6413(c)–1(a)(1)(i) is amended by removing the language ''§ 1.21–2'' and adding the language ''§ 1.31–2'' in its place.

Cynthia E. Grigsby,

Acting Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedures and Administration).

[FR Doc. 04–21613 Filed 9–24–04; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 0

[A.G. Order No. 2735–2004]

Technical Revision of Regulation Delegating Waiver Authority for Claims Involving Employee Overpayment Debt

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This rule makes technical changes to the Department of Justice organizational regulations to delete unnecessary and obsolete references to legal authorities.

DATES: This rule is effective September 27, 2004.

FOR FURTHER INFORMATION CONTACT: Stuart Frisch, General Counsel, or Morton J. Posner, Attorney-Advisor, Justice Management Division, U.S. Department of Justice, 1331 Pennsylvania Avenue, NW., Suite 520 North, Washington, DC 20530;

Telephone: (202) 514–3452; fax: (202) 514–4317.

SUPPLEMENTARY INFORMATION: This rule makes two technical changes to the Department of Justice's regulation concerning waiver of claims for erroneous payments of pay and allowances to its employees. The regulation to be modified currently delegates waiver authority under 5 U.S.C. 5584, ''as amended by Public Law 92–453.'' Section 5584 has been amended several times since. The reference to Public Law 92–453 is outdated and is deleted. In addition, the current regulation directs application of ''standards prescribed by the Comptroller General'' for the waiver of claims. These standards are now obsolete and are therefore deleted.

Administrative Procedure Act

This rule relates to a matter of agency management or personnel and, therefore, is exempt from the usual requirements of prior notice and comment and a 30-day delay in effective date. See 5 U.S.C. 553(a)(2).

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this rule and, by approving it, certifies that it will not have a significant economic impact on a substantial number of small entities because it pertains to personnel and administrative matters affecting the Department. Further, a Regulatory Flexibility Analysis was not required to be prepared for this final rule because the Department was not required to publish a general notice of proposed rulemaking for this matter.

Executive Order 12866

This rule has been drafted and reviewed in accordance with Executive Order 12866, Regulatory Planning and Review, section 1(b), Principles of Regulation. This rule is limited to agency organization, management, and personnel as described by Executive Order 12866 section (3)(d)(3) and, therefore, is not a ''regulation'' or ''rule'' as defined by that Executive Order. Accordingly, this rule has not been reviewed by the Office of Management and Budget.

Executive Order 13132

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. Therefore, in accordance with Executive Order 13132, Federalism, the Department has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform.

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 million 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, 2 U.S.C. 1501 *et seq.*

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

This action pertains to agency management, personnel, and organization and does not substantially affect the rights or obligations of non-agency parties. Accordingly, it is not a ''rule'' for purposes of the reporting requirement of 5 U.S.C. 801.

Congressional Review Act

The Department has determined that this action pertains to agency management or personnel and, accordingly, is not a ''rule'' as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

List of Subjects in 28 CFR Part 0

Authority delegations (government agencies), Government employees, Organization and functions (government agencies).

■ Accordingly, by virtue of the authority vested in me as Attorney General, including 5 U.S.C. 301 and 5584, and 28 U.S.C. 509 and 510, Subpart X of Part 0, Title 28 of the Code of Federal Regulations is amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

■ 1. The authority for part 0 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–519.

§ 0.155 [Amended]

■ 2. In § 0.155, delete the phrase '', as amended by Public Law 92–453,'' and delete the phrase ''in accordance with the standards prescribed by the Comptroller General in 4 CFR parts 91 through 93''.

Dated: September 21, 2004.

John Ashcroft,

Attorney General.

[FR Doc. 04–21604 Filed 9–24–04; 8:45 am]

BILLING CODE 4410–CS–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

[OH–248–FOR]

Ohio Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: We are approving an amendment to the Ohio surface coal mining regulatory program (the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The amendment we are approving revises the Ohio program to reflect changes promulgated by the U.S. Environmental Protection Agency (EPA) related to coal remining operations. The amendment is intended to revise the Ohio program to be consistent with the corresponding Federal regulations.

DATES: *Effective* September 27, 2004.

FOR FURTHER INFORMATION CONTACT: Mr. George Rieger, Chief, Pittsburgh Field Division, Office of Surface Mining Reclamation and Enforcement, Appalachian Regional Coordinating Center, 3 Parkway Center, Pittsburgh, Pennsylvania 15220, Telephone (412) 937–2153. E-mail: *grieger@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Ohio Program
II. Submission of the Amendment
III. OSM's Findings

IV. Summary and Disposition of Comments
V. OSM's Decision
VI. Procedural Determinations

I. Background on the Ohio Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, ''* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.'' *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Ohio program on August 16, 1982. You can find background information on the Ohio program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Ohio program in the August 16, 1982, **Federal Register** (47 FR 34687). You can also find later actions concerning Ohio's program and program amendments at 30 CFR 935.11, 935.15, and 935.16.

II. Submission of the Amendment

By letter dated November 7, 2003, Ohio sent us an amendment to its program (Administrative Record Number OH–2184–00) under SMCRA (30 U.S.C. 1201 *et seq.*). Ohio proposed to revise the Ohio Administrative Code (OAC) rules, Sections 1501:13–1–02 and 1501:13–4–15 relating to coal remining operations and water quality standards so that the Ohio program is consistent with the revised U.S. Environmental Protection Agency's (EPA) water quality standards relating to coal remining operations (January 23, 2002; 67 FR 3370).

We announced receipt of the proposed amendment in the January 20, 2004, **Federal Register** (69 FR 2689) (Administrative Record Number OH–2184–02). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy. We did not hold a hearing or a meeting because no one requested one. The public comment period closed on February 19, 2004. We received comments from one Federal agency.

In the letter that accompanied the State's November 7, 2003, submittal of this amendment, the Chief of the Division of Mineral Resources Management (DMRM) stated that the intent of the proposed amendment is to ''bring Ohio's program up to date with the recent changes promulgated by the USEPA [United States Environmental Protection Agency] on January 23rd, 2002 [67 FR 3370] to 40 CFR part 434, subpart G Coal Remining. * * *'' The letter also stated that the DMRM ''proposes updating existing policy and procedure directives to capture the statistical and monitoring procedures for coal mining.'' The statistical and monitoring procedures referred to in the quoted language above are located in appendix B to 40 CFR part 434.

Ohio's submittal also included two draft documents. One of the draft documents is titled ''Memorandum of Agreement, Remining NPDES Permits'' and concerns an agreement between the Ohio Environmental Protection Agency (OEPA) and Ohio Department of Natural Resources, DMRM related to the issuance of remining National Pollutant Discharge Elimination System (NPDES) permits. The second draft document is titled ''Policy/Procedure Directive, Regulatory'' and outlines the inspection responsibilities for pollution abatement areas. Because both of these documents were in draft form and not applicable as a State program amendment, we did not request public comment on the documents in the January 20, 2004, **Federal Register** notice.

III. OSM's Findings

Following are findings we made concerning the amendments under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment. Any revisions that we do not specifically discuss below concern nonsubstantive wording or editorial changes, or re-codification changes resulting from these amendments, and we are approving them here without discussion.

As we noted above, Ohio submitted the proposed amendment to update Ohio's program with the recent changes to 40 CFR part 434, subpart G—Coal Remining that were promulgated by the EPA on January 23rd, 2002. The EPA regulations apply to pre-existing discharges that are located within, or that are hydrologically connected to, pollution abatement areas of a coal remining operation. The EPA regulations implement Section 301(p) of the Clean Water Act, which provides incentives for remining abandoned mine lands that pre-date the passage of SMCRA in 1977.

Despite the fact that Ohio submitted the amendment to update its program with the recent changes to EPA's regulations at 40 CFR part 434, subpart G—Coal Remining, our standards for review and approval of State program amendments, as provided in the Federal regulations at 30 CFR 732.17(h)(10) and 732.15(a), are SMCRA and its implementing regulations at 30 CFR part 700 to End. That is, our standards of approval for the proposed amendments are not the Clean Water Act nor EPA's regulations at 40 CFR part 434, but are SMCRA and its implementing regulations.

We note, however, that the Federal regulations at 30 CFR 816/817.42, concerning hydrologic balance, water quality standards and effluent limitations, provide as follows:

> Discharges of water from areas disturbed by surface mining activities shall be made in compliance with all applicable State and Federal water quality laws and regulations and with the effluent limitations for coal mining promulgated by the U.S. Environmental Protection Agency set forth in 40 CFR 434.

Therefore, while our standards for review and approval of the amendments are SMCRA and its implementing regulations at 30 CFR part 700 to End, we will also discuss the proposed amendments in the light of the EPA regulations at 40 CFR part 434, subpart G—Coal Remining.

1. 1501:13–1–02 Definitions

a. Definition of ''Abatement plan.'' This definition has been revised by adding a reference to ''best management practices'' and, as an example of best management practices, the phrase ''daylighting old underground works.'' As amended, the definition provides as follows:

> (A) ''Abatement plan'' means any individual technique or combination of techniques, the implementation of which may result in reduction of the base line [baseline] pollution load. Abatement techniques may include but are not limited to Best Management Practices such as: addition of alkaline material, daylighting old underground works, special plans for managing toxic- and acid-forming material, regrading, and revegetation.

This new State provision appears to be consistent with EPA's requirements at 40 CFR 434.72(a) concerning effluent limitations attainable by the application of best practicable control technology currently available. The EPA provision at 40 CFR 434.72(a) provides that the operator must submit a site-specific ''Pollution Abatement Plan'' to the permitting authority for the pollution abatement area. The EPA requirement further provides, among other things, that the Plan must identify the selected ''best management practices (BMPs)'' to be used. In its discussion of BMPs for permits issued after the 1987 amendment to the Clean Water Act

(January 23, 2002; 67 FR 3370, 3376), EPA stated that ''[t]hese BMPs include special handling of acid-producing materials, daylighting of abandoned underground mines, control of surface water and ground water, control of sediment, addition of alkaline material, and passive treatment.'' Therefore, the State's proposed revision to the definition of ''Abatement plan'' appears to be consistent with EPA's requirements concerning Pollutional Abatement Plans at 40 CFR 434.72(a).

Neither SMCRA nor its implementing regulations have a definition of ''best management practices.'' However, we find that the addition of the term ''best management practices'' and the addition of the phrase ''daylighting old underground works'' as a specific example of a best management practice are not inconsistent with SMCRA or its implementing regulations and do not render the existing definition less effective than the Federal regulations at 30 CFR 816/817.42, which require compliance with all applicable State and Federal water quality laws and regulations and with the effluent limitations for coal mining promulgated by EPA at 40 CFR part 434. Therefore, we are approving the amendments to the definition of ''Abatement plan.''

b. Definition of ''Acid water.'' This definition has been revised by changing the pH standard and by adding the phrase ''or a total iron concentration equal to or greater than 10mg/l.'' As amended, the definition provides as follows:

(D) 'Acid water' means any waters, the pH of which, as determined by standard methods, is less than 6.5, or a total iron concentration equal to or greater than 10mg/l.

The amended definition of ''Acid water'' appears to be consistent with EPA's definition of AMD (acid mine drainage) in appendix A of the preamble to EPA's January 23, 2002, final rule notice (67 FR 3370, 3405). EPA defines AMD as acid mine drainage which, before any treatment, either has a pH of less than 6.0 or a total iron concentration equal to or greater than 10 mg/l. The pH standard in the State's definition of acid water (less than 6.5) is a higher standard than EPA's standard for AMD (less than 6.0) and, therefore, appears to be not inconsistent with the EPA standard.

The Federal regulations at 30 CFR 701.5 define the term ''acid drainage'' as follows:

Acid drainage means water with a pH of less than 6.0 and in which total acidity exceeds total alkalinity, discharged from an active, inactive or abandoned surface coal mine and reclamation operation or from an area affected by surface coal mining and reclamation operations.

There is no definition of ''acid water'' in SMCRA or its implementing regulations. However, there is a definition in OSM's regulations for ''acid drainage'' at 30 CFR 701.5. The State has set a higher pH standard (6.5) than the 6.0 pH standard in OSM's definition. We note Ohio also has a definition for ''acid drainage'' which is identical to and no less effective than the Federal definition. There is nothing in the proposed definition of ''acid water'' that supersedes or replaces the definition of ''acid drainage'' or the State's effluent limitation standards for iron or its compliance with the EPA effluent limitation at 40 CFR part 434. Therefore, we find that the State's definition is not inconsistent with the Federal definition and can be approved.

c. Definition of ''Base line pollution load.'' This definition has been revised by deleting the term ''pH'' and replacing that term with the words ''net acidity.'' In addition, the word ''total'' is added immediately before the words ''iron,'' and ''manganese.'' The words ''and total suspended solids'' are added immediately following the word ''manganese.'' As amended, the definition provides as follows:

(N) ''Base line pollution load'' means the characterization of the material being discharged from or on the pollution abatement area, described in terms of mass loading for net acidity, total iron and total manganese, and total suspended solids, including seasonal variations and variations in response to precipitation events.

The EPA regulations do not specifically define the term ''baseline pollution load.'' However, the EPA regulations at 40 CFR part 434, appendix B outline the procedures for determining the baseline loadings of pre-existing pollutional discharges, and provide us with some understanding of the term baseline pollution load. Essentially, baseline pollution load is an estimate of the existing quantities of pollutants in a discharge as determined by at least monthly sampling over a period of 12 months. Such a sampling regimen would take into consideration the seasonal changes in water quantities and pollutant concentrations. As amended, the State's definition of ''Base line pollution load'' appears to be consistent with and incorporates the same pollutant terminology that appear in the table of effluent limitations at 40 CFR 434.72(b)(1).

There is no definition of ''Base line pollution load'' in SMCRA or its implementing regulations. We find, however, that the State's definition is not inconsistent with the Federal regulations at 30 CFR 816/817.42, which require compliance with all applicable State and Federal water quality laws and regulations and with the effluent limitations for coal mining promulgated by EPA at 40 CFR part 434 and can be approved.

d. Definition of ''Best available technology economically achievable.'' This definition has been totally revised to provide as follows:

(O) ''Best available technology economically achievable'' for remining operations means implementation of a pollution abatement plan that incorporates Best Management Practices (BMPs) designed to improve pH (as acidity) and reduce pollutant loadings of iron, manganese and sediment to the maximum extent possible from or on the pollution abatement area.

(1) BMP's are practices implemented during the mining and reclamation of remining sites that are designed to reduce, if not completely eliminate, the pre-existing water pollution problems. BMP's are tailored to specific mining operations based largely on pre-existing site conditions, hydrology, and geology. BMP's are designed to function in a physical and/or geochemical manner to reduce pollution loadings. These BMP measures include engineering, geochemical, daylighting, regrading, revegetation, diversion ditches or other applicable practices.

In the preamble to the **Federal Register** notice in which EPA promulgated its coal remining regulations at 40 CFR part 434, subpart G, EPA discussed the term ''best available technology economically achievable'' (BAT) (67 FR 3370, 3379; January 23, 2002). Specifically, EPA stated that it ''is establishing that the best available technology economically achievable for remining operations is implementation of a pollution abatement plan that incorporates BMPs [best management practices] designed to improve pH (as acidity) and reduce pollutant loadings of iron, manganese and sediment, and a requirement that such pollutant levels do not increase over baseline conditions.'' In the same notice, in a discussion of remining permits issued by various States under Section 301(p) of the Clean Water Act, EPA stated that the remining operations must meet the alternate baseline numeric limits specified in the permits ''and must implement site-specific BMPs'' (67 FR at 3376). These BMPs, EPA stated, ''include special handling of acid-producing materials, daylighting of abandoned underground mines, control of surface water and ground water, control of sediment, addition of alkaline material, and passive treatment'' (67 FR at 3376). Ohio's definition of ''Best available technology economically

achievable,'' with its included definition of ''best management practices'' appears to be consistent with EPA's discussion of the meaning of these terms in its January 23, 2002, **Federal Register** notice.

There is no definition of ''Best available technology economically achievable'' in SMCRA or its implementing regulations. We find, however, that the State's definition is not inconsistent with the Federal regulations at 30 CFR 816/817.42, which require compliance with all applicable State and Federal water quality laws and regulations and with the effluent limitations for coal mining promulgated by EPA at 40 CFR part 434 and can be approved.

e. Definition of ''Chief.'' This definition, at 13–1–02(R), has been revised to mean the Chief of the division of ''Mineral Resources Management.'' The name change resulted when Ohio's Department of Natural Resources combined the responsibilities of the Division of Oil and Gas with those of the Division of Mines and Reclamation. We find that this revision does not render the Ohio program less effective than the Federal regulations and can be approved.

f. Definition of ''Pollution abatement area.'' This definition has been amended by adding a new sentence at the end of the existing definition. The new sentence provides that the ''pollution abatement area must include, to the extent practicable, areas adjacent to and nearby the remining operation that also must be affected to reduce the pollution load of the pre-existing discharges and may include the immediate location of the pre-existing discharges.'' As amended, the definition provides as follows:

(MMMM) ''Pollution abatement area'' means that part or parts of the permit area which are causing or contributing to the base line [baseline] pollution load, and which must be affected to bring about potential improvement of the base line [baseline] pollution load, and which may include the immediate location of the discharge(s). The pollution abatement area must include, to the extent practicable, areas adjacent to and nearby the remining operation that also must be affected to reduce the pollution load of the pre-existing discharges and may include the immediate location of the pre-existing discharges.

The new sentence that has been added to the definition of ''Pollution abatement area'' appears to be substantively identical to the counterpart sentence in EPA's definition of ''pollution abatement area'' in the Federal regulations at 40 CFR 434.70(b). There is no definition of ''Pollution abatement area'' in SMCRA or its implementing regulations. We find, however, that the State's definition is not inconsistent with the Federal regulations at 30 CFR 816/817.42, which require compliance with all applicable State and Federal water quality laws and regulations and with the effluent limitations for coal mining promulgated by EPA at 40 CFR part 434 and can be approved.

g. Definition of ''Pre-existing discharge.'' This definition has been amended by adding a new sentence at the end of the existing definition. As amended, the definition provides as follows:

(OOOO) ''Pre-existing discharge'' means a discharge from surface or subsurface waters which is located on previously mined area as defined in this rule. This term shall include a pre-existing discharge that is relocated as a result of the implementation of best management practices contained in the abatement plan.

The new sentence that was added to the definition of ''Pre-existing discharge'' appears to be substantively identical to the counterpart sentence in EPA's definition of ''pre-existing discharge'' in the Federal regulations at 40 CFR 434.70(c). There is no definition of ''Pre-existing discharge'' in SMCRA or its implementing regulations. We find, however, that the State's definition is not inconsistent with the Federal regulations at 30 CFR 816/817.42, which require compliance with all applicable State and Federal water quality laws and regulations and with the effluent limitations for coal mining promulgated by EPA at 40 CFR part 434 and can be approved.

2. OAC 1501:13–4–15 Authorization To Conduct Coal Mining on Pollution Abatement Areas

This provision is amended by adding new paragraphs 1501:13–4–15(C)(2)(a), (b) and (c) as follows:

(a) If the Chief determines that it is infeasible to collect samples for establishing the baseline pollution load and that remining will result in significant improvement that would not otherwise occur, then the numeric effluent limitations do not apply to the pollution abatement area. Pre-existing discharges for which it is infeasible to collect samples for determination of baseline pollutant levels include, but are not limited to, discharges that exist as a diffuse groundwater flow that cannot be assessed via sample collection; a base flow to a receiving stream that cannot be monitored separate from the receiving stream; a discharge on a steep or hazardous slope that is inaccessible for sample collection; a pre-existing discharge that is too large to adequately assess via sample collection; or a number of pre-existing discharges so extensive that monitoring of individual discharges is infeasible.

(b) If the Chief approves a non-numeric NPDES remining permit the operator shall implement a pollution abatement plan incorporating BMP's designed to reduce the pollutant levels of acidity, iron, manganese, and solids in pre-existing discharges. The monitoring plan will be determined by the Chief. An operator who obtains a non-numeric NPDES remining permit will not be subject to paragraphs F(2), (3), (4), (5), (6) and (H)(3)(c) of this section.

(c) TSS [total suspended solids] and SS [suspended solids] are exempt during mining and reclamation, if the Chief determines it is infeasible or impractical based on the site specific conditions of the soil, climate, topography, steep slopes, or other baseline conditions provided that the operator demonstrates that significant reductions of TSS and SS will be achieved through the incorporation of sediment control BMP's into the pollution abatement plan as required under paragraph (C)(4).

On January 23, 2002, the EPA amended 40 CFR part 434 by adding new subpart G-Coal Remining (67 FR 3370). 40 CFR 434.72(b)(1) sets forth the effluent limits for pre-existing discharges. 40 CFR 434.72(b)(2) authorizes an exception to compliance with the effluent limitations at 40 CFR 434.72(b)(1) in cases where the permitting authority determines that it is infeasible to collect samples for establishing the baseline pollutant levels and that remining will result in significant improvement that would not otherwise occur. The proposed State language at OAC 1501: 13–4–15 (C)(2)(a) appears to be substantively identical to the EPA provisions at 40 CFR 434.72(b)(2).

OAC 1501: 13–4–15(C)(2)(a) authorizes the use of non-numeric effluent limitations in cases where the Chief of the DMRM determines that it is infeasible to collect samples for establishing the baseline pollution load and where significant improvement that would not otherwise occur. In response to our request to EPA for its concurrence and comments on the proposed amendment, the EPA concurred with the proposed amendment and stated that it had no comments (Administrative Record Numbers OH–2184–03 and OH–2184–04). EPA is primarily responsible for establishing effluent limitations. Therefore, for the reasons discussed above, we find that proposed OAC 1501:13–4–15 (C)(2)(a) can be approved because it is in accordance with Section 702(a) of SMCRA which provides that nothing in SMCRA can be construed as superseding, amending or modifying the Federal Water Pollution Control Act (*i.e.* the Clean Water Act) or its regulations.

OAC 1501: 13–4–15(C)(2)(b) exempts an operator who receives a non-numeric NPDES remining permit under OAC 1501: 13–4–15(C)(2)(a) from the discharge treatment requirements at OAC 1501: 13–4–15 F(2), (3), (4), (5), (6), and from the bond release requirements at OAC 1501: 13–4–15(H)(3)(c). The new State provision appears to be consistent with EPA's requirements concerning effluent limitations for coal remining operations at 40 CFR 434.72(b)(2). The EPA provision provides that if the permitting authority determines that it is infeasible to collect samples for establishing the baseline pollutant levels pursuant to 40 CFR 434.72(b)(1), and that remining will result in significant improvement that would not otherwise occur, then the numeric effluent limitations at 40 CFR 434.72(b)(1) do not apply. That is, under the EPA rule, no effluent limitations would be established for pre-existing pollutional discharges that qualify under the ''unfeasible to establish baseline pollutant levels'' provision at 40 CFR 434.72(b)(2). Therefore, when the State authorizes a non-numerical NPDES permit for pre-existing pollutional discharges, no baseline effluent limitation standards would be established for the qualifying discharges. Therefore, the requirements concerning treatment of discharges at OAC 1501: 13–4–15 F(2), (3), (4), (5), and (6) would not apply to the qualifying discharges because no numerical baseline treatment standards were established and these Subsections pertain to numeric effluent limitations. Similarly, the bond release requirements at OAC 1501: 13–4–15(H)(3)(c) would not apply to the qualifying discharges because no numerical baseline treatment standards were established.

The EPA regulations concerning alternate and non-numerical effluent limitations for pre-existing pollutional discharges, at 40 CFR part 434, subpart G-Coal Remining, apply only to pre-existing discharges that are not co-mingled with waste streams from active mining areas. Any pre-existing discharge that is co-mingled with active mining wastewater is subject to the most stringent limitations applicable to any component of the waste stream. Once active co-mingling of waters has ceased, however, the pre-existing discharge is not required to continue to meet the more stringent effluent limits. EPA stated that it believes that it would create a significant disincentive for remining activities to continue to require compliance with the more stringent effluent limits after co-mingling has ceased (67 FR 3378). The same is true in Ohio at OAC 1501: 13–4–15(F)(1).

In its January 23, 2002, **Federal Register** notice, EPA explained that in specific and limited cases, permit requirements may be based on implementation of an approved BMP plan ''in lieu of numeric limitations based on baseline pollution levels'' (67 FR 3378). That is, in specific and limited cases, there would be no numerical effluent limitations established based upon baseline sampling data. Rather, the Pollution Abatement Plan that is required under 40 CFR 434.72(a), must be designed to reduce the pollution load from pre-existing discharges and must identify selected BMPs to be used. The BMPs must be implemented as specified in the plan. As we noted above, EPA concurred with the proposed Ohio amendments and stated that it had no comments. Neither SMCRA nor its implementing regulations have a counterpart to 1501:13–4–15(F)(2), (3), (4), (5), (6) and (H)(3)(c). Therefore, an exemption from these requirements found at proposed OAC 1501:13–4–15 (C)(2)(b), does not render the Ohio program inconsistent with the Federal regulations at 30 CFR 816/817.42 and can be approved. Considering the above, we find that proposed OAC 1501: 13–4–15(C)(2)(b) does not render the Ohio program less effective than the Federal regulations at 30 CFR 816/817.42 concerning compliance with water quality standards and effluent limitations and can be approved.

OAC 1501: 13–4–15(C)(2)(c) exempts pre-existing pollutional discharges from TSS and SS standards upon the specified determinations by the Chief of the DMRM. This new State provision appears to be consistent with EPA's requirements concerning effluent limitations for coal remining operations at 40 CFR 434.72(b)(1). Footnote 1 to the table of effluent limitations at 40 CFR 434.72(b)(1) provides as follows:

[1] A pre-existing discharge is exempt from meeting standards in Subpart E of this part [40 CFR part 434, subpart E] for TSS and SS when the permitting authority determines that Subpart E standards are infeasible or impractical based on the site-specific conditions of soil, climate, topography, steep slopes, or other baseline conditions provided that the operator demonstrates that significant reductions of TSS and SS will be achieved through the incorporation of sediment control BMPs into the Pollution Abatement Plan as required by paragraph (a) of this section [40 CFR 434.72(a)].

The proposed State provision at OAC 1501: 13–4–15(C)(2)(c) appears to be substantively identical to and provides the same exemption concerning TSS and SS as is authorized by EPA at 40 CFR 434.72(b)(1). As 40 CFR 434.71(a) clarifies, 40 CFR part 434, subpart G applies to pre-existing discharges that are located within or are hydrologically connected to pollution abatement areas of a coal remining operation. Therefore, the exemption for TSS and SS applies only to pre-existing discharges that are located within or are hydrologically connected to pollution abatement areas of a coal remining operations. As we noted above, EPA concurred with the proposed amendments and stated that it had no comments. We find that proposed OAC 1501: 13–4–15(C)(2)(c) does not render the Ohio program less effective than the Federal regulations at 30 CFR 816/817.42, which requires compliance with all applicable State and Federal water quality laws and regulations, or with 30 CFR 780.21(j)(2)(ii), which requires the monitoring of point source discharges in accordance with 40 CFR parts 122, 123 and 434, and can be approved.

3. OAC 1501:13–4–15(E)(3) Notification of Implementation and Completion of Each Step of the Abatement Plan

Subsection 13–4–15(E)(3) is deleted from the performance standards at OAC 1501:13–4–15(E). The deleted language provided that an operator shall ''[n]otify the chief immediately prior to the start and upon completion of each step of the abatement plan.'' There is no direct counterpart to the deleted State language in SMCRA or its implementing regulations, nor in the EPA requirements at 40 CFR part 434, subpart G concerning coal remining.

The State's provision at Subsection 13–4–15(C)(4)(b) requires an operator to provide ''a description and explanation of each step in the proposed abatement plan.'' In addition, Subsection 13–4–15(E)(4) provides than an operator must ''submit a certification by the supervising professional engineer of the proper construction of certain steps of the abatement plan which may include, but not be limited to, the completion of mine seals, compaction tests, subsurface drains and, where necessary, stability analyses.'' As we noted above, EPA concurred with the proposed amendments and stated that it had no comments. Therefore, it appears that the proposed deletion does not render the performance standards at 13–4–15(E) inconsistent with EPA's requirements at 40 CFR part 434, subpart G concerning coal remining. We find that the proposed deletion of OAC 1501: 13–4–15(E)(3) does not render the Ohio program less effective than the Federal regulations at 30 CFR 816/817.42

concerning compliance with all applicable State and Federal water quality laws and regulations and with the effluent limitations for coal mining promulgated by EPA at 40 CFR part 434 and can be approved.

4. OAC 1501:13–4–15(F)(1) Treatment of Discharges

Subsection 13–4–15(F)(1) is revised to provide as follows:

(F) Treatment of discharges.

(1) For any pre-existing discharges from or on the pollution abatement area, that are commingled with active mining wastewater, the operator shall comply with rule 1501:13–9–04(B) of the Administrative Code, until the pollution abatement plan is implemented and the commingling is ceased.

Prior to being amended, this provision provided that ''[e]xcept for pre-existing discharges from or on the pollution abatement area the operator shall comply with rule 1501:13–9–04 of the Administrative Code.'' The proposed amendment, in effect, clarifies that when commingling occurs between pollutional discharges from the pollutional abatement area and drainage from the active mining, the alternate effluent limitations for the pollutional discharges from the pollutional abatement area no longer apply, and the commingled discharge must comply with the standards at OAC 1501:13–9–04(B). Compliance with OAC 1501:13–9–04(B) must continue until the pollution abatement plan is implemented and the commingling ceases.

As amended, OAC 1501:13–4–15(F)(1) appears to be consistent with EPA's requirements concerning effluent limitations for coal remining operations at 40 CFR 434.71(b). EPA's requirements at 40 CFR 434.71(b) provide that a pre-existing discharge that is intercepted by active mining or that is commingled with waste streams from active mining areas for treatment is subject to the provisions of 40 CFR 434.61 concerning the commingling of waste streams. 40 CFR 434.71(b) also provides that Section 434.61 applies to the waste stream only during the time when the pre-existing discharge is intercepted by the active mining or is commingled with active wastewater for treatment or discharge. After commingling has ceased, the pre-existing discharge is subject to the provisions of 40 CFR part 434, subpart G, coal remining.

There is no specific counterpart to the proposed language in either SMCRA or its implementing regulations. However, we find that Subsection 13–4–15(F)(1) is consistent with the Federal regulations at 30 CFR 816/817.42, which require compliance with all applicable State and Federal water quality laws and regulations and with the effluent limitations for coal mining promulgated by EPA at 40 CFR part 434 and can be approved. As we noted above, EPA concurred with the proposed amendments and stated that it had no comments.

5. OAC 1501:13–4–15(H)(3)(c) Criteria and Schedule for Release of Bonds on Pollution Abatement Area

Subsection 13–4–15(H)(3)(c) has been revised by the addition of the phrase ''the total suspended solids meets the standard NPDES limits.'' As amended, 13–4–15(H)(3)(c) provides as follows:

(c) The operator has not exceeded the effluent limitations established in the remining NPDES permit from the time of bond release pursuant to paragraph (H)(2) of this rule for a period of two years from the discontinuance of treatment pursuant to paragraph (F)(5) of this rule; the total suspended solids meets the standard NPDES limits.

OAC 1501:13–4–15 concerns authorization to conduct coal mining on pollution abatement areas. Under OAC 1501:13–4–15(H)(3)(c), the remaining portion of the bond may be released if, among other requirements, the total suspended solids effluent is in compliance with the standards identified in the NPDES remining permit. Under a remining NPDES permit issued by the State, the total suspended solids limitations would be either required to comply with the baseline effluent limitations identified under OAC 1501:13–4–15(C)(2), or with the exemption to total suspended solids and suspended solids under OAC 1501:13–4–15(C)(2)(c).

This new State provision appears to be consistent with EPA's requirements concerning effluent limitations for total suspended solids for coal remining operations at 40 CFR 434.72(b)(1). Footnote 1 to the table of effluent limitations at 40 CFR 434.72(b)(1) provides that a pre-existing discharge is exempt from meeting standards in Subpart E of 40 CFR part 434 for total suspended solids and suspended solids when the permitting authority determines that Subpart E standards are infeasible or impractical based on the site-specific conditions of soil, climate, topography, steep slopes, or other baseline conditions provided that the operator demonstrates that significant reductions of total suspended solids and suspended solids will be achieved through the incorporation of sediment control best management practices into the Pollution Abatement Plan as required by paragraph (a) of Section 40 CFR 434.72(a). The State counterpart to the EPA exemption for total suspended solids that is identified in the footnote to Table 1 at 40 CFR 434.72(b)(1) is the new State language at OAC 1501:13–4–15(C)(2)(c) (see finding 2, above).

There is no specific counterpart to the proposed language at Subsection 13–4–15(H)(3)(c) either in SMCRA or its implementing regulations. However, we find that Subsection 13–4–15(H)(3)(c) is consistent with the Federal regulations at 30 CFR 816/817.42, which require compliance with all applicable State and Federal water quality laws and regulations and with the effluent limitations for coal mining promulgated by EPA at 40 CFR part 434, and with the Phase III bond release requirements at 30 CFR 800.40(c)(3) and can be approved. As we noted above, EPA concurred with the proposed amendments and stated that it had no comments.

IV. Summary and Disposition of Comments

Public Comments

No comments were received in response to our request for comments from the public on the proposed amendments (see Section II of this preamble).

Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i) and Section 503(b) of SMCRA we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Ohio program (Administrative Record Numbers OH–2184–01). We received a response from one Federal agency (see below).

Environmental Protection Agency (EPA) Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to obtain written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

On December 24, 2004, we requested concurrence on the amendment from EPA (Administrative Record Numbers OH–2184–01). The EPA responded by letter dated March 10, 2004, and an undated letter received by facsimile on March 18, 2004 (Administrative Record Numbers OH–2184–03 and OH–2184–04, respectively). In its undated letter, EPA stated that it has ''no comment to offer on those proposed revisions to Ohio Administrative Code Section 1501:13–4–15 and 1501:13–1–02 and, as such, concur in those revisions.''

V. OSM's Decision

As we noted above in Section II., Submission of the Amendment, the DMRM stated in its submittal letter dated November 7, 2003, that the proposed amendment is intended to bring Ohio's program up to date with the recent changes promulgated by the EPA on January 23rd, 2002, to 40 CFR part 434, subpart G Coal Remining. The DMRM's November 7, 2003, letter also stated that it intends to update existing policy and procedure directives to capture the statistical and monitoring procedures for coal mining. The statistical and monitoring procedures that the State referred to are located in appendix B to 40 CFR part 434.

It is our understanding that the Ohio program requires compliance with the Federal regulations at 40 CFR part 434, including compliance with the procedures to be used for establishing effluent limitations for pre-existing discharges at coal remining operations that are set forth in subpart G. appendix B to part 434. It is also our understanding that Ohio will not implement the regulations that we approve here until it completes updating its existing policy and procedure directives to capture the statistical and monitoring procedures for coal mining that are located in appendix B to part 434. Our approval of the proposed amendments in the above findings is based upon those understandings.

Based on the above findings, we are approving the amendments submitted to us on November 7, 2003.

To implement this decision, we are amending the Federal regulations at 30 CFR part 935, which codify decisions concerning the Ohio program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this rule effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12630—Takings

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

Executive Order 12866—Regulatory Planning and Review

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

Executive Order 12988—Civil Justice Reform

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

Executive Order 13132—Federalism

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

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

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

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

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

National Environmental Policy Act

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

Paperwork Reduction Act

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

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million;

(b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the analysis performed under various laws and executive orders for the counterpart Federal regulations.

Unfunded Mandates

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

List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 12, 2004.

Brent Wahlquist,

Regional Director, Appalachian Regional Coordinating Center.

■ For the reasons set out in the preamble, 30 CFR part 935 is amended as set forth below:

PART 935—OHIO

■ 1. The authority citation for part 935 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. Section 935.15 is amended in the table by adding a new entry in chronological order by ''Date of final publication'' to read as follows:

§ 935.15 Approval of Ohio regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	*
November 7, 2003	September 27, 2004	OAC 1501:13–1–02(A), (D), (N), (O), (R), (MMMM), (OOOO); 1501:13–4– 15(C)(2)(a),(b),(c); (C)(3)(b); (E)(3); (F)(1), (H)(3)(c).

[FR Doc. 04–21539 Filed 9–24–04; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD05–04–160]

RIN 1625–AA08

Special Local Regulations for Marine Events; Sunset Lake, Wildwood Crest, NJ

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a special local regulation during the ''Sunset Lake Hydrofest,'' a marine event to be held October 2 and 3, 2004, on the waters of Sunset Lake, Wildwood Crest, New Jersey. This special local regulation is necessary to provide for the safety of life on navigable waters during the event. This action will restrict vessel traffic in portions of Sunset Lake during the event.

DATES: This rule is effective from 7 a.m. on October 2, 2004, to 6 p.m. on October 3, 2004.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD05–04–160 and are available for inspection of copying at Commander (oax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dennis Sens, Project Manager, Auxiliary and Recreational Boating Safety Branch, at (757) 398–6204.

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 (d)(3), the Coast Guard finds that good cause exists for not publishing a NPRM and for making this regulation effective less than 30 days after publication in the **Federal Register**. Publishing a NPRM and delaying its effective date would be contrary to public interest, since immediate action is needed to protect event participants, spectator craft, and other vessels transiting the event area from the dangers in high-speed power boats racing. Additionally, the parameters of the safety zone are limited to the race area, and the length of time this zone will be effective is limited to the times and dates of the event.

Background and Purpose

On October 2 and 3, 2004, the Sunset Lake Hydrofest Association will sponsor the ''Sunset Lake Hydrofest'' on the waters of Sunset Lake near Wildwood Crest, New Jersey. The event will consist of approximately 100 inboard hydroplanes, Jersey Speed Skiffs, and flat-bottom Ski boats racing in heats counter-clockwise around an oval racecourse. A fleet of approximately 100 spectator vessels is expected to gather nearby to view the competition. Due to the need for vessel control during the event, vessel traffic will be temporarily restricted to provide for the safety of participants, spectators, and transiting vessels.

Discussion of Rule

The Coast Guard is establishing a temporary special local regulation on specified waters of Sunset Lake. The temporary special local regulation will be enforced from 7:30 a.m. to 4:30 p.m. on October 2 and 3, 2004, and will restrict general navigation in the regulated area during the event. Except for participants and vessels authorized by the Coast Guard Patrol Commander, no person or vessel will be allowed to enter or remain in the regulated area. This regulation is needed to control vessel traffic during the event to enhance the safety of participants, spectators and transiting vessels.

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).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. Although this regulation prevents traffic from transiting a portion of Sunset Lake during the event, the effect of this regulation would not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly. Additionally, the regulated area has been narrowly tailored to impose the least impact on general navigation yet provide the level of safety deemed necessary. Vessel traffic would be able to transit Sunset Lake by navigating to the north of the regulated area or could seek approval from the patrol commander to travel through the regulated area.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule will 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. This rule affects the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of Sunset Lake during the event.

This rule will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for only a limited period. Vessel traffic could pass safely to the north of the regulated area or could seek approval from the patrol commander to travel through the regulated area. Before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

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 rule so that they can better evaluate its effects on them. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES.** The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This 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 will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this 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 will 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 will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the

Instruction, from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade permit are specifically excluded from further analysis and documentation under that section.

Under figure 2–1, paragraph (34)(h), 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 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 100.35–T05–160 to read as follows:

§ 100.35–T05–160 Sunset Lake, Wildwood Crest, NJ.

(a) *Definitions.* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Atlantic City.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Group Atlantic City with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participant* includes all vessels participating in the Sunset Lake Hydrofest under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Group Atlantic City.

(4) *Regulated area* includes all waters of Sunset Lake, New Jersey, from shoreline to shoreline, south of latitude 38°58′32″ N. All coordinates reference Datum: NAD 1983.

(b) Special local regulations. (1) Except for event participants and persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area must:

(i) Stop the vessel immediately when directed to do so by any Official Patrol.

(ii) Proceed as directed by any Official Patrol.

(iii) Unless otherwise directed by the Official Patrol, operate at a minimum wake speed not to exceed six (6) knots.

(c) *Enforcement period.* This section will be enforced from 7 a.m. on October 2, 2004, to 6 p.m. on October 3, 2004.

Dated: September 14, 2004.

Ben R. Thomason, III,

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

[FR Doc. 04–21593 Filed 9–24–04; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7818–1]

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

AGENCY: Environmental Protection Agency.

ACTION: Direct final notice of partial deletion of the Centre County Kepone Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA), Region III, is publishing a direct final notice of deletion of a portion of the Centre County Kepone Superfund Site (the Site), located in State College, Pennsylvania, from the National Priorities List (NPL). The deletion affects approximately 8 acres, referred to as the ''Administration Parcel''.

The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is Appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection (PADEP), because no manufacturing operations ever occurred on the Administration Parcel and it is located upgradient from the contaminated portions of the Site. Therefore, remedial action pursuant to CERCLA is not appropriate.

DATES: This direct final deletion will be effective November 26, 2004, unless EPA receives adverse comments by October 27, 2004. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Comments may be mailed to: David Polish, Community Involvement Coordinator, U.S. EPA Region III, Mailcode 3HS43, 1650 Arch Street, Philadelphia, Pennsylvania 19103–2029, (215) 814–3327 or 1–800–553–2509, *polish.david@epa.gov*.

Information Repositories: Repositories have been established to provide detailed information concerning this decision at the following addresses: U.S. EPA Region III Library, U.S. EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103–2029, (215) 814–5000, Monday through Friday 8 a.m. to 12 p.m.; Schlow Memorial Library, 118 South Fraser Street, State College, PA 16801, (814) 237–6236, Monday through Wednesday 9 a.m. to 9 p.m., Thursday 12 p.m. to 9 p.m., Friday 9 a.m. to 6 p.m., Saturday 9 a.m. to 5 p.m., Sunday (during school year) 1:30 p.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Frank Klanchar, Project Manager, U.S. EPA Region III, Mailcode 3HS22, 1650 Arch Street, Philadelphia, Pennsylvania 19103–2029, (215) 814–3218 or 1–800–438–2474, *klanchar.frank@epa.gov*.

SUPPLEMENTARY INFORMATION:

Table of Contents

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

I. Introduction

The Environmental Protection Agency (EPA) Region III is publishing this direct final notice of deletion of a portion of the Centre County Kepone Superfund Site (the Site), located in State College, Pennsylvania, from the NPL. This deletion pertains to approximately 8 acres to the north of Struble Road, referred to as the Administration Parcel, which includes the current RUTGERS Organics Corporation (ROC) Administration Building and associated parking and open areas.

The Administration Parcel has never been used for manufacturing operations and is located upgradient from the contaminated portion of the Site. EPA proposes to delete the Administration Parcel because no contamination at or above levels that present a significant risk to public health, welfare, or the environment has been found at or originating from the Administration Parcel. Therefore, response activities are not appropriate in this portion of the Site.

The EPA identifies sites that appear to present a significant risk to public health or the environment and

maintains the NPL as the list of those sites. As described in 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions if conditions at a deleted site warrant such action.

Because EPA considers this action to be non-controversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This direct final deletion will be effective sixty (60) days after publication of this document in the **Federal Register** unless EPA receives adverse comments within thirty (30) days after publication of this document. If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final deletion before the effective date of the deletion and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

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

II. NPL Deletion Criteria

Section 40 CFR 300.425(e) of the NCP provides that releases may be deleted from the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the State, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

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

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

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

Deletion of a portion of a site from the NPL does not preclude eligibility for subsequent Fund-financed actions at the area deleted if future site conditions warrant such actions. Section 300.425(e)(3) of the NCP provides that Fund-financed actions may be taken at sites that have been deleted from the NPL. A partial deletion of a site from the NPL does not affect or impede EPA's ability to conduct CERCLA response activities at areas not deleted and remaining on the NPL. In addition, deletion of a portion of a site from the NPL does not affect the liability of responsible parties or impede agency efforts to recover costs associated with response efforts.

III. Deletion Procedures

The following procedures apply to the deletion of the Administration Parcel at the Site:

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

(2) The Commonwealth of Pennsylvania, through the PADEP, concurred with this partial deletion.

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

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

(5) If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final notice of deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received.

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

IV. Basis for Partial Site Deletion

The following information provides EPA's rationale for deleting the Administration Parcel of the Site from the NPL and EPA's finding that the criteria in 40 CFR 300.425(e) are satisfied.

Background

The Site is located in College Township, Centre County, Pennsylvania, approximately two and one-quarter miles northeast of the Borough of State College, near the intersection of State Routes 322 and 26. The main Site occupies an area of approximately 32 acres consisting of the chemical manufacturing area, process buildings, a groundwater treatment building, warehouses and storage buildings and an open grassy field located south of Struble Road between a portion of the Conrail Railroad line and 1st Avenue. The Administration Parcel comprised a further area, approximately 8 acres in size, located north of Struble Road, where an administration building and associated parking areas are located.

RUTGERS Organics Corporation, (ROC), formerly known as Ruetgers-Nease Corporation (RNC), has owned and operated a chemical manufacturing plant at the main Site. The plant has operated since 1958 when it was built by Nease Chemical Company, Inc., the previous owner of the Site. As a result of an acquisition, ROC has operated the plant since December 1977.

In the immediate vicinity of the Site, the land use is predominantly industrial and commercial, with some residential dwellings located to the southeast

across 1st Avenue. Local public water supply is provided throughout the surrounding area by the Lemont Water Company.

The Site was placed on the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) National Priorities List (NPL) on September 8, 1983. Pursuant to CERCLA, as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), ROC and the United States Environmental Protection Agency (USEPA) entered into an Administrative Order of Consent (AOC, EPA Docket No. III–88–22–DC; USEPA, 1988) on November 7, 1988. The AOC stipulated that a Remedial Investigation (RI) and Feasibility Study (FS) be performed at the Site and specific off-Site areas including Thornton Spring and a portion of Spring Creek. The RI was conducted from 1990 through 1992 and the RI Report (Golder Associates, 1993), which included a Baseline Risk Assessment, was conditionally approved by USEPA on March 26, 1993. The FS was conducted in 1993 and the FS Report (Golder Associates, 1994) was conditionally approved by USEPA on September 27, 1994.

USEPA issued a Record of Decision for the Site dated April 21, 1995 (ROD; USEPA, 1995). The 1995 ROD addressed contaminated groundwater, surface water, soils, and sediments, together with source control measures for surface water discharges. A future ROD will address soils from the riparian areas of Spring Creek and the 15-acre former sprayfield area, and sediments from the lower portion of the freshwater drainage ditch, Thornton Spring, and Spring Creek beyond the Benner Fish Hatchery. USEPA amended the 1995 ROD in 2001 with the concurrence of the Commonwealth of Pennsylvania (ROD Amendment, USEPA, 2001) to select an alternative method of soil remediation at the main Site (enhanced soil vapor extraction and soil removal). A Consent Decree, whereby ROC agreed to implement the requirements of the OU–1 ROD, as amended, was signed by ROC on September 30, 1996 (Civil Action No. 03–23; USEPA, 1996b). Since 1999, contaminated groundwater extraction and treatment, soil and sediment removal, soil vapor extraction, and groundwater and surface water monitoring have been conducted at the Site pursuant to the ROD and Consent Decree.

No remedial actions are required by the ROD and Consent Decree for the Administration Parcel. There is some ambiguity as to whether the Administration Parcel was ever truly part of the NPL Site since no manufacturing operations ever occurred thereon and the parcel is located upgradient from the remainder of the Site.

Sampling Results

Extensive sampling has been completed at the Site as part of the Remedial Investigation, the subsequent Remedial Design, and monitoring of remedial actions. Data collected from monitoring wells located within the Administration Parcel, which have been sampled for over ten years, indicates no contamination at or above clean-up levels either at or originating from the Administration Parcel. Therefore, response actions have not been required by the present ROD, nor are anticipated to be required by any future ROD for the Site. Therefore, EPA intends for this parcel to be officially removed from the NPL pursuant to 40 CFR 300.425(e).

Community Involvement

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

V. Deletion Action

The EPA, with concurrence of the Commonwealth of Pennsylvania, has determined that all appropriate responses under CERCLA have been completed for the Administration Parcel, and that no further response actions, under CERCLA, are necessary. Therefore, EPA is deleting the Administration Parcel of the Site from the NPL.

Because EPA considers this action to be non-controversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This direct final deletion will be effective sixty (60) days after publication of this document in the **Federal Register** unless EPA receives adverse comments within thirty (30) days after publication on this document. If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final deletion before the effective date of the deletion and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

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

Dated: September 14, 2004.

Andrew Carlin,

Acting Regional Administrator, Region III.

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

PART 300—[AMENDED]

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

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

Appendix B—[Amended]

■ 2. Table 1 of Appendix B to Part 300 is amended by adding a ''P'' in the Notes column in the entry for Centre County Kepone, State College Borough, Pennsylvania.

[FR Doc. 04–21493 Filed 9–24–04; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 040209049–4117–02; I.D. 091404G]

Pacific Halibut Fisheries; Oregon Sport Fisheries

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

ACTION: Inseason action; request for comments.

SUMMARY: NMFS announces changes to the regulations for the Area 2A sport halibut fisheries off the central coast of Oregon. This action would increase the daily bag limit and make additional potential season reopening dates available to halibut fishing in the Oregon central coast recreational fishing subarea. The purpose of this action is to allow increased access to Oregon's central coast recreational halibut quota.

DATES: Effective September 22, 2004, through the 2005 annual management

measures which will publish in a later **Federal Register** document. Comments on this rule will be accepted through October 7, 2004.

ADDRESSES: You may submit comments on the inseason action, identified by I.D. 091404G, by any of the following methods:

- E-mail: *halibutinseason01.nwr@noaa.gov*. Include 091404G in the subject line of the message.
- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Fax: 206–526–6736, Attn: Jamie Goen.
- Mail: D. Robert Lohn, Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115–0070.

FOR FURTHER INFORMATION CONTACT: Jamie Goen (NMFS, Northwest Region), phone: 206–526–4646.

SUPPLEMENTARY INFORMATION: International Pacific Halibut Commission (IPHC) annual management measures for the Pacific halibut fisheries were published on February 27, 2004 (69 FR 9231). The Area 2A Catch Sharing Plan for Pacific halibut off Washington, Oregon, and California was implemented subsequently at 69 FR 24524, May 4, 2004. Those regulations established the 2004 area quota for the central coast of Oregon (Cape Falcon, OR to Humbug Mountain, OR) all-depth fishery of 282,178 lb (128 mt) and the related management measures. The third all-depth sport fishery season in the central area is scheduled to be open 2 days per week (Friday and Saturday) on previously announced specific dates, and the nearshore fishery (shoreward of 40–fathoms) is scheduled for 7 days per week, both with a one-fish bag limit.

The pace of the all-depth halibut fishery has been slow off the Oregon central coast in recent years. Oregon Department of Fish and Wildlife (ODFW), the agency that directly monitors the sport halibut fishery off Oregon's coast, reports sport halibut catch in the 2004 fishery, as of September 1, 2004, to have 77,736 lb (35.3 mt) of quota remaining out of a 282,178 lb (128 mt) quota for the Oregon central coast fishery (Note: the remaining quota includes 20,858 lb (9.5 mt) remaining in the nearshore fishery). For the remainder of the year, this fishery is scheduled to be open, as quota allows, on September 17, 18 and October 1, 2, 15, 16, 29 and 30. In order to increase opportunity for participation in sport halibut fisheries in the Oregon central coast subarea, ODFW consulted with NMFS and the IPHC, and they together recommended that additional potential season reopening dates be available for the all-depth fishery, that the fishery be changed from a 2–day per week (Friday and Saturday) fishery to a 3–day per week (Friday through Sunday) fishery, and that the fishery be changed from a one-fish bag limit to a two-fish bag limit. The increased bag limit would apply to the nearshore fishery, shoreward of 40–fathoms, in this subarea as well.

These changes would increase the days available that a vessel could fish for halibut in the all-depth area and allow the retention of an additional fish (up to two) in both the all-depth and nearshore areas, as quota allows. The additional potential reopening dates and increased bag limit announced in this document allow flexibility in scheduling the remainder of the season and increased opportunity to attain the 2004 sport halibut quota for this subarea. ODFW hopes that by adding potential reopening dates and increasing the bag limit, anglers will be able to access the full halibut quota for this subarea and not leave quota remaining, as in 2002 and in 2003, where about 50,000 lb (22.7 mt) and 80,000 lb (36.3 mt) of combined central coast quota remained unharvested, respectively.

Section 25 of the 2004 Pacific halibut regulations provides NMFS with the authority to make certain inseason management changes, provided that the action is necessary to allow allocation objectives to be met, and that the action will not result in exceeding the catch limit for the area. The Catch Sharing Plan's (CSP's) structuring objective for the Oregon central coast area is to provide two periods of fishing opportunity in Spring and in Summer in productive deeper water areas along the coast, principally for charterboat and larger private boat anglers, and to provide a period of fishing opportunity in the summer for nearshore waters for small boat anglers.

In consultation with the ODFW and the IPHC, NMFS has determined to increase the bag limit in this subarea to two-fish per day and to allow the following additional potential reopening dates to sport halibut fishing in the Oregon central coast all-depth subarea for the remainder of 2004: September 24, 25, 26, and October 1, 2, 3, 8, 9, 10, 15, 16, 17, 22, 23, 24, 29, 30 and 31, in order to meet the CSP's objectives. Additionally, this action is not expected to result in bycatch of overfished groundfish species above the amounts previously projected to be taken in Oregon sport fisheries in 2004, particularly the 3.2 mt for yelloweye rockfish.

NMFS Action

For the reasons stated above, NMFS announces the following change to the 2004 annual management measures (69 FR 24524, May 4, 2004) to read as follows:

1. On page 24526, in the third column, in section 24. Sport Fishing for Halibut, paragraphs (4)(b)(v)(A)(*3*) and (4)(b)(v)(B) in the third column are revised to read as follows:

24. Sport Fishing for Halibut

* * * * *

(4) * * *

(b) * * *

(v) * * *

(A) * * *

(*3*) If sufficient unharvested catch remains, the third season (summer season), which is for the ''all-depth'' fishery, will be open August 6, 7, 20, and 21, September 3, 4, 17, 18, 24, 25, and 26, and October 1, 2, 3, 8, 9, 10, 15, 16, 17, 22, 23, 24, 29, 30, and 31, or until the combined spring season and summer season quotas in the area between Cape Falcon and Humbug Mountain, OR, totaling 259,604 lb (117.8 mt), are estimated to have been taken and the area is closed by the Commission, whichever is earlier. NMFS will announce fishery openings and closures on the NMFS hotline.

(B) The daily bag limit is the first two halibut taken, per person, of 32 inches (81.3 cm) or greater in length.

* * * * *

Classification

This action is authorized by section 25 of the IPHC regulations published at 69 FR 24524 (May 4, 2004). The determination to take these actions is based on the most recent data available. The Assistant Administrator for Fisheries, NOAA (AA), has determined that good cause exists for this document to be published without affording a prior opportunity for public comment under 5 U.S.C. 553(b)(3)(B) because doing so would be impracticable. Providing prior notice and opportunity for public comment would be impracticable because it might prevent fishers from achieving their recreational harvest opportunity for halibut within this subarea's quota for the season. NMFS has concluded, based on the slow rate of catch of halibut in Oregon's central coast recreational fishery in 2004, fishers may not have an opportunity to harvest the 2004 quota if they are limited to the season open dates and one-fish bag limit established pre-season. Thus, potential season reopening dates and an increased bag limit of two-fish per day are announced in this action for the Oregon central

coast all-depth sport halibut fishery. The additional potential reopening dates and increased bag limit are intended to allow anglers an opportunity to attain the Oregon central coast halibut quota for 2004 and flexibility in scheduling openings for any or all of those dates. However, there was not sufficient time between getting the information on the slow season catch for 2004 and the additional reopening dates to afford the public prior notice and opportunity for comment. NMFS received the information on September 1, 2004. The first new reopening date is September 24, 2003. NMFS needed time to write and review the changes to the regulations. In addition, this action relieves a restriction by providing additional opportunity for anglers to harvest halibut if sufficient quota remains. If there are no additional reopening dates added to the season or an increased bag limit, anglers may be restricted by not being able to harvest the full halibut quota for 2004. For the above reasons and because this action relieves a restriction, the AA has also determined that good cause exists to waive the delay of effectiveness of this action under 5 U.S.C. 553(d)(1) and (d)(3).

Public comments will be received for a period of 15 days after the publication in the **Federal Register** . This action is authorized by section 25 of the IPHC's annual management measures for Pacific halibut fisheries published on May 4, 2004 (69 FR 24524), and has been determined to be not significant for purposes of Executive Order 12866.

Authority: 16 U.S.C. 773–773k.

Dated: September 20, 2004.

John H. Dunnigan,

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

[FR Doc. 04–21553 Filed 9–22–04; 12:07 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 040122024–4105–02; I.D. 092104C]

Fisheries of the Northeastern United States; Tilefish Fishery; Quota Harvested for Part-time Category

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

ACTION: Closure.

SUMMARY: NMFS announces that the percentage of the tilefish annual total allowable landing (TAL) available to the Part-time category has been harvested. Commercial vessels fishing under the Part-time tilefish category may not harvest tilefish from within the golden tilefish management unit for the remainder of the 2004 fishing year (through October 31, 2004). Regulations governing the tilefish fishery require publication of this notification to advise the public of this closure.

DATES: Effective 0001 hrs local time, September 25, 2004, through 2400 hrs local time, October 31, 2004.

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

SUPPLEMENTARY INFORMATION: Regulations governing the tilefish fishery are found at 50 CFR part 648. The regulations require annual specification of a TAL for federally permitted tilefish vessels harvesting tilefish from within the golden tilefish management unit. The golden tilefish management unit is defined as an area of the Atlantic Ocean from the latitude of the VA and NC border (36°33.36′ N. lat.), extending eastward from the shore to the outer boundary of the exclusive economic zone, and northward to the U.S.-Canada border. After 5 percent of the TAL is deducted to reflect landings by vessels issued an open-access Incidental permit category, and after up to 3 percent of the TAL is set aside for research purposes, should research TAL be set aside, the remaining TAL is distributed among three tilefish limited access permit categories: Full-time tier 1 category (66 percent), Full-time tier 2 category (15 percent), and the Part-time category (19 percent).

The TAL for tilefish for the 2004 fishing year was set at 1.995 million lb (905,172 kg) and then adjusted downward by 5 percent to 1,895,250 lb (859,671 kg) to account for incidental catch. There was no research set-aside for the 2004 fishing year. Thus, the Part-time category quota for the 2004 fishing year, which is equal to 19 percent of the TAL, is 360,098 lb (163,338 kg). As a result of the decision in the *Hadaja* v. *Evans* lawsuit on May 15, 2003, the permitting and reporting requirements for the tilefish fishery were suspended for nearly a year. The decision rendered the subquotas for the various limited access permit categories inoperative. These requirements were reinstated on May 31, 2004, through a final rule (69 FR 22454, April 26, 2004). During the period that the permitting and reporting requirements were vacated, it was impossible to attribute tilefish landings to a particular limited access permit category. Consequently, projected landings were used for the period November 1, 2003 - May 31, 2004. Based on this projection, the adjusted Part-time category quota for the remainder of the fishing year (June 1–October 31, 2004) was calculated to be 200,791 lb (91,077 kg).

The Administrator, Northeast Region, NMFS (Regional Administrator) monitors the commercial tilefish quota for each fishing year using dealer reports, vessel catch reports, and other available information to determine when the quota for each limited access permit category is projected to have been harvested. NMFS is required to publish notification in the **Federal Register** notifying commercial vessels and dealer permit holders that, effective upon a specific date, the tilefish TAL for the specific limited access category has been harvested and no commercial quota is available for harvesting tilefish by that category for the remainder of the fishing year, from within the golden tilefish management unit.

The Regional Administrator has determined, based upon dealer reports and other available information, that the 2004 tilefish TAL for the Part-time category has been harvested. Therefore, effective 0001 hrs local time, September 25, 2004, further landings of tilefish harvested from within the golden tilefish management unit by tilefish vessels holding Part-time category Federal fisheries permits are prohibited through October 31, 2004. The 2005 fishing year for commercial tilefish harvest will open on November 1, 2004. Federally permitted dealers are also advised that, effective September 25, 2004, they may not purchase tilefish from Part-time category federally permitted tilefish vessels who land tilefish harvested from within the golden tilefish management unit for the remainder of the 2004 fishing year (through October 31, 2004).

Classification

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12866.

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

Dated: September 22, 2004.

Alan D. Risenhoover,

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

[FR Doc. 04–21590 Filed 9–22–04; 1:21 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 031124287–4060–02; I.D. 092004B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Aleutian District of the Bering Sea and Aleutian Islands

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

ACTION: Prohibition of retention.

SUMMARY: NMFS is prohibiting retention of Pacific ocean perch in the Central Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). NMFS is requiring that catch of Pacific ocean perch in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the 2004 total allowable catch (TAC) of Pacific ocean perch in this area has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 21, 2004, until 2400 hrs, A.l.t., December 31, 2004.

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

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

The 2004 TAC of Pacific ocean perch in the Central Aleutian District of the BSAI was established as 2,706 metric tons by the final 2004 harvest specifications for groundfish in the BSAI (69 FR 9242, February 27, 2004).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS, has determined that the Pacific ocean perch TAC in the Central Aleutian District of the BSAI has been reached. Therefore, NMFS is requiring that further catches of Pacific ocean perch in the Central Aleutian District of the BSAI be treated as a prohibited species in accordance with § 679.21(b).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the prohibition of retention of Pacific ocean perch in the Central Aleutian District of the BSAI.

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

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

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

Dated: September 20, 2004.

John H. Dunnigan,

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

[FR Doc. 04–21549 Filed 9–21–04; 4:44 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 031124287–4060–02; I.D. 092004D]

Fisheries of the Exclusive Economic Zone Off Alaska; Rougheye Rockfish in the Bering Sea and Aleutian Islands

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

ACTION: Prohibition of retention.

SUMMARY: NMFS is prohibiting retention of rougheye rockfish in the Bering Sea and Aleutian Islands management area (BSAI). NMFS is requiring that catch of rougheye rockfish in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the 2004 total allowable catch (TAC) of rougheye rockfish in this area has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 22, 2004, until 2400 hrs, A.l.t., December 31, 2004.

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

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

The 2004 TAC of rougheye rockfish in the BSAI was established as 181 metric tons by the final 2004 harvest specifications for groundfish in the BSAI (69 FR 9242, February 27, 2004).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS, has determined that the rougheye rockfish TAC in the BSAI has been reached. Therefore, NMFS is requiring that further catches of rougheye rockfish in the BSAI be treated as a prohibited species in accordance with § 679.21(b).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the prohibition of retention of rougheye rockfish in the BSAI.

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

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

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

Dated: September 20, 2004.

John H. Dunnigan,

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

[FR Doc. 04–21550 Filed 9–21–04; 4:44 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 031125292–4061–02; I.D. 092004G]

Fisheries of the Economic Exclusive Zone Off Alaska; Trawl Gear in the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is closing directed fishing for groundfish by vessels using trawl gear in the Gulf of Alaska (GOA), except for directed fishing for pollock by vessels using pelagic trawl gear in those portions of the GOA open to directed fishing for pollock. This action is necessary because the 2004 Pacific halibut prohibited species catch (PSC) limit specified for trawl gear in the GOA has been caught.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), October 1, 2004, until 1200 hrs, A.l.t., December 31, 2004.

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

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

The 2004 Pacific halibut PSC limit for vessels using trawl was established as 2,000 metric tons by the final 2004 harvest specifications for groundfish of the GOA (69 FR 9261, February 27, 2004).

The Administrator, Alaska Region, has determined, in accordance with § 679.21(d)(7)(i), that vessels engaged in directed fishing for groundfish with trawl gear in the GOA have caught the 2004 Pacific halibut PSC limit. Therefore, NMFS is closing directed fishing for groundfish by vessels using trawl gear in the GOA, except for directed fishing for pollock by vessels using pelagic trawl gear in those portions of the GOA that remain open to directed fishing for pollock.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay closing directed fishing for groundfish by vessels using trawl gear in the GOA.

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

This action is required by § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: September 21, 2004.

Bruce C. Morehead,

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

[FR Doc. 04–21551 Filed 9–21–04; 4:44 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 69, No. 186
Monday, September 27, 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 HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[CGD05–04–043]

RIN 1625–AA01

Anchorage Grounds, Hampton Roads, VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to revise the anchorage regulations in the Port of Hampton Roads. Infrastructure improvements and increases in vessel traffic and draft entering the port have prompted this proposed rulemaking. The proposed changes to this regulation will ensure that the Hampton Roads Anchorage Grounds continue to safely support current and future vessel anchoring demands.

DATES: Comments must be received on or before December 27, 2004.

ADDRESSES: You may mail comments and related material to Commander (oan), Fifth Coast Guard District, 431 Crawford Street, Room 401, Portsmouth, VA 23704–5004. Commander (oan), Fifth Coast Guard District, 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 Fifth Coast Guard District between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Timothy Martin, Fifth Coast Guard District (oan), (757) 398–6285, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

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 (CGD05–04–043), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please, submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But, you may submit a request for a meeting by writing to the Aids to Navigation and Waterways Management Branch at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

Recreational, public, and commercial vessels use the Hampton Roads Anchorage Grounds. General regulations covering the anchorage of vessels in the port are set out in 33 CFR 110.168. In June 1986, the U.S. Army Corps of Engineers (USACE) completed a study of the Norfolk Harbor, including its anchorages. The study is entitled, ''General Design Memorandum 1, Norfolk Harbor and Channels, Virginia, Main Report.'' Comments from the Coast Guard, Navy, Virginia Port Authority, Virginia Pilots Association and Hampton Roads Maritime Association requesting improvements to Anchorages F and K were considered in the study. Anchorage F currently has two 400-yard radius berths. The USACE, in 1998, constructed a single 500-yard radius berth for Anchorage F and is currently maintaining the anchorage at a project depth of 50 feet. This proposed rule would change Anchorage F to a single 500 yard radius berth to reflect the construction completed by the USACE in 1998. The USACE was congressionally authorized in November of 1986 to increase the channel depth of Anchorage F to 55 feet deep, *see* H. Doc. 99–85, 99th Cong., 1st session. Improvements were also proposed by the Coast Guard to the Newport News Middle Ground, Anchorage K, by increasing the easternmost berth, K–1 from a swing radius of 400 yards to one of 500 yards. In addition, Berth K–2, currently maintained at 40 feet, would be deepened to 45 feet. The increase in size to Berth K–1, the increase in depth to Berth K–2 and the increase in depth to Anchorage F have all been congressionally authorized and will be scheduled once the increase in arrivals of vessels with deeper drafts support the project. The circular boundaries for Berth K–1, referred to as East Anchorage, and Berth K–2, referred to as West Anchorage, will be shown on future chart editions for the area when the final rule for this regulation is published.

It is proposed that Anchorage K be separated into an upper and lower section, and divided by the Fairway for Shallow Draft Vessels and Tows. This would restrict vessels from anchoring inside the limits of that channel.

A new quarantine anchorage, new Anchorage Q, is proposed to replace Berth K–3, which is currently not maintained by the USACE. The new quarantine anchorage would be located east of York Spit Channel between Chesapeake Channel Lighted Buoy 36 and Chesapeake Channel Lighted Buoy 38 west of Cape Charles. The new anchorage would be located in naturally deep water with charted depths in excess of 60 feet and would have two 500-yard, swing-radius berths.

Current trends indicate that shipping companies will call on the Port of Hampton Roads using larger, deeper draft vessels, thereby creating a need for fewer trips when visiting the port of Hampton Roads in the future. With the increase in size, The Navigation Plan for the Port of Hampton Roads, conducted by the USACE in February of 2000, indicated that by the year 2010 almost 40 percent of containerized cargo will be moved on ships capable of carrying 4,000 twenty-foot trailer equivalent units (TEU). Some ''Mega Ships'' already in service are capable of carrying up to 6,000 TEUs. The average container ship calling on the port today carries between 1,500 and 4,000 TEUs. The bulk carriers that call on the Port

of Hampton Roads have also increased in size and will play a significant role in the port's future design considerations. In addition to the projected increase in the size of vessels calling on the Port of Hampton Roads, there are two infrastructure improvement projects in the port that affect the anchorage grounds. In September 2001, APM Terminals North America, Inc. (Maersk) purchased 570 acres of property located on the Elizabeth River, south of Craney Island. Dredging has begun in the vicinity of Anchorage P for the development of a major marine container handling facility on this property. The first ship is due to moor at this new terminal sometime in 2007. Anchorage P lies between the future terminal and the Federal navigation channel. Parts of Anchorage P will be made unusable following completion of the terminal and the approach channels. Maersk has requested the discontinuation of Anchorage P.

Likewise, the construction of the Norfolk International Terminal North (NIT North) approach channel, which passes through the existing Anchorage M, has rendered that anchorage unusable. This proposed rule would discontinue Anchorage M.

To further enhance the safety of the port anchorages, this rule proposes to amend the regulations of the boundaries of Berths 3 and 4 within Explosive Anchorage G. Currently, these berths overlap each other and pose a potential hazard to anchored vessels. The proposed rule would separate the berths, eliminating the risk of collision as a result of overlapping swing circles.

The proposed rule would rename existing Anchorage R as Anchorage M, rename existing Anchorage T as Anchorage N, rename existing Anchorage U, The Hague, as Anchorage O, The Hague.

The proposed rule would eliminate existing Anchorages Q and S. The proposed changes are listed in the following Table:

Current anchorage [33 CFR 110.168(a)]	Proposed change
A—Cape Henry Naval Anchorage (1)	No change.
B—Chesapeake Bay, Thimble Shoals Channel Naval Anchorage (CBTSC) [(2)(i)].	No change.
C—CBTSC Naval Anchorage [(2)(ii)]	No change.
D—CBTSC Naval Anchorage [(2)(ii)]	No change.
E—Commercial Explosive Anchorage [(2)(iv)]	No change.
E—1 Explosive Handling Berth [(2)(iv)(A)]	No change.
F—Hampton Bar [(3)(i)]	No changes to anchorage limits. One 500-yard swing radius berth would replace two 400 yard swing radius berths. Single berth dredged to a depth of 50 feet in 1998, authorized depth 55 feet. New regulations would be included in part [(e)(3)] excluding vessels with drafts less than 45 ft from using Anchorage F without permission from the Captain of the Port. Previously, vessels with a draft less than 40 ft and a length of less than 700 ft were excluded.
F–1 [(3)(i)(A)]	Designation would refer to 500 yard berth.
F–2 [(3)(i)(B)]	Discontinue F–2.
G—Hampton Flats Naval Explosives Anchorage [(3)(ii)]	New center positions created for Berths 3 and 4, which would remove overlapping circumferences.
G–1 Explosives Handling Bert [(3)(ii)(A)]	No change.
G–2 Explosives Handling Bert [(3)(ii)(B)]	No change.
G–3 Explosives Handling Bert [(3)(ii)(C)]	A new center position would replace current center position to remove overlapping circumferences with G–4.
G–4 Explosives Handling Bert [(3)(ii)(D)]	A new center position would replace current center position to remove overlapping circumferences with G–3.
H—Newport News Bar [(3)(iii)]	No change.
I—Newport News [(4)(i)]	No change to existing boundary lines. A new center position is proposed for Berth I–2.
I–1 [(4)(i)(A)]	No change.
I–2 [(4)(i)(B)]	A new center position would replace current center position removing ambiguous boundary lines.
J—Newport News Middle Ground [(4)(ii)]	No change.
K—Newport News Middle Ground [(4)(iii)] Anchorage [(3)(ii)]	Replace boundary lines for K–1 and K–2 with berth circumferences. The CG proposes to remove K–3. Separate Anchorage K into an Upper and Lower section.
K–1 East Anchorage [(4)(iii)(A)]	K–1 would have a 400 yard swing radius and be maintained at a depth of 45 ft. Future plans include increasing the swing radius to 500 yards.
K–2—West Anchorage [(4)(iii)(B)]	K–2 would have a 400 yard swing radius and be maintained at a depth of 40 ft. Future plans include increasing the depth to 45 ft.
K–3—Quarantine Berth [(4)(iii)(C)]	We propose to remove K–3 and establish a new quarantine anchorage adjacent to Cape Charles, east of York Spit Channel.
L—Craney Island Flats [(4)(iv)]	No change.
M—Norfolk Harbor Channel Anchorages (NHCA) [(5)(i)]	Old Anchorage M would be eliminated.
N—NHCA [(5)(ii)]	Old Anchorage N would be eliminated.
O—NHCA [(5)(iii)]	Old Anchorage O would be eliminated.
P—Lambert's Point [(6)(i)]	We would eliminate Anchorage P.
Q—Elizabeth River Anchorage (ERA)[(6)(ii)]	Old Anchorage Q would be eliminated.
R—ERA, Port Norfolk [(6)(iii)]	Current Anchorage R would be redesignated Anchorage M.
S—ERA, Port Norfolk [(6)(iv)]	We would eliminate Anchorage S.
T—ERA, Hospital Point [(6)(v)]	We would rename Anchorage T Anchorage N.
U—The Hague [(7)]	We would discontinue the use of the Anchorage U designation. Current Anchorage U would be redesignated Anchorage O.

Current anchorage [33 CFR 110.168(a)]	Proposed change
Q—Quarantine Anchorage	We proposed to establish a new quarantine anchorage adjacent to Cape Charles east of York Spit Channel.

Discussion of Proposed Rule

No changes are proposed for Anchorage grounds A, B, C, D, and E. Regulations for Anchorage F would establish one 500 yard radius berth (F–1) that would replace the two 400 yard radius berths. Under our proposed regulations, vessels with a draft less than 45 feet would not be able to anchor in berth F–1 without permission from the Captain of the Port. Currently, vessels with a draft less than 40 feet and a length of less than 700 feet are excluded from using Anchorage F without permission from the Captain of the Port. Anchorage berth F–2 would be discontinued.

New center positions have been calculated for Berths G–3 and G–4 to separate intersecting circumferences. This action would remove any ambiguity and address safety concerns involving overlapping swing circles. Berths G–1 and G–2 would remain unchanged.

A new center position has been calculated for Berth I–2 to position it entirely within the boundary surrounding Anchorage I. The new position will move the berth northeast and remove any ambiguity associated with the limits of Anchorage I or Berth I–2.

No changes are proposed for Anchorages H and J. There are no ongoing improvement projects occurring in Anchorage K other than those required to maintain the two 400 yard radius berths. The circular boundary lines for Berth K–1, East Anchorage, and for Berth K–2, West Anchorage, would be shown on future chart editions instead of the current linear berth boundaries. Berth K–3 would be discontinued. No changes are proposed for Anchorage L.

Anchorage M, formerly referred to as Anchorage R, and Anchorage N, formerly referred to as Anchorage T, would remain available for small boat usage. Anchorage O, formerly referred to as Anchorage U, or The Hague, would also remain available for small boat usage.

A new anchorage would be established to replace the current quarantine berth designated K–3. The current language in 33 CFR 110.168 listing specific regulations for Berth K–3 will be removed. The new quarantine anchorage would be designated Q and located east of York River Spit Channel between Chesapeake Channel Lighted Buoy 36 and Chesapeake Channel Lighted Buoy 38. Two berths, Q–1 and Q–2, each having a radius of 500 yards, would be designated within Anchorage Q. Specific regulations for Quarantine Anchorage, Anchorage Q, formerly Berth K–3, have been added to section (e) of the revised regulation. The letter designations P, R, S, T, and U would be discontinued.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. The proposed rule changes complement current anchorage usage and waterway modifications made by the USACE resulting in minimal impact.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. The proposed rule would affect the owners or operators of small pleasure craft wishing to anchor in the Elizabeth River anchorages that would be discontinued due to shallow natural water depths.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have significant economic impact on it, please submit a comment (*see* **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its affects 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 Lieutenant Junior Grade Timothy Martin, Fifth Coast Guard District (oan), at (757) 398–6285. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D, 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)(f), of the Instruction, from further environmental documentation. The proposed rule deals directly with establishing, disestablishing and renaming anchorage areas.

A draft ''Environmental Analysis Check list'' and a draft ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES.** Comments on this section will be considered before we make a final decision on whether the rule should be categorically excluded from further environmental review.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 110 as follows:

PART 110—ANCHORAGE REGULATIONS

1. The authority for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 1221 through 1236, 2030, 2035, and 2071; 33 CFR 1.05–1(g); Department of Homeland Security Delegation No. 0170.1.

2. Revise § 110.168 to read as follows:

§ 110.168 Hampton Roads, Virginia, and adjacent waters (Datum: NAD 83).

(a) *Anchorage Grounds.* (1) *Anchorage A (Naval Anchorage).* The waters bounded by the shoreline and a line connecting the following points:

Latitude	*Longitude*
36°55′33.0″ N.	76°02′47.0″ W.
36°57′02.8″ N.	76°03′02.6″ W.
36°56′45.0″ N.	76°01′30.0″ W.
36°55′54.0″ N.	76°01′37.0″ W.

(2) *Chesapeake Bay, Thimble Shoals Channel Anchorages.*

(i) *Anchorage B (Naval Anchorage).* The waters bounded by a line connecting the following points:

Latitude	*Longitude*
36°57′58.0″ N.	76°06′07.0″ W.
36°57′11.0″ N.	76°03′02.1″ W.
36°55′48.8″ N.	76°03′14.0″ W.
36°56′31.8″ N.	76°06′07.0″ W.
36°57′04.0″ N.	76°06′07.0″ W.
36°57′08.5″ N.	76°06′24.5″ W.

(ii) *Anchorage C (Naval Anchorage).* The waters bounded by a line connecting the following points:

Latitude	*Longitude*
36°58′54.8″ N.	76°09′41.5″ W.
36°58′18.8″ N.	76°07′18.0″ W.
36°57′27.0″ N.	76°07′37.5″ W.
36°58′04.0″ N.	76°10′00.0″ W.

(iii) *Anchorage D (Naval Anchorage).* The waters bounded by the shoreline and a line connecting the following points:

Latitude	*Longitude*
36°55′49.0″ N.	76°10′32.8″ W.
36°58′04.0″ N.	76°10′02.1″ W.
36°57′31.2″ N.	76°07′54.8″ W.
36°55′24.1″ N.	76°08′28.8″ W.

(iv) *Anchorage E (Commercial Explosive Anchorage).* The waters bounded by a line connecting the following points:

Latitude	*Longitude*
36°59′58.7″ N.	76°13′47.0″ W.
36°59′08.2″ N.	76°10′33.8″ W.
36°58′13.0″ N.	76°10′51.8″ W.
36°59′02.0″ N.	76°14′10.2″ W.

(A) *Explosive Handling Berth E–1 (Explosives Anchorage Berth):* The waters bounded by the arc of a circle with a radius of 500 yards and with the center located at:

Latitude	*Longitude*
36°59′05.0″ N.	76°11′23.0″ W.

(3) *Hampton Roads Anchorages.* (i) *Anchorage F, Hampton Bar.* The waters bounded by a line connecting the following points:

Latitude	*Longitude*
36°59′51.6″ N.	76°19′12.0″ W.
36°59′25.2″ N.	76°18′48.5″ W.
36°58′49.1″ N.	76°19′33.8″ W.
36°59′25.0″ N.	76°20′07.0″ W.

(A) *Anchorage Berth F–1.* The waters bounded by a line connecting the arc of a circle with a radius of 500 yards and with the center located at:

Latitude	*Longitude*
36°59′29.1″ N.	76°19′15.1″ W.

(ii) *Anchorage G, Hampton Flats (Naval Explosives Anchorage).* The waters bounded by a line connecting the following points:

Latitude	*Longitude*
36°59′25.0″ N.	76°20′07.0″ W.
36°58′49.1″ N.	76°19′33.8″ W.
36°57′41.4″ N.	76°21′07.7″ W.
36°57′34.6″ N.	76°21′26.7″ W.
36°57′31.1″ N.	76°22′01.9″ W.
36°58′07.0″ N.	76°22′03.0″ W.
36°58′54.8″ N.	76°21′42.6″ W.

(A) *Explosives Handling Berth G–1.* The waters bounded by the arc of a circle with a radius of 500 yards and with the center located at:

Latitude	*Longitude*
36°57′50.0″ N.	76°21′37.0″ W.

(B) *Explosives Handling Berth G–2.* The waters bounded by the arc of a circle with a radius of 500 yards and with the center located at:

Latitude	*Longitude*
36°58′14.0″ N.	76°21′01.5″ W.

(C) *Explosives Handling Berth G–3.* The waters bounded by the arc of a circle with a radius of 500 yards and with the center located at:

Latitude	*Longitude*
36°58′34.2″ N.	76°20′31.4″ W.

(D) *Explosives Handling Berth G–4.* The waters bounded by the arc of a circle with a radius of 500 yards and with the center located at:

Latitude	*Longitude*
36°58′54.9″ N.	76°20′03.2″ W.

(iii) *Anchorage H, Newport News Bar.* The waters bounded by a line connecting the following points:

Latitude	*Longitude*
36°58′07.0″ N.	76°22′03.0″ W.
36°57′31.1″ N.	76°22′01.9″ W.
36°57′18.0″ N.	76°24′11.2″ W.
36°57′38.3″ N.	76°24′20.0″ W.
36°57′51.8″ N.	76°22′31.0″ W.

(4) *James River Anchorages.* (i) *Anchorage I, Newport News.* The waters bounded by a line connecting the following points:

Latitude	*Longitude*
36°57′06.7″ N.	76°24′44.3″ W.
36°56′22.6″ N.	76°24′28.0″ W.
36°56′03.0″ N.	76°24′37.0″ W.
36°57′53.7″ N.	76°26′41.5″ W.
36°58′23.0″ N.	76°27′11.0″ W.
36°58′48.5″ N.	76°27′11.0″ W.
36°58′35.4″ N.	76°26′38.4″ W.
36°57′51.7″ N.	76°26′02.8″ W.
36°57′30.6″ N.	76°25′34.5″ W.

(A) *Anchorage Berth I–1.* The waters bounded by the arc of a circle with a radius of 400 yards and with the center located at:

Latitude	*Longitude*
36°57′08.5″ N.	76°25′21.6″ W.

(B) *Anchorage Berth I–2.* The waters bounded by the arc of a circle with a radius of 400 yards and with the center located at:

Latitude	*Longitude*
36°57′23.8″ N.	76°25′46.0″ W.

(ii) *Anchorage J, Newport News Middle Ground.* The waters bounded by a line connecting the following points:

Latitude	*Longitude*
36°57′21.0″ N.	76°22′22.1″ W.
36°56′46.5″ N.	76°22′39.3″ W.
36°56′25.3″ N.	76°23′48.0″ W.
36°57′10.2″ N.	76°24′09.9″ W.

(iii) *Anchorage K Upper, Newport News Middle Ground.* The waters bounded by a line connecting the following points:

Latitude	*Longitude*
36°57′56.4″ N.	76°20′30.5″ W.
36°57′08.5″ N.	76°20′31.0″ W.
36°56′48.8″ N.	76°20′20.1″ W.
36°56′45.0″ N.	76°20′32.0″ W.
36°56′45.0″ N.	76°21′37.7″ W.
36°56′59.2″ N.	76°22′31.5″ W.
36°57′21.0″ N.	76°22′22.1″ W.
36°57′28.1″ N.	76°21′11.7″ W.

(A) *Anchorage Berth K–1.* The waters bounded by the arc of a circle with a radius of 400 yards and with the center located at:

Latitude	*Longitude*
36°57′30.5″ N.	76°20′45.3″ W.

(B) *Anchorage Berth K–2.* The waters bounded by the arc of a circle with a radius of 400 yards and with the center located at:

Latitude	*Longitude*
36°57′16.8″ N.	76°21′09.5″ W.

(iv) *Anchorage K Lower, Newport News Middle Ground.* The waters bounded by a line connecting the following points:

Latitude	*Longitude*
36°55′59.9″ N.	76°22′11.7″ W.
36°55′59.9″ N.	76°24′00.0″ W.
36°56′25.3″ N.	76°23′48.0″ W.
36°56′46.5″ N.	76°22′39.3″ W.
36°56′53.1″ N.	76°22′34.5″ W.
36°56′38.5″ N.	76°21′39.1″ W.
36°56′38.5″ N.	76°20′47.0″ W.

(v) *Anchorage Berth L, Craney Island Flats.* The waters bounded by a line connecting the following points:

Latitude	*Longitude*
36°56′48.8″ N.	76°20′20.1″ W.
36°56′04.2″ N.	76°20′23.7″ W.
36°55′59.9″ N.	76°22′11.7″ W.

(5) *Elizabeth River Anchorages.* (i) *Anchorage M, Port Norfolk.* The waters bounded by a line connecting the following points:

Latitude	*Longitude*
36°51′45.7″ N.	76°19′31.5″ W.
36°51′45.8″ N.	76°19′20.7″ W.
36°51′37.8″ N.	76°19′24.3″ W.
36°51′32.5″ N.	76°19′31.1″ W.
36°51′40.7″ N.	76°19′37.3″ W.
36°51′45.7″ N.	76°19′31.5″ W.

(ii) *Anchorage N, Hospital Point.* The waters bounded by a line connecting the following points:

Latitude	*Longitude*
36°50′50.0″ N.	76°18′00.0″ W.
36°51′05.4″ N.	76°18′22.4″ W.
36°50′36.7″ N.	76°17′52.8″ W.
36°50′33.6″ N.	76°17′58.8″ W.
36°50′49.3″ N.	76°18′09.0″ W.
36°50′50.3″ N.	76°18′07.8″ W.
36°50′56.2″ N.	76°18′12.5″ W.
36°51′01.8″ N.	76°18′32.3″ W.

(iii) *Anchorage O, The Hague.* The waters of the basin known as ''The Hague'', north of the Brambleton Avenue Bridge, except for the area within 100 feet of the bridge span that provides access to and from the Elizabeth River.

(iv) *Anchorage Q. Quarantine Anchorage.* The waters bounded by a line connecting the following points:

Latitude	*Longitude*
37°17′13.7″ N.	76°06′41.6″ W.
37°17′30.3″ N.	76°05′53.9″ W.
37°16′25.0″ N.	76°05′18.4″ W.
37°16′08.4″ N.	76°06′06.0″ W.

(A) *Anchorage Berth Q–1.* The waters bounded by the arc of a circle with a radius of 500 yards and with the center located at:

Latitude	*Longitude*
37°17′05.7″ N.	76°06′08.9″ W.

(B) *Anchorage Berth Q–2.* The waters bounded by the arc of a circle with a radius of 500 yards with the center located at:

(b) *Definitions.* As used in this section—

Class 1 (explosive) materials means Division 1.1, 1.2, 1.3, and 1.4 explosives, as defined in 49 CFR 173.50.

Dangerous cargo means ''certain dangerous cargo'' as defined in § 160.204 of this title.

U.S. naval vessel means any vessel owned, operated, chartered, or leased by the U.S. Navy; any pre-commissioned vessel under construction for the U.S. Navy, once launched into the water; and any vessel under the operational control of the U.S. Navy or a Combatant Command.

(c) *General regulations.* (1) Except as otherwise provided, this section applies

to vessels over 20 meters long and vessels carrying or handling dangerous cargo or Class 1 (explosive) materials while anchored in an anchorage ground described in this section.

(2) Except as otherwise provided, a vessel may not occupy an anchorage for more than 30 days, unless the vessel obtains a permit from the Captain of the Port.

(3) Except in an emergency, a vessel that is likely to sink or otherwise become a menace or obstruction to navigation or to the anchoring of other vessels, may not occupy an anchorage, unless the vessel obtains a permit from the Captain of the Port.

(4) The Captain of the Port may, upon application, assign a vessel to a specific berth within an anchorage for a specified period of time.

(5) The Captain of the Port may grant a revocable permit to a vessel for a habitual use of a berth. Only the vessel that holds the revocable permit may use the berth during the period that the permit is in effect.

(6) The Commander, Fifth Coast Guard District, may authorize the establishment and placement of temporary mooring buoys within a berth. Placement of a fixed structure within an anchorage may be authorized by the District Engineer, U.S. Army Corps of Engineers.

(7) If an application is for the long-term lay up of a vessel, the Captain of the Port may establish special conditions in the permit with which the vessel must comply.

(8) Upon notification by the Captain of the Port to shift its position within an anchorage, a vessel at anchor must get underway at once or signal for a tug. The vessel must move to its new location within 2 hours after notification.

(9) The Captain of the Port may prescribe specific conditions for vessels anchoring within the anchorages described in this section, including, but not limited to, the number and location of anchors, scope of chain, readiness of engineering plant and equipment, usage of tugs, and requirements for maintaining communications guards on selected radio frequencies.

(10) A vessel that does not have a sufficient crew on board to weigh anchor at any time must have two anchors in place, unless the Captain of the Port waives this requirement. Members of the crew may not be released until the required anchors have been set.

(11) No vessel at anchor or at a mooring within an anchorage may transfer oil to another vessel unless the vessel has given the Captain of the Port the four hours advance notice required by § 156.118 of this title.

(12) Barges may not anchor in the deeper portions of anchorages or interfere with the anchoring of deep-draft vessels.

(13) Barges towed in tandem to an anchorage must be nested together when anchored.

(14) Any vessel anchored or moored in an anchorage adjacent to the Chesapeake Bay Bridge Tunnel or Monitor-Merrimac Bridge Tunnel (MMBT) must be capable of getting underway within 30 minutes with sufficient power to keep free of the bridge tunnel complex.

(15) A vessel may not anchor or moor in an anchorage adjacent to the Chesapeake Bay Bridge Tunnel or Monitor-Merrimac Bridge Tunnel (MMBT) if its steering or main propulsion equipment is impaired.

(d) *Regulations for vessels handling or carrying dangerous cargoes or Class 1 (explosive) materials.* This paragraph applies to every vessel, except a naval vessel, handling or carrying dangerous cargoes or Class 1 (explosive) materials.

(1) Unless otherwise directed by the Captain of the Port, each commercial vessel handling or carrying dangerous cargoes or Class 1 (explosive) materials must be anchored or moored within Anchorage Berth E–1.

(2) Each vessel, including each tug and stevedore boat, used for loading or unloading dangerous cargoes or Class 1 (explosive) materials in an anchorage, must carry a written permit issued by the Captain of the Port.

(3) The Captain of the Port may require every person having business aboard a vessel handling or carrying dangerous cargoes or Class 1 (explosive) materials while in an anchorage, other than a member of the crew, to hold a form of valid identification.

(4) Each person having business aboard a vessel handling or carrying dangerous cargoes or Class 1 (explosive) materials while in an anchorage, other than a member of the crew, must present the pass or other form of identification prescribed by paragraph (d)(4) of this section to any Coast Guard boarding officer who requests it.

(5) The Captain of the Port may revoke at any time a pass issued under the authority of paragraph (d)(4) of this section.

(6) Each non-self-propelled vessel handling or carrying dangerous cargoes or Class 1 (explosive) materials must have a tug in attendance at all times while at anchor.

(7) Each vessel handling or carrying dangerous cargoes or Class 1 (explosive) materials while at anchor must display by day a red flag (Bravo flag) in a prominent location and by night a fixed red light.

(e) *Regulations for Specific Anchorages.* (1) *Anchorages A, B, C, and D.* Except for a naval vessel, military support vessel, or vessel in an emergency situation, a vessel may not anchor in Anchorages A, B, C, or D without the permission of the Captain of the Port. The Captain of the Port must consult with the Commander, Naval Amphibious Base Little Creek, before granting a vessel permission to anchor in Anchorages A, B, C, or D.

(2) *Anchorage E.* (i) A vessel may not anchor in Anchorage E without a permit issued by the Captain of the Port.

(ii) The Captain of the Port must give commercial vessels priority over naval and public vessels.

(iii) The Captain of the Port may at any time revoke a permit to anchor in Anchorage E issued under the authority of paragraph (e)(4)(i) of this section.

(iv) A vessel may not anchor in Anchorage Berth E–1, unless it is handling or carrying dangerous cargoes or Class 1 (explosive) materials.

(v) A vessel may not anchor within 500 yards of Anchorage Berth E–1 without the permission of the Captain of the Port, if the berth is occupied by a vessel handling or carrying dangerous cargoes or Class 1 (explosive) materials.

(3) *Anchorage F.* A vessel having a draft less than 45 feet may not anchor in Anchorage F without the permission of the Captain of the Port. No vessel may anchor in Anchorage F for a longer period than 72 hours without permission from the Captain of the Port. Vessels expecting to be at anchor for more than 72 hours must obtain permission from the Captain of the Port.

(4) *Anchorage G.* (i) Except for a naval vessel, a vessel may not anchor in Anchorage G without the permission of the Captain of the Port.

(ii) When handling or transferring Class 1 (explosive) materials in Anchorage G, naval vessels must comply with Department of Defense Ammunition and Explosives Safety Standards, or the standards in this section, whichever are the more stringent.

(iii) When barges and other vessels are berthed at the Ammunition Barge Mooring Facility, located at latitude 36° 58′ 34″ N., longitude 76° 21′12″ W., no other vessel, except a vessel that is receiving or offloading Class 1 (explosive) materials, may anchor within 1,000 yards of the Ammunition Barge Mooring Facility. Vessels transferring class 1 (explosive) materials must display by day a red flag (Bravo

flag) in a prominent location and by night a fixed red light.

(iv) Whenever a vessel is handling or transferring Class 1 (explosive) materials while at anchor in Anchorage G, no other vessel may anchor in Anchorage G without the permission of the Captain of the Port. The Captain of the Port must consult with the Commander, Naval Base Norfolk, before granting a vessel permission to anchor in Anchorage G.

(v) A vessel located within Anchorage G may not handle or transfer Class 1 (explosive) materials within 400 yards of Norfolk Harbor Entrance Reach.

(vi) A vessel may not handle or transfer Class 1 (explosive) materials within 850 yards of another anchored vessel, unless the other vessel is also handling or transferring Class 1 (explosive) materials.

(vii) A vessel may not handle or transfer Class 1 (explosive) materials within 850 yards of Anchorage F or H.

(5) *Anchorage I: Anchorage Berths I–1 and I–2.* A vessel that is 500 feet or less in length or that has a draft of 30 feet or less may not anchor in Anchorage Berth I–1 or I–2 without the permission of the Captain of the Port.

(6) *Anchorage K: Anchorage Berths K–1 and K–2.* A vessel that is 500 feet or less in length or that has a draft of 30 feet or less may not anchor in Anchorage Berth K–1 or K–2 without the permission of the Captain of the Port.

(7) *Anchorage N.* Portions of this anchorage are a special anchorage area under § 110.72aa of this part during marine events regulated under § 100.501 of this chapter.

(8) *Anchorage O.* (i) A vessel may not anchor in Anchorage O unless it is a recreational vessel.

(ii) No float, raft, lighter, houseboat, or other craft may be laid up for any reason in Anchorage O without the permission of the Captain of the Port.

(9) *Anchorage Q: Quarantine Anchorage.* (i) A vessel that is arriving from or departing for sea and that requires an examination by public health, customs, or immigration authorities may anchor in Anchorage Q.

(ii) Every vessel using Anchorage Q must be prepared to move promptly under its own power to another location when directed by the Captain of the Port, and must promptly vacate Anchorage Q after being examined and released by authorities.

(iii) When any vessel using Anchorage Q is under the charge of a pilot, the pilot shall remain on board while the vessel is in Anchorage Q.

(iv) Any non-self-propelled vessel using Anchorage Q shall have a tugboat in attendance while undergoing examination by quarantine, customs, or immigration authorities, except with the permission of the Captain of the Port.

(v) Any non-self-propelled vessel using Anchorage P shall have a tugboat in attendance while undergoing examination by quarantine, customs, or immigration authorities, except with the permission of the Captain of the Port.

Dated: September 2, 2004.

Ben Thomason III,

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

[FR Doc. 04–21523 Filed 9–24–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

33 CFR Part 325

RIN 0710–AA51

Processing of Department of the Army Permits; Procedures for the Protection of Historic Properties

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The U.S. Army Corps of Engineers (Corps) is issuing an advance notice of proposed rulemaking (ANPRM) to obtain early comment on issues related to fulfilling the requirements of Section 106 of the National Historic Preservation Act in the Corps Regulatory Program. Specifically, we are soliciting comments on how our permit application processing procedures should be revised as a result of the 1992 amendments to the National Historic Preservation Act and the Advisory Council on Historic Preservation's revised regulations on protection of historic property. We are also soliciting suggestions for facilitating government-to-government consultation with American Indian and Alaska Native governments, as well as consultation with State Historic Preservation Officers, Tribal Historic Preservation Officers, Native Hawaiian organizations, interested organizations, the regulated public, and other interested parties during the rulemaking process. Comments received in response to this ANPRM will be used to determine the course of action for revising our permit processing procedures for the protection of historic properties.

DATES: Submit comments on or before November 26, 2004.

ADDRESSES: Written comments should be sent to the U.S. Army Corps of Engineers, Attn: CECW–MVD (David B. Olson), 441 ''G'' Street, NW., Washington, DC 20314–1000, or by e-mail to *david.b.olson@hq02.usace.army.mil.* Electronic comments should be submitted in ASCII format or portable document format, to ensure that those comments can be read. Electronic files should avoid the use of special characters and any form of encryption, and be free of any defects or viruses. Consideration will be given to all comments received within 60 days of the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: Mr. David Olson at 202–761–4922 or access the U.S. Army Corps of Engineers Regulatory home page at *http://www.usace.army.mil/inet/functions/cw/cecwo/reg/.*

SUPPLEMENTARY INFORMATION:

Background

The U.S. Army Corps of Engineers (Corps) issues Department of the Army (DA) permits pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344), Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), and Section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended (33 U.S.C. 1413) for certain activities in waters of the United States. The procedures for processing DA permits are found at 33 CFR part 325. We issue approximately 7,000 individual permits and 78,000 general permit verifications each year. In addition, many minor activities are authorized each year by non-reporting general permits.

On June 29, 1990 (55 FR 27000), we issued regulations at 33 CFR part 325, Appendix C to establish procedures to fulfill the requirements of Section 106 of the National Historic Preservation Act (NHPA) and other historic preservation laws applicable to the Corps Regulatory Program. Since Appendix C was issued, the NHPA was amended in 1992 and the Advisory Council on Historic Preservation (ACHP) revised its regulations at 36 CFR part 800 on December 12, 2000 (65 FR 77698), and July 6, 2004 (69 FR 40544).

In the March 8, 2002, issue of the **Federal Register** (67 FR 10822) we published a notice to solicit comments on how the Corps should address the changes to the NHPA and 36 CFR part 800. In response to that notice, we received 41 comments. Comments were received from Indian tribes, State Historic Preservation Officers, historic preservation organizations, industry groups, and individuals. Most

commenters expressed support for revising Appendix C to address the 1992 amendments to the NHPA and the ACHP's revised regulations at 36 CFR part 800. Many commenters provided specific recommendations for revising Appendix C.

After considering the comments received in response to the March 8, 2002, **Federal Register** notice, and reviewing the Federal agency program alternatives at 36 CFR 800.14, we identified several options for updating our permit application processing procedures to address the 1992 amendments to the NHPA and the revised 36 CFR part 800. The options we identified are:

- Revise Appendix C to incorporate the current requirements and procedures at 36 CFR part 800.
- Revoke Appendix C and use 36 CFR part 800, subpart B when reviewing individual permit applications, and utilize Federal agency program alternatives at 36 CFR 800.14 for general permits.
- Revoke Appendix C and use 36 CFR part 800, subpart B for all individual permits and general permits.
- Revoke Appendix C and develop non-regulation alternative procedures in accordance with 36 CFR 800.14.

We are requesting comments on the appropriateness and feasibility of these options. We are also inviting suggestions for other options that we have not identified. In addition, we are seeking recommendations for the preferred option that would be pursued through the Administrative Procedures Act rulemaking process to revise Regulatory Program procedures for the protection of historic properties.

We are also soliciting comments and recommendations on appropriate means for fulfilling our government-to-government consultation responsibilities with American Indian and Alaskan Native governments during the rulemaking process. Please see the section below entitled ''Executive Order 13175.''

We are also seeking comments and suggestions on how to effectively consult with other interested parties, such as non-governmental organizations, industry groups, and permit applicant groups, during the rulemaking process.

An objective of this rulemaking effort is to revise our permit processing procedures to afford appropriate protection of historic properties, while providing efficient and timely review of permit applications.

Administrative Requirements

Plain Language

In compliance with the principles in the President's Memorandum of June 1, 1998, (63 FR 31855) regarding plain language, this preamble is written using plain language. Therefore, the use of ''we'' in this notice refers the Corps and the use of ''you'' refers to the reader. We have also used the active voice, short sentences, and common everyday terms except for necessary technical terms.

Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Corps must determine whether the regulatory action is ''significant'' and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, we have determined that this ANPRM is not a ''significant regulatory action'' because it does not meet any of these four criteria. The ANPRM initiates the rulemaking process for revising our permit processing procedures for the protection of historic properties.

Executive Order 13175

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (published at 65 FR 67249 on November 9, 2000), requires agencies to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' The phrase ''policies that have tribal implications'' is defined in the Executive Order to include regulations and other policy statements or actions that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This ANPRM and subsequent related rulemaking actions will have tribal implications. These rulemaking actions will have direct effects on tribal governments, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. The 1992 amendments to the NHPA and the ACHP's revised regulations at 36 CFR part 800 require consultation with Indian tribes when Federal undertakings, such as activities that require DA permits, may affect historic properties on tribal lands or historic properties of religious and cultural significance to Indian tribes located off tribal lands. Therefore, revising our permit processing procedures for the protection of historic properties will have tribal implications.

We are soliciting comments and suggestions for facilitating government-to-government consultation with American Indian and Alaskan Native governments during this rulemaking process. The preamble for the final regulation resulting from this rulemaking process will contain the tribal summary impact statement required by the Executive Order.

On October 20, 1998, the Department of Defense issued its ''American Indian and Alaska Native Policy'' (DoD policy). An annotated version of the DoD policy is available at: *http://www.usace.army.mil/inet/functions/cw/cecwo/reg/DoDPolicy.pdf.* We are soliciting comments on the DoD policy's applicability to the Corps Regulatory Program, but we are not seeking comments on the DoD policy itself.

Executive Order 12898

Executive Order 12898 requires that, to the greatest extent practicable and permitted by law, each Federal agency must make achieving environmental justice part of its mission. Executive Order 12898 provides that each Federal agency conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under such programs, policies, and activities

because of their race, color, or national origin.

This ANPRM is not expected to negatively impact any community, and therefore is not expected to cause any disproportionately high and adverse impacts to minority or low-income communities. This ANPRM will assist us in revising our permit processing procedures for the protection of historic properties, some of which are located in minority or low-income communities.

Environmental Documentation

We prepare appropriate environmental documentation, including Environmental Impact Statements when required, for all permit decisions. Therefore, environmental documentation under the National Environmental Policy Act is not required for this ANPRM. Appropriate environmental documentation has been, or will be, prepared for each action that is subjected to the permit application review process.

Dated: September 20, 2004.

John Paul Woodley, Jr.,

Assistant Secretary for the Army (Civil Works), Department of the Army.

[FR Doc. 04–21540 Filed 9–24–04; 8:45 am]

BILLING CODE 3710–92–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7818–2]

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent for partial deletion of the Centre County Kepone Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA), Region III, announces its intent to delete a portion of the Centre County Kepone Superfund Site (the Site), comprising approximately 8 acres to the north of Struble Road (referred to as the ''Administration Parcel''), from the National Priorities List (NPL) and requests public comment on this action. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is found in Appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection (PADEP), have determined that because no manufacturing operations ever occurred on the Administration Parcel and it is located upgradient from the contaminated portions of the Site, that this portion of the Site may be deleted from the NPL. The partial deletion pertains only to the Administration Parcel of the Site. The other portions of the Site will remain on the NPL, and response actions will continue. This action does not preclude further actions under Superfund.

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

DATES: EPA will accept comments until October 27, 2004.

ADDRESSES: Written comments should be addressed to: David Polish, Community Involvement Coordinator, U.S. EPA Region III, Mailcode 3HS43, 1650 Arch Street, Philadelphia, Pennsylvania 19103–2029, (215) 814–3327 or 1–800–553–2509, *polish.david@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Frank Klanchar, Project Manager, U.S. EPA Region III, Mailcode 3HS22, 1650 Arch Street, Philadelphia, Pennsylvania 19103–2029, (215) 814–3218 or 1–800–438–2474, *klanchar.frank@epa.gov.*

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

Information Repositories: Repositories have been established to provide detailed information concerning this decision at the following addresses: U.S. EPA Region III Library, U.S. EPA, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103–2029, (215) 814–5000, Monday through Friday 8 a.m. to 12 p.m.; Schlow Memorial Library, 118 South Fraser Street, State College, PA 16801, (814) 237–6236, Monday through Wednesday 9 a.m. to 9 p.m., Thursday 12 p.m. to 9 p.m., Friday 9 a.m. to 6 p.m., Saturday 9 a.m. to 5 p.m., Sunday (during school year) 1:30 p.m. to 5 p.m.

List of Subjects in 40 CFR Part 300

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

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

Dated: September 14, 2004.

Andrew Carlin,

Acting Regional Administrator, Region III.

[FR Doc. 04–21494 Filed 9–24–04; 8:45 am]

BILLING CODE 6560–50–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1852

RIN 2700–AD03

NASA Research Announcements—Small Business Subcontracting Plans and Publication Acknowledgement and Disclaimers

AGENCY: National Aeronautics and Space Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends the NASA FAR Supplement to require for NASA Research Announcements: Submission of a small business subcontracting plan with any proposal having subcontracting possibilities that may result in the award of a contract whose value exceeds $500,000; and acknowledgement of NASA sponsorship and disclaimer of agency endorsement of results.

DATES: Comments must be received by November 26, 2004.

ADDRESSES: Interested parties may submit comments, identified by RIN number 2700–AD03, via the Federal eRulemaking Portal: *http://*

www.regulations.gov. Follow the instructions for submitting comments. Comments may also be submitted to Patrick Flynn, NASA, Office of Procurement, Contract Management Division (Code HK), Washington, DC 20546. Comments can also be submitted by e-mail to: *patrick.flynn@nasa.gov.*

FOR FURTHER INFORMATION CONTACT: Patrick Flynn, NASA, Office of Procurement, Contract Management Division (Code HK); (202) 358–0460; e-mail: *patrick.flynn@nasa.gov.*

SUPPLEMENTARY INFORMATION:

A. General

The current process requires submission of a Small Business Subcontracting Plan when appropriate, at the award stage of the NASA Research Announcement (NRA) cycle. It is often too late to consider small business subcontracting at this stage if it was not planned in advance. Under this proposed rule requiring submission of the plan with the proposal, offerors will consider small business subcontracting opportunities in their proposal planning process. This change in process will significantly increase the opportunities for small business participation in NASA Research Announcements and research and development contracting within the Agency. The NASA Guidebook for Proposers Responding to a NRA currently advises NRA proposers to document all publications with an acknowledgement as well as include a disclaimer on certain published materials. However, regulatory language, which allows implementation of these requirements, does not currently exist. This change will require incorporation of the acknowledgement and disclaimer language on the appropriate published material.

This proposed rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

This proposed rule does not constitute a significant revision within the meaning of FAR 1.501 and Pub. L. 98–577, and publication for public comment is not required. However, NASA will consider comments from small entities concerning the affected NFS Part 1835 in accordance with 5 U.S.C. 610.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes do not impose recordkeeping or information collection requirements which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 1852

Government procurement.

Tom Luedtke,

Deputy Chief Acquisition Officer/ Director for Procurement.

Accordingly, 48 CFR part 1852 is proposed to be amended as follows:

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for 48 CFR Part 1852 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

2. Amend section 1852.235–72 by revising the date of the clause and paragraph (a)(4) to read as follows:

1852.235–72 Instructions for responding to NASA research announcements.

* * * * *

Instructions for Responding to NASA Research Announcements (Month/Year of Final Rule Publication Date)

(a) * * *

(4) A contract, grant, cooperative agreement, or other agreement may be used to accomplish an effort funded in response to an NRA. NASA will determine the appropriate award instrument. Contracts resulting from NRAs are subject to the Federal Acquisition Regulation and the NASA FAR Supplement. Any proposal from a large business concern that may result in the award of a contract, which exceeds $500,000 and has subcontracting possibilities should include a small business subcontracting plan in accordance with the clause at FAR 52.219–9, Small Business Subcontracting Plan. Any resultant grants or cooperative agreements will be awarded and administered in accordance with the NASA Grant and Cooperative Agreement Handbook (NPR 5800.1).

* * * * *

1852.235–73 [Amended]

3. A. Amend section 1852.235–73 by revising the date of the clause to read [Date of Final Rule publication] and, in the first sentence of paragraph (b) removing the reference ''NPG 2200.2A'' and adding ''NPR 2200.2'' in its place.

B. Amend section 1852.235–73, Alternate II, by revising the date of the clause and adding a new paragraph (f) to read as follows:

Alternate II (Month/Year of Final Rule Publication Date)

* * * * *

(f) All publications of any material based on or developed under NASA sponsored projects shall include an acknowledgement similar to the following:

''The material is based upon work supported by the National Aeronautics and Space Administration under Contract Number XXXX.''

Except for articles or papers published in scientific, technical or professional journals, the exposition of results from NASA supported research shall also include the following disclaimer:

''Any opinions, findings, and conclusions or recommendations expressed in this material are those of the author(s) and do not necessarily reflect the views of the National Aeronautics and Space Administration.''

[FR Doc. 04–21414 Filed 9–24–04; 8:45 am]

BILLING CODE 7510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[I.D. 092004A]

Western Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings and hearings.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold its 124th meeting to consider and take actions on fishery management issues in the Western Pacific Region. A meeting of the Council's Scientific and Statistical Committee (SSC) will also be held.

DATES: The 87th SSC meeting will be held on October 5–7, 2004. The 124th Council meeting and public hearings will be held on October 12–15, 2004. For specific times, and the agenda, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The 87th SSC meeting will be held at the Western Pacific Fishery Council Conference room, 1164 Bishop Street, Suite 1400, Honolulu, HI. The 124th Council meeting and public hearings will be held at the Pagoda Hotel, 1525 Rycroft Street, Honolulu, HI; telephone: 808–943–6611.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: In addition to the agenda items listed here,

the SSC and Council will hear recommendations from other Council advisory groups. Public comment periods will be provided throughout the agenda. The order in which agenda items are addressed may change. The SSC and Council will meet as late as necessary to complete scheduled business.

Schedule and Agenda for SSC

9 a.m. Tuesday,October 5, 2004

1. Introductions
2. Approval of draft agenda and assignment of rapporteurs
3. Approval of the minutes of the 86th meeting
4. SEDAR approach to stock assessment
5. Insular fisheries
A. Final action on Commonwealth of Northern Mariana Islands (CNMI) bottomfish management
B. Initial action on recreational data bottomfish pilot project
C. Honolulu restaurant survey
D. 2004 NWHI lobster cruise and charter plans
E. NWHI lobster Multi-FAN stock assessment
F. Current precious coral research
G. Initial action on black coral management measures
H. Deep sea coral management
6. Ecosystem and habitat
A. Mariana Archipelago fishery ecosystem plan pilot project
B. Initial action on geographic fishery ecosystem plans
C. NWHI sanctuary alternatives
1. National Ocean Service (NOS) goals, objectives and alternatives
2. Initial action on bottomfish measures
3. Initial action on crustaceans measures
4. Initial action on precious corals measures
5. Initial action on coral reef ecosystems measures
6. Initial action on pelagics measures
8:30 a.m. Wednesday, Oct 6, 2004
A. Final action on pelagic squid management
B. Final action on seabird measures
C. American Samoa and Hawaii longline fisheries
1. Quarterly reports
D. International issues
1. Bigeye tuna management measures
2. 17th standing Committee on Tuna and Billfish
3. Food and Agricultural Organization (FAO) technical consultation on turtles
4. Sapporo meeting on fishing capacity
5. Western and Central Pacific Fisheries Convention Preparatory Conference 7
6. NMFS Highly Migratory Species Summit
7. Fishing experiments workshop
8. 3rd International Fishers Forum
E. Pelagic Plan Team recommendations
8. Protected species
A. Sea turtles
1. Hawaiian green sea turtle de-listing workshop
2. Turtle fibropapilloma workshop
B. Marine mammals
1. False killer whale workshop and list of fisheries
2. Council advisory committee on marine mammals
C. Endangered Species Act (ESA)jeopardy workshop
8:30 a.m. Thursday, Oct 7, 2004
9. Other business
A. 88th SSC meeting

Schedule and Agenda for Council Standing Committee Meetings

Tuesday, October 12, 2004

1. 8a.m. - 10 a.m. Enforcement/Vessel Monitoring Systems Standing Committee
2. 8 a.m. - 10 a.m. Ecosystem and Habitat Standing Committee
3. 10 a.m. - Noon Pelagic and International Standing Committee
4. 10 a.m. - Noon Bottomfish Standing Committee
5. 1:30 p.m. - 3:30 p.m. Precious Corals/ Crustaceans Standing Committee
6. 1:30 p.m. - 3:30 p.m. Indigenous Rights Standing Committee
7. 3:30 p.m. - 5 p.m. Executive/Budget and Program Standing Committee

Schedule and Agenda for Public Hearings

Thursday, October 14, 2004

9 a.m. - 9:30 a.m. Initial action on a framework adjustment to measures in the Fishery Management Plan for the Precious Corals Fisheries of the Western Pacific Region (Precious Corals FMP) to revise the requirements for the minimum harvest size of black corals.

11:30 a.m. - 12 Noon. Final Action on measures to manage CNMI bottomfish and initial action on options to collect Hawaii recreational bottomfish data.

5 p.m. - 6 p.m. Initial action on ecosystem approaches for developing geographic fishery ecosystem plans, and initial action on management measures for NWHI bottomfish, crustacean, precious coral, pelagic and coral reef ecosystem fisheries, pursuant to the proposed designation of the NWHI Coral Reef Ecosystem Reserve as a national marine sanctuary.

Friday, October 15, 2004

10 a.m. - 10:15 a.m. Final action on management measures for pelagic squid and seabirds.

The agenda during the full Council meeting will include the items listed here.

For more information on public hearing items, see **BACKGROUND INFORMATION**.

Schedule and Agenda for Council Meeting

8:30 a.m - 5 p.m. Wednesday, October 13, 2004

1. Introductions
2. Approval of agenda
3. Approval of 123rd meeting minutes
4. Island reports
A. American Samoa
B. Guam
C. Hawaii
D. CNMI
5. Reports from fishery agencies and organizations
A. Department of Commerce
a. NMFS
i. Pacific Islands Regional Office
ii. Pacific Islands Fisheries Science Center
b. National Marine Sanctuary Program
i. Pacific Sanctuaries update
c. NOAA General Counsel Southwest Region
B. The Department of Interior - The U.S. Fish and Wildlife Service (USFWS)
C. State Department
D. Report from the Nature Conservancy
6. Enforcement/vessel monitoring systems A. US Coast Guard activities
B. NMFS activities
C. Enforcement activities of local agencies
D. Status of violations
E. Update on electronic logbooks regulatory amendment
F. NWHI enforcement strategy workshop
7. Observer programs
A. Report on the NWHI bottomfish observer program
B. Report on the native observer program
C. Report on the Hawaii longline observer program
D. Report on the American Samoa observer program
8. Fishery rights of indigenous peoples
A. Community Demonstration Projects Program (2nd solicitation)
B. Update on Guam Community Development Plan
C. Secretariat of the Pacific community and Council coastal fisheries management workshop
D. Marine Conservation Plans (MCP)
1. Guam MCP
2. American Samoa MCP
9. Pacific Islands Region Strategic Plan Fisher's Forum: Recreational Fisheries Data and Pacific Islands Region Strategic Plan (6:30 p.m.-9 p.m.)

8:30 a.m. 5 p.m. Thursday, October 14, 2004

10. Insular fisheries

A. Precious corals fisheries
a. Black coral management measures (initial action)
b. Current precious coral research
c. Deep sea coral management
B. Crustaceans fisheries
a. 2004 NWHI cruise and charter plans
b. Multi-FAN stock assessment
C. Bottomfish fisheries
a. CNMI bottomfish management measures (final action)
b. Honolulu restaurant survey
c. Recreational data (initial action)
D. Ecosystem and habitat
a. Mariana Archipelago fishery ecosystem plan pilot project
b. Geographic fishery ecosystem plan (initial action)
c. NWHI Sanctuary alternatives (initial action)
i. NOS goals, objectives and alternatives
ii. Bottomfish management measures
iii. Crustacean management measures
iv. Precious corals management measures
v. Pelagic management measures
vi. Coral reef ecosystems management measures
8:30 a.m. 5 p.m., Friday, October 15, 2004
11. Pelagic fisheries
A. Pelagic squid management (final action)
B. Seabird measures (final action)
C. Sea turtles
a. Hawaiian green sea turtle delisting workshop
b. Turtle fibropapilloma workshop
D. Marine mammals
a. False killer whale workshop and list of fisheries
b. Update on Council Advisory Committee on marine mammal
c. ESA jeopardy workshop
F. American Samoa and Hawaii longline fisheries quarterly workshop
G. International issues
a. Bigeye tuna management measures
b. 17th Standing Committee on Tuna and Billfish
c. FAO technical consultation on turtles
d. Sapporo meeting on fishing capacity
e. Prepatory Conference 7'' write ''Western and Central Pacific Fisheries Convention Preparatory Conference 7
f. Highly Migratory Species Summit
g. Fishing experiments workshop
h. 3rd International Fishers Forum
12. Program planning
A Update on Federal and local fishery-related legislation
B. Status of Hawaii $5 million disaster funds for Federal fisheries
C. WPacFIN
D. National Environmental Policy Act Activities
a. Fishery Ecosystem Plan Scoping
b. Upcoming actions
E. Programmatic Grants report
F. Joint Pacific and Western Pacific Council Meeting
13. Administrative matters
A. Financial reports
B. Administrative report
C. Meetings and workshops
D. Advisory group changes
a. Marine mammal working group
b. Fishery ecosystem plan advisory group
E. Statement of Organization Practices and Policies (SOPP) changes
14. Other business
A. Election of officers

Background Information

1. Initial Action on a Change in the Black Coral Harvest Minimum Size (initial action)

A public hearing will be held on initial action to implement a framework adjustment to the Precious Corals FMP to revise the minimum harvest size for black corals (*Antipathes* sp.) due to the effects of *Carijoa riisei* on black corals in the Main Hawaiian Islands. Based on comments received during Precious Coral Plan Team meetings, as well as subsequent SSC, Council, and public working group meetings, the Council developed an options document that includes: (1) Removing the exemption allowing harvest of black corals with a minimum base diameter of inch(1.905 cm)or minimum height of 36 inches(0.9144 m) by persons who reported harvest to the State of Hawaii within five years prior to April 17, 2002; (2) Establishing a 48–inch(1.2192 m)height minimum requirement for harvest of black coral colonies; and (3) eliminating any minimum base diameter requirement. At its 124th meeting, the Council may take initial action to identity and support a range of alternatives, including selection of a preliminary preferred alternative, to be further analyzed in a framework amendment to the Precious Coral FMP.

2. CNMI Bottomfish Management Amendment (final action)

A public hearing will be held to solicit comments on alternatives to manage the bottomfish fishery around the CNMI. Based on comments received during public scoping meetings held in CNMI, the Council developed preliminary options including limiting the harvest of bottomfish, reporting requirements, establishing area closures, gear and vessel restrictions, and other control measures expressed by the public during the scoping meetings. At its 123nd meeting, the Council endorsed the range of alternatives to be further developed and analysis for final consideration. At the 124th meeting, the Council may take final action on a preferred alternative and direct staff to finalize an amendment to the Bottomfish FMP for regulatory action.

3. Initial Action on Developing Geographic Fishery Ecosystem Plans

A public hearing will be held to solicit comments on initial action for ecosystem approaches in developing geographic fishery ecosystem plans. At its 122nd meeting, the Council endorsed the development of fishery ecosystem plans on an archipelagic-basis and initiation of the process to develop alternative approaches for ecosystem-based fisheries management. At the 124th meeting, the Council may take initial action to develop a range of alternative approaches for ecosystem-based fisheries management on a geographic basis.

4. Initial Action on NWHI Sanctuary Alternatives

A public hearing will be held to solicit comments on management measures for NWHI bottomfish, crustacean, precious coral, pelagic and coral reef ecosystem fisheries, pursuant to the proposed designation of the NWHI Coral Reef Ecosystem Reserve as a national marine sanctuary. At the 124th meeting, the Council will review the National Marine Sanctuary Program's fishery goal, objectives, alternatives and analyses and relevant NWHI fisheries information, and may take initial action to select preliminary preferred alternatives for these fisheries.

5. Final Action on Pelagic Squid Management

A public hearing will be held to solicit comments on alternatives to manage the US pelagic squid fisheries. Following public scoping meetings held in the Main Hawaiian Islands, CNMI, Guam and American Samoa, the Council developed preliminary options to establish appropriate monitoring and management mechanisms for the domestic harvest of pelagic squid in the Pacific Ocean (excluding vessels subject to other Councils' jurisdictions).

At its 123nd meeting, the Council endorsed the range of alternatives to be further developed and analysis for final consideration. At the 124th meeting, the Council may take final action on a preferred alternative and direct staff to finalize an amendment to the Pelagics FMP for regulatory action.

6. Final Action on Seabird Measures

In November 2000, the USFWS issued a BiOp which contained reasonable and prudent measures for minimizing interactions with the endangered

shorttail albatross. The BiOp recognized that the Hawaii-based longline fishery at that time comprised two segments, namely a deep-setting tuna-targeting segment, and a shallow-setting swordfish targeting segment. All longline vessels fishing above 23° N' lat. were required to use thawed blue dyed bait and employ strategic offal discards when setting and hauling the longline. Vessels setting deep to catch tuna were also required to use a line setting machine with weighted branch lines. Vessels setting shallow to target swordfish were required to begin setting the longline at least 1 hour after local sunset and complete the setting process by local sunrise, using only the minimum vessel lights necessary.

The Council recommended a regulatory amendment to require these measures and a final rule was published in May 2002. However, the final rule did not include a requirement for night setting due to an earlier closure of the swordfish segment of the Hawaii-based fishery in early 2001, under separate rule making in compliance with a March 2001, BiOp issued by NMFS regarding sea turtles. The Council recently completed a regulatory amendment that re-opened the swordfish-targeting segment of the Hawaii longline fishery in April 2004, which included the night setting requirement. During 2002 and 2003, additional seabird mitigation research field tests were conducted with underwater setting chutes, blue dyed bait and side setting. Side setting, as the term implies, means setting the longline from the side, rather than from the stern of the vessel. While all measures worked well, side setting was the only method which virtually reduced the interaction rate between longline and seabirds to zero. However, side setting is not included within the suite of measures required in the USFWS BiOp, nor in the regulations for the Hawaii-based fishery.

At its 122nd meeting, the Council, discussed the potential for amending its requirements for seabird mitigation above 23° N' lat. to include side setting, an underwater setting chute or towed deterrent as measures that fishermen may elect to use in place of blue dyed bait, strategic offal discards and night setting. The Council directed the staff to prepare a regulatory amendment to the Pelagics FMP that examines a range of alternatives for seabird mitigation which included the choices for longline fishermen of either the use of side setting, use of an underwater setting chute, or other acceptable measures.

At its 123rd meeting, the Council took initial action and select a preferred alternative and directed staff to complete a regulatory amendment in order to take final action at its next meeting. The preferred alternative would require shallow setting boats in all areas to use current mitigation measures, excluding the requirement to use blue-dyed bait, or use side setting or use an underwater setting chute or use a tori line. The preferred alternative would also require deep setting boats fishing north of 23° N. Lat., use current mitigation measures, excluding the requirement to use blue-dyed bait, or use side setting or use an underwater setting chute or use a tori line), in conjunction with a line shooter and weighted branchlines.

At the 124th meeting the Council will review the regulatory amendment document, and may take final action with a recommendation that the regulatory amendment document be finalized and transmitted to NMFS for review and approval.

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

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

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

Dated: September 20, 2004.

John H. Dunnigan,

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

[FR Doc. 04–21554 Filed 9–24–04; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 69, No. 186

Monday, September 27, 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.

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Renewal of Advisory Committee on Actuarial Examinations

AGENCY: Joint Board for the Enrollment of Actuaries.

ACTION: Renewal of Advisory Committee.

SUMMARY: The Joint Board for the Enrollment of Actuaries announces the renewal of the Advisory Committee on Actuarial Examinations.

FOR FURTHER INFORMATION CONTACT: Gloria Walker, 202–622–8280.

SUPPLEMENTARY INFORMATION: The purpose of the Committee is to advise the Joint Board on examinations in actuarial mathematics and methodology. The Joint Board administers such examinations in discharging its statutory mandate to enroll individuals who wish to perform actuarial services with respect to pension plans subject to the Employee Retirement Income Security Act of 1974. The Committee's advisory functions will include, but will not necessarily be limited to: (1) Considering areas of actuarial knowledge that should be treated on the examinations; (2) developing examination questions; (3) recommending proposed examinations and pass marks; and (4), as requested by the Joint Board, making recommendations relative to the examination program.

Dated: September 20, 2004.

Rudy Nuissl,

Chairman, Joint Board for the Enrollment of Actuaries.

[FR Doc. 04–21614 Filed 9–24–04; 8:45 am]

BILLING CODE 4830–01–P

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Advisory Committee on Actuarial Examinations; Notice of Meeting

AGENCY: Joint Board for the Enrollment of Actuaries.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Executive Director of the Joint Board for the Enrollment of Actuaries gives notice of a closed meeting of the Advisory Committee on Actuarial Examinations.

DATES: The meeting will be held on October 18, 2004, from 8:30 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Segal Company, 101 North Wacker Drive, Suite 500, Chicago, IL.

FOR FURTHER INFORMATION CONTACT: Patrick W. McDonough, Executive Director of the Joint Board for the Enrollment of Actuaries, 202–622–8225.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet at the Segal Company, 101 North Wacker Drive, Suite 500, Chicago, IL on Monday, October 18, 2004, from 8:30 a.m. to 5 p.m.

The purpose of the meeting is to discuss topics and questions, which may be recommended for inclusion on future Joint Board examinations in actuarial mathematics, pension law and methodology referred to in 29 U.S.C. 1242(a)(1)(B).

A determination has been made as required by section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App., that the subject of the meeting falls within the exception to the open meeting requirement set forth in Title 5 U.S.C. 552b(c)(9)(B), and that the public interest requires that such meeting be closed to public participation.

Dated: September 20, 2004.

Patrick W. McDonough,

Executive Director, Joint Board for the Enrollment of Actuaries.

[FR Doc. 04–21615 Filed 9–24–04; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[No.: TM–04–11]

Notice of Meeting of the National Organic Standards Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the Agricultural Marketing Service (AMS) is announcing a forthcoming meeting of the National Organic Standards Board (NOSB).

DATES: The meeting dates are: Tuesday, October 12, 2004, 8 a.m. to 5 p.m., Wednesday, October 13, 2004, 8 a.m. to 5 p.m., and Thursday, October 14, 2004, 8 a.m. to 12:15 p.m. Requests from individuals and organizations wishing to make an oral presentation at the meeting are due by the close of business on September 27, 2004.

ADDRESSES: The meeting will take place at the Washington Marriott, Salon E, 1221 22nd Street, NW., Washington, DC. Requests for copies of the NOSB meeting agenda, requests to make an oral presentation at the meeting, or written comments may be sent to Ms. Katherine Benham, Advisory Board Specialist at USDA–AMS–TMD–NOP, 1400 Independence Avenue, SW., Room 4008–So., Ag Stop 0268, Washington, DC 20250–0200. Requests to make an oral presentation at the meeting may also be sent via facsimile to Ms. Katherine Benham at (202) 205–7808 or electronically to Ms. Katherine Benham at *katherine.benham@usda.gov.*

FOR FURTHER INFORMATION CONTACT: Richard Mathews, Associate Deputy Administrator, National Organic Program, (202) 720–3252.

SUPPLEMENTARY INFORMATION: Section 2119 (7 U.S.C. 6518) of the Organic Foods Production Act of 1990 (OFPA), as amended (7 U.S.C. 6501 *et seq.*) requires the establishment of the NOSB. The purpose of the NOSB is to make recommendations about whether a substance should be allowed or prohibited in organic production or handling, to assist in the development of standards for substances to be used in organic production and to advise the Secretary on other aspects of the implementation of the OFPA.

The NOSB met for the first time in Washington, DC, in March 1992, and currently has six committees working on various aspects of the organic program. The committees are: Compliance, Accreditation, and Certification; Crops; Livestock; Materials; Handling; and Policy Development.

In August of 1994, the NOSB provided its initial recommendations for the National Organic Program (NOP) to the Secretary of Agriculture. Since that time, the NOSB has submitted 53 addenda to its recommendations and reviewed more than 264 substances for inclusion on the National List of Allowed and Prohibited Substances. The last meeting of the NOSB was held on April 28–30, 2004, in Chicago, Illinois.

The Department of Agriculture (USDA) published its final National Organic Program regulation in the **Federal Register** on December 21, 2000 (65 FR 80548). The rule became effective April 21, 2001.

The principal purposes of the meeting are to hear discussions between NOP and NOSB regarding the status of previous NOSB materials recommendations; NOSB recommendations concerning compatibility, commercial availability, and minor non-compliances; a NOP/NOSB framework for collaboration; an action plan for a NOSB Executive Director; and the process for reviewing materials. The NOSB will receive an update on the statement of work for TAP contractors, discuss issues concerning a letter of understanding with the Organic Materials Review Institute, and participate in working sessions that consider committee drafts designed to provide feedback to the NOP on directives regarding inerts, fishmeal as a feed supplement, antibiotics, and NOP scope. The Board will receive public input on materials issues, standards for pet food and aquatic animals, and hear a presentation on integrated organic program research grants from the USDA Cooperative State Research Education and Extension Service (CSREES).

The Materials Committee will present, for NOSB consideration, an action plan to establish standard operating procedures for facilitating the sunset review of materials and discuss issues involving OFPA provisions for materials and interpretations of those provisions and the National List. The Materials Committee will also discuss revising the **Federal Register** notice for petitioning substances and consider issues in refining the process for materials review. The Handling Committee will provide an update on materials approved as food contact substances and present, for NOSB consideration, action plans to address issues concerning organic yeast and pet food standards. The Livestock Committee will present, for discussion, the formation of a task force on wild caught and aquaculture standards. The Policy Development Committee will present a draft committee recommendation for scheduling NOSB meetings and provide an update on board policy manual revisions. Finally, the Crops Committee will discuss issues concerning the use of extraction methods, including the use of potassium carbonate and hydrolyzed extracts, and submit, for consideration, its recommendation on the Compost Tea Task Force report.

Materials to be reviewed at the meeting by the NOSB are as follows: for Crop Production: Soy Protein Isolate.

For further information, see *http://www.ams.usda.gov/nop.* Copies of the NOSB meeting agenda can be requested from Ms. Katherine Benham by telephone at (202) 205–7806; or by accessing the NOP Web site at *http://www.ams.usda.gov/nop.*

The meeting is open to the public. The NOSB has scheduled time for public input on Tuesday, October 12, 2004, 3 p.m. to 5 p.m.; and Thursday, October 14, 2004, 9 a.m. to 12 p.m. Individuals and organizations wishing to make an oral presentation at the meeting may forward their request by mail, facsimile, or e-mail to Ms. Katherine Benham at addresses listed in **ADDRESSES** above. While persons wishing to make a presentation may sign up at the door, advance registration will ensure that a person has the opportunity to speak during the allotted time period and will help the NOSB to better manage the meeting and to accomplish its agenda. Individuals or organizations will be given approximately 5 minutes to present their views. All persons making an oral presentation are requested to provide their comments in writing. Written submissions may contain information other than that presented at the oral presentation.

Written comments may also be submitted at the meeting. Persons submitting written comments at the meeting are asked to provide 30 copies.

Interested persons may visit the NOSB portion of the NOP Web site *http://www.ams.usda.gov/nop* to view available documents prior to the meeting. Approximately 6 weeks following the meeting interested persons will be able to visit the NOSB portion of the NOP Web site to view documents from the meeting.

Dated: September 20, 2004.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 04–21552 Filed 9–24–04; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Availability of the Draft Environmental Impact Statement (DEIS) for Williamson River Delta Restoration Project

AGENCY: Natural Resources Conservation Service.

ACTION: Notice of availability of the Draft Environmental Impact Statement (DEIS) for the Williamson River Delta Restoration Project and requesting public comment. A public meeting will be held at the Chiloquin High School Library on October 6, 2004, at 7 p.m. to discuss the project.

SUMMARY: The NRCS is seeking public comment on the Draft Environmental Impact Statement (DEIS) for a wetland restoration project on the Williamson River Delta. The full DEIS can be found at the following Web site: *ftp://ftp-fc.sc.egov.usda.gov/OR/Klamath/williamsonriverdeis.pdf* and at the following locations:

- NRCS Office, 2316 S. 6th St., Suite C, Klamath Falls, OR 97601.
- Klamath County Commissioners, 305 Main St., 2nd Floor, Klamath Falls, OR 97601.
- Klamath Tribes Natural Resources Department, 501 Chiloquin Blvd., Chiloquin, OR 97624.
- Chiloquin Public Library, 140 First St., Klamath Falls, OR 97624.
- Klamath Falls Public Library, 126 S. Third St., Klamath Falls, OR 97601.
- The Nature Conservancy, 226 Pine St., Klamath Falls, OR 97601.

DATES: Comments will be received for a 45-day period beginning September 17, 2004, through November 1, 2004.

ADDRESSES: Address all requests and comments to Kevin Conroy, Basin Team Leader, Natural Resources Conservation Service (NRCS), 2316 S. Sixth St., Suite C, Klamath Falls, OR 97601; (541) 882–9044 (fax).

FOR FURTHER INFORMATION CONTACT: Kevin Conroy, (541) 883–6924.

Dated: September 9, 2004.

Bob Graham,

State Conservationist, Portland, OR.

[FR Doc. 04–21600 Filed 9–24–04; 8:45 am]

BILLING CODE 3410–16–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Virginia Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights that a subcommittee conference call of the Virginia Advisory Committee will convene at 11 a.m. and adjourn at 11:45 a.m., Thursday, September 30, 2004. The purpose of the conference call is to conduct project planning.

This conference call is available to the public through the following call-in number: 1–800–473–6927, access code: 26457271. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls not initiated using the supplied call-in number or over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls using the call-in number over land-line connections. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and access code.

To ensure that the Commission secures an appropriate number of lines for the public, persons are asked to register by contacting Barbara de La Viez of the Eastern Regional Office at 202–376–7533 by 4 p.m. on Wednesday, September 29, 2004.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated in Washington, DC September 21, 2004.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 04–21597 Filed 9–24–04; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

[Docket No.: 040915267–4267–01]

Privacy Act Altered System of Records

AGENCY: Department of Commerce.

ACTION: Notice of amendment of Privacy Act System of Records, Commerce/Department System 18; Employees Personnel files not covered by notices of other agencies to update the categories of records in the system to include records collected for the Workforce Assessment Database.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a(e)(4) and (11), the Department of Commerce (Department) is issuing notice of our intent to amend the system of records entitled Commerce Department System 18; ''Employees Personnel Files Not Covered By Notices of Other Agencies.'' This amendment adds to this system those records compiled in conjunction with the Workforce Assessment Database under the requirements of section 37(d) of the Office of Federal Procurement Policy Act (Federal Acquisition Reform Act of 1995) amendment, 41 U.S.C. 433(d). We invite public comment on the proposed changes in this publication.

DATES: To be considered, written comments must be submitted on or before October 27, 2004. Unless comments are received, the new system of records will become effective as proposed on the date of publication of a subsequent notice in the **Federal Register**.

ADDRESSES: Comments may be mailed to Curtina Smith, U.S. Department of Commerce, Room 6422, 1401 Constitution Avenue, NW., Washington, DC 20230, 202–482–4186.

SUPPLEMENTARY INFORMATION: This amendment adds to the subject system those files containing records compiled in accordance with section 37(d) of the Office of Federal Procurement Policy Act (Federal Acquisition Reform Act of 1995) amendment, 41 U.S.C. 433(d).

COMMERCE/DEPARTMENT–18

SYSTEM NAME:

Employees Personnel Files Not Covered by Notices of Other Agencies.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

After m. add ''n. For any records regarding the Workforce Assessment. Database: The Office of Acquisition Management, U.S. Department of Commerce, Room 6422, Washington, DC 20230.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:*

CATEGORIES OF RECORDS IN THE SYSTEM:

After U.S. Foreign and Commercial Service employee personnel and security information add ''employee certifications, warrants, education and contact for Workforce Assessment Tool Database.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

After E.O. 13164 add ''41 U.S.C. 433(d).''

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:*

DISCLOSURE TO CONSUMER REPORTING AGENCIES:*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:*

RETRIEVABILITY:*

SAFEGUARDS:*

RETENTION AND DISPOSAL:*

SYSTEM MANAGER(S) AND ADDRESS:*

NOTIFICATION PROCEDURE:

Delete ''For records at location m, information may be obtained from Departmental Privacy Act Officer, Office of Executive Assistance Management, U.S. Department of Commerce, Washington, DC 20230.'' Add ''For records at location m and n, information may be obtained from Departmental Privacy Act Officer, Office of Management and Organization, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230.''

RECORD ACCESS PROCEDURES:*

CONTESTING RECORD PROCEDURES:*

RECORD SOURCE CATEGORIES:*

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: September 22, 2004.

Brenda S. Dolan,

Department of Commerce, Freedom of Information/Privacy Act Officer.

[FR Doc. 04–21619 Filed 9–24–04; 8:45 am]

BILLING CODE 3510–03–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Action Affecting Export Privileges; Yaudat Mustafa Talyi, a.k.a. Joseph Talyi

In the Matter of: Yaudat Mustafa Talyi a.k.a. Joseph Talyi, 41 Chamale Cove East, Slidell, Louisiana 70460, and Oakdale FDC, Federal Bureau of Prisons, P.O. Box 5600, Oakdale, Louisiana 71463, Respondent; Renewal of Order Temporarily Denying Export Privileges.

Pursuant to section 766.24 of the Export Administration Regulations (''EAR''),[1] the Bureau of Industry and

* Indicates that there are no changes to that paragraph of the notice.

[1] The EAR, which are currently codified at 15 CFR parts 730–774 (2004, are issued under the

Continued

Security (''BIS''), U.S. Department of Commerce, through its Office of Export Enforcement, has requested that I renew the order (''TDO'') issued on March 19, 2004, temporarily denying the export privileges of Yaudat Mustafa Talyi, a.k.a. Joseph Talyi (''Tayli''), 41 Chamale Cove East, Slidell, Louisiana 70460; and Oakdale FDC, Federal Bureau of Prisons, P.O. Box 5060, Oakdale, Louisiana 71463. BIS is requested that the TDO be renewed for a period of 180 days or until an administrative case against Talyi is completed, whichever occurs earlier.

In its August 26, 2004, request for renewal of the TDO, BIS states that based upon new evidence, and evidence previously adduced that was the basis for the issuance of the initial order temporarily denying the export privileges of Talyi, as well as the subsequent renewals,[2] it believes that renewal of the current TDO is necessary to prevent further violations of the export control laws of the United States. *See* BIS Request for Renewal dated August 26, 2004, at 4.

BIS evidence attached to its request for renewal of the TDO indicates that Talyi has refused to enter into a settlement agreement, to which he previously agreed, concerning a BIS administrative enforcement case pending against him. *See id.* at 4–6. That settlement agreement was consistent with the criminal plea agreement that Talyi entered into that resulted in his criminal conviction. *See id.* at 7.

Specifically, BIS evidence indicates that on January 29, 2004, pursuant to a plea agreement filed in the United States District Court for the Eastern District of Louisiana, Talyi pled guilty to two felony counts of violating the International Emergency Economic Powers Act for his participation in the export and attempted export of items to the United Arab Emirates that were violations of the initial TDO. *See id.* at 5. Talyi's plea agreement further stated that Talyi agreed to settle the BIS administrative case by paying $75,000 civil penalty and accepting a 10-year denial of export privileges.[3] *See id.* BIS evidence indicates the plea agreement stated that a copy of the settlement agreement for BIS's administrative case was attached thereto. *See id.* BIS evidence also indicates that settlement documents consistent with Talyi's criminal plea agreement were sent to Talyi's counsel on March 2, 2004. *See id.* at 5–6. However, BIS evidence has established that counsel for Talyi ignored repeated attempts by counsel for BIS to discuss the administrative case throughout the spring of 2004 and refused to return a signed settlement agreement consistent with the terms of the plea agreement. *See id.* at 6. Based on the foregoing, BIS has established that, to date, Talyi has failed to enter into a settlement agreement consistent with his criminal plea agreement despite his agreement to do so. *See id.* at 4–6.

BIS evidence further indicates that in failing to enter into a settlement agreement with BIS, it appears Talyi has breached the terms of his criminal plea agreement. *See id.* at 6. Additionally, due to Talyi's failure to abide by the terms of his agreement, BIS was forced to institute a formal administrative proceeding against Talyi and he has defaulted in that matter.

See id.

In light of the above, I find that Talyi has demonstrated a continued pattern of noncompliance with the export control laws of the United States and terms of agreements with and orders of the United States government that establishes Talyi's complete disregard for the export control laws of the United States. Specifically, despite a TDO being issued against him on September 30, 2002, Talyi began violating its terms less than two weeks later. Then, on January 29, 2004, Talyi pled guilty to two felony counts for violations of the initial TDO and agreed to settle the BIS administrative case by paying a $75,000 civil penalty and accepting a 10-year denial of his export privileges. Despite executing the plea agreement, which stated the BIS settlement agreement was attached, Talyi has now refused to enter into a settlement agreement consistent with plea agreement and has forced BIS to pursue a formal administrative case against him due to his repeated failure to engage in any constructive settlement negotiations. Finally, Talyi has defaulted in the BIS administrative case pending against him and has apparently breached the terms of his criminal plea agreement.

Accordingly, I am renewing the order temporarily denying the export privileges of Talyi for a period of 180 days or until the administrative enforcement case against him is completed, whichever occurs earlier as I have concluded that a TDO against Talyi continues to be necessary, in the public interest, to prevent an imminent violation of the EAR.

It is Therefore Ordered:

First, that Yaudat Mustafa Talyi, a.k.a. Joseph Talyi (''Talyi''), 41 Chamale Cove East, Slidell, Louisiana 70460; and Oakdale FDC, Federal Bureau of Prisons, P.O. Box 5060, Oakdale, Louisiana 71463 (the ''Denied Person'') may not, directly or indirectly, participate in any way in any transaction involving any commodity, software of technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Export Administration Regulations (''EAR''), or in any other activity subject to the EAR, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the EAR;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States,

Export Administration Act of 1979, as amended (50 U.S.C. app. 2401–2420) (2000) (the ''Act''). From August 21, 1994, through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 CFR, 2000 Comp. 397 (2001)), continued the EAR in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1707 (2000)) (''IEEPA''). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), as extended by the Notice of August 6, 2004, (69 FR 48763 (August 10, 2004), continued the Regulations in effect under the IEEPA.

[2] The Assistant Secretary of Commerce for Export Enforcement (''Assistant Secretary'') initially issued a TDO against Talyi and his two companies on September 30, 2002. The Assistant Secretary renewed the TDO on March 29, 2003, modified it on July 24, 2003, to add related persons, again renewed it on September 24, 2003, and renewed it on March 19, 2004, as to Talyi alone.

[3] On April 28, 2004, U.S. District Court Judge Jay C. Zainey sentenced Talyi to five months in prison, five months of home confinement, one year of supervised release, and a $25,000 criminal fine for the two felony convictions. *See id.* at 5.

including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the EAR that has been exported from the United States;

D. Obtain from the Denied Person order in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the EAR that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that, in addition to the related person named above, after notice and opportunity for comment as provided in section 766.23 of the EAR, any other person, firm, corporation, or business organization related to the denied person by affiliation, ownership, control, or position or responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

Fourth, that this Order does not prohibit any export, reexport, or other transaction subject to the EAR where the only items involved that are subject to the EAR are the foreign-produced direct product of U.S.-origin technology.

In accordance with the provisions of section 766.24(e) of the EAR, denied persons may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202–4022.

This Order is effective immediately and shall remain in effect for a period of 180 days or until an administrative enforcement case against Talyi is completed, whichever occurs earlier.

A copy of this Order shall be served on Talyi and shall be published in the **Federal Register**.

Entered this 13th day of September, 2004.

Julie L. Myers,

Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 04–21558 Filed 9–24–04; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Materials Technical Advisory Committee; Notice of Closed Meeting

The Materials Technical Advisory Committee will meet on October 14, 2004, at 10:30 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street and Pennsylvania Avenue, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials and related technology.

The Committee will meet only in closed session to discuss matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 10(a)(1) and 10(a)(3). The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 13, 2004, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 (10)(d)), that the portions of this meeting dealing with pre-decisional changes to the Commerce Control List and U.S. export control policies and the portions of this meeting disclosing privileged and confidential business information shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 10(a)(1) and 10(a)(3). The entire meeting will include discussion concerning these matters.

For more information, contact Lee Ann Carpenter on 202–482–2583.

Dated: September 22, 2004.

Lee Ann Carpenter,

Committee Liaison Officer.

[FR Doc. 04–21564 Filed 9–24–04; 8:45 am]

BILLING CODE 3510–JT–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–822]

Stainless Steel Sheet & Strip in Coils from Mexico; Extension of Time Limits for Preliminary and Final Results of Full (''Sunset'') Review of Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Extension of Time Limit for the Preliminary and Final Results of Full (''Sunset'') Review of Antidumping Duty Order: Stainless Steel Sheet & Strip in Coils from Mexico.

SUMMARY: The Department of Commerce (''the Department'') is extending the time limit for its preliminary and final results in the full sunset review of the antidumping duty order on stainless steel sheet & strip in coils (''SSSS'') from Mexico. The Department intends to issue preliminary results of this sunset review on or about November 4, 2004. In addition, the Department intends to issue its final results of this review on or about February 28, 2005 (120 days after the date of publication in the **Federal Register** of the preliminary results).

EFFECTIVE DATE: September 27, 2004.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit., Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–5050.

Extension of Preliminary and Final Results of Review:

On June 1, 2004, the Department initiated a sunset review of the antidumping duty order on SSSS from Mexico. *See Initiation of Five–Year (Sunset) Reviews*, 69 FR 30874 (June 1, 2004). The Department, in this proceeding, determined that it would conduct a full (240 day) sunset review of this order based on responses to the notice of initiation from domestic and respondent interested parties. The Department's preliminary results of this review were scheduled for September 20, 2004. The Department, however, needs additional time to consider issues related to the appropriate margin(s) of dumping likely to prevail if the order is revoked to provide to the International Trade Commission. Thus, the Department intends to issue the preliminary results on or about November 4, 2004 and the final results

on or about February 28, 2005 in accordance with sections 751(c)(5)(B) and 751(c)(5)(C)(ii) of the Act.

Dated: September 20, 2004.

Jeffrey A. May,

Acting Assistant Secretary for Import Administration.

[FR Doc. E4–2390 Filed 9–24–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–449–804]

Steel Concrete Reinforcing Bars From Latvia: Extension of the Time Limit for the Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: September 27, 2004.

FOR FURTHER INFORMATION CONTACT: Daniel O'Brien or Constance Handley at (202) 482–1376 or (202) 482–0631, respectively; Office 1 AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Time Limits

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to complete the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested and the final results within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary results to a maximum of 365 days and for the final results to 180 days from the date of publication of the preliminary results (or 300 days if the Department does not extend the time limit for the preliminary results).

Background

On September 17, 2003, Liepajas Metalurgs requested an administrative review. On September 30, 2003, the petitioners requested an administrative review of Liepajas Metalurgs. On October 24, 2003, the Department published the notice of initiation of this antidumping duty administrative review, covering the period September 1, 2002, through August 31, 2003 (the POR). *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 68 FR 60910 (October 24, 2003). On June 10, 2004, the Department published the preliminary results of this antidumping duty administrative review. *See Notice of Preliminary Results of Antidumping Duty Administrative Review,* 69 FR 32508 (June 10, 2004).

Extension of Time Limit for Final Results of Review

We determine that it is not practicable to complete the final results of this review within the original time limit for the reasons stated in our memorandum from Susan Kuhbach, Director, Office 1, to Jeffrey May, Deputy Assistant Secretary, which is on file in the Central Records Unit, Room B–099 of the main Commerce building. Therefore, the Department is extending the time limit for completion of the final results by 60 days until no later than December 7, 2004.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: September 21, 2004.

Jeffrey A. May,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E4–2391 Filed 9–24–04; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF COMMERCE

International Trade Administration

Oil and Gas Equipment and Services Trade Mission

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice to announce Oil and Gas Equipment and Services Trade Mission to Malaysia, Singapore, and Vietnam, December 6–14, 2004.

SUMMARY: The U.S. Department of Commerce, International Trade Administration, U.S. Commercial Service, Office of Global Trade Programs, is organizing an Oil and Gas Equipment and Services Trade Mission to Malaysia, Singapore, and Vietnam, December 6–14, 2004. This event offers a timely opportunity for U.S. firms to tap into some of the world's fastest growing marketplaces for oil and gas equipment and services. The mission will target companies in all sectors of the oil and gas industry, with particular focus on pipeline and tubular goods, drilling machinery and equipment, surveying technology, and safety equipment.

FOR FURTHER INFORMATION CONTACT: Office of Global Trade Programs; Room 2012; Department of Commerce; Washington, DC 20230; tel: (202) 482–4457; Fax: (202) 482–0178.

SUPPLEMENTARY INFORMATION:

Oil and Gas Equipment and Services Trade Mission

Malaysia, Singapore, and Vietnam, December 6–14, 2004.

Mission Statement

I. Description of the Mission

The U.S. Department of Commerce, International Trade Administration, U.S. Commercial Service, Office of Global Trade Programs, is organizing an Oil and Gas Equipment and Services Trade Mission to Malaysia, Singapore, and Vietnam, December 6–14, 2004. This event offers a timely opportunity for U.S. firms to tap into some of the world's fastest growing marketplaces for oil and gas equipment and services. The mission will target companies in all sectors of the oil, and gas industry, with particular focus on pipeline and tubular goods, drilling machinery and equipment, surveying technology, and safety equipment. In addition to receiving a personalized schedule of one-on-one appointments with qualified agents, distributors, representatives, licensees, and joint venture partners, mission delegates will visit Offshore South East Asia 2004 (OSEA 2004), the leading oil and gas trade show in Asia, and a U.S. Department of Commerce Certified Trade Fair. OSEA 2004, to be held in Singapore, will offer mission participants an extra venue to network and learn about business opportunities in South East Asia.

II. Commercial Setting for the Mission

Projections made by the International Energy Agency in its World Energy Outlook 2002 indicate that more than 60% of the increase in world primary energy demand between 2000 and 2030 will come from developing countries, especially in Asia. Critical to satisfying this demand is a move to develop South East Asia's massive gas resources; large reserves have been found in Indonesia (158 trillion cubic feet) and also in the Malaysian/Thailand Joint Development Zone (7.6 trillion cubic feet). Producing and exporting these reserves, particularly as LNG to South Korea, Japan and China, represents a huge export revenue generator. The World Offshore Drilling Report by analysts Douglas Westwood projected that some US $18.26 billion was to have been

spent on offshore drilling in Asia in 2003, with the total investment between 2002 and 2007 set at US $38.62 billion.

Malaysia: Prospects for Malaysia's oil and gas industry are still bright and the sector should experience healthy growth rates. During the past five years, approximately US $6.6 billion has been spent on exploration and production. About fifty percent of Malaysia's crude reserves remain undeveloped. A total of about US $16.2 billion will be invested by the petroleum industry during the Eighth Malaysia Plan period (2001–2005), as stated in the Government of Malaysia's five-year plan. Of this, US $10.9 billion (67.5%) will be spent for exploration, development and production activities by Petronas (National Petroleum Corporation) and its production-sharing contractors.

Malaysis has a broad, shallow continental shelf (330,000 sq. km) and some deepwater prospective areas. In total, Malaysia has approximately 500,000 square kilometers available for oil and gas exploration, of which 205,000 square kilometers are currently covered by Production Sharing Contracts (PSC). The country's deeper offshore areas, with water depths of 200 meters or more, have only more recently been opened to oil and gas exploration. There are now 70 producing fields in Malaysia, 51 of which are oil fields. As of January 1, 2004, oil and gas reserves were estimated to be 4.84 billion barrels of crude oil and 87.0 trillion standard cubic feet (tscf) of natural gas. At current rates of production, oil reserves in Malaysia are expected to last 18 years and gas reserves, 34 years. Malaysia's current production of crude oil and condensates is about 750,000 barrels per day and about 2.20 tscf per year respectively.

Four new PSCs were concluded during the last 15 months, bringing the number of PSCs in operation in Malaysia to 49, the highest level so far. Petronas has estimated that the PSC contractors invested US $2.88 billion during the April 2003–March 2004 period, with most of the investments channeled into development projects.

Efforts to search for oil and gas have recently extended to some of the more unconventional areas, such as the deepwater acreage, where very limited exploration activities were carried out in the past due to technological constraints and high investment costs. Petronas recently introduced the Deepwater Production Sharing Contract (PSC) that provides added incentives to production sharing contractors to undertake exploration activities in the prospective deepwater areas. Since the 1993 signing of its first deepwater PSC with Mobil, Petronas has awarded 13 blocks under the Deepwater PSC terms to 11 multinational companies. The latest: two deepwater blocks were awarded to Murphy Oil in January 2003, and one deepwater block to Newfield Exploration Company (U.S.).

The Malaysian market for oil and gas equipment in 2003 was estimated at US$575 million. Malaysia's oil and gas equipment is supplied mostly through imports because local production is very small. It is expected that equipment needs will continue to be supplied through imports for the next several years. Malaysia uses primarily American made oil and gas equipment and tools, with at least 60% of the imports coming directly from the United States.

Singapore: Singapore is the world's third largest oil refining and trading center, and has long been a global hub for oil refining and a cost-competitive location for highly integrated, world-scale petrochemical plants. Jurong Island, created in the 1990s by merging some seven smaller islands, houses some of the world's biggest names in the petroleum and petrochemicals industries. Companies like ExxonMobil, Shell, Chevron Texaco, BASF, Sumitomo Chemical and Mitsui Chemical are based on Juorng Island. Singapore also plays a dominant role in the specialty chemicals industry, in the area of lube and fuel additives, consumer care specialities, electronic chemicals and materials, polymer additives, and coatings and inks. The chemical industry grew strongly in 2002 despite difficult conditions. Output grew by 7 percent to S$31.2 billion (Singaporean Dollars) and value-added grew 22 percent to S$4.9 billion. The petroleum sector accounted for slightly more than half, or S$17.6 billion, of the total output, with petrochemicals generating S$8.5 billion. Singapore also offers 12 research institutes and three universities which offer opportunities for R&D collaborations.

Amid Asia's strengthening economy and the implementation of the US-Singapore Free Trade Agreement, which further enhances Singapore's reputation as the gateway to South East Asia, U.S. companies on the mission can leverage their presence at Offshore South East Asia (OSEA) 2004, the region's premier oil and gas trade show, to tap the vast opportunities in the region.

Vietnam: Vietnam has so far discovered over 50 oil and gas fields with total estimated reserves of about 1.15 billion tons of proven crude oil equivalent, which include 540 million tons of oil and 640 billion cubic meters (cbms) of natural gas. The production of crude oil and gas in 2003 reached 17.16 million tons and 3.7 billion cbms respectively. It is estimated that Vietnam will produce about 16–18 million tons of crude oil from local operation, 3 million tons from foreign operation and 11–13 billion cmbs of gas by 1020.

The industry is expected to achieve the growth rate of 10–15 percent per year over the coming years. The total investment required to realize such a rapid growth is about US$19–20 billion by 2010, of which over US$10 billion may be funded by local sources and the remaining US$10 billion by foreign investors. According to Petro Vietnam, a state-owned monopoly in the sector, oil and gas exploration and exploitation will be increased in the coming years to raise the country's total discovered oil and gas reserves to 1.5–1.6 billion tons of crude oil equivalent by 2010.

In particular, upstream and mid-stream operation will need about US$900 million to 1.1 billion in new investment per year for exploration and production activities as well as the construction of two refinery facilities, in Dung Quat and Nghi Son, and possibly a third refinery in the South.

American technologies, expertise and experience are highly respected in the oil and gas industry in Vietnam. This presents significant opportunities for U.S. firms to export/transfer equipment,

Indonesia: The market for oil and gas equipment in Indonesia remains attractive and has a promising outlook for the long term. In 2003, the government awarded 15 new oil and gas concessions, receiving a total of $343.82 million in investment commitments. This was a significant improvement over 2001 and 2002 and when the government awarded only six contracts and one contract respectively.

In 2002, the total investment (for exploration, production, and administration) reached $3.4 billion, down 13 percent from 2001. In 2003 (preliminary figures), investment from production-sharing contractors (PSCs) reached $3.97 billion, including $1.13 billion for exploration, $2.5 billion for production and $329,000 for administration. The government expects to award another 17 new oil and gas contracts this year with a target of 50 new contracts over the next five years.

Total investment in 2004 is predicted to reach $7 billion, which in turn is expected to create significant market opportunities for U.S. oil and gas equipment and services. industry sources estimate that the market will increase by 20% in 2004, with U.S. market share increasing by 10%, given

planned exploration and development of existing oil fields.

III. Scenario for the Mission

Timetable

Sunday, December 5—Arrive in Kuala Lumpur, Malaysia
Monday, December 6—Market Briefing and Trade Mission Meetings
Tuesday, December 7—Trade Mission Meetings
Wednesday, December 8—Arrive in Singapore Market Briefing and Meetings at OSEA 2004
Thursday, December 9—Trade Mission Meetings at OSEA 2004
Friday, December 10—Trade Mission Meetings at OSEA 2004
Saturday, December 11—Free
Sunday, December 12—Arrive Hanoi, Vietnam
Monday, December 13—Market Briefing and Trade Mission Meetings
Tuesday, December 14—Trade Mission Meetings Conclusion of Trade Mission

V. Criteria for Participant Selection

- Relevance of the company's business line to mission goals;
- Potential for business in the selected markets;
- Timeless of the company's completed application and payment of the mission participation fee;
- Provision of adequate information on the company's products and/or services and communication of the company's primary objectives to facilitate appropriate matching with potential business partners;
- Certification that the company meets Departmental guidelines for participation, including certification that the company's products and/or services are manufactured or produced in the United States or if manufactured/produced and/or services are manufactured or produced in the United States or if manufactured/produced outside of the United States, the product/service must be marketed under the name of the U.S. firm and have U.S. content of at least fifty-one percent of the value of the finished good or service.

The mission will be promoted through the following venues: U.S. Export Assistance Centers and Teams; the **Federal Register**; relevant trade publications; relevant trade associations; post Commerce trade mission participants; various in-house and purchased industry lists; and the Commerce Department trade missions calendar—*http://www.ita.doc.gov/doctm/tmcal.html*—and other Internet Web sites.

Any partisan political activities of an applicant, including political contributions, will be entirely irrelevant to the selection process. The participation fee will be $3,500 for the trade mission. Participation fees do not include the cost of travel and lodging. Participation is open to the first 10 qualified U.S. companies. Recruitment will begin immediately and will close on Friday, October 29, 2004. Applications received after that date will be considered only if space and scheduling constraints permit.

Contact Information: Matthew H. Wright, International Trade Specialist, Global Trade Programs, U.S. Department of Commerce, Room 2012, Washington, DC 20230, tel: 202–482–2567/fax: 202–482–0178, e-mail: *Matthew.Wright@mail.doc.gov.*

Dated: August 26, 2004.

Donald Businger,

Director, Office of Trade Event Programs.

[FR Doc. 04–21606 Filed 9–24–04; 8:45 am]

BILLING CODE 3510–DR–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 092104D]

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

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

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

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator) has made a preliminary determination that the subject Exempted Fishing Permit (EFP) application contains all the required information and warrants further consideration. The Assistant Regional Administrator has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Northeast (NE) Multispecies Fishery Management Plan (FMP). However, further review and consultation may be necessary before a final determination is made to issue the EFP. Therefore, NMFS announces that the Assistant Regional Administrator proposes to recommend that an EFP be issued that would allow commercial fishing vessels to conduct fishing operations that are otherwise restricted by the regulations governing the fisheries of the Northeastern United States. The EFP would allow for an exemption from the FMP as follows: Groundfish Closed Area I. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Comments on this document must be received on or before October 12, 2004.

ADDRESSES: Comments on this notice may be submitted by e-mail. The mailbox address for providing e-mail comments is *DA640@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: ''Comments on URI Bycatch Reduction Study.'' Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on URI Bycatch Reduction Study.'' Comments may also be sent via facsimile (fax) to (978) 281–9135.

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

SUPPLEMENTARY INFORMATION: The University of Rhode Island, Department of Fisheries, Animal and Veterinary Science (URI) submitted an initial application for an EFP on July 19, 2004. The experimental fishing application requests authorization for activities to conduct a bycatch reduction study of cod in the haddock bottom trawl fishery. The purpose of the study is to determine if the experimental trawl gear would achieve a reduction in cod bycatch significant enough to warrant consideration as a Special Access Program (SAP) under provisions in Amendment 13 to the FMP.

The proposed research would utilize three commercial fishing vessels to conduct a bycatch reduction study in the directed haddock bottom trawl fishery from November 2004 through November 2005, using side-by-side tows to compare the control net with one experimental large-mesh net. The control net would be a standard net with a 6–inch (15.24–cm) mesh body, and 8–inch (20.32–cm) mesh wings and jibs. The experimental net would utilize a graduated netting starting with 8–ft (2.44–m) mesh and ending in the standard 6–inch (15.24–cm) mesh. The mesh size in both nets is equal to or greater than the required minimum mesh size. The experiment would

incorporate four fishing trips, each five days in duration. There would be four to six, 1.5–hour tows per day per vessel.

This experiment hopes to demonstrate that Closed Area I is able to support a targeted haddock fishery with only minimal bycatch of cod using the experimental net. Therefore, the applicant requested that this project occur in the groundfish closure area for the purposes of determining if a SAP could be established there. It is anticipated that this project would retain the following species: Haddock–300,000 lb (136,077 kg); winter flounder–40,000 lb (18,144 kg); yellowtail flounder–25,000 lb (11,340 kg); cod–30,000 lb (13,608 kg); witch flounder–25,000 lb (11,340 kg); American plaice–25,000 lb (11,340 kg). The anticipated discards from the project are: Cod–5,000 lb (2,268 kg); and skate–80,000 lb (36,287 kg). All catch retained would comply with the minimum fish sizes and possession limits established by the FMP.

Additionally, once the project reaches the estimated total catch (landings and discards) of cod, i.e., 35,000 lb (15,876 kg), the project would be terminated. Catch would be monitored on a trip-by-trip basis. The proceeds from the sale of the catch would be retained by the Commercial Fisheries Research Foundation to be used for further research projects. Access to Closed Area I would not include access to the Closed Area I North Habitat Closure Area nor the South Habitat Closure Area, since mobile gear is restricted from these areas in consideration of essential fish habitat. This project would not be exempt from the days-at-sea (DAS) effort control measures. If the researchers desire to enter the Western U.S./Canada Area they would be subject to regulations, including quota and possession limits, governing that area at that time.

This EFP would allow for an exemption from the FMP as follows: Groundfish Closed Area I, as specified in 50 CFR 648.81(a).

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

Dated: September 22, 2004.

Alan D. Risenhoover,

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

[FR Doc. E4–2388 Filed 9–24–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 092004C]

Endangered Species; File No. 1446

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that North Carolina Division of Marine Fisheries, P.O. Box 769, Morehead City, NC, has been issued a permit to take loggerhead (*Caretta caretta*), green (*Chelonia mydas*), hawksbill (*Eretmochelys imbricata*), Kemp's ridley (*Lepidochelys kempii*), and leatherback (*Dermochelys coriacea*) sea turtles for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376; and

Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2432; phone (727)570–5301; fax (727)570–5320.

FOR FURTHER INFORMATION CONTACT: Carrie Hubard or Patrick Opay, (301)713–2289.

SUPPLEMENTARY INFORMATION: On September 3, 2003 notice was published in the **Federal Register** (68 FR 52387) that a request for a scientific research permit to take loggerhead, green, hawksbill, Kemp's ridley, and leatherback sea turtles had been submitted by the above-named organization. The requested permit has been issued under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

Researchers will capture sea turtles using two different kinds of gillnets. Captured turtles will be identified to species, measured, photographed, and flipper and passive integrated transponder (PIT) tagged. The primary objective of the research is to identify gillnet types that will reduce the number of sea turtle interactions, while maintaining targeted catch of the commercial fishery. One modified gillnet design will be evaluated during this study with a traditional flounder gillnet used as a control. Of the captured turtles, nine of the Kemp's/loggerhead/green turtle aggregate, one hawksbill and one leatherback may be mortalities. This technology may prove transferable to other fisheries within North Carolina and the east coast. NMFS proposes to authorize these activities until December 31, 2004.

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered and threatened species which are the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: September 21, 2004.

Tammy C. Adams,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 04–21598 Filed 9–24–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Department of the Army

Armed Forces Institute of Pathology Scientific Advisory Board

AGENCY: Department of the Army, DoD.

ACTION: Notice of open meeting.

SUMMARY: In accordance with 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the following open meeting:

Name of Committee: Scientific Advisory Board (SAB).

Dates of Meeting: October 28–29, 2004.

Place: The Cosmos Club, 2121 Massachusetts Avenue, NW., Washington, DC and the Armed Forces Institute of Pathology, 14th St. & Alaska Ave., NW., Washington, DC 20306–6000.

Time: 8:30 a.m.–4:45 p.m. (October 28, 2004). 8 a.m.–11:30 a.m. (October 29, 2004).

FOR FURTHER INFORMATION CONTACT: Mr. Ridgely Rabold, Office of the Principal Deputy Director (PDD), AFIP, Building 54, Washington, DC 20306–6000, phone (202) 782–2553.

SUPPLEMENTARY INFORMATION:

General function of the board: The SAB provides scientific and professional advice and guidance on programs, policies and procedures of the AFIP.

Agenda: The Board will hear status reports from the AFIP Director, Principal Deputy Director, and each of the pathology sub-specialty departments, which the Board members will visit during the meeting.

Open board discussions: Reports will be presented on all visited departments. The reports will consist of findings, recommended areas of further research, improvement, and suggested solutions. New trends and/or technologies will be discussed and goals established. The meeting is open to the public.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 04–21574 Filed 9–24–04; 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 a Hortizontally Adjusted Wheelchair

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 Serial No. 60/529,120 entitled ''Horizontally Adjusted Wheelchair,'' filed December 15, 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 generally relates to wheelchairs. More specifically, the present invention relates to wheelchairs with adjustable frames.

Brenda S. Bowen,

Alternate Army Federal Register Liaison Officer.

[FR Doc. 04–21573 Filed 9–24–04; 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 Applications Concerning an Apparatus for Fastening a Lid to a Container, and a Lid Driver

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 inventions described in U.S. Provisional Patent Application Serial No. 60/529,701, entitled ''Lid Driver,'' filed December 16, 2003; and U.S. Provisional Patent Application Serial No. 60/556,029 entitled ''Apparatus for Fastening a Lid to a Container,'' filed March 25, 2004. The United States Government, as represented by the Secretary of the Army, has rights in these inventions.

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 inventions generally relates to apparatuses for securing devices, and more specifically, an apparatus for attaching and removing a lid to a container.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 04–21572 Filed 9–24–04; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Board of Advisors (BOA) to the Superintendent, Naval Postgraduate School (NPS)

AGENCY: Department of the Navy, DOD.

ACTION: Notice of open meeting.

SUMMARY: The purpose of the meeting is to elicit the advice of the board on the Naval Service's Postgraduate Education Program and the collaborative exchange and partnership between NPS and the Air Force Institute of Technology (AFIT). The board examines the effectiveness with which the NPS is accomplishing its mission. To this end, the board will inquire into the curricula; instruction; physical equipment; administration; state of morale of the student body, faculty, and staff; fiscal affairs; and any other matters relating to the operation of the NPS as the board considers pertinent. This meeting will be open to the public.

DATES: The meeting will be held on Wednesday, October 20, 2004, from 8 a.m. to 4 p.m. and on Thursday, October 21, 2004, from 8 a.m. to 12 p.m. All written comments regarding the NPS BOA should be received by October 8, 2004, and be directed to Superintendent, Naval Postgraduate School (Attn: Jaye Panza), 1 University Circle, Monterey, CA 93943–5000 or by fax (831) 656–3145.

ADDRESSES: The meeting will be held at CNAC, 4825 Mark Center Drive, Alexandria, VA.

FOR FURTHER INFORMATION CONTACT: Jaye Panza, Naval Postgraduate School, Monterey, CA, 93943–5000, telephone number (831) 656–2514.

Dated: September 15, 2004.

J. H. Wagshul,

Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 04–21546 Filed 9–24–04; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC04–515–000 FERC–515]

Commission Collection Activities, Proposed Collection; Comment Request; Extension and Reinstatement

September 20, 2004.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice.

SUMMARY: In compliance with the requirements of section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Comments on the collection of information are due by November 23, 2004.

ADDRESSES: Copies of the proposed collection of information can be obtained from Michael Miller, Office of

the Executive Director, ED–33, 888 First Street, NE., Washington, DC 20426. Comments on the proposed collection of information may be filed either in paper format or electronically. Those parties filing electronically do not need to make a paper filing. For paper filings, the original and 14 copies of such comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and should refer to Docket No. IC04–515–000.

Documents filed electronically via the Internet can be prepared in a variety of formats, including WordPerfect, MS Word, Portable Document Format, Rich Text Format or ASCII format. To file the document, access the Commission's Web site at *http://www.ferc.gov* and click on ''Make an E-filing,'' and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgment to the sender's e-mail address upon receipt of comments. User assistance for electronic fillings is available at (202) 502–8258 or by e-mail to *efiling@ferc.gov*. Comments should not be submitted to this e-mail address.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's home page using the eLibrary link. For user assistance, contact *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676 or for TTY, contact (202) 502–8659.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 502–8415, by fax at (202) 273–0873 and by e-mail at *michael.miller@ferc.gov*.

SUPPLEMENTARY INFORMATION: The information collected under the requirements of FERC–515, ''Hydropower Licensing, Declaration of Intention'' (OMB No. 1902–0079) is used by the Commission to implement the statutory provisions of part I, section 23(b) of the Federal Power Act (FPA), 16 U.S.C. 817. Section 23(b) authorizes the Commission to make a determination as to whether it has jurisdiction over a proposed hydroelectric project. Section 23(b) also requires that any person intending to construct project works on a navigable commerce clause water must file a declaration of their intention to do so with the Commission. If the Commission finds the proposed project will have an impact on ''interstate or foreign commerce'', then the person intending to construct the project must obtain a Commission license or exemption before starting construction. Such sites are generally on streams defined as U.S. navigation waters, and over which the Commission has jurisdiction under its authority to regulate foreign and interstate commerce. The information is collected in the form of a written application, declaring the applicant's intent and used by Commission staff to research the jurisdictional aspects of the project. This research includes examining maps and land ownership records to establish whether or not there is Federal jurisdiction over the lands and waters affected by the project. A finding of non-jurisdictional by the Commission eliminates a substantial paperwork burden for the applicant who might otherwise have to file for a license or exemption application. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR part 24.

Action: The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data.

Burden Statement: Public reporting burden for this information collection is estimated as:

No. of respondents annually (1)	No. of responses per respondent (2)	Average burden (No. of hours per response) (3)	Total annual burden (Total No. of hours) (1) × (2) × (3)
10	1	80	800

Estimated cost to respondents: 800 hours ÷ 2,080 per year × $107,185 = $41,225. The cost per respondent = $4,125 (rounded off). The reporting burden includes the total time, effort, or financial resources to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purpose of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimated of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, 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, *e.g.,* permitting electronic submission of responses.

Magalie R. Salas,

Secretary.

[FR Doc. E4–2377 Filed 9–24–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of the Revocation Of Market-Based Rate Tariffs

September 20, 2004.

In the matter of: ER02–2001–003, ER98–4240–002, ER00–2363–001, ER00–1975–001, ER97–360–013, ER97–1428–006, ER97–3788–010, ER97–2604–007, ER97–1643–001, ER96–659–017, ER97–1630–004, ER96–1283–008, ER00–741–002, ER95–964–011, ER99–3005–003, ER97–2792–010, ER01–

1279–002, ER96–1798–006, ER97–4427–004, ER97–4173–001, ER94–1580–022, ER00–2248–001, ER96–280–016, ER98–1622–008, ER96–3086–011, ER01–1897–002, ER98–1486–004, ER00–1453–001, ER97–2413–012, ER98–3393–006, ER99–3142–001, ER97–3416–006, ER97–4787–001, ER96–2583–002, ER95–257–020, ER98–4264–001, ER96–594–006, ER96–2435–001, ER98–3433–005, ER95–792–014, ER98–1148–006, ER96–1119–008, ER99–505–005, ER97–135–001, ER98–174–007, ER99–1184–002, ER96–203–004, ER97–778–004, ER98–3344–001, ER98–1824–009, ER98–1953–006, ER98–1421–006, ER95–914–013, ER96–1930–011, ER96–1754–001, ER96–332–008, ER94–931–016, ER95–1234–017, ER95–473–012, ER96–947–015, ER01–40–001, ER97–3056–004, ER98–3012–002, ER98–3261–003, ER97–765–008, ER95–1047–011, ER96–2882–014, ER98–2175–008, ER99–4044–001, ER96–1724–010, ER98–3526–007, ER95–385–010, ER01–1496–001, ER96–906–009, ER94–1676–017, ER92–429–020, ER97–2900–002, ER02–517–003, ER01–36–002, ER97–3306–003, ER00–1408–001, ER98–1829–009, ER97–2426–004, ER96–525–012, ER95–1855–012, ER97–1248–005, ER96–1150–003, ER97–3526–006, ER96–2914–007, ER97–2517–009, ER98–1823–005, Electric Quarterly Reports, Abacus Group, Ltd., Allied Companies, LLC, American Energy Savings, Inc., American Energy Trading, Inc., American Power Reserve Marketing, Anker Power Services, Inc., Applied Resources Integrated Services, Inc., APRA Energy Group, Inc., Bonneville Fuels Management Corp., Brennan Power, Inc., BTU Power Corporation, Canal Emirates Power International, Inc., CNB/Olympic Gas Services, Coast Energy Group, Community Electric Power Corporation, Connecticut Energy Cooperative, Inc., CPS Capital, Limited, Electric Lite, Inc., Electrical Associates Power Marketing, Inc., Energy Resource Marketing, Inc., Energy Trading Company, Inc., Energy Transfer Group, LLC, Energy Unlimited, Inc., Energy2, Inc., EOPT Power Group Nevada, Inc., Equinox Energy, LLC, Essential Utility Resources, LLC, FINA Energy Services Company, Fortistar Power Marketing, LLC, FPH Electric, LLC, Global Energy & Technology, Inc., High Island Marketing, Inc., Hubbard Power & Light, Inc., Industrial Gas & Electric Services Co., International Energy Ventures, Inc., International Utility Consultants Inc., J.D. Enterprises, JMF Power Marketing, K Power Company, Inc., Kamps Propane, Inc., Kibler Energy Ltd, Lakeside Energy Services, LLC, Manner Technologies, LLC, Millennium Energy Corporation, Minnesota Agri-Power, LLC, Multi-Energies USA, Inc., NXIS, LLC, Omni Energy, Pacific Energy & Development Corp., PG Energy PowerPlus, Polaris Electric Power Company, Inc., Power Clearinghouse, Inc., Power Fuels, Inc., Powerline Controls, Inc., PowerMark, LLC, PowerNet G.P., Prairie Winds Energy, Inc., Proven Alternatives, Inc., Quantum Energy Resources, Inc., Quinnipiac Energy, LLC, R. Hadler and Company, Inc., Rainbow Power USA LLC, Reliable Energy, Inc., Revelation Energy Resources Corporation, Ruffin Energy Services, Inc., Russell Energy Services Company, Salem Electric, Inc., Sandia Resources Corporation, SDS Petroleum Products, Inc., Shamrock Trading, LLC, Southeastern Energy Resources, Inc., Sundance Energy, SuperSystems, Inc., Texas-Ohio Power Marketing, Inc., Torco Energy Marketing, Inc., United Regional Energy, L.L.C., US Gas & Electric, USPower Energy, LLC, UTIL Power Marketing Inc., Utilimax.com, Inc., UtiliSource Corporation, UtiliSys Corporation, Utility Management & Consulting, Inc., VTEC Energy Inc., Wasatch Energy Corporation, Wheeled Electric Power Co., Woodruff Energy, Working Assets Green Power, Inc., Xenergy, Inc., XERXE Group, Inc.

On June 23, 2004, the Commission issued an Order (June Order) [1] stating its intent to withdraw market-based rate authority from 96 public utilities that had not filed Electric Quarterly Reports. The Commission gave the utilities 30 days to file their overdue Electric Quarterly Reports or face cancellation of their market-based rate tariffs.

In Order 2001,[2] the Commission required public utilities, including power marketers, to file, among other things, Electric Quarterly Reports summarizing the contractual terms and conditions in their agreements for all jurisdictional services (including market-based power sales, cost-based power sales, and transmission service) and transaction information (including rates) for short-term and long-term market-based power sales and cost-based power sales during the most recent calendar quarter.

Six of the 96 companies identified in the June Order made the required filings. The above-captioned companies have not filed Electric Quarterly Reports. Commission staff made a concerted effort to contact each of these companies. Contact was attempted in writing, by e-mail and by telephone to remind them of their regulatory obligation. In the June Order, the Commission ordered:

> Within 30 days of the date of issuance of this order, each public utility listed in the caption of this order shall file its Electric Quarterly Reports for the 2nd, 3rd, and 4th Quarters of 2002 and the 1st, 2nd, 3rd and 4th Quarters of the 2003 and 1st and 2nd Quarters of 2004. If no such filings are made, the Commission will withdraw the public utility's authority to sell power at market-based rates and terminate its electric market-based rate tariff.

The Commission hereby withdraws the market-based rate authority and terminates the electric market-based rate tariff for each of the 90 companies captioned above in this Notice.

Magalie R. Salas,

Secretary.

[FR Doc. E4–2379 Filed 9–24–04; 8:45 am]

BILLING CODE 6717–01–P

[1] Intent to Revoke Market-Based Rate Authority, (June 23, 2004).

[2] Revised Public Utility Filing Requirements, Order No. 2001, 67 Fed. Reg. 31043, FERC Stats. & Regs. ¶ 31,127 at P 11–12, 18–21 (April 25, 2002), *reh'g denied,* Order No. 2001–A, 100 FERC ¶ 61,074, *reconsideration and clarification denied,* Order No. 2001–B, 100 FERC ¶ 61,342, *order directing filings,* Order No. 2001–C, 101 FERC ¶ 61,314 (2002).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER96–2495–022; ER97–4143–010; ER97–1238–017; ER98–2075–016; ER98–542–012]

AEP Power Marketing, Inc., AEP Service Corporation, CSW Power Marketing, Inc., CSW Energy Services, Inc., and Central and South West Services, Inc.; Notice of Amendment to Compliance Filing

September 20, 2004.

Take notice that on September 16, 2004, AEP Power Marketing, Inc. (AEP), AEP Service Corporation, CSW Power Marketing, Inc., CSW Energy Services, Inc., and Central and South West Services, Inc., (collectively AEP), submitted an amendment to the compliance filing submitted August 9, 2004, as supplemented on August 10, 2004, in Docket No. ER96–2495–020, *et al.*

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all parties to this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public

Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern standard time on September 27, 2004.

Linda Mitry,

Acting Secretary.

[FR Doc. E4–2375 Filed 9–24–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER04–1099–000]

Bethpage Energy Center 3, LLC; Notice of Issuance of Order

September 20, 2004.

Bethpage Energy Center 3, LLC (''Bethpage'') filed an application for market-based rate authority, with an accompanying tariff. The proposed tariff provides for wholesale sales of energy, capacity, replacement reserves, and ancillary services at market-based rates. Bethpage also requested waiver of various Commission regulations. In particular, Bethpage requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Bethpage.

On September 16, 2004, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—South, granted the request for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Bethpage should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest, is October 18, 2004.

Absent a request to be heard in opposition by the deadline above, Bethpage is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Bethpage, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Bethpage's issuances of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order 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 filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E4–2381 Filed 9–24–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER04–1038–000]

Goldendale Energy Center, LLC; Notice of Issuance of Order

September 20, 2004.

Goldendale Energy Center, LLC (Goldendale) filed an application for market-based rate authority, with an accompanying tariff. The proposed tariff provides for wholesale sales of energy, capacity, and ancillary services at market-based rates. Goldendale also requested waiver of various Commission regulations. In particular, Goldendale requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Goldendale.

On September 16, 2004, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—South, granted the request for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Goldendale should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest, is October 18, 2004.

Absent a request to be heard in opposition by the deadline above, Goldendale is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Goldendale, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Goldendale's issuances of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order 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 filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E4–2380 Filed 9–24–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER04–947–000 and ER04–947–001]

POSDEF Power Company, LP; Notice of Issuance of Order

September 20, 2004.

POSDEF Power Company, LP (POSDEF) filed an application for market-based rate authority, with an accompanying tariff. The proposed tariff

provides for wholesale sales of energy, capacity, and ancillary services at market-based rates. POSDEF also requested waiver of various Commission regulations. In particular, POSDEF requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by POSDEF.

On September 16, 2004, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—South, granted the request for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by POSDEF should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest, is October 18, 2004.

Absent a request to be heard in opposition by the deadline above, POSDEF is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of POSDEF, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of POSDEF's issuances of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order 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 filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E4–2383 Filed 9–24–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP04–58–003]

Sound Energy Solutions; Notice of Amendment of Application

September 20, 2004.

Take notice that on September 8, 2004, Sound Energy Solutions (SES) filed, pursuant to section 3(a) of the Natural Gas Act and Part 153 of the Commission's regulations, an amendment to its January 26, 2004 application in Docket No. CP04–58–000. The January 26, 2004 application requests authorization to site, construct, and operate an liquefied natural gas (LNG) import terminal in the Port of Long Beach, California. In SES's amendment in Docket No. CP04–58–003, it requests authorization to construct, own and operate a 2.3-mile, 36-inch diameter pipeline which will connect its proposed LNG terminal facilities to the natural gas pipeline facilities of the Southern California Gas Company (SoCal Gas).

The proposed 2.3-mile pipeline will connect to SoCal Gas's existing Line 765 at SoCal Gas's Salt Works Station in the Port of Los Angeles, California. In SES's January 26, 2004 application, it did not specifically include the 2.3-mile pipeline as part of its request for authorization before the Commission. However, the amendment includes a description and references to all the places in the supporting environmental information filed in SES January 26, 2004 application which pertains to the 2.3-mile pipeline.

This amendment is on file with the Commission and open to public inspection. 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 for TTY, contact (202) 502–8659. Any initial questions regarding this amendment should be directed to Ms. Tetsuko Egawa, Assistant Director, Development, Sound Energy Solutions, 301 East Ocean Boulevard, Suite 1510, Long Beach, CA 90802.

Any person who is a party to SES's proceeding in Docket No. CP04–58–000 is automatically a party to SES's proceeding as amended by Docket No. CP04–58–003. Otherwise, there are two ways to become involved in the Commission's review of this amendment. First, any person (who is not already a party in the proceeding) wishing to obtain legal status by becoming a party to the proceedings for this amendment should, on or before the below listed comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding in Docket No CP04–58–000. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered concerning the amendment. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this amendment. 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 amendment provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this amendment should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process.

Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

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: October 7, 2004.

Magalie Salas,

Secretary.

[FR Doc. E4–2378 Filed 9–24–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER04–1100–000]

TBG Cogen Partners; Notice of Issuance of Order

September 20, 2004.

TBG Cogen Partners (TBG Cogen) filed an application for market-based rate authority, with an accompanying tariff. The proposed tariff provides for wholesale sales of energy, capacity, replacement reserves, and ancillary services at market-based rates. TBG Cogen also requested waiver of various Commission regulations. In particular, TBG Cogen requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by TBG Cogen.

On September 16, 2004, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—South, granted the request for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by TBG Cogen should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest, is October 18, 2004.

Absent a request to be heard in opposition by the deadline above, TBG Cogen is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of TBG Cogen, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of TBG Cogen's issuances of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order 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 filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E4–2382 Filed 9–24–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG04–87–000]

White Pine Electric Power, L.L.C.; Notice of Amendment to Application for Determination of Exempt Wholesale Generator Status

September 20, 2004.

Take notice that on August 31, 2004, White Pine Electric Power, L.L.C. (''White Pine'') filed with the Commission an amendment to its July 27, 2004, application for determination of exempt wholesale generator status. White Pine states that it filed an amendment to its application in order to clarify the nature of its incidental sales of purified water and compressed air.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: 5 p.m. eastern standard time on October 12, 2004.

Linda Mitry,

Acting Secretary.

[FR Doc. E4–2376 Filed 9–24–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP04–386–000, CP04–400–000, CP04–401–000, and CP04–402–000]

Golden Pass LNG Terminal LP; Golden Pass Pipeline LP; Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Golden Pass LNG Terminal and Pipeline Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Meetings and Site Visit

September 20, 2004.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental impact statement (EIS) that will discuss the environmental impacts of Golden Pass LNG Terminal LP's and Golden Pass Pipeline LP's (collectively referred to as Golden Pass) proposed Golden Pass LNG Terminal and Pipeline Project. The proposed facilities would consist of a liquefied natural gas (LNG) import terminal and interconnecting pipelines in southeastern Texas and southwest Louisiana. The Commission will use this EIS in its decision-making process to determine whether or not the project is in the public convenience and necessity.

On January 26, 2004, when the project was in the preliminary design stage and before the formal applications were filed with the FERC, we [1] issued a Notice of Environmental Review and Scoping for the Golden Pass LNG Terminal and Pipeline Project and Request for Comments on Environmental Issues. This notice was sent to 567 interested parties including federal, state, and local officials; agency representatives; conservation organizations; Native American tribes; local libraries and newspapers; residents within a 0.5 mile of the proposed LNG terminal; and property owners along the proposed pipeline routes. It also announced that the FERC staff was initiating its National Environmental Policy Act (NEPA) review to allow interested stakeholders to be involved early in project planning and to identify and resolve issues before the certificate application was filed with the FERC. A docket number (PF04–1–000) was established to place information filed by Golden Pass and related documents issued by the Commission, into the public record.

With this second notice, we are announcing a final opportunity to submit comments that may be submitted electronically, in written form, or verbally as described in the public participation section of this notice. We are also asking other Federal, State, and local agencies with jurisdiction and/or special expertise with respect to environmental issues to formally cooperate with us in the preparation of the EIS. These agencies may choose to participate once they have evaluated the proposal relative to their responsibilities. We encourage government representatives to notify their constituents of this planned project and encourage them to comment on their areas of concern. The U.S. Army Corps of Engineers—Galveston District will be a cooperating agency on this project.

This notice is being sent to residents within 0.5 mile of the proposed LNG terminal site; landowners along the pipeline routes; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; and local libraries and newspapers.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the pipeline facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right-of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' was attached to the project notice Golden Pass provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*).

Summary of the Proposed Project

Golden Pass proposes to construct and operate an LNG import terminal and natural gas pipeline to import LNG and deliver up to an average of 2 billion cubic feet per day (Bcfd) of natural gas (with a peak capacity of 2.7 Bcfd) to the existing intrastate and interstate pipeline systems.

The LNG import terminal would be located approximately 10 miles south of Port Arthur, Jefferson County, Texas and 2 miles northwest of the town of Sabine Pass on the Sabine-Neches Waterway (Port Arthur Ship Channel). The LNG terminal would be constructed in two phases, each lasting approximately 48 months. Phase 2 construction would begin approximately 12 months after the start of Phase 1 construction and would increase the average capacity from 1.0 to 2.0 Bcfd. The import terminal would be designed to accept LNG cargoes, temporarily store and vaporize LNG, and would contain the following facilities:

- A protected LNG unloading slip, LNG ship and support vessel maneuvering area (outside of the existing Port Arthur Ship Channel) that would be capable of receiving up to 200 LNG ships per year;
- Ship unloading facilities consisting of two berths, each capable of accommodating LNG ships ranging from 125,000 cubic meters (m^3) to 250,000 m^3, and consisting of four 16-inch unloading arms and one 16-inch vapor return arm, mooring and breasting dolphins, gangway tower, firewater monitors, anemometer, service utilities, and associated valves and piping (the first berth would be constructed during Phase 1 and the second during Phase 2);
- A total of five full-containment LNG storage tanks each with a working capacity of 155,000 m^3 (three tanks would be constructed during Phase 1 and two during Phase 2);
- A boil-off gas (BOG) recovery system consisting of three BOG compressors, one return gas blower, and a direct-contact recondenser;
- A total of twenty LNG booster pumps to transfer LNG from the storage tanks to the vaporizers (ten booster pumps would be installed during Phase 1 and ten during Phase 2);
- A total of ten shell-and-tube heat transfer fluid (HTF) LNG heat exchangers to vaporize the LNG (five exchangers would be installed during Phase 1 and five during Phase 2);
- A total of eight HTF gas-fired heaters (four heaters would be installed during Phase 1 and four during Phase 2); and
- Associated support facilities, including administrative buildings, storage and maintenance areas, electric power systems, access roads, and other facilities related to the LNG import terminal.

As part of its preliminary design, Golden Pass originally proposed to use seawater for the vaporization process. In response to comments and concerns about the use of seawater and potential environmental impact on aquatic resources, Golden Pass has removed the of use seawater for vaporization and

[1] We,'' ''us,'' and ''our'' refer to the environmental staff of the Office of Energy Projects.

instead proposes to use shell and tube vaporization technology.

Golden Pass also proposes to construct a pipeline system consisting of three pipelines and associated pipeline support facilities, including pig launchers and receivers, and meter stations. The pipeline system would be installed in overlapping phases across three counties in Texas and one parish in Louisiana. It would consist of the:

- Mainline—A 77.8-mile-long, 36-inch-diameter pipeline extending from the LNG import terminal in Jefferson County through Orange, and Newton Counties, Texas (66.5 miles) and Calcacieu Parish, Louisiana (11.3 miles) to an interconnection with an existing Transcontinental Gas Pipeline Corporation (Transco) interstate pipeline near Starks, Louisiana (to be installed over an estimated 14-month period);
- Loop—A 42.8-mile-long, 36-inch-diameter pipeline that would be installed adjacent to (*e.g.,* loop[2]) the Mainline and would extend from the LNG import terminal in Jefferson County to an interconnection with an existing Texoma Pipeline in Orange County, Texas (to be installed over an estimated 9-month period beginning with and concurrently with the Mainline);
- Beaumont Lateral—A 1.8-mile-long, 24-inch-diameter pipeline extending from the Mainline in Jefferson County, Texas to industrial customers in Beaumont-Port Arthur, including the ExxonMobil Beaumont refinery (to be installed over an estimated one-month period after installation of the Loop is complete);
- Meter stations to interconnect with up to 11 existing intrastate and interstate pipelines, including interconnections with Natural Gas Pipeline Company of America, Centana, Kinder Morgan—Texas, Kinder Morgan—Tejas, Beaumont-Port Arthur (including ExxonMobil's Beaumont refinery), American Electric Power Texoma Pipeline, Florida Gas Transmission, Channel (HPL AS), Tennessee Gas Pipeline Company, Texas Eastern Transmission LP, and Transco; and
- Associated pipeline facilities, including pig launchers and receivers, and block valves.

A map depicting the proposed terminal site plot plan is provided in appendix 1. The locations of the meter stations and routes for the Mainline, Loop, and Beaumont Lateral are provided on the map in appendix 2.[3] [4]

Land Requirements

The Golden Pass LNG import terminal would be constructed and operated within a 477-acre property that would be owned by Golden Pass. Construction would affect a total of 245 acres of land within the 477-acre property. The LNG terminal and associated facilities would be operated within a 205-acre site.

The Golden Pass pipelines would be installed within a 100-foot-wide construction right-of-way. The Loop would be installed adjacent to the Mainline with a nominal 25-foot separation, thus increasing the construction right-of-way to 125 feet for approximately 42.8 miles. The Beaumont Lateral would be installed within a 90-foot-wide construction right-of-way. Additional work space would be used for topsoil segregation and for certain waterbody, wetland, road, and railroad crossings. The operational right-of-way would be 50 feet for one pipeline and 75 feet for two pipelines (*e.g.,* for the Mainline and Loop).

Golden Pass estimates that pipeline construction would affect a total of 1,603.5 acres of land and that operation would affect a total of 708 acres of land. Construction and operation of the meter stations would affect an additional 7.4 acres of land. In addition, pipeline construction would involve use of approximately 18.6 miles of access roads and 149.3 acres of contractor yards.

The EIS Process

NEPA requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity, or an import authorization under Section 3 of the Natural Gas Act. NEPA also requires us to discover and address issues and concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EIS on the important environmental issues and reasonable alternatives. By this notice, we are requesting agency and public comments on the scope of the issues to be analyzed and presented in the EIS. All scoping comments received will be considered during the preparation of the EIS. To ensure your comments are considered, please carefully follow the instructions in the public participation section of this notice.

The EIS will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils.
- Water resources, fisheries, and wetlands.
- Vegetation and wildlife.
- Endangered and threatened species.
- Land use.
- Cultural resources.
- Air quality and noise.
- Public safety.

Our independent analysis of the issues will be in the draft EIS. The draft EIS will be mailed to Federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; affected landowners; other interested parties; local libraries and newspapers; and the Commission's official service list for this proceeding. A 45-day comment period will be allotted for review of the draft EIS. We will consider all comments on the draft EIS and revise the document, as necessary, before issuing a final EIS. In addition, we will consider all comments on the final EIS before we make our recommendations to the Commission.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by the Golden Pass. This preliminary list of issues may be changed based on your comments and our analysis.

- Geology and Soils:
- Assessment of potential site subsidence.
- Assessment of pipeline construction on hydric and prime farmland soils.
- Water Resources:
- Impact of project water use on the local water supply system.
- Assessment of dredge and fill of coastal wetlands associated with construction of the proposed LNG terminal, storage, and vaporization sites, and the disposal of dredged material.

[2] A loop is a segment of pipeline that is usually installed adjacent to an existing pipeline and connected to it at both ends).

[3] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's Internet Web site (*http://www.ferc.gov*) at the ''eLibrary'' link or from the Commission's Public Reference at (202) 502–8371. For instructions on connecting to eLibrary refer to the end of this notice.

[4] Requests for detailed maps of the facilities may be made to the company directly. Call or e-mail: Jason B. Dupres, 12450 Greenspoint Drive, Houston, Texas 77060 (281) 654–3456 or *jason.b.dupres@exxonmobil.com*. Be as specific as you can about the location(s) of your area(s) of interest.

• Assessment of hydrostatic test water source and discharge to receiving water bodies.
• Impact on water quality and aquatic species crossed by pipeline facilities.
• Pipeline construction on freshwater wetlands.
• Fish, Wildlife, and Vegetation:
• Effect on essential fish habitat, commercial and recreational fisheries, and benthic communities.
• Effect on designated Wildlife Management Areas (WMA) and parks (J.D. Murphree WMA, Sea Rim State Park, Sabine Island WMA) and migratory bird species.
• Endangered and Threatened Species:
• Potential effect on federally-listed species.
• Cultural Resources:
• Assessment of cultural resources studies.
• Native American and tribal concerns.
• Land Use, Recreation and Special Interest Areas, and Visual Resources:
• Permanent land use alteration associated with site development.
• Evaluation of project's consistency with coastal zone management area guidelines.
• Visual impacts associated with new LNG storage tanks.
• Socioeconomics:
• Impact of traffic from construction workers and material delivery on State Highway 87.
• Effects of 200 LNG ships per year on existing ship traffic in the Sabine Neches Waterway.
• Effects of construction workforce demands on public services and housing.
• Effects on property values on Pleasure Island.
• Effects of construction payroll, sales tax, and property taxes on local economy.
• Air Quality and Noise:
• Effects on local air quality and noise environment from construction and operation of the proposed facilities.
• Effects of emissions from 200 additional LNG ships on air quality.
• Reliability and Safety:
• Assessment of hazards associated with the transport, unloading, storage, and vaporization of LNG.
• Assessment of potential collisions of LNG ships with other ship traffic in the area.
• Assessment of security associated with LNG ship traffic and an LNG import terminal.
• Assessment of hazards associated with natural gas pipelines.
• Alternatives:
• Assessment of the use of existing LNG import terminals and natural gas pipeline systems to reduce or avoid environmental impacts.
• Evaluation of alternative sites for the LNG import and storage facilities, including offshore sites.
• Evaluation of pipeline route alternatives.
• Identification of measures to lessen or avoid impacts on the various resource and special interest areas.
• Cumulative Impacts:
• Assessment of the effect of the proposed project when combined with other past, present or reasonably foreseeable future actions in the Sabine Pass area, including proposals by Sempra Energy LNG (Port Arthur LNG Project) and Sabine Pass LNG, L.P. (Sabine Pass LNG and Pipeline Project).

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EIS and considered by the Commission. Your comments should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations and routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be.

To expedite our receipt and consideration of your comments, the Commission strongly encourages electronic submission of any comments on this project. See Title 18 Code of Federal Regulations 385.2001(a)(1)(iii) and the instructions on the Commission's Internet Web site at *http://www.ferc.gov* under the ''eFiling'' link and the link to the User's Guide. Before you can submit comments you will need to create a free account by clicking on ''Sign-up'' under ''New User.'' You will be asked to select the type of submission you are making. This type of submission is considered a ''Comment on Filing.'' Your comments must be submitted electronically by October 20, 2004.

If you wish to mail comments, please mail your comments so that they will be received in Washington, DC on or before October 20, 2004, and carefully follow these instructions to ensure that your comments are received and properly recorded:

• Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;

• Label one copy of your comments for the attention of Gas Branch 2, DG2E; and

• Reference Docket Nos. CP04–386–000, CP04–400–000 *et al.* on the original and both copies.

If you do not want to send comments at this time but still want to remain on our mailing list, please return the Mailing List Retention Form included in Appendix 3.

The public scoping meetings are designed to provide another opportunity to offer comments on the proposed project. Interested groups and individuals are encouraged to attend the meetings and to present comments on the environmental issues they believe should be addressed in the EIS. A transcript of the meetings will be generated so that your comments will be accurately recorded. All meetings will begin at 7 p.m. (c.s.t.), and are scheduled as follows:

Date	Location
Tuesday, October 5, 2004.	Sabine Pass School, Auditorium, 5641 South Gulfway Drive, Sabine Pass, Texas 409–971–2321.
Wednesday, October 6, 2004.	VFW Hall, 4402 Highway 12, Starks, Louisiana 337–743–6409.

The environmental staff of the FERC will perform a site visit of the proposed facility locations. Anyone interested in participating in the field trip may attend, but they must provide their own transportation. The meeting locations prior to the site visit are as follows:

Time/Date	Meeting location	Facilities
Wednesday, October 6, 2004 at 8 a.m	Walter Umphrey State Park State Highway 82 Pleasure Island, TX.	LNG terminal, pipeline mainline and loop, and Beaumont Lateral.
Thursday, October 7, 2004 at 8 a.m	VFW Hall 4402 Highway 12, Starks, LA	Pipeline mainline.

Availability of Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208 FERC (3372) or on the FERC Internet Web site (*http://www.ferc.gov*) using the ''eLibrary'' link. Click on eLibrary link, click on ''General Search'' and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate data range. For assistance with eLibrary, the eLibrary helpline can be reached at 1–866–208–3676, TTY (202) 502–8659, or at *FERCONLINESUPPORT@FERC.GOV*. The eLibrary link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to the eSubscription link on the FERC Internet Web site.

Magalie R. Salas,

Secretary.

[FR Doc. E4–2384 Filed 9–24–04; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OW–2003–0078; FRL–7819–6]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; National Wastewater Operator Training and Technical Assistance Program—CWA 104(g)(1) (Renewal), EPA ICR Number 1977.02, OMB Control Number 2040–0238

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to expire on September 30, 2004. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before October 27, 2004.

ADDRESSES: Submit your comments, referencing docket ID number OW–2003–0078, to (1) EPA online using EDOCKET (our preferred method), by e-mail to *OW-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Office of Water Docket, Mail Code 4101T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Margaret Dodds, Office of Water, Mail Code 4204M, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–0728; fax number: (202) 501–2396; e-mail address: *dodds.margaret@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On November 10, 2003 (68 FR 63778), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID No. OW–2003–0078, which 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 Reading Room is (202) 566–1744, and the telephone number for the Office of Water Docket is (202) 566–2426. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket.*

Title: National Wastewater Operator Training and Technical Assistance Program—CWA 104(g)(1) (Renewal).

Abstract: The Wastewater Operator Training Program provides on-site technical assistance to municipal wastewater treatment plants. Information will be collected from the network of forty-six 104(g)(1) training centers set up through out the United States. The information will be collected to identify the facilities assisted, the different types of assistance the program provides and the environmental outcomes and benefits of the assistance provided by the program. The information will be collected and submitted on either an annual or semi-annual basis. A Microsoft Access database and a Lotus 1–2–3 spreadsheet have been developed for this purpose. This ICR will be used by EPA for the technical and financial management of the 104(g)(1) Program. It is strongly suggested that the 104(g)(1) Program training centers participate in the information collection although it is not mandatory. All information in the data system will be made public upon request.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9 and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for

this collection of information is estimated to average 7 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: State and local governments, State and county colleges, and those organizations which provide training assistance through the Clean Water Act 104(g)(1) Program to municipal wastewater treatment plants.

Estimated Number of Respondents: 46.

Frequency of Response: Annually and biannually.

Estimated Total Annual Hour Burden: 322.

Estimated Total Annual Cost: $13,000, includes $0 annualized capital/startup costs, $0 annual O&M costs and $13,000 annual labor costs.

Changes in the Estimates: There is a decrease of 14 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This decrease is due to the reduction of the number of respondents from forty-eight (48) to forty-six (46). There is an increase of $6,000 in the total estimated cost burden. This increase is due to the increase of the average salary of those involved in reporting.

Dated: September 9, 2004.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 04–21576 Filed 9–24–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OECA–2004–0003; FRL–7819–5]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Annual Public Water Systems Compliance Report (Renewal), EPA ICR Number 1812.03, OMB Control Number 2020–0020

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to expire on September 30, 2004. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before October 27, 2004.

ADDRESSES: Submit your comments, referencing docket ID number OECA–2004–0003, to EPA online using EDOCKET (our preferred method), by e-mail to *delaney.acquanetta@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, Mail Code 2201T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Acquanetta Delaney, Compliance Assistance and Sector Programs Division, Mail Code 2224A, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–7061; fax number: (202) 564–0009; e-mail address: *delaney.acquanetta@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On March 16, 2004 (69 FR 12323), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID number OECA–2004–0003, which is available for public viewing at the Enforcement and Compliance Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket and Information Center is (202) 566–1752. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, *see* EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket.*

Affected entities: States, tribes, and territories that have primary enforcement authority and meet the definition of ''state'' under the Safe Drinking Water Act (Act).

Title: Annual Public Water Systems Compliance Report (Renewal).

Abstract: Section 1414(c)(3)(A) of the Safe Drinking Water Act requires that each state that has primary enforcement authority under the Act shall prepare, make readily available to the public,

and submit to the Administrator of EPA, an annual report of violations of national primary drinking water regulations in the state. The states' reports are to include violations of maximum contaminant levels, treatment requirements, variances and exemptions, and monitoring requirements determined to be significant by the Administrator after consultation with the states. Section 1414(c)(3)(B) of the Safe Drinking Water Act requires EPA to prepare and make available to the public an annual report that summarizes and evaluates the reports submitted by the states pursuant to section 1414(c)(3)(A). EPA's annual national report must also provide specified information about implementation of the public water system supervision system on Indian reservations and make recommendations concerning the resources necessary to improve compliance with the Safe Drinking Water Act. The States have already prepared and published seven annual reports. EPA has prepared and published six national reports.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9 and are identified on the form and/or instrument, if applicable. In an effort to minimize a state's burden in preparing its annual statutorily-required report, EPA issued guidance that explains what Section 1414(c)(3)(A) requires and provides model language and reporting templates. EPA also annually makes available to the states a computer query that generates for each state (from information states are already required to submit to EPA's national database on a quarterly basis) the required violations information in a table consistent with the reporting template in EPA's guidance.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 208 hours for annual response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: States, Tribes, and territories that have primary enforcement authority and meet the definition of ''state'' under the Safe Drinking Water Act.

Estimated Number of Respondents: 56.

Frequency of Response: Annually.

Estimated Total Annual Hour Burden: 4,480.

Estimated Total Annual Cost: $280,000, includes $0 annual capital/startup costs, $0 annual O&M costs and $280,000 annual labor costs.

Changes in the Estimates: There is an increase of 180 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This is due to the fact that the Navajo Nations was approved for primacy on December 6, 2000, which increased the number of respondents.

Dated: September 15, 2004.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 04–21577 Filed 9–24–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7819–3]

Agency Information Collection Activities OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces the Office of Management and Budget's (OMB) responses to Agency clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

FOR FURTHER INFORMATION CONTACT: Susan Auby (202) 566–1672, or e-mail at *auby.susan@epa.gov* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR No. 2157.01; Request for Information on Existing and Available Stocks of Methyl Bromide; was approved 08/06/2004; OMB Number 2060–0557; expires 01/31/2005.

EPA ICR No. 1844.02; Recordkeeping and Reporting Requirements for Petroleum Refinery NESHAP; in 40 CFR part 63, subpart UUU; was approved 08/31/2004; OMB Number 2060–0554; expires 08/31/2007.

EPA ICR No. 2045.02; NESHAP for Automobile and Light-duty Truck Surface Coating (Final Rule); in 40 CFR part 63; subpart III,; was approved 08/31/2004; OMB Number 2060–0550; expires 08/31/2007.

EPA ICR No. 1984.02; NESHAP for Plywood and Composite Wood Products Manufacturing Plants; in 40 CFR part 63, and 40 CFR part 429, subparts B, C, D, M; was approved 08/31/2004; OMB Number 2060–0552; expires 08/31/2007.

EPA ICR No. 1975.02; NESHAP for Stationary Reciprocating Internal Combustion Engines (Final Rule); in 40 CFR part 63, subpart ZZZZ; was approved 08/31/2004; OMB Number 2060–0548; expires 08/31/2007.

EPA ICR No. 1071.08; NSPS for Stationary Gas Turbines; in 40 CFR part 60, subpart GG; was approved 08/05/2004; OMB Number 2060–0028; expires 08/31/2007.

EPA ICR No. 2154.01; Response technologies for biological, chemical, and radiological threats Vendor Letter: Request for supporting information to produce technical performance reports; was approved 08/13/2004; OMB Number 2050–0194; expires 02/28/2005.

EPA ICR No. 1442.18; Land Disposal Restrictions; in 40 CFR 268.4, 268.5, 268.7, 268.9, 268.42, 268.44, and 268.50; was approved 08/20/2004; OMB Number 2050–0085; expires 08/31/2007.

EPA ICR No. 2028.02; NESHAP for Industrial, Commercial, and Institutional Boilers and Process Heaters; in 40 CFR part 63, subpart DDDDD (Final Rule); was approved 08/31/2004; OMB Number 2060–0551; expires 08/31/2007.

Short Term Extensions

EPA ICR No. 0922.06; Data Call-Ins for the Special Review and Registration Review Program; on 08/31/2004 OMB extended the expiration date to 10/31/2004.

EPA ICR No. 1425.05; Application for Reimbursement to Local Governments for Emergency Response to Hazardous Substance Releases Under CERCLA section 123; on 08/10/2004 OMB

extended the expiration date to 11/30/2004.

EPA ICR No. 1922.02; Storage, Treatment, Transportation, and Disposal of Mixed Waste (Final Rule); on 08/10/2004 OMB extended the expiration date to 11/30/2004.

EPA ICR No. 0155.07; Certification of Pesticide Applicators; on 08/30/2004 OMB extended the expiration date to 10/31/2004.

EPA ICR No. 1715.05; TSCA Section 402 and Section 404 Training and Certification, Accreditation and Standards for Lead Based Paint Activities (Final Notification Rule); on 08/30/2004 OMB extended the expiration to 11/30/2004.

EPA ICR No. 1446.07; PCBs: Consolidated Reporting and Recordkeeping Requirements; on 08/30/2004 OMB extended the expiration date to 11/30/2004.

Comment Filed

EPA ICR No. 1773.07; NESHAP for Hazardous Waste Combustors; in 40 CFR part 63, subpart EEE; on 08/05/2004 OMB filed a comment.

EPA ICR No. 2152.01; Clean Air Interstate Rule to Reduce Interstate Transport of Fine Particle Matter and Ozone (CAIR); on 08/31/2004 OMB file a comment.

Correction To Previous Publication

EPA ICR No. 1693.03; Plant Incorporated Protectants; CBI Substantiation and Adverse Effects Reporting; OMB Number 2070–0142. A previously published **Federal Register** (69 FR 46533) incorrectly cited a reference **Federal Register** citation as ''67 FR 66392.'' The Correct citation should be 68 FR 59396.

Dated: September 17, 2004.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 04–21578 Filed 9–24–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OAR–2004–0058, FRL–7819–2]

Agency Information Collection Activities: Submission for OMB Review and Approval; Comment Request; Transition Program for Equipment Manufacturers (Renewal); EPA ICR Number 1826.03, OMB Control Number 2060–0369

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to expire on 9/30/2004. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before October 27, 2004.

ADDRESSES: Submit your comments, referencing docket ID number OAR–2004–0058, to (1) EPA online using EDOCKET (our preferred method), by e-mail to *a-and-r-docket@epamail.epa.gov,* or by mail to: Environmental Protection Agency, EPA Docket Center (EPA/DC), Air and Radiation Docket and Information Center, Mail Code 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Nydia Y. Reyes-Morales, Mail Code 6403J, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: 202–343–9264; fax number: 202–343–2804; e-mail address: *reyes-morales.nydia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On June 18, 2004 (69 FR 34158), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received only one comment. The commenter suggested that EPA establish zero-emission requirements for nonroad engines.

EPA has established a public docket for this ICR under Docket ID number OAR–2004–0058, which is available for public viewing at the Air and Radiation Docket and Information Center, in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket and Information Center is (202) 566–1742. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket.*

Title: Transition Program for Equipment Manufacturers (Renewal).

Abstract: In August 1998, EPA established emission standards (Tier I standards) for engines under 37 kW, and tightened existing standards (Tier II standards) for engines above 37 kW. These regulations are likely to cause some engine design changes. During the rulemaking process, some equipment manufacturers expressed concerns about delays in notification from engine manufacturers about engine design changes. These design changes can create problems in fitting the engine to the equipment. Consequently, equipment manufacturers would be unable to sell the volume of equipment they planned for, since they would need to redesign their equipment before any products could be sold. In an effort to provide original equipment manufacturers (OEMs) with some

flexibility in complying with the regulations, EPA created the Transition Program for Equipment Manufacturers (TPEM). Under the program, OEMs are allowed to use a number of noncompliant engines (uncertified engines rated below 37 kW or Tier I engines rated at or above 37 kW) in their equipment for up to seven years after the effective date of the standards. Participation in the program is voluntary. Participating OEMs and engine manufacturers who provide the noncompliant engines to the OEMs are required to keep records and submit reports of their activities under the program.

The information is collected for compliance purposes by the Engine Programs Group, Certification and Compliance Division, Office of Transportation and Air Quality, Office of Air and Radiation. Confidentiality of proprietary information is granted in accordance with the Freedom of Information Act, EPA regulations at 40 CFR part 2, and class determinations issued by EPA's Office of General Counsel.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9 and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 80.5 hours per equipment manufacturer or post-manufacture marinizer, and 74.5 hours per engine manufacturer. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Manufacturers of nonroad compression-ignition engines and equipment.

Estimated Number of Respondents: 213.

Frequency of Response: Annually and on occasion.

Estimated Total Annual Hour Burden: 17,069.

Estimated Total Annual Cost: $848,582, which includes $0 annualized capital/startup costs, $5,829 annual O&M costs, and $842,753 annual labor costs.

Changes in the Estimates: There is a decrease of 49,578 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This decrease is due to changes in the estimated number of respondents. The decrease in burden is, therefore, due to an adjustment to the estimates.

Dated: September 16, 2004.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 04–21579 Filed 9–24–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OAR–2004–0051; FRL 7818–8]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Recordkeeping and Reporting Requirements for Diesel Fuel Sold in 2001 and Later Years; for Tax-Exempt (Dyed) Diesel Fuel; and for Nonroad, Locomotive and Marine Diesel Fuel (Renewal), EPA ICR Number 1718.06, OMB Control Number 2060–0308

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing collection. This ICR is scheduled to expire on September 30, 2004. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before October 27, 2004.

ADDRESSES: Submit your comments, referencing docket ID number OAR–2004–0051, to (1) EPA online using EDOCKET (our preferred method), by e-mail to *a-and-r-Docket@epa.gov,* or by mail to: Environmental Protection Agency, EPA Docket Center (EPA/DC), EPA West, Mail Code 6102 T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Anne Pastorkovich, Attorney/Advisor, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 343–9623; fax number: (202) 343–2801; e-mail address: *pastorkovich.anne-marie@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 17, 2004 (69 FR 27919) EPA sought comments on the proposed information collection related to the fuel quality regulations for diesel fuel sold in 2001 and later years and for tax-exempt (dyed) diesel fuel pursuant to 5 CFR 1320.8(d). No comments were received. For the nonroad, locomotive, and marine diesel, EPA sought comments on the proposed information collection via a proposed rule published in the **Federal Register** on May 23, 2003 and a final rule published on June 29, 2004. At the request of the Office of Management and Budget, information collection activities applicable through September 30, 2007 (the period of this renewal) have been included via this second notice and an amended Supporting Statement, which has been placed in the public docket.

EPA has established a public docket for this ICR under Docket ID No. OAR–2004–0051, which is available for public viewing at the Air and Radiation Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket and Information Center is (202) 566–1742. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to

access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket.*

Title: Recordkeeping and Reporting Requirements for the Fuel Quality Regulations for Diesel Fuel Sold in 2001 and Later Years; for Tax-Exempt (Dyed) Highway Diesel Fuel; and for Nonroad, Locomotive and Marine Diesel Fuel (Renewal).

Abstract: This renewal includes recordkeeping and reporting under two existing and related ICRs that will expire on September 30, 2004. These are the fuel quality regulations for diesel fuel sold in 2001 and later years (covered by current EPA ICR No. 1718.04) and the recordkeeping and reporting requirements related to tax-exempt (dyed) diesel fuel (covered by current EPA ICR No. 1718.03). In addition, this renewal includes recordkeeping and reporting activities that would apply for nonroad, locomotive, and marine diesel fuel through 2007 (covered by proposed EPA ICR No. 1718.07). These latter requirements were included in the renewal in response to OMB comments.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9 and are identified on the form and/or instrument, if applicable.

Burden Statement: It is estimated that there will be 444,100 reports, 312,233 burden hours, and total annual costs of $28,795,145 (which include labor, operations and maintenance [O&M], and purchased services). Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Respondents include refiners (both domestic and foreign refiners who manufacture diesel for use in the U.S.); importers of diesel fuel into the U.S.; diesel distributors, carriers, wholesale purchaser-consumers, and retailers; and users of research and development diesel (testing laboratories).

Estimated Number of Respondents: 7,640.

Frequency of Response: On occasion; annually.

Estimated Total Annual Hour Burden: 312,233.

Estimated Total Annual Cost: $28,795,145, including $4,200,000 annualized capital/startup costs, $4,300,000 annual O&M costs, and $20,295,145 annual labor costs.

Changes in the Estimates: There is a net increase of 239,363 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This increase is due to new requirements for nonroad, locomotive and marine diesel fuel.

Dated: September 20, 2004.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 04–21581 Filed 9–24–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OAR–2004–0060, FRL–7818–9]

Agency Information Collection Activities: Proposed Collection; Comment Request; Emissions Certification and Compliance Requirements for Nonroad Spark-Ignition Engines (Renewal); EPA ICR Number 1695.08, OMB Control Number 2060–0338

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to expire on 9/30/2004. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before October 27, 2004.

ADDRESSES: Submit your comments, referencing docket ID number OAR–2004–0060, to (1) EPA online using EDOCKET (our preferred method), by e–mail to *a-and-r-docket@epamail.epa.gov,* or by mail to: Environmental Protection Agency, EPA Docket Center (EPA/DC), Air and Radiation Docket and Information Center, Mail Code 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Nydia Y. Reyes-Morales, Mail Code 6403J, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: 202–343–9264; fax number: 202–343–2804; email address: *reyes-morales.nydia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On June 18, 2004 (69 FR 34158), EPA sought comments on this ICR pursuant

to 5 CFR 1320.8(d). EPA received only one comment. The commenter suggested that EPA establish zero-emission requirements for nonroad engines.

EPA has established a public docket for this ICR under Docket ID number OAR–2004–0060, which is available for public viewing at the Air and Radiation Docket and Information Center, in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket and Information Center is (202) 566–1742. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, *see* EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket.*

Title: Emissions Certification and Compliance Requirements for Nonroad Spark-ignition Engines (Renewal).

Abstract: This information collection is requested under the authority of Title II of the Clean Air Act (42 U.S.C. 7521 et seq.). Under this Title, EPA is charged with issuing certificates of conformity for those engines which comply with applicable emission standards. Such a certificate must be issued before engines may be legally introduced into commerce. Certification requirements for spark-ignition engines are set forth at 40 CFR part 90. To apply for a certificate of conformity, manufacturers are required to submit descriptions of their planned production line, including detailed descriptions of the emission control system, and test data. This information is organized by ''engine family'' groups expected to have similar emission characteristics. The emission values achieved during certification testing are used in the Averaging, Banking, and Trading (ABT) Program. The program allows manufacturers to bank credits for engine families that emit below the standard and use the credits for families that are above the standard, or trade banked credits with other manufacturers. Participation in the ABT program is voluntary. There are also recordkeeping and labeling requirements. In this notice, former ICR 1845.03 (''Production Line Testing, In-use Testing, and Selective Enforcement Auditing Reporting and Recordkeeping Requirements for Manufacturers of Nonroad Spark Ignition Engines At or Below 19 Kilowatts,'' OMB Control Number 2060–0427, expiring on 3/31/2007) is being incorporated into ICR 1695.08. This action is undertaken to consolidate certification and compliance information requirements for spark-ignition engines below 19 kW into one ICR for simplification. Portions of former ICR 1897.04 [''Information Requirements for Nonroad Diesel Engines (Nonroad Large SI Engines and Marine Diesel Engines)'', OMB Control Number 2060–0460, expiring on 10/31/2004] related to certification requirements for spark ignition engines above 19 kW and spark-ignition recreational vehicles are also being incorporated into ICR 1695.08. With this consolidation, we combine all the certification and compliance burden associated with the spark-ignition engine industry.

The information is collected for compliance purposes by the Engine Programs Group, Certification and Compliance Division, Office of Transportation and Air Quality, Office of Air and Radiation. Confidentiality of proprietary information is granted in accordance with the Freedom of Information Act, EPA regulations at 40 CFR 2, and class determinations issued by EPA's Office of General Counsel.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9 and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1,379 per respondent. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Manufacturers of nonroad spark-ignition engines and recreational vehicles.

Estimated Number of Respondents: 106.

Frequency of Response: Annually, quarterly and on occasion.

Estimated Total Annual Hour Burden: 146,134.

Estimated Total Annual Cost: $9,925,673, which includes $0 annual capital/startup costs, $1,642,476 annualized O&M costs, and $8,283,197 annual labor costs.

Changes in the Estimates: There is an increase of 98,398 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This increase is due to (1) changes in the estimated number of hours that respondents spend carrying out each task and (2) the consolidation of ICRs 1845.03 and portions of 1897.05 into this ICR, as explained above . The increase in burden is, therefore, due to an adjustment to the estimates.

Dated: September 20, 2004.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 04–21582 Filed 9–24–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OAR–2004–0078; FRL–7819–4]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Regulation of Fuels and Fuel Additives: Detergent Gasoline (Renewal), EPA ICR Number 1655.05, OMB Control Number 2060–0275

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renewan existing approved collection. This ICR is scheduled to expire on October 31, 2004. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before October 27, 2004.

ADDRESSES: Submit your comments, referencing docket ID number OAR–2004–0078, to (1) EPA online using EDOCKET (our preferred method), by e-mail to *a-and-r-docket@epa.gov,* or by mail to: Environmental Protection Agency, EPA Docket Center (EPA/DC), Air and Radiation Docket and Information Center, Mail Code 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: James W. Caldwell, Office of Transportation and Air Quality, Mail Code 6406J, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 343–9303; fax number: (202) 343–2801; e-mail address: *caldwell.jim@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On June 1, 2004 (69 FR 30896), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID No. OAR–2004–0078, which is available for public viewing at the Air and Radiation Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Office of Air and Radiation Docket is (202) 566–1742. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket.*

Title: Regulation of Fuels and Fuel Additives: Detergent Gasoline (40 CFR part 80, subpart G) (Renewal).

Abstract: Gasoline combustion results in the formation of engine deposits that contribute to increased emissions. Detergent additives deter deposit formation. The Clean Air Act requires gasoline to contain a detergent additive. The regulations at 40 CFR part 80, subpart G specify certification requirements for manufacturers of detergent additives, recordkeeping or reporting requirements for blenders of detergents into gasoline or post-refinery component (any gasoline blending stock or any oxygenate which is blended with gasoline subsequent to the gasoline refining process), and reporting or recordkeeping requirements for manufacturers, transferors, or transferees of detergents, gasoline, or post-refinery component (PRC). These requirements ensure that (1) a detergent is effective before it is certified by EPA, (2) a certified detergent, at the minimum concentration necessary to be effective (known as the lowest additive concentration (LAC), is blended into gasoline, and (3) only gasoline which contains a certified detergent at its LAC is delivered to the consumer. The EPA maintains a list of certified gasoline detergents, which is publicly available. There are approximately 325 certified detergents for 18 detergent manufacturers.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 3.2 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: (1) Manufacturers of gasoline, post-refinery component, or detergent additives, (2) blenders of detergent additives into gasoline or post-refinery component, and (3) transferors or transferees of detergent additives, gasoline, or post-refinery component.

Estimated Number of Respondents: 1376.

Frequency of Response: On occasion and monthly.

Estimated Total Annual Hour Burden: 221,808 hours.

Estimated Total Annual Cost: $13,277,604, which includes $0 annualized capital/startup costs, $205,380 O&M costs, and $13,072,224 annual labor costs.

Changes in the Estimates: There is a decrease of 1,200 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This decrease is due to a reduction in the annual number of applications for detergent certification, from 50 to 30.

Dated: September 15, 2004.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 04–21584 Filed 9–24–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[Regional Docket Nos. II–2000–01, –03; FRL–7819–1]

Notice of Final Orders on Remand; Clean Air Act Operating Permit Program; Petitions for Objection to State Operating Permits for the Albert Einstein College of Medicine at Yeshiva University and the Kings Plaza Total Energy Plant

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final order on remand, addressing two State operating permits.

SUMMARY: This document announces that the EPA Administrator has addressed on remand two citizen petitions asking EPA to object to operating permits issued to two facilities by the New York State Department of Environmental Conservation (NYSDEC). On February 27, 2003, the United States Court of Appeals for the Second Circuit granted a petition for review brought by NYPIRG challenging the EPA's final Orders denying its administrative petitions seeking objections to the Action Packaging, Kings Plaza, and Yeshiva permits. *New York Public Interest Research Group, Inc.* v. *Whitman,* 321 F.3d 316 (2nd Cir.) (hereinafter ''*NYPIRG*''). The court vacated EPA's denial of NYPIRG's petitions and remanded the decisions for further proceedings consistent with the court's opinion. Specifically, in response to the court's remand, the Administrator has partially granted and partially denied the petitions submitted by the New York Public Interest Research Group (NYPIRG) to object to the state operating permits issued to the Albert Einstein College of Medicine at Yeshiva University and the Kings Plaza Total Energy Plant. The facility operated by Action Packaging ceased operations as of September 31, 2002, surrendered its permit, and will not be seeking a renewal permit.

Pursuant to section 505(b)(2) of the Clean Air Act (Act), Petitioner may seek judicial review of those portions of the petitions which EPA denied in the United States Court of Appeals for the appropriate circuit. Any petition for review shall be filed within 60 days from the date this notice appears in the **Federal Register**, pursuant to section 307 of the Act.

ADDRESSES: You may review copies of the final order, the petitions, and other supporting information at the EPA Region 2 Office, 290 Broadway, New York, New York 10007–1866. If you wish to examine these documents, you should make an appointment at least 24 hours before visiting day. Additionally, the final order is available electronically at: *http://www.epa.gov/region07/programs/artd/air/title5/petitiondb/petitiondb2000.htm.*

FOR FURTHER INFORMATION CONTACT: Steven Riva, Chief, Permitting Section, Air Programs Branch, Division of Environmental Planning and Protection, EPA Region 2, 290 Broadway, 25th Floor, New York, New York 10007–1866, telephone (212) 637–4074.

SUPPLEMENTARY INFORMATION: The Act affords EPA a 45-day period to review, and object to as appropriate, operating permits proposed by state permitting authorities. Section 505(b)(2) of the Act authorizes any person to petition the EPA Administrator within 60 days after the expiration of this review period to object to state operating permits if EPA has not done so. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the state, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or the grounds for the issues arose after this period.

I. Yeshiva

On March 15, 2000, the EPA received a petition from NYPIRG, requesting that EPA object to the issuance of the title V operating permit for the Albert Einstein College of Medicine at Yeshiva University. The EPA administrator first responded to this petition on January 16, 2002, denying it on all counts. *In the Matter of the Albert Einstein College of Medicine of Yeshiva University* (''Yeshiva''), Petition No. II–2000–01, January 16, 2002. On August 26, 2004, in response to the *NYPIRG* decision remanding the January 16 Order to EPA, the Administrator issued an order partially granting and partially denying the Yeshiva petition. The order explains the reasons behind EPA's conclusion that the NYSDEC must reopen the permit to: (1) Publish a public notice for the Yeshiva permit with language on how to request a hearing; (2) apply the proper standard when deciding whether to hold a hearing, if one is requested; (3) prepare a statement of basis with the draft permit; and (4) describe the applicability of 40 CFR part 68. The order also explains the reasons for denying the initial compliance certification issue, which is the fifth petition issue addressed per the remand.

II. Kings Plaza

On May 5, 2000, the EPA received a petition from NYPIRG, requesting that EPA object to the issuance of the title V operating permit for the Kings Plaza Total Energy Plant. The EPA Administrator first responded to this petition on January 16, 2002, granting it in part and denying it in part. *In the Matter of Kings Plaza Total Energy Plant,* Petition Number II–2000–03, January 16, 2002 (''Kings Plaza''). On August 26, 2004, in response to the *NYPIRG* decision remanding the January 16 Order to EPA, the Administrator issued an order partially granting and partially denying the petition. The order explains the reasons behind EPA's conclusion that the NYSDEC must require the permittee to submit a new compliance certification in accordance with 40 CFR 70.5(c)(9)(i). The Order also explains the reasons for denying the other four remand issues.

Dated: September 16, 2004.

Jane M. Kenny,

Regional Administrator, Region 2.

[FR Doc. 04–21583 Filed 9–24–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7818–5]

Notice of Solicitation: Building State, Territorial, and Tribal Capacity To Address Children's Environmental Health: Environmental Triggers of Childhood Asthma; Initial Announcement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of solicitation.

Part I. Overview Information

(1) *Federal Agency:* Environmental Protection Agency, Office of the Administrator, Office of Children's Health Protection.

(2) *Funding Opportunity Title:* Building State, Territorial, and Tribal Capacity to Address Children's Environmental Health: Environmental Triggers of Childhood Asthma; Initial Announcement.

(3) *Funding Opportunity Number:* USEPA–AO–OCHP–04–02.

(4) *CFDA Number:* 66.609 Protection of Children and the Aging as a Fundamental Goal of Public Health and Environmental Protection, Fiscal Year 2004, Environmental Protection Agency.

(5) *Deadline for the Letter of Intent:* October 15, 2004. All applicants must submit a Letter of Intent (up to two pages in length) to be considered for an invitation to submit a Full Proposal.

(6) *Solicitation Closing Date and Full Proposal shipping date for applicants found to be eligible by EPA based on the Letters of Intent:* December 29, 2004.

(7) *Table of Contents:*

Part I. Overview Information
Part II. Full Text of Announcement
Section I. Funding Opportunity Description
Section II. Award Information
Section III. Eligibility Information
Section IV. Application and Submission Information
Section V. Application Review Information
Section VI. Award Administration Information
Section VII. Agency Contact
Section VIII. Other Information
Attachment Sample Letter of Intent

(8) Executive Summary

(a) *Funding Opportunity Title:* ''Building State, Territorial, and Tribal Capacity to Address Children's Environmental Health: Environmental Triggers of Childhood Asthma.''

(b) *Announcement Type:* Initial Offering.

(c) *Funding Opportunity Number:* USEPA–AO–OCHP–04–02.

(d) *CFDA Number:* 66.609 Protection of Children and the Aging as a Fundamental Goal of Public Health and Environmental Protection, Fiscal Year 2004, EPA.

(e) *Purpose of Funding Opportunity:* Identify projects that will build state, territorial, and tribal capacity to address the environment triggers of childhood asthma. This solicitation focuses on projects that equip environment and health departments/agencies, and social service agencies where indicated, of states, territories and tribes as partners or state/territorial/tribal or regional asthma coalitions with substantive government involvement, to achieve measurable environmental and public health results by identifying and reducing environmental risks to protect and improve the environmental health of children impacted by asthma. Projects must be accomplished through collaborative efforts of environment and health departments/agencies, and social service agencies where indicated, of states, territories and tribes as partners or state/territorial/tribal or regional asthma coalitions with substantive government involvement which focus on one or more Target Investment Areas. Target Project Areas define a range of activities from which applicants must choose to understand, coordinate, address and manage the environmental triggers of childhood asthma.

(f) *Awards:* EPA anticipates awarding approximately seven to nine grants from these Full Proposals. Approximately $360,000 are expected to be awarded. Grants or cooperative agreements may be requested from $25,000 to $50,000 for a period of one year. No cost sharing is required.

(g) *Eligibility:* The environment or health departments/agencies, in partnership with social service departments/agencies when indicated, of the states of EPA Regions 2–10 (NJ, NY, DE, MD, PA, VA, WV, AL, FL, GE, KY, MS, NC, SC, TN, IL, IN, MI, MN, OH, WI, AR, LA, NM, OK, TX, IA, KS, MO, NE, CO, MT, ND, SD, UT, WY, AZ, CA, HI, NV, AK, ID, OR and WA) and the District of Columbia; tribes whose territories fall within the aforementioned states and the territories of the United States. Applicant agencies must propose to collaborate with their counterparts in their government's environment or health department or related agencies in this project.

Applicants may also be state/territorial/tribal or regional (*e.g.* the asthma coalition of the greater metropolitan area of Smallville) asthma coalitions in the geographic areas defined above, with documented significant sustained involvement of senior representatives of the environment and health departments of the states, territories or tribes in the geographic area served by the state/territorial/tribal or regional asthma coalition.

(h) *Application and Submission Information:* A two part application process will be followed. Letters of Intent must be submitted by e-mail October 15, 2004. Applicants with successful Letters of Intent will be invited to participate in an optional Pre-proposal Assistance Call on October 26, 2004 and to submit a Full Proposal which must be shipped by December 29, 2004. A sample Letter of Intent is included as an Attachment to this Solicitation. Other application materials are available on the Office of Children's Health Protection Web site: *http://yosemite.epa.gov/ochp/ochpweb.nsf/content/grants.htm* and the EPA Grants Administration Web site *http://www.epa.gov/ogd/grants/how_to_apply.htm.*

Part II. Full Text of Announcement

Section I. Funding Opportunity Description

1. Background

In recent years, EPA's Office of Children's Health Protection has encouraged and supported collaboration between state level health and environment departments/agencies toward the end of building state capacity to combat childhood asthma. Since the summer of 2001, the Environmental Council of the States (ECOS) has collaborated with the Association of State and Territorial Health Officials (ASTHO) and the U.S. Environmental Protection Agency to design a flexible template for state level strategies and actions to minimize environmental factors that contribute to asthma in children. This focus on environmental factors complements the on-going Centers for Disease Control (CDC) state asthma program which recognizes the need to address environmental factors but does not explicitly provide guidance or support for this aspect of disease prevention and control.

Throughout 2002, ECOS, ASTHO, and EPA hosted a series of four workshops to refine the details of a cooperative approach in four specific areas: Data, environmental factors in homes, environmental factors in schools and child care facilities, and outdoor environmental factors.

The funding priorities of this Request for Proposals are a reflection of the draft action agenda, *Catching Your Breath http://www.astho.org/pubs/CatchingYourBreathReport.pdf* that resulted from this intensive collaborative visioning process.

With this Funding Opportunity, the Office of Children's Health Protection is pleased to be able to extend this capacity building effort to territories of the United States and tribes.

2. Funding Priorities

The purpose of this funding opportunity, ''Building State, Territorial, and Tribal Capacity to Address Children's Environmental Health: Environmental Triggers of Childhood Asthma,'' is to identify

projects that will build state, territorial, and tribal capacity to address the environmental triggers of childhood asthma. This solicitation focuses on projects that equip environment and health departments/agencies, in partnership with social service agencies, where indicated, of states, territories and tribes or state/territorial/tribal or regional asthma coalitions with substantive government involvement, to achieve measurable environmental and public health results by identifying and reducing environmental risks to protect and improve the environmental health of children impacted by asthma. This initiative will help achieve these goals by identifying and funding projects that:

- Focus efforts on benefitting communities at greatest risk including places with high levels of toxic air pollution and areas with disproportionate impact from environmental health hazards related to childhood asthma;
- Measure, assess, and reduce environmental triggers of health risks associated with childhood asthma;
- Increase collaboration among environment, health and other relevant agencies within states, territories and tribes, or within state/territorial/tribal or regional asthma coalitions with their government partners. Focus collaboration upon understanding the burden of childhood asthma in at-risk communities and minimizing and eliminating the sources of environmental triggers; and
- Build institutional capacity to understand and solve children's environmental health problems through innovative techniques; and achieve measurable children's environmental health benefits.

Specifically, projects must meet the Statutory Criteria. Further, they must focus on one or more Target Investment Areas and build state, territorial or tribal capacity to address children's environmental health through collaborative efforts of environment, health and other appropriate government agencies in partnership with other organizations through work to understand, coordinate, address and manage the environmental triggers of childhood asthma through one of the Target Project Areas.

a. Statutory Criteria

EPA expects to award these grants under the Clean Air Act Section 103(b)(3). In addition to the program criteria list below, a proposal must meet the following two important Statutory Criteria to be considered for funding.

(1) Statutory Criterion 1

A project must consist of activities authorized under the Clean Air Act Section 103(b)(3). This statute authorizes grants for: ''research, investigations, experiments, demonstrations, surveys and studies.'' These activities relate generally to the gathering or transferring of knowledge. Grant proposals should emphasize a ''learning'' concept, as opposed to ''fixing'' a specific environmental problem through a well-established method. For example, the application of the EPA ''Tools for Schools'' protocols in schools to manage environmental triggers and thereby reduce childhood asthma is not eligible nor would a project to develop a home assessment checklist tool and conduct routine home assessments be eligible. The project's activities must advance the state of knowledge or transfer information to other practitioners in the field. The statutory term ''demonstration'' can encompass the first application of an approach or an innovative application of a previously used method. The term ''research'' may include the application of established practices as they contribute to ''learning'' about the effectiveness of an environmental approach.

(2) Statutory Criterion 2

Section 103 of the Clean Air Act (CAA) authorizes EPA's Administrator to conduct and promote the coordination and acceleration of research, investigations, experiments, demonstrations, surveys and studies relating to the causes, effects (including health and welfare effects), extent, prevention, and control of air pollution by making grants to air pollution control agencies, to other public or nonprofit private agencies, institutions, and organizations for purposes stated in Section 103(a)(1) *http://www.epa.gov/oar/caa/caa103.txt.* The overarching concern or principle focus must be on the statutory purpose of this grant authority. Proposals should describe the relationship of their proposed activities to the air (ambient *and* indoor) pollution statute. Products may include, but are not limited to, conference presentations with published papers, case studies, workshops, educational materials, innovative tools, or on-site demonstrations.

b. Target Investment Areas and Target Project Areas

In order to qualify as eligible projects under this initiative, projects must focus on and benefit one or more Target Investment Areas and build state, territorial and tribal capacity to address children's environmental health through collaborative efforts of environment, health, and other appropriate government departments/agencies in partnership with other organizations to coordinate, address and manage the environmental triggers of childhood asthma through one of the Target Project Areas.

(1) Target Investment Areas

(a) Benefit communities at greatest risk of childhood asthma including places with high risk from toxic air pollution, and/or

(b) Areas with disproportionate impact from environmental health hazards related to childhood asthma.

(2) Target Project Areas

Building state, territorial and tribal capacity to address childhood asthma can be accomplished through projects in one or more of these areas:

(a) Organize or charter state/territorial/tribal or regional (*e.g.* the asthma coalition of the greater metropolitan area of Smallville) asthma coalitions with government partners to provide innovative solutions to address the environmental triggers of childhood asthma. Broad-based membership must feature senior officials from the environment and health agencies of the states, territories or tribes within the geographic area covered who demonstrate significant leadership and pledge sustained participation in the coalition.

(b) Existing state, territorial or tribal governmental partnerships or state/territorial/tribal or regional asthma coalitions, design and implement projects that focus on understanding the burden of childhood asthma in Target Investment Areas and identify sources of asthma triggers;

(c) Collaborative efforts of state, territorial and tribal environment, health and social service departments/agencies and/or state/territorial/tribal or regional asthma coalitions which include these entities, to demonstrate and evaluate the effectiveness of:

(i) New methods, approaches or protocols for reducing or eliminating exposure to environmental asthma triggers in early childhood (0–4 years). This may include but is not limited to changes in environmental health requirements of child care facility approval, education and implementation work in large-scale and home-based child care facilities, pre-K and nursery school programs, Head Start and Migrant Head Start facilities, homeless shelters serving children of this age range, etc.

(ii) New approaches for encouraging, rewarding, and measuring the elimination of environmental asthma triggers from the environments of young children. These may include, but are not limited to training and/or certification programs for child care providers, training and follow-up programs for new parents in high risk communities, training and consumer education for parents on environmental asthma triggers common in the child care setting and what to look for when choosing a child care provider based on these concerns, etc.

Note: For all the above, ''environmental asthma triggers'' is meant to include known indoor and outdoor triggers such as dust mites, pet dander, cockroach dust, ambient particulate matter, diesel exhaust, ground level ozone (smog), second hand tobacco smoke, etc.

Section II. Award Information

Funds available for these projects are expected to total approximately $360,000. Grants and cooperative agreements are expected to be awarded to approximately seven to nine state, territorial or tribal environment or health agencies or state/territorial or regional (*e.g.* the asthma coalition of the greater metropolitan area of Smallville) asthma coalitions. Proposals for less than $25,000 and greater than $50,000 will not be considered. Award amounts will vary depending upon solicitation priorities, proposal quality and level of activity, and resource availability. The Agency reserves the right to make no awards under this solicitation.

Projects may expand upon ongoing work within the focus of this solicitation. However, the boundaries of the previous and proposed work under this solicitation must be clear in terms of the work to be done and the budget to support the new proposal.

It is expected that grants and cooperative agreements will begin around the spring of 2005 and be completed in the spring of 2006.

If the applicant chooses to submit a proposal for a cooperative agreement, the Agency will have substantial involvement in the project. The applicant must define the expectations for Agency involvement in the project. Such involvement may mean EPA review and approval of project scope and phases; EPA participation in and collaboration on, various phases of the work; EPA review of draft and final work products; regular e-mail, phone and conference calls.

Projects not selected for award under this solicitation will be retained on file and made available for potential funding by OCHP and other EPA offices for a period of one year from the date of receipt of the Full Proposal by EPA.

While only environment or health agencies/departments or state/territorial/tribal or regional asthma coalitions with government partners may be the direct recipients and lead administrators of the project, other partners are encouraged to participate and are eligible for compensation through sub-contracting agreement(s) between the lead agency/department and collaborating partners as long as the state/territorial/tribal department/agency maintains a substantive, hands-on role in the management and implementation of the project. Materials to support the projects may be secured through procurement contracts.

Section III. Eligibility Information

1. Applicants

a. Eligible Applicants

Eligible applicants under this managed competition include: government environment or health departments/agencies, in partnership with social service departments/agencies when indicated, of states, territories or tribes as listed below, and state/territorial/tribal or regional (*e.g.* the asthma coalition of the greater metropolitan area of Smallville) asthma coalitions addressing environmental triggers of childhood asthma with substantive involvement of these government department/agency partners.

Eligible governments include: the states of EPA Regions 2–10 (NJ, NY, DE, MD, PA, VA, WV, AL, FL, GE, KY, MS, NC, SC, TN, IL, IN, MI, MN, OH, WI, AR, LA, NM, OK, TX, IA, KS, MO, NE, CO, MT, ND, SD, UT, WY, AZ, CA, HI, NV, AK, ID, OR and WA) and the District of Columbia; tribes whose territories fall within the aforementioned states; and the territories of the United States.

b. Ineligible Applicants

(1) The EPA Region 1 states of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont and the tribes whose territories fall within this Region are expressly *excluded* from this funding Initiative. Funding was available directly from the EPA Region 1 Office through a different competed solicitation in April of 2004 known as the ''Healthy Communities Grant Program'' to support New England states' efforts in the arena of childhood asthma and related community-based endeavors. See *http://www.epa.gov/region01/grants/healthycommunities.html* or contact Sandra Padula at (617) 918–1797 for more information.

(2) Businesses, federal agencies, and individuals are not eligible to be grant recipients. They are encouraged to work in partnership with eligible applicants on projects.

c. Non-profit Status

Applicants are not required to have a formal Internal Revenue Service (IRS) non-profit designation, such as 501(c)(3) or 501(c)(4); however they must present in their Full Proposal their letter of incorporation or other documentation demonstrating their non-profit or not-for-profit status. This requirement does not apply to public agencies or federally-recognized tribes. Failure to enclose a letter of incorporation or other documentation demonstrating non-profit or not-for-profit status will render Full Proposals incomplete and they will not be reviewed. Applicants who do have an IRS 501(c)(4) designation are not eligible for grants if they engage in lobbying, no matter what the source of funding for the lobbying activities. No recipient may use grant funds for lobbying. For profit enterprises are not eligible to receive sub-grants from eligible recipients, although they may receive contracts, subject to EPA regulations on procurement under assistance agreements, 40 Code of Federal Regulations (CFR) 30.40 (for non-governmental recipients) and 40 CFR 31.36 (for governments).

d. Tribal Status

Tribal agencies must supply documentation of their authorizing tribal resolution.

e. Intergovernmental Review of Federal Programs (SPOC List)

Applicants must adhere to the provisions of The Executive Order 12372, ''Intergovernmental Review of Federal Programs'' (SPOC List) applies. See *http://www.whitehouse.gov/omb/grants/spoc.html* for further information.

f. Responsible Officials and Partnerships

As stated above, eligible applicants in this managed competition include environment, health agencies/departments, in partnership with social service agencies where applicable, of states, territories or tribes, and state/territorial/tribal or regional (*e.g.* the asthma coalition of the greater metropolitan area of Smallville) asthma coalitions with government partners. While only environment or health agencies/departments or state/territorial/tribal or regional asthma

coalitions with government partners may be the direct recipients and lead administrators of the project, other partners are encouraged to participate and are eligible for compensation through sub-contracting agreement(s) between the lead agency/department and collaborating partners as long as the state, territorial or tribal agency/department maintains a substantive, hands-on role in the management and implementation of the project. Please note that substantive involvement by the environment and health departments is a key evaluation criterion. Projects that are essentially pass-through funding to a third party for independent implementation will not meet the evaluation criteria. Examples of substantive collaborative involvement include but are not limited to:

(1) Both agencies/departments dedicating personnel;

(2) Agencies/departments co-sponsoring and presenting at crucial workshops and meetings; or

(3) Both agencies/departments being involved in peer reviews of documents and/or products.

g. Statutory Criterion

Applicants must meet standards for eligibility described in section 103(b)(3) of the CAA *(http://www.epa.gov/oar/caa/caa103.txt).*

h. Incurring Costs

Pre-award costs will not be covered under this solicitation. Grant recipients may begin incurring allowable costs on the date identified in the EPA award agreement. Activities must be completed and funds spent within the time frames specified in the award agreement. EPA grant funds may be used only for the purposes set forth in the grant agreement and must conform to the Federal cost principles contained in OMB Circular A–87; A–122; and A–21, as appropriate. Ineligible costs will be reduced from the final grant.

2. Cost Sharing or Matching

Cost sharing or matching funds are not required for this solicitation.

3. Other Eligibility Criteria

a. Responsiveness Criteria That Will Make An Application Ineligible

(1) Letters of Intent

The Letter of Intent must comply with the following responsiveness criteria to be eligible to submit a Full Proposal: Applicant eligibility, completeness, administrative responsiveness, and timeliness of submission.

(2) Full Proposal

The Full Proposal must comply with the following responsiveness criteria for the Full Proposal to be reviewed for possible award: Timeliness of shipment, administrative responsiveness, order of materials presentation, completeness, original signatures as required, required number of copies and the absence of unnecessary materials and extraneous information.

b. Multiple Proposals

State, territorial and tribal departments/agencies and state/territorial/tribal or regional (*e.g.* the asthma coalition of the greater metropolitan area of Smallville) asthma coalitions addressing environmental triggers of childhood asthma with substantive involvement of these government department/agency partners (as described above in section III) may submit more than one proposal if the proposals are for different projects. However, no more than one grant will be awarded under this offering to any given state, territory or tribal entity or state/territorial/tribal or regional asthma coalition serving a given geographic area. Environment and health departments/agencies of state, territorial and tribal organizations are encouraged to collaborate with joint proposals under this solicitation that is focused on bringing environment and health departments/agencies together to address environmental triggers of childhood asthma.

Section IV. Application and Submission Information

1. Address To Request Application Package

This is a two-stage application process involving a Letter of Intent which is evaluated for basic eligibility, administrative and technical responsiveness. Applicants submitting acceptable Letters of Intent will be invited to participate in a Pre-proposal assistance conference call and to submit a Full Proposal.

A sample Letter of Intent is provided at the end of this solicitation. Paper copies of this announcement, the sample Letter of Intent and the requisite forms for the Full Proposal can be obtained by contacting EPA personnel listed in Section VII of this solicitation. Electronic copies of the requisite forms for the Full Proposal are available at *http://yosemite.epa.gov/ochp/ochpweb.nsf/content/grants.htm*. If your Full Proposal is selected for possible award, your EPA Regional Office will supply you with any additional Federal forms needed to process your Full Proposal for award.

2. Content and Form of Application (Proposal) Submission

a. Stage 1

(1) Stage 1 Content and Form of Letter of Intent

(a) Stage 1 of this application process is a Letter of Intent (Up to two pages in length) which is due via e-mail to *fletcher.bettina@epa.gov* on or before October 15, 2004. *Letters of Intent* must have an email subject line starting with Letter of Intent: Followed by your Project Title. Email confirmation of receipt will be sent within two business days of receipt.

(b) Email submission of the Letter of Intent is strongly preferred. However, if email is not available, the Letter of Intent may be faxed to the attention of Bettina B. Fletcher at 202–564–2733. If a confirming phone call for fax transmissions is not received within two business days, a phone call should be made to Bettina Fletcher at 202–564–2646 to initiate a trace.

(c) A sample Letter of Intent is provided at the end of this solicitation. A copy also can be found at: *http://yosemite.epa.gov/ochp/ochpweb.nsf/content/grants.htm*.

(d) Your Letter of Intent must provide *all* of the following information *in the following order*:

(Section 1) Contact information for your organization:

(1) Name of your organization.

(2) Project name.

(3) Name of authorized representative.

(4) Address.

(5) Phone number and fax number.

(6) E-mail address.

(7) Web site, if any.

(Section 2) A brief description of how your organization fits each stated eligibility criterion and how your organization proposes to collaborate with the other agency(ies)/department(s).

(Section 3) One page project summary including:

(1) Dollar value of the project;

(2) Description of the organizational unit which will lead/oversee the project;

(3) A brief summary statement that articulates the project's concept and states its goals and objectives;

(4) A brief description of how this project will meet the Statutory Criteria.

(5) Identification of the specific Target Investment Area and the specific Target Project Area addressed by the project;

(6) A brief summary of the method that will be used to achieve the project goals and how the outcomes will be measured;

(7) Summary of the kinds of activities that will be funded by the project and;

(8) A brief description of the role the state, territorial, or tribal environment and health agencies or state, territorial or tribal members of your state/territorial/tribal or regional asthma coalition will play in this project.

(Section 4) Indication of Interest in Participating in Optional Pre-proposal Assistance Call and Special Needs:

(1) Indication if you would like to participate in the October 26, 2004 optional Pre-proposal Assistance Call *if* your Letter of Intent is accepted.

Note: Letters of Intent submitted to EPA will be evaluated for basic eligibility, administrative and technical responsiveness. Only those proposals satisfying all the requirements will be invited to submit a Full Proposal; and

(2) Indication of any special needs to permit participation on such a call.

b. Stage 2 Full Proposals, If Invited By EPA

Stage 2 of this application process is a Full Proposal (including optional Pre-proposal Assistance Conference Call). Note: IF your Letter of Intent is accepted, you will be invited to participate in Stage 2

(1) Optional Pre-proposal Assistance Conference Call

An optional Pre-proposal Assistance Conference Call will be held on October 26, 2004, to answer any questions prospective eligible applicants may have. If you indicate in your Letter of Intent a desire to participate in the Pre-proposal Assistance Conference Call and your Letter of Intent is found to be eligible, you will be emailed instructions for participating in the conference call.

Note: Applicants should periodically check the web page below for updated information to applicants (*e.g.*, posting of some Qs & As from Letters of Intent). A summary of the questions and answers from the October 26, 2004 optional Pre-proposal Assistance Call will be posted by November 2, 2004 at: *http://yosemite.epa.gov/ochp/ochpweb.nsf/content/grants.htm*.

(2) Required Content and Form of Full Proposal, if Invited to Submit One

Note: You must complete *both* the EPA Application Kit for Federal Assistance *and the Work Plan Proposal Narrative as described below:*

(a) Table of Contents with page numbers for all elements of this submission.

(b) EPA Application Kit for Federal Assistance.

The EPA Application Kit for Federal Assistance can be obtained on the Web at *http://yosemite.epa.gov/ochp/ochpweb.nsf/content/grants.htm* or *http://www.epa.gov/ogd/grants/how_to_apply.htm*.

(c) Completed SF–424A Budget Forms. *http://www.epa.gov/ogd/grants/how_to_apply.htm* contains information about completing SF–424A Budget Forms and Understanding Cost Principles for a Federal grant.

(d) Work Plan Proposal Narrative:

In addition to the standard forms contained in the EPA Application Kit for Federal Assistance and the SF–424A budget forms, you must submit a Work Plan Proposal Narrative of no longer than 12 pages (plus appendices) that follows *exactly* the format outlined below. Pages and information submitted out of order will not be reviewed. Text may be single or double spaced, no smaller than 12 point font. The pages must be letter sized (8½x11 inches). Margins are not specified. Proposals must be legible. **Note:** All proposals should be well explained and easily read. Information should be clear and concise, well organized and contain no unnecessary jargon. The Work Plan Proposal Narrative Content should include:

(i) *Contact Information Sheet (1 page):* For the project lead and each collaborating partner, include contact name, organization, title, address, phone, fax, and e-mail.

(ii) *Letter of Intent:* Include a copy of your previously submitted Letter of Intent as a project summary.

(iii) *Project Description (Up to 5 pages):* Describe precisely what your project will achieve. In your narrative, answer these questions in this order:

Question 1. Who will conduct the project? What are the specific roles and responsibilities of the state, territorial and tribal representatives in this project? What experience do the partners have in addressing environmental triggers of childhood asthma? What is the nature of your agencies'/departments' or coalition's on-going programs addressing children's environmental health. What will be the roles and responsibilities of any other partners? Who will be affected by and/or benefit from your project? How will they be targeted, identified, and recruited?

Question 2. Why is it needed?

Question 3. What is the purpose of your project? Explain your strategy—your goals and objectives, the specific activities you will conduct to achieve them, and what your projected outcomes will be. How will you evaluate your results and your level of success? Describe any mechanisms for tracking outputs (*e.g.* how many households were educated, how many facilities were assessed, in how many facilities were actions taken), and evaluating outcomes (*e.g.* the effectiveness of the education and mitigation efforts to (1) decrease their measured levels of asthma triggers in children's environments and/or (2) decrease the number of times children access acute care services for asthma (*e.g.* frequency and severity of asthma attacks, frequency of asthma-related absences and the level of increased awareness); How will the project be sustained beyond the life of the EPA grant?

Question 4. How will project deliverables and/or findings be presented/packaged to be shared with and replicated by other states, territories, tribes or state/territorial/tribal or regional asthma coalitions?

Question 5. All projects should be completed prior to June 15, 2006. Outline a detailed time line/responsibility matrix to link your project activities to a clear project schedule. Indicate at what point over the months of your budget period each action, project outcome or milestone occurs and indicate which partner is responsible for each action. **Note:** Tabular or graphic presentation of this information is acceptable for this time line; smaller but readable typeface is allowed for this information

(e) *Project Budget (1–2 pages):*

(i) Personnel (For Each Positions: % of Time Worked, Annual Salary, Salary Proposed for this Project).

(ii) Fringe Benefits (Full-time Rate).

(iii) Long Distance Travel (Destination, Cost of Trip, # of Travelers, # of Trips, Amt. Proposed).

(iv) Air Fare (Destination, # Travelers, # Trips).

(v) Local Travel (Destination, Distance, Mileage, # Travelers).

(vi) Direct Cost—Equipment (Quantity, Cost per Unit, Amt. Proposed).

(vii) Direct Cost—Supplies (Quantity, Cost per Unit, Amt. Proposed).

(viii) Direct Cost—Other *e.g.* Phone, Postage, Conference Calls (Quantity, Cost per Unit, Amt. Proposed).

(ix) Direct Cost—Contracts (Direct Labor, Overhead @__rate, Materials and Supplies, G&A Rate).

(x) Direct Cost—Consultants (Skill, Quantity, Rate).

(xi) Indirect Cost Charges (Total Direct Costs × __% (indirect cost rate = Estimated).

Note: Eligible Expenses—salaries/fringe, travel, communications, equipment rental, indirect overhead, public outreach efforts (workshops, public forums, meeting expenses), office expenses, printing and

copying (conference and promotional materials), and Web site dissemination of information related to the project.

Note: Ineligible Expenses—capital expenditures, construction expenses, lobbying, endowments, formal educational expenses, entertainment, remediation and removal expenses, medical equipment and supplies, air sampling, and equipment purchases as the sole focus of the assistance agreement.

(f) Appendices: Include project specific letters of commitment from each state, territorial or tribal environment, health and other agencies as well as major partners involved in the success of this project. Include resumes for key personnel as well. Letters of commitment focus on the partner's role in the proposed project. Do not submit letters of general support, they will not be reviewed. Do not include any materials other than letters of commitment for this project and resumes.

3. Other Instructions

(a) Required Contents of Full Proposal Package

To support the EPA review process, the proposal must contain one complete Full Proposal package with original signatures in contrasting ink and *nine duplicate hard copy sets* of the Full Proposal package including the following materials *in the order* listed below:

(1) Table of Contents with page numbers for all elements of this submission.

(2) Completed EPA Application Kit for Federal Assistance.

(3) Completed SF 424A Budget Forms.

(4) Work Plan Proposal Narrative consisting of:

(i) Contact Information Sheet.

(ii) Copy of the Letter of Intent.

(iii) Project Description.

(5) Project Budget.

(6) Appendices exactly as defined in Section IV. Application and Submission Information.

To support the EPA review process, the proposal is required to contain one complete Full Proposal package with original signatures in contrasting ink and *nine duplicate hard copy sets* of the Full Proposal package including the following materials *in the order* listed above.

Do not submit additional items. Unnecessary materials (cover letters, un-requested forms or binders) will make your proposal ineligible.

(b) DUNS Instructions

Grant applicants are required to provide a Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number when applying for Federal grants or cooperative agreements. The DUNS number will supplement other identifiers required by statute or regulation, such as tax identification numbers. Organizations can receive a DUNS number in one day, at no cost, by calling the dedicated toll-free DUNS Number request line at 1–866–705–5711. Individuals who would personally receive a grant or cooperative agreement award from the Federal government apart from any business or non-profit organization they may operate are exempt from this requirement. The Web site where an organization can obtain a DUNS number is: *http://www.dnb.com*. This process takes 30 business days and there is no cost unless the organization requests expedited (1-day) processing, which includes a fee of $40.

(c) Other Instructions

Successful Stage 2 Applicants must submit the following information after EPA notifies them of its intent to make an award, but prior to the award: quality assurance plan for any project involving environmental data; evidence of compliance with human subjects requirements where research is found to be involved.

4. Submission Dates and Times

(a) A required Stage 1 Letter of Intent is due via email to *fletcher.bettina@epa.gov* on or before October 15, 2004 as indicated on the email transmission. If email is unavailable, a fax submission may be used. The same due date applies and the date will be determined by the date registered on the receiving fax machine log and printed on the received documents by said machine. A confirming email will be sent within two working days of receipt of e-mailed Letters of Intent. A confirming phone call will be made within two working days of receipt for faxed Letters of Intent. The applicant should follow up with a phone call to Bettina Fletcher at 202–564–2646 if a confirmation is not received within the stated time frames. Email and fax transmissions received after October 15, 2004 will not be reviewed.

(b) Applicants submitting a Letter of Intent will be notified via email on or before October 22, 2004 if they are deemed eligible to participate in the optional Pre-proposal Assistance Call and to submit a Full Proposal.

(c) Applicants with accepted Letters of Intent who expressed an interest in participating in the optional Pre-proposal Assistance Call will be advised in this email on or before October 22, 2004 of the call-in number and the specific time for the call.

(d) All questions before and after the October 26, 2004 Pre-proposal Assistance Call, must be sent by email to the following address: *fletcher.bettina@epa.gov*. The word ''QUESTION'' in capital letters and the name of the solicitation should appear in the subject line. Answers to allowable questions will be provided in a timely manner at: *http://yosemite.epa.gov/ochp/ochpweb.nsf/content/grants.htm*. EPA will not respond to technical questions by phone or fax.

(e) Optional Pre-proposal Assistance Call will be held on October 26, 2004.

(f) A summary of the questions and answers from the October 26 2004 Pre-proposal Conference Call will be posted on the OCHP Web site *http://yosemite.epa.gov/ochp/ochpweb.nsf/content/grants.htm* on or before November 2, 2004.

(g) To ensure fair and open competition, EPA will respond to questions submitted by email up to December 17, 2004. Questions and answers will be posted in a timely manner at: *http://yosemite.epa.gov/ochp/ochpweb.nsf/content/grants.htm*.

(h) Full Proposals from invited eligible applicants must be delivered to the private shipping company (*e.g.*, Federal Express, UPS, DHL, or courier) for shipment or postmarked (see note in Section VIII) by the U.S. Post Office (not a private postage meter) postmark on or before December 29, 2004. Full Proposals shipped or mailed after this date will not be considered for funding under this solicitation. Date of shipment will be determined by the shipping company's shipping information or the U.S. Post Office (not a private postage meter) postmark on the shipping package depending upon the method of shipment.

(i) Applicants will receive an email notification of receipt of the Full Proposal within one month of receipt by the Agency.

(j) The Selected Projects will be announced as their award negotiations are completed around late spring 2005. Those projects not selected for award in this funding cycle will also be notified at this time.

(k) Start Date for Projects: June 15, 2005 is the earliest start date that applicants should plan on and enter on their proposal forms and time lines. Grant recipients may begin incurring allowable costs on the start date identified in the EPA grant award agreement. Budget periods may run up to 12 months from the date of award.

5. Intergovernmental Review:

Applicants may be subject to Executive Order 12372. ''Intergovernmental Review of Federal Programs.'' See *http://www.whitehouse.gov/omb/grants/spoc.html* for more details.

6. Funding Restrictions

a. Eligible Expenses

Salaries/fringe, travel, communications, equipment rental, indirect overhead, public outreach efforts (workshops, public forums, meeting expenses), office expenses, printing and copying (conference and promotional materials), and web site dissemination of information related to the project.

b. Ineligible Expenses

Capital expenditures, construction expenses, lobbying, endowments, formal educational expenses, entertainment, remediation and removal expenses, medical equipment and supplies, air sampling, and equipment purchases as the sole focus of the assistance agreement.

c. Incurring Costs

Pre-award costs will not be covered under this solicitation. Grant recipients may begin incurring allowable costs on the date identified in the EPA award agreement. Activities must be completed and funds spent within the time frames specified in the award agreement. EPA grant funds may be used only for the purposes set forth in the grant agreement and must conform to the Federal cost principles contained in OMB Circular A–87; A–122; and A–21, as appropriate. Ineligible costs will be reduced from the final grant.

7. Other Submission Requirements

a. Do not submit additional items. Unnecessary materials (*i.e.* un-requested forms or binders) create extra burden for the reviewers and failure to follow instructions may render your project ineligible.

b. Letters of Intent must be sent via email to *fletcher.bettina@ epa.gov.* If email is not available, Letters of Intent may be faxed to Bettina Fletcher at 202–564–2733.

c. Because of continuing delays in the delivery of mailed parcels, Full Proposals are best delivered by a private shipping company (*e.g.*, Federal Express, UPS, DHL, or courier) to the attention of: Bettina Fletcher, U.S. EPA, Office of Children's Health Protection, 1200 Pennsylvania Ave, NW., Mail Code 1107A, Room 2512 Ariel Rios North, Washington, DC 20004.

If the applicant has no ability to send the Full Proposal in by way of a private shipping company, the Full Proposal may be mailed to the attention of: Bettina Fletcher, U.S. EPA, Office of Children's Health Protection, 1200 Pennsylvania Ave, NW., Mail Code 1107A, Room 2512 Ariel Rios North, Washington, DC 20460.

Note: To document the date of shipment, Full Proposal packages must be postmarked by the U.S. Post Office, not by a private postage meter.

d. If the applicant experiences technical difficulties in making a submission, contact Bettina Fletcher at 202–564–2646 immediately.

Section V. Application Review Information

1. Criteria

a. Letter of Intent

(1) Administrative Responsiveness Criteria

The Letter of Intent must comply with the following responsiveness criteria to be eligible to submit a Full Proposal: Applicant eligibility, completeness, administrative responsiveness, and timeliness of submission.

(2) Technical Responsiveness Criteria

The Letters of Intent will also be compared to Statutory Criteria, Target Investment Areas and the Target Project Areas in this solicitation. Applicants whose projects are clearly not responsive to the published Statutory Criteria, Target Investment Areas and Target Project Areas *may* not be invited to submit a Full Proposal.

b. Full Proposal

(1) Administrative Responsiveness Criteria

The Full Proposal must comply with the following responsiveness criteria for the Full Proposal to be reviewed for possible award: timeliness of shipment, administrative responsiveness, order of materials presentation, completeness, original signatures as required, required number of copies and the absence of unnecessary materials and extraneous information.

(2) Multiple Proposals

State, territorial and tribal departments/agencies and state/territorial/tribal or regional (*e.g.* the asthma coalition of the greater metropolitan area of Smallville) asthma coalitions asthma coalitions addressing environmental triggers of childhood asthma with substantive involvement of these government department/agency partners (as described above in Section III) may submit more than one proposal if the proposals are for different projects. However, no more than one grant will be awarded under this offering to any given state, territory or tribal entity or state/territorial/tribal or regional asthma coalition serving a given geographic area. Environment and health departments/agencies of State, territorial and tribal organizations are encouraged to collaborate with joint proposals under this solicitation that is focused on bringing environment and health departments/agencies together to address environmental triggers of childhood asthma.

(3) Technical Review (Maximum Score: 110 Points)

Each Full Proposal will be scored based on how well it meets the specific selection criteria below.

(a) Describes Collaboration Between Environment, Health and Other Appropriate Agencies for States, Territories or Tribes in Partnership or Through State/Territorial/Tribal or Regional Asthma Coalitions (Maximum Points: 30)

The proposal describes substantive collaborative partnerships to address the environmental triggers of childhood asthma. Letters of commitment specifically describe activities of the partners for this project. Significant, sustained involvement of senior representatives of state, territorial or tribal environment, health, and related agency officials is documented. The organization is appropriate to do this project. The project does not principally pass-through funds to an independent third party.

(b) Focuses efforts upon and benefits Target Investment Area (Maximum Points: 20)

The proposal describes how the project will specifically benefit one or more the Target Investment Areas. Describes the need for this project in this Target Investment Area and how it will reduce risks for children's environmental health in this Target Investment Area.

(c) Addresses Needs in Target Project Area (Maximum Points: 30)

The proposal describes how the project will specifically address the significant environmental issues around childhood asthma in the context of one or more of the Target Project Areas. The proposal includes specific goals and objectives with measurable, achievable outputs and outcomes. Proposal uses existing tools with demonstrated effectiveness such as facility assessment

checklists rather than investing resources to recreate already-available materials. The proposal includes steps and methodology to track outputs. The project includes evaluation steps to measure degree of success for the project and to make mid-course adjustments, if needed. The project has addressed potential sources of resources and mechanisms for sustaining the project after this EPA funding cycle has been completed.

(d) Cost Effective Budget (Maximum Points: 20)

The proposal budget reflects: reasonable costs and efficient use of resources for the work proposed. Funds are not used as pass-through funding to a third party for project implementation. This subsection will be scored on: (1) How well the budget information clearly and accurately shows how funds will be used, (2) whether there funding request is reasonable given the activity proposed, and (3) whether the funding can be expected to provide a good return on the investment. Proposal leverages funding from other agencies and programs to increase the accomplishment of this project without raising concerns of double billing for the same work.

(e) Bonus Points (Points: Up to 10)

Reviewers have the flexibility to provide from zero to 10 bonus points for exceptional project qualities in accordance with one or more of the following principles of quality and efficacy:

(1) Applicant's materials are consistent with EPA guidance and recommendations. In particular, applicant outlines educational materials and mitigation methods for second-hand tobacco smoke, house dust mites, cockroaches, molds, and animal dander that are compatible with the guidance contained in EPA's asthma brochure, *A Clear Your Home of Asthma Triggers: Your Children Will Breathe Easier, http://www.epa.gov/asthma/resources.html* and the findings and recommendations contained in the January, 2000 National Academy of Sciences report on asthma, *A Clearing the Air: Asthma and Indoor Air Exposures, http://books.nap.edu/catalog/9610.html.*

(2) Projects focused upon ambient air pollutants and asthma are consistent with EPA guidance that can be accessed through *http://www.epa.gov/air/topics/comap.html.*

(3) Use of education materials reflecting current standards for conducting environmental health or public health education and outreach activities, particularly with respect to motivating behavioral changes in low-literacy, low-income, and disproportionately impacted populations.

(4) Proposals including extraordinarily compelling examples and other strengths noted by the reviewers who evaluate and compare proposals.

2. Review and Selection Process

After individual projects are evaluated, scored, and ranked against the published criteria by EPA staff and peers external to the Agency, EPA may take into account the following factors in making their final selections:

(a) Effectiveness of collaborative activities and partnerships, as needed to successfully implement the project;

(b) Environmental and educational importance of the activity or product;

(c) Effectiveness of the delivery mechanism (*i.e.* workshop, conference, etc.);

(d) Cost effectiveness of the proposal; and

(e) Geographic distribution of projects.

3. Cost Analysis

Projects recommended for possible funding based upon the findings of the reviewers and EPA's consideration of the final selection factors described above receive a cost analysis to ensure that the project costs in the budget are reasonable, allocable, and allowable per OMB Cost Circulars A–87, A–122, and A–21 as appropriate.

In the course of this Cost Analysis, unallowable and unproductive activities will be deleted and unreasonable costs will be deflated.

Section VI. Award Administration Information

1. Award Notices

Organizations submitting Letters of Intent will be notified regarding their successful or unsuccessful Stage 1 application via email on or before October 22, 2004.

Project Officers of organizations with Full Proposals that were selected for possible award (pending successful award negotiations) will be contacted around the spring of 2005 by the appropriate Regional Project Officer to work through the awards process. Upon completion of a successful award negotiation and following a mandatory five day Congressional Notification Period, each successful grant applicant will receive a written notice signed by the EPA Project Officer/grants official. This document will serve as the authorizing document. This award notice will be faxed to the Key Contact as specified in the Full Proposal. Successful applicants must receive this document *before* drawing any funds.

2. Administrative and National Policy Requirements

a. Responsible Officials

Projects must be performed by the applicant/recipient or a designee within that organization who is satisfactory to the applicant and EPA. All proposals must identify any other person(s) and their organization(s) who will assist in carrying out the project. Recipients are responsible for receiving the grant award agreement from EPA and ensuring that all grant conditions are satisfied. Recipients are responsible for the successful completion of the project.

b. Incurring Costs

No pre-award costs should be incurred by the recipient. Grant recipients may begin incurring allowable costs on the start date identified in the EPA grant award agreement. Activities must be completed and funds spent within the time frames specified in the award agreement. EPA grant funds may be used only for the purposes set forth in the grant agreement and must conform to the Federal cost principles contained in OMB Circular A–87, A–122, and A–21, as appropriate. Ineligible costs will be reduced from the final grant award.

c. Materials To Be Provided by the Successful Stage 2 Applicants After EPA Notifies Them of Its Intent To Make an Award

The Successful Stage 2 Applicant must submit the following information after EPA notifies them of its intent to make an award, but prior to the award: Quality assurance plan for any project involving environmental data; evidence of compliance with human subjects requirements where research is found to be involved.

3. Reporting

Specific financial and other reporting requirements will be identified in the EPA grant award agreement. Grant recipients must submit the standard formal quarterly progress reports, unless otherwise instructed in the award agreement. A quality assurance plan will be required if environmental data are collected. Also, two copies of the final report and two copies of all work products must be sent to the EPA project officer within 90 days after the expiration of the budget period. This submission will be accepted as the final requirement, unless the EPA project

officer notifies the recipient that changes must be made.

Section VII. Agency Contact

1. Contact Information

Bettina B. Fletcher; Office of Children's Health Protection; 1200 Pennsylvania Ave, NW.; Mail Code 1107A; Room 2512 Ariel Rios North; Washington, DC 20004–2403; *fletcher.bettina@epa.gov*; Phone: (202) 564–2646; FAX (202) 564–2733; Web Site: *http://yosemite.epa.gov/ochp/ochpweb.nsf/content/grants.htm*.

2. Mechanisms for Questions and Answers

a. Applicants who need more information about this grant or clarification about specific requirements of this Solicitation Notice, should periodically check the Web page *http://yosemite.epa.gov/ochp/ochpweb.nsf/content/grants.htm* for posted information (*e.g.* administrative clarification and responses to Qs & As from Letters of Intent and participate, if eligible, in the Pre-proposal Assistance Conference Call).

b. Specific clarifying questions can be posed via email to *fletcher.bettina@epa.gov*. The word ''QUESTION'' in Capital Letters and the name of the solicitation should appear in the Subject Line. Responses to allowable questions will be posted in a timely manner on the OCHP Web site at: *http://yosemite.epa.gov/ochp/ochpweb.nsf/content/grants.htm*.

c. If email is absolutely not available, requests for materials may be made by FAX to 202–564–2733. Requests should be sent to the attention of Bettina B. Fletcher.

d. To Ensure Fair And Open Competition, EPA Will Answer No Clarifying Questions In Person Except On The Pre-Proposal Conference Call.

e. Applicants may submit questions via email to *fletcher.bettina@epa.gov*. Answers will be posted on the Web page: *http://yosemite.epa.gov/ochp/ochpweb.nsf/content/grants.htm*.

f. Questions and answers from the October 26, 2004 optional Pre-proposal Assistance Call will be summarized and posted within a week of the Assistance Call on the OCHP Web page at: *http://yosemite.epa.gov/ochp/ochpweb.nsf/content/grants.htm*.

g. To ensure fair and open competition, EPA will respond to questions submitted by email up to December 17, 2004. Questions and answers will be posted in a timely manner at: *http://yosemite.epa.gov/ochp/ochpweb.nsf/content/grants.htm*.

3. If paper copies of the EPA Application Kit for Federal Assistance are required, contact Bettina B. Fletcher at *fletcher.bettina@epa.gov*.

Section VIII. Other Information

1. Examples of Potential Projects

The following are examples of types of projects that EPA would consider for funding the Building State, Territorial, and Tribal Capacity to Address Children's Environmental Health: Environmental Triggers of Childhood Asthma. The following are examples of components EPA considers to be elements of building state, territorial and tribal capacity to address children's environmental health in the context of the environmental triggers of childhood asthma. These examples are illustrative only and are not intended to limit proposal ideas.

- Design an asthma surveillance tracking system.
- Linked an asthma surveillance tracking system with environmental data.
- Design an asthma education program through a collaboration of the environment and health agencies.
- Build state, territorial, tribal or regional capacity to decrease asthma incidence in areas with disproportionate impact from environmental health hazards.
- Sponsor state, territorial, tribal or regional workshops to train school officials, day care facility operators, health officials, parents of school-aged children on air quality and environmental triggers of childhood asthma in schools and day care facilities.
- Create a technical resource and training center for state, territorial, tribal or regional community air risk screening as well as a resource for pollution and exposure prevention related to childhood asthma.
- Target reduction of smoke including environmental tobacco smoke, smoke from burning of trash, and smoke from field burning through education and awareness campaigns.
- Facilitate productive dialogues and strategy development among states, territories, tribal and regions as well as across disciplines regarding asthma tracking and surveillance and the development of healthier day care facilities and schools.
- Conduct multilingual, multi-cultural outreach and education activities that result in better health outcomes related to childhood asthma.
- Conduct an education and outreach campaign in low-income, diverse neighborhoods on vehicle idling, ambient and indoor air quality and childhood asthma.

2. Resources

a. Please visit our Web site for information on children's environmental health issues and these grant materials at *http://yosemite.epa.gov/ochp* and *http://yosemite.epa.gov/ochp/ochpweb.nsf/content/grants.htm* respectively.

b. We strongly suggest that applicants examine the ECOS/ASTHO state draft action agenda, Catching Your Breath, *http://www.astho.org/pubs/CatchingYourBreathReport.pdf* for background on state/asthma activities.

c. First time recipients of Federal funds are encouraged to familiarize themselves with the regulations applicable to assistance agreements found in the Code of Federal Regulations (CFR) Title 40, part 31 for State and local government entities. See *http://www.epa.gov/docs/epacfr40/chapt-I.info/subch-B.html*. Applicants may also obtain a copy of the CFR Title 40, part 31 at the local U.S. Government Bookstore, or through the U.S. Government Printing Office. This solicitation notice contains all the information and forms necessary to prepare a Letter of Intent. If your project is selected as a finalist after the evaluation process is concluded, EPA will provide you with additional Federal forms needed to process your Full Proposal.

3. Regulatory References

EPA's regulations on procurement under assistance agreements can be found in 40 Code of Federal Regulations (CFR) 30.40 (for non-governmental recipients) and 40 CFR 31.36 (for governments).

4. Dispute Resolution Process

Dispute Resolution Process: Procedures are in 40 CFR 30.63 and 40 CFR 31.70.

5. Shipping Information for Full Proposals, If Invited By EPA

Due to on-going mail delays in the Washington, DC area, applicants who are invited to submit a Full Proposal are strongly encouraged to send all required materials by way of a private shipping company (*e.g.*, Federal Express, UPS, DHL, or courier) to the attention of: Bettina Fletcher, U.S. EPA, Office of Children's Health Protection, 1200 Pennsylvania Ave, NW., Mail Code 1107A, Room 2512 Ariel Rios North, Washington, DC 20004.

If the applicant has no ability to send the Full Proposal in by way of a private shipping company, the Full Proposal may be mailed to the attention of: Bettina Fletcher, U.S. EPA, Office of Children's Health Protection, 1200

Pennsylvania Ave, NW., Mail Code 1107A, Room 2512 Ariel Rios North, Washington, DC 20460.

Note: To document the date of shipment, Full Proposal packages must be postmarked by the U.S. Post Office, not by a private postage meter.

6. The Agency Reserves the Right to Make No Awards Under This Solicitation

7. Attachment

Sample Letter of Intent (Up to 2 pages total)

All state, tribal, territorial agencies/departments and state/territorial/tribal or regional (*e.g.* the asthma coalition of the greater metropolitan area of Smallville) asthma coalitions who intend to apply should complete this Letter of Intent information and return it to EPA via email to *fletcher.bettina@epa.gov* by October 15, 2004.

* * * * *

Section 1

Organization Name:
Project Name:
Applicant Address:
Street:
City:
State, Zip Code:
Applicant Phone Number:
Applicant FAX Number:
Applicant Email Address:
Applicant Web Site (if any):
Authorized Representative of the Organization:

* * * * *

Section 2

Brief description of how your organization fits each stated eligibility criterion and how how your organization proposes to collaborate with other agency(ies)/departments in this project.

Section 3—Project Summary (Not To Exceed One Page)

Description of the organizational unit that will lead/oversee the project:
Brief summary statement that articulates the project's concept and states its goals and objectives:
A brief description of how this project will meet the Statutory Criteria:
Identification of the specific Target Investment Area and specific Target Project Area addressed by the project:
Brief summary of the method that will be used to achieve the project goals and how the outcomes will be measured:
Summary of the kind of activities that will be funded by the project:
Brief description of the role the state, territorial, or tribal environment and health agencies or state, territorial or tribal members of your state/territorial/tribal or regional asthma coalitions will play in this project:

Section 4

Indicate below whether your organization would like to participate in the October 26, 2004 optional Pre-proposal Assistance Call if Your Letter of Intent Is Found To Be Eligible. Questions and answers from the October 26, 2004 Pre-proposal Assistance Call will be posted by November 2, 2004 at: *http://yosemite.epa.gov/ochp/ochpweb.nsf/content/grants.htm*.

☐ Yes, I would like to participate in the October 26, 2004 Pre-proposal Assistance Call IF my Letter of Intent is found by EPA to be eligible.

☐ No, I decline to participate in the October 26, 2004 Pre-proposal Assistance Call if my Letter of Intent is found by EPA to be acceptable.

☐ Please describe any type of support [*e.g.* Telephone for the Deaf (TDD) number and/or Federal Information Relay (FIR)] you require to permit participation in the Pre-proposal Assistance Conference Call.

Section 5

To help us prepare for the best possible Pre-proposal Assistance Call, please submit in advance any questions you have at this time regarding this application process.

Additional questions may also be posed on the call.

Dated: September 21, 2004.

Joanne Rodman,

Acting Director, Office of Children's Health Protection.

[FR Doc. 04–21580 Filed 9–24–04; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) a request for OMB review and renewal of four information collections titled (1) Recordkeeping and Disclosure Requirements in Connection with Regulation Z (Truth in Lending); (2) Recordkeeping and Disclosure Requirements in Connection with Regulation M (Consumer Leasing); (3) Recordkeeping and Disclosure Requirements in Connection with Regulation E (Electronic Fund Transfers), and (4) Recordkeeping and Disclosure Requirements in Connection with Regulation B (Equal Credit Opportunity).

COMMENTS: Comments on this collection of information are welcome and should be submitted on or before October 27, 2004, to both the OMB reviewer and the FDIC contact listed below.

ADDRESSES: Interested parties are invited to submit written comments to Thomas Nixon, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429. Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. Comments should also be submitted to the OMB desk officer for the FDIC: Mark Menchik, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

SUPPLEMENTARY INFORMATION:

1. *Title:* Recordkeeping and Disclosure Requirements in Connection with Regulation Z (Truth in Lending).

OMB Number: 3064–0082.

Frequency of Response: On occasion.

Affected Public: State nonmember banks that regularly offer or extend consumer credit.

General Description of Collection: Regulation Z (12 CFR part 226), issued by the Board of Governors of the Federal Reserve System, prescribes uniform methods of computing the cost of credit, disclosure of credit terms, and procedures for resolving billing errors on certain credit accounts. Regulation Z requires disclosures of the costs and terms of credit to consumers.

Estimated Number of Respondents: 4,941.

Estimated Annual Burden: 2,373,600 hours.

2. *Title:* Recordkeeping and Disclosure Requirements in Connection with Regulation M (Consumer Leasing).

OMB Number: 3064–0083.

Frequency of Response: On occasion.

Affected Public: State nonmember banks engaging in consumer leasing.

General Description of Collection: Regulation M (12 CFR part 213), issued by the Board of Governors of the Federal Reserve System, implements the

consumer leasing provisions of the Truth in Lending Act. Regulation M provides consumers with disclosures about the costs and terms of leases for personal property.

Estimated Number of Respondents: 1,755.

Total Annual Burden: 131,625 hours.

3. *Title:* Recordkeeping and Disclosure Requirements in Connection with Regulation E (Electronic Fund Transfers).

OMB Number: 3064–0084.

Frequency of Response: On occasion.

Affected Public: State nonmember banks offering electronic fund transfer services.

General Description of Collection: Regulation E (12 CFR part 205), issued by the Board of Governors of the Federal Reserve System, establishes the rights, liabilities, and responsibilities of consumers who use electronic fund transfer services and of financial institutions that offer these services. Regulation E requires disclosure of basic terms, costs, and rights relating to electronic fund transfer services to consumers.

Estimated Number of Respondents: 5,318.

Total Annual Burden: 531,357 hours.

4. *Title:* Recordkeeping and Disclosure Requirements in Connection with Regulation B (Equal Credit Opportunity).

OMB Number: 3064–0085.

Frequency of Response: On occasion.

Affected Public: State nonmember banks engaging in credit transactions.

General Description of Collection: Regulation B (12 CFR part 202), issued by the Board of Governors of the Federal Reserve System, prohibits creditors from discriminating against applicants on any of the bases specified by the Equal Credit Opportunity Act, establishes guidelines for gathering and evaluating credit information, and requires disclosures and recordkeeping requirements to implement those prohibitions.

Estimated Number of Respondents: 5,318.

Total Annual Burden: 717,642 hours.

Dated: September 20, 2004.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 04–21602 Filed 9–24–04; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Breast and Cervical Cancer Early Detection and Control Advisory Committee: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Breast and Cervical Cancer Early Detection and Control Advisory Committee, Centers for Disease Control and Prevention, of the Department of Health and Human Services, has been renewed for a 2-year period, extending through September 12, 2006.

For further information, contact: Debra M. Younginer, Executive Secretary, Breast and Cervical Cancer Early Detection and Control Advisory Committee, Centers for Disease Control and Prevention, of the Department of Health and Human Services, 4770 Buford Highway, NE., M/S K–57, Atlanta, Georgia 30341–3724, telephone 770/488–1073 or fax 770/488–3230.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and ATSDR.

Dated: September 20, 2004.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 04–21567 Filed 9–24–04; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Child Care and Development Fund Annual Report (ACF–700).

OMB No.: 0980–0241.

Description: The Child Care and Development Fund (CCDF) report requests annual tribal aggregate information on services provided through the CCDF, which is required by the Child Care and Development Fund Block Grant (CCDBG) Final Rule (45 CFR parts 98 and 99). Tribes are required to submit annual aggregate data appropriate to tribal programs on children and families receiving CCDF-funds or CCDBG funded child care services. Tribal Lead Agencies are also required to submit a supplemental narrative as part of the ACF–700 report. This narrative describes child care activities and actions in the Tribal Lead Agency's service area. The ACF–700 and supplemental narrative report will be included in the Secretary's report to Congress, as appropriate, and will be shared with all Tribal Lead Agencies to inform them of CCDF or CCDBG-funded activities in other tribal programs.

Respondents: Tribal CCDF programs (263 in total).

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of respondents per respondent	Average burden hours per response	Total burden hours
ACF–700 form (CCDF Annual Tribal Report)	263	1	35	9,205

Estimated Total Annual Burden Hours: 9,205.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection: E-mail address: *grjohnson@cf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, paperwork Reduction Project, Attn: Desk Officer for ACF, e-mail address: *Katherine_T._Astrich@omb.eop.gov.*

Dated: September 22, 2004.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 04–21608 Filed 9–24–04; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects:

Title: Refugee State-of-Origin Report ORR–11.

OMB No. 0970–0043.

Description: The information collection of ORR–11 (Refugee State-of-Origin Report) is designed to satisfy the statutory requirements of the Immigration and Naturalization Act (the Act). Section 412(a)(3) of the Act requires the Office of Refugee Resettlement (ORR) to compile and maintain data on the secondary migration of refugees in the United States after arrival.

In order to meet this legislative requirement, ORR requires each State to submit an annual count of the number of refugees who were initially resettled in another State. The State does this by counting the number of refugees with Social Security numbers indicating residence in another State at the time of arrival in the United States. (The first three digits of the Social Security number indicate the State of residence of the applicant.)

Data submitted by the States are compiled and analyzed by an ORR statistician, who then prepares a summary report, which is included in ORR's Annual Report to Congress. The primary use of the data is to quantify and analyze refugee secondary migration among the 50 States. ORR uses these data to adjust its refugee arrival totals in order to calculate the ORR social service allocation.

Respondents: States.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
State of Origin Report	50	1	4.333	217
Estimated Total Annual Burden Hours				217

In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *grjohnson@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents; including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: September 22, 2004.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 04–21609 Filed 9–24–04; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Acitivity; Comment Request]

Proposed Projects:

Title: Tribal Temporary Assistance for Needy Families Financial Report, ACF–196TT.

OMB No.: New collection.

Description: Authority to collect and report this information is found in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Pub. L. 104–193.

Tribal entities with approved tribal plans for implementation of the Temporary Assistance for Needy Families (TANF) program are required by statute to report financial data on a quarterly basis. This form provides specific data regarding Federal expenditures. Failure to collect this data would seriously compromise the Administration for Children and Families' (ACF) ability to monitor expenditures. This information is also used to estimate outlays and may be used to prepare ACF budget submissions to Congress. Financial management of the program would be seriously compromised if the expenditure data were collected on a less than quarterly basis. Federal policy requires the strictest controls on funding requirements, which necessitates quarterly review of documentation in support of Tribal expenditures for reimbursement.

In an effort to obtain comments on the content and use of this form, the form was distributed to ACF's Regional Offices and at various tribal conferences. Comments received were then used to guide us in the development of the product presented with this submittal.

Respondents: Tribal TANF Agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF–196TT	32	4	8	1,024
Estimated Total Annual Burden Hours				1,024

In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail: *grjohnson@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: September 22, 2004.

Robert Sargis,

Reports Clearance, Officer.

[FR Doc. 04–21610 Filed 9–24–04; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Deviation From Competition to Extend the 5-Year Cooperative Agreement Between the Head Start Bureau and the National Center for Family Literacy

AGENCY: Administration on Children, Youth and Families, ACF, HHS.

ACTION: Notice.

SUMMARY: The five-year Cooperative Agreement between the Head Start Bureau and the National Center for Family Literacy (NCFL) expires September 28, 2004. The Head Start Act contains language requiring the Department of Health and Human Services to make available every year, at least $3,000,000 to ensure that local Head Start programs receive training and technical assistance to help them provide high quality family literacy services. If the current Cooperative Agreement expires, the Department can not comply with the requirements of the Act. The Head Start Bureau intends to extend the current Cooperative Agreement with the National Center for Family Literacy for a period of one year (September 29, 2004–September 28, 2005), at a funding level of $3,000,000.

The National Center for Family Literacy has been providing training and technical assistance to Head Start programs for the past five years. They have trained Head Start Family Literacy teams, consisting of administrators, supervisors and front line staff: those who deal with parents and children, and those who are responsible for distribution of resources within the programs. The training focuses on the areas of child development, parent education, helping programs to engage parents in working with their children, and adult education, and conducting them with sufficient intensity and duration to ensure positive outcomes. In addition, NCFL trainers provide on-site technical assistance to help programs implement family literacy services in their specific communities.

The NCFL has already developed training and technical assistance materials and protocols specifically designed to support Head Start programs as they implement family literacy services. Extending this cooperative agreement maintains the provision of training and technical assistance to local programs. Local programs would continue to receive services, and the Head Start Bureau would be assured that the full amount of money identified to provide support for family literacy services for this year would be spent in providing these services, rather than in developing materials and protocols.

FOR FURTHER INFORMATION CONTACT: Willa Siegel, Head Start Bureau, 330 C Street, SW., Washington, DC, (202) 205–4011.

Dated: September 12, 2004.

Frank Fuentes,

Deputy Commissioner, Administration on Children, Youth and Families.

[FR Doc. 04–21547 Filed 9–24–04; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director; 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 a meeting of the Advisory Committee to the Director, National Institutes of Health. The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(9)(c)(6), Title 5 U.S.C. The applications and the discussions could reveal 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: Advisory Committee to the Director, National Institutes of Health.

Date: September 22, 2004.

Time: 8:45 a.m. to adjournment.

Agenda: To review and evaluate NIH Director's Pioneer Award applications.

Place: National Institutes of Health, Building 1, Bethesda, Maryland 20892, (teleconference).

Contact Person: Shelly Pollard, Coordinator for the Advisory Committee to the Director, National Institutes of Health, Building 31, Room 5B64, Tel: 301/496–0959, Fax: 301/402–0395.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when

applicable, the business or professional affiliation of the interested person.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meeting timing limitations imposed by the funding cycle.

Dated: September 21, 2004.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–21617 Filed 9–24–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel Gene-Environment Effects and Epigenesis in Depression.

Date: October 13, 2004.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: A. Roger Little, PhD., Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6157, MSC 9608, Bethesda, MD 20892–9608, (301) 402–5844, *alittle@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS).

Dated: September 21, 2004.

Anna P. Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–21616 Filed 9–24–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Toxicology Program (NTP); Notice of a Meeting of the NTP Board of Scientific Counselors

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the National Toxicology Program (NTP) Board of Scientific Counselors on October 26, 2004, in the Rodbell Auditorium, Rall Building at the National Institute of Environmental Health Sciences, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

The NTP Board of Scientific Counselors (''the NTP Board'') is composed of scientists from the public and private sector and provides primary scientific oversight to the NTP.

Agenda

The meeting being held on October 26, 2004, begins at 8:30 a.m. and is open to the public from 8:30 a.m. to adjournment with attendance limited only by the space available. Persons needing special assistance should contact the NTP Executive Secretary (contact information below) at least seven business days in advance of the meeting. A draft agenda with a tentative schedule is provided below. Primary agenda topics include: (1) NTP initiatives to enhance toxicology, (2) substances nominated to the NTP for study and recommendations of the NTP Interagency Committee for Chemical Evaluation and Coordination (ICCEC), (3) new approaches for statistical analyses for chronic tests, (4) a proposed process for evaluating chemicals with limited data sets by the Center for the Evaluation of Risks to Human Reproduction, and (5) a research program on *Caenorhabditis elegans.* The NTP Board will also review three concept proposals for the conduct of research through the use of a contract mechanism. These concepts include: (1) The evaluation of chemicals for their potential to modulate immune responses, (2) chemical characterization of substances for testing in high-throughput screening and chronic assays, and (3) application of automated techniques to toxicity testing. Time is allotted during the meeting for the public to present comments to the NTP Board and NTP staff on any agenda topic.

The agenda and background materials on agenda topics, as available, will be posted on the NTP Web site (*http://ntp-server.niehs.nih.gov, see* What's New) or available upon request to the NTP Executive Secretary (contact information below). The NTP is making plans to videocast the meeting through the Internet at *http://www.niehs.nih.gov/external/video.htm.* Following the meeting, summary minutes will be prepared and available through the NTP Web site and upon request to Central Data Management, NIEHS, P.O. Box 12233, MD E1–02, Research Triangle Park, NC 27709; telephone: 919–541–3419, fax: 919–541–3687, and e-mail: *CDM@niehs.nih.gov.*

ICCEC Recommendations for Substances Nominated for Future NTP Studies

Information about substances nominated to the NTP for toxicology and carcinogenicity studies and the ICCEC's recommendations were published in the **Federal Register** on August 20, 2004 (Vol. 69, No. 161, pages 51691–51693). This notice is available on the Web (*http://ntp-server.niehs.nih.gov/htdocs/liason/04JuneICCECFR.html*) along with the list of nominations (*http://ntp-server.niehs.nih.gov/NomPage/2004Noms.html*) and supporting documents for each nomination (*http://ntp-server.niehs.nih.gov/NomPage/BkgrSum04June.html*) or is available by contacting the NTP Executive Secretary (contact information below). This meeting provides an additional opportunity for the public to provide comment on these nominations and study recommendations to the NTP Board and NTP staff. Comments submitted to the NTP in response to the August 20, 2004, **Federal Register** notice are under consideration and do not need to be resubmitted or readdressed.

Public Comment Encouraged

Public input at this meeting is invited and time is set aside for the presentation of public comments on any agenda topic. At least 7 minutes will be allotted to each speaker and, if time permits, may be extended to 10 minutes. Each organization is allowed one time slot per agenda topic. Persons registering to make oral comments are asked to provide their name, affiliation, mailing address, phone, fax, e-mail, and sponsoring organization (if any). To

facilitate planning for the meeting, persons interested in providing formal oral comments are asked to notify Dr. Barbara Shane, NTP Executive Secretary, NIEHS, P.O. Box 12233, MD A3–01, Research Triangle Park, NC 27709; telephone: 919–541–0530; and e-mail: *shane@niehs.nih.gov* by October 18, 2004. Persons may also submit written comments *in lieu* of making oral comments. Written comments should be sent to the NTP Executive Secretary and must be received by October 18, 2004, to enable review by the NTP Board and NTP staff prior to the meeting.

Persons submitting written comments should include their name, affiliation, mailing address, phone, fax, e-mail, and sponsoring organization (if any) with the document. Individuals will also be able to register to give oral public comments on-site at the meeting. However, if registering on-site and reading from written text, please bring 30 copies of the statement for distribution to the NTP Board and NTP staff and to supplement the record.

Registration

The NTP Board meeting is open to the public. Due to changes in security policies at the NIEHS, individuals who plan to attend are asked to pre-register with the NTP Executive Secretary (contact information above). The names of those registered will be given to the NIEHS Security Office in order to gain access to the campus. Persons attending who have not pre-registered may be asked to provide pertinent information about the meeting such as the title or host of the meeting before gaining access to the campus. All visitors (whether or not you are pre-registered) will need to be prepared to show 2 forms of identification (ID), for example, a driver's license and one other form of ID, such as company ID, government ID, or university ID.

NTP Board of Scientific Counselors

The NTP Board is a technical advisory body comprised of scientists from the public and private sectors who provide primary scientific oversight to the overall program and its centers. Specifically, the NTP Board advises the NTP on matters of scientific program content, both present and future, and conducts periodic review of the program for the purposes of determining and advising on the scientific merit of its activities and their overall scientific quality. Its members are selected from recognized authorities knowledgeable in fields, such as toxicology, pharmacology, pathology, biochemistry, epidemiology, risk assessment, carcinogenesis, mutagenesis, molecular biology, behavioral toxicology and neurotoxicology, immunotoxicology, reproductive toxicology or teratology, and biostatistics. The NTP strives for equitable geographic distribution and minority and female representation on the NTP Board. Its members are invited to serve overlapping terms of up to four years and meetings are held once or twice annually for the NTP Board and its two standing subcommittees (the Report on Carcinogens Subcommittee and the Technical Reports Review Subcommittee).

Dated: September 15, 2004.

Samuel Wilson,

Deputy Director, National Toxicology Program.

Preliminary Agenda

National Toxicology Program (NTP) Board of Scientific Counselors

October 26, 2004

National Institute of Environmental Health Sciences, Rodbell Auditorium, Rall Building, 111 T.W. Alexander Drive, Research Triangle Park, NC.

8:30 a.m. Welcome and Opening Comments.
NTP Update.
NTP Initiatives to Enhance Toxicology.
Concept Review.
- Evaluation of Chemicals for Their Potential to Modulate Immune Responses.
- Chemical Characterization of Substances for Testing in NTP Studies.
- Application of Automated Techniques to Toxicity Testing.

12 p.m. Lunch.
12:45 p.m. NTP Testing Program.
- Study Nominations.
- New Approaches to Statistical Analyses for 2-year Toxicology and Carcinogenicity Studies.
- Center for the Evaluation of Risks to Human Reproduction—Proposed Process for Evaluating Chemicals with Limited Data Sets.
- Research Program on *Caenorhabditis elegans.*

4:45 p.m. Adjourn.

[FR Doc. 04–21618 Filed 9–24–04; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Prevention; Notice

Pursuant to Pub. L. 92–463, notice is given of the meeting of the Substance Abuse and Mental Health Services Administration (SAMHSA) Drug Testing Advisory Board (DTAB) that was held on September 14 and 15, 2004, at the Residence Inn by Marriott, 7335 Wisconsin Avenue, Bethesda, Maryland 20814.

A summary of the meeting is as follows. The Board met in an open session on September 14 from 8:30 a.m. to 11:15 a.m. The open session included a Department of Health and Human Services drug testing program update, a presentation on the comments submitted on the proposed revisions to the ''Mandatory Guidelines for Federal Workplace Drug Testing'' published in the **Federal Register** on April 13, 2004 (69 FR 19673–19732), and a Department of Transportation drug testing program update.

The Board met in closed sessions on September 14 from 11:15 a.m. to 4:30 p.m. and on September 15 from 8:30 a.m. to noon to review and discuss the public comments submitted regarding the Revised Mandatory Guidelines for Federal Workplace Drug Testing Programs (69 FR 19644, April 13, 2004) and the Notice of Proposed Revisions to the Mandatory Guidelines for Federal Workplace Drug Testing Program (69 FR 19673, April 13, 2004). This meeting was conducted in closed sessions since discussing preliminary information on the Guidelines in open session would significantly frustrate the Department's ability to develop the Final Notice of Revisions to the Mandatory Guidelines for Federal Workplace Drug Testing Programs, which must include the policies and procedures that will assure accurate and reliable specimen validity testing as well as drug testing using alternative specimens and when using on-site drug tests.

A roster of the board members may be obtained from: Mrs. Giselle Hersh, Division of Workplace Programs, 1 Choke Cherry Road, Room 2–1035, Rockville, MD 20857, 240–276–2600 (voice). To ensure that all interested parties receive information presented at the DTAB meeting, the transcript of the open session will be available on the following Web site *http://workplace.samhsa.gov* as soon as possible after the meeting.

Dated: September 20, 2004.

Toian Vaughn, Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 04–21568 Filed 9–24–04; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Prevention; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Prevention (CSAP) National Advisory Council in October 2004.

The meeting is open and includes discussion of the Center's policy issues and current administrative, legislative, and program developments. The CSAP Director will provide the Council with an update on SAMHSA/CSAP activities. The meeting will also include presentations on CSAP's National Registry for Effective Programs and Practices and Centers for the Application of Prevention Technology, and a report on the Prevention Platform. Presentations from the Drug Enforcement Administration on its National Prevention Partners initiative, the Community Anti-Drug Coalitions of America on the National Coalition Institute initiative, and the National Institute of Drug Abuse National Evaluation of Drug Free Communities will also be provided. In addition, the agenda will include a period for Council members to address the members on the Bi-National Border Institute, and on a new national prevention program in the fight against youth drug abuse (Parent Corps).

Attendance by the public will be limited to space available. Public comments are welcome. Please communicate with the individual listed as contact below to make arrangements to comment or to request special accommodations for persons with disabilities.

A roster of Council members may be obtained by communicating with the contact listed below. To ensure that all interested parties receive information presented at the CSAP Council meeting, the transcript for the meeting will be available on the following Web site *http://www.samhsa.gov/council/csap/csapnac.aspx* as soon as possible after the meeting.

Committee Name: Substance Abuse and Mental Health Services Administration Center for Substance Abuse Prevention National Advisory Council.

Date/Time: Tuesday, October 5, 2004, 9 a.m. to 5 p.m. Wednesday, October 6, 2004, 9 a.m. to 11:45 a.m.

Place: Times Building, One Times Square, Third Floor, New York, New York 10036.

Type: Open session.

Contact: Marlene Passero, Committee Management Specialist, 1 Choke Cherry Road, Room 4–1006, Rockville, Maryland 20857, Telephone: (240) 276–2435.

Dated: September 20, 2004.

Toian Vaughn,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 04–21569 Filed 9–24–04; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2003–16814]

RIN 1625–AA89

Discharge of Dry Cargo Residues in the Great Lakes

AGENCY: Coast Guard, DHS.

ACTION: Notice.

SUMMARY: The Coast Guard gives notice that Congressional authorization of the United States 1997 interim enforcement policy relating to the incidental discharge of dry cargo residue on the Great Lakes has been extended by new legislation until 2008 or until new regulations take effect. The new legislation gives us until November 7, 2004, to begin regulatory environmental assessment. We have already opened the necessary project for developing new regulations, and intend to meet the new legislation's environmental assessment deadline.

DATES: The interim enforcement policy will continue in force until September 30, 2008, unless it is replaced by new regulations at an earlier date. The Coast Guard must begin environmental assessment in connection with new regulations by November 7, 2004.

ADDRESSES: Any comments or material received from the public in regard to this notice, as well as documents mentioned in the notice as being available in the public docket, are part of docket USCG–2003–16814 and may be viewed online at *http://dms.dot.gov* or at the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street, SW., Washington, DC between 9 a.m. and 5 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions relating to the substance of this notice call LCDR Mary Sohlberg, U.S. Coast Guard, telephone 202–267–0713 or via e-mail *msohlberg@comdt.uscg.mil.* If you have questions on viewing the docket, call Andrea M. Jenkins, Program Manager, Docket Operations, Department of Transportation, telephone 202–366–0271.

SUPPLEMENTARY INFORMATION: This notice is intended to update you concerning the Coast Guard's interim enforcement policy (IEP) for incidental vessel discharges of non-hazardous and non-toxic cargo residues (''dry cargo discharges'') on the Great Lakes. The IEP is set out in full in the 2004 Ninth District Special Notice to Mariners (pages 66–69) and the Ninth Coast Guard District Notice CCGD9NOTE 16460 dated January 28, 1997, which are available in the public docket (see **ADDRESSES**). Earlier this year, we published a notice (69 FR 1994, Jan. 13, 2004) informing you that continued Congressional authorization for the IEP was due to expire on September 30, 2004. We noted that, absent some new set of regulations, the IEP's expiration would lead to strict enforcement of the existing statutory framework, which bans dry cargo discharges on the Great Lakes. We said we would begin developing the new regulations, but cautioned that they probably could not be ready by September 2004.

On August 9, 2004, the Coast Guard and Maritime Transportation Act of 2004 Pub. L. 108–293, (''the Act''), became law. Section 623 of the Act extends the IEP until September 30, 2008, or issuance of new regulations, whichever comes first. It gives the Coast Guard 90 days from the statute's enactment, *i.e.,* until November 7, 2004, to begin environmental assessment connected with new regulations. In July 2004, the Coast Guard approved a dry cargo discharges regulatory project, and we expect to meet the Act's deadline for beginning environmental assessment. As we reach milestones in the environmental assessment and regulatory processes, we will issue additional **Federal Register** notices to keep you informed and invite your participation.

Dated: September 20, 2004.

T.H. Gilmour,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security and Environmental Protection.

[FR Doc. 04–21599 Filed 9–24–04; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of a Technical Agency Draft Recovery Plan for the Endangered *Catesbaea melanocarpa* for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability and public comment period.

SUMMARY: We, the Fish and Wildlife Service, announce the availability of the technical agency draft recovery plan for *Catesbaea melanocarpa* (no common name). *Catesbaea melanocarpa* is extremely rare and is known from Puerto Rico, St. Croix in the U.S. Virgin Islands (USVI), Barbuda, Antigua, and Guadeloupe. The technical agency draft recovery plan includes interim recovery objectives and criteria to be met in order to downlist *Catesbaea melanocarpa* to threatened under the Endangered Species Act of 1973, as amended (Act). Given the limited information on the current number of individuals throughout the species range and the limited knowledge on biology, habitat requirements and genetic information, we recognize the need to generate scientific information to better address the threats and limiting factors to this species and to develop specific recovery criteria. Therefore, the interim goal of this recovery plan is to protect and enhance existing populations to the point that downlisting to threatened is warranted. We are soliciting review and comment on this technical agency draft recovery plan from local, State, Territorial, and Federal agencies, and the public.

DATES: In order to be considered, we must receive comments on the technical agency draft recovery plan on or before November 26, 2004.

ADDRESSES: If you wish to review this technical agency draft recovery plan, you may obtain a copy by contacting the Boquerón Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622 (telephone 787–851–7297), or by visiting our recovery plan Web site at *http://endangered.fws.gov/recovery/index.html#plans*. If you wish to comment, you may submit your comments by one of the following methods:

1. You may submit written comments and materials to the Field Supervisor, at the above address.

2. You may hand-deliver written comments to our Boquerón Field Office, at the above address, or fax your comments to (787) 851–7440.

Comments and materials received are available for public inspection on request, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Marelisa Rivera at the above address (Telephone 787–851–7297, ext. 231).

SUPPLEMENTARY INFORMATION:

Background

We listed *Catesbaea melanocarpa* as endangered on March 17, 1999, under the Act (64 FR 13116). *Catesbaea melanocarpa* is a small spiny shrub of the family Rubiacea. It belongs to a genus which consists of ten or more species of spiny shrubs. It is a branching shrub which may reach approximately 9.8 feet (ft) (3.0 meters (m)) in height. Spines are borne at every internode (space between nodes) and are from 0.39 to 0.78 inches (in) (1.00 to 2.00 centimeters (cm)) long. Leaves are small, from 0.19 to 1.0 in (5.00 to 25.00 millimeters (mm)) long, and 0.07 to 0.58 in (2.00 to 15.00 mm) wide, often opposite. The flowers are white, solitary or paired, and almost lacking a stalk in the axils. The petals are united in the form of a funnel and measure from 0.31 to 0.39 in (8.00 to 10.00 mm) long. The fruit is black, spherical, and 0.19 to 0.23 in (5.00 to 6.00 mm) in diameter. The two-celled fruit contains five to seven seeds in each cell.

Catesbaea melanocarpa is extremely rare. In the U.S. Caribbean, it is known from only one individual in Cabo Rojo, Puerto Rico and approximately 100 individuals in one location in St. Croix, USVI. All known individuals in Puerto Rico and the USVI occur on privately-owned lands. The species is also found on the islands of Barbuda, Antigua, and Guadeloupe; however, little is known of their status on these islands.

Because so few individuals of *Catesbaea melanocarpa* are known to occur in limited areas, the risk of extinction is extremely high. Both known locations are privately-owned and subject to pressure for development. The location in Cabo Rojo, Puerto Rico, is currently proposed for a high density residential/tourist development. In St. Croix, the population is subject to impacts from intense grazing activities and the land is also subject to pressure for a golf course development. Catastrophic natural events, such as hurricanes, may dramatically affect forest species composition and structure, felling large trees and creating numerous canopy gaps. The population in St. Croix lost individuals following the passing of Hurricane Hugo in 1989. Deforestation for residential and tourist development may also pose imminent threats to the survival of the species. Fire may also be a threat to the known population on the island of St. Croix. Fire is not a natural component of subtropical dry forest in Puerto Rico and Virgin Islands. Species found in this type of forest are not fire adapted.

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the endangered species program. To help guide this recovery effort, we are preparing recovery plans for most listed species. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for downlisting or delisting, and estimate time and cost for implementing recovery measures.

The Act requires the development of recovery plans for listed species, unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act requires us to provide a public notice and an opportunity for public review and comment during recovery plan development. We will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. We and other Federal agencies will take these comments into account in the course of implementing approved recovery plans.

Given the limited information on the current number of individuals throughout the species range and the limited knowledge on biology, habitat requirements and genetic information, we recognize the need to generate scientific information to better address the threats and limiting factors to this species and to develop specific recovery criteria. Therefore, the interim goal of this recovery plan is to protect and enhance existing populations to the point that downlisting to threatened is warranted. In order to achieve our interim recovery goal, we believe it will be necessary to protect and enhance habitat known to support existing populations through landowner conservation agreements or easements, enhance existing populations, establish new self-sustaining populations within known range of the species, and conduct research on key biological and genetic issues, including effective propagation techniques, necessary to define recovery criteria. As these interim recovery criteria are met, the status of the species will be reviewed and it will be considered for downlisting to threatened on the Federal List of Endangered and

Threatened Wildlife and Plants (50 CFR part 17).

Public Comments Solicited

We solicit written comments on the recovery plan described. We will consider all comments received by the date specified above prior to final approval of the draft recovery plan.

Our practice is to make all 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 addresses from the record, which we will honor to the extent allowable by law. In some circumstances, we would withhold also from the rulemaking record a respondent's identity, as allowable by law. If you wish for us to withhold your name and/or address, you must state this prominently at the beginning of your comments. 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 entirety.

Authority: The authority for this action is section 4(f) of the Endangered Species Act of 1973, 16 U.S.C. 1533(f).

Dated: August 2, 2004.

Sam D. Hamilton,

Regional Director, Southeast Region.

[FR Doc. 04–21565 Filed 9–24–04; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–200–0777–XZ–241A]

Notice of Meeting, Front Range Resource Advisory Council (Colorado)

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meeting.

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), Front Range Resource Advisory Council (RAC), will meet as indicated below.

DATES: The meeting will be held November 3, 2004, from 9:15 a.m. to 4 p.m.

ADDRESSES: Holy Cross Abbey Community Center, 2951 E. Highway 50, Canon City, Colorado 81212.

FOR FURTHER INFORMATION CONTACT: Ken Smith, (719) 269–8500.

SUPPLEMENTARY INFORMATION: The 15 member Council advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in the Royal Gorge Field Office and San Luis Valley, Colorado. Planned agenda topics include: Manager updates on current land management issues; San Luis Valley and Arkansas River Travel Management Plan updates/discussion and a discussion on the Simpson and McIntire Property. All meetings are open to the public. The public is encouraged to make oral comments to the Council at 9:15 a.m. or written statements may be submitted for the Councils consideration. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Summary minutes for the Council Meeting will be maintained in the Royal Gorge Field Office and will be available for public inspection and reproduction during regular business hours within thirty (30) days following the meeting. Meeting Minutes are also available at: *http://www.blm.gov/rac/co/frrac/co_fr.htm*.

Dated: September 17, 2004.

Linda McGlothlen,

Acting Royal Gorge Field Manager.

[FR Doc. 04–21563 Filed 9–24–04; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–310–0777–XG]

Notice of Public Meeting: Northwest California Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 (FLPMA), and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Northwest California Resource Advisory Council will meet as indicated below.

DATES: The meeting will be held Thursday and Friday, Nov. 4 and 5, 2004, at the Bureau of Land Management Ukiah Field Office, 2550 North State St., Ukiah, Calif. On Thursday, the council will convene at 10 a.m. and depart immediately for a field tour to the Hopland Experimental Station in Hopland, Calif. On Friday, the meeting begins at 8 a.m. in the Conference Room of the BLM Ukiah Field Office. Time for public comment has been set aside for 1 p.m.

FOR FURTHER INFORMATION CONTACT: Rich Burns, Manager, BLM Ukiah Field Office, (707) 468–4000; or BLM Public Affairs Officer Joseph J. Fontana, (530) 252–5332.

SUPPLEMENTARY INFORMATION: The 12-member council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in Northwest California. At this meeting, agenda topics will include discussion of a new Resource Management Plan for the Ukiah Field Office, comments on the draft management plan/environmental impact statement for the California Coastal National Monument, discussion of the BLM recreation program in California, and an overview of T–21 legislation. The RAC members will also hear status reports from the Arcata, Redding and Ukiah field office managers. All meetings are open to the public. Members of the public may present written comments to the council. Each formal council meeting will have time allocated for public comments. Depending on the number of persons wishing to speak, and the time available, the time for individual comments may be limited. Members of the public are welcome on field tours, but they must provide their own transportation and lunch. Individuals who plan to attend and need special assistance, such as sign language interpretation and other reasonable accommodations, should contact the BLM as provided above.

Dated: September 20, 2004.

Joseph J. Fontana,

Public Affairs Officer.

[FR Doc. 04–21607 Filed 9–24–04; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Notice and Agenda for Meeting of the Royalty Policy Committee

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of meeting.

SUMMARY: At the first meeting of the newly chartered Royalty Policy Committee (RPC), a chairperson, vice-chairperson, and parliamentarian will be elected and bylaws for meeting

conduct will be established. Agenda items will include remarks from the Director, MMS, and the Associate Director, Minerals Revenue Management (MRM), as well as updates on Financial Management, Compliance and Asset Management, Royalty in Kind, and pertinent legislation. The RPC will also hear special reports from the Inter-Association Royalty Strategies Task Force and the Western Governors' Association. The RPC membership includes representatives from states, Indian tribes and allottee organizations, minerals industry associations, the general public, and other Federal departments.

DATE: Thursday, October 28, 2004, from 8:30 a.m. to 5 p.m., mountain daylight time.

ADDRESS: Sheraton Denver West Hotel, 360 Union Boulevard, Lakewood, CO 80228, telephone number (303) 987–2000.

FOR FURTHER INFORMATION CONTACT: Gary Fields, Minerals Revenue Management, Minerals Management Service, P.O. Box 25165, MS 300B2, Denver, CO 80225–0165, telephone number (303) 231–3102, fax number (303) 231–3780, e-mail *Gary.Fields@mms.gov.*

SUPPLEMENTARY INFORMATION: The Department of the Interior's MMS created three charter committees under the Federal Advisory Committee Act to advise the Secretary and top department officials on minerals policy and operational issues. The RPC, the Outer Continental Shelf (OCS) Policy Committee, and the OCS Scientific Committee will fulfill the formal advisory functions previously performed by the Minerals Management Advisory Board, which has been disbanded. The RPC will provide advice related to the performance of discretionary functions under the laws governing the Department's management of Federal and Indian mineral leases and revenues. The RPC will review and comment on revenue management and other mineral-related policies and provide a forum to convey views representative of mineral lessees, operators, revenue payors, revenue recipients, governmental agencies, and the interested public. The location and dates of future meetings will be published in the **Federal Register** and posted on our Internet site at *http://www.mrm.mms.gov/Laws_R_D/RoyPC/RoyPC.htm.* Meetings will be open to the public without registration in advance on a space-available basis. The public may make statements during the meetings, to the extent time permits, and file written statements with the RPC for its consideration. Copies of these written statements should be submitted to Mr. Fields. Within 2 weeks following the conclusion of each meeting, the minutes will be available for public inspection and copying at our offices in Building 85 on the Denver Federal Center in Lakewood, CO. The minutes will also be posted on our Internet site at *http://www.mrm.mms.gov/Laws_R_D/RoyPC/RoyPC.htm.* These meetings are conducted under the authority of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 1) and the Office of Management and Budget (Circular No. A–63, revised).

Dated: September 16, 2004.

Lucy Querques Denett,

Associate Director, Minerals Revenue Management.

[FR Doc. 04–21595 Filed 9–24–04; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–04–025]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: September 29, 2004, at 11 a.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436, telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Agenda for future meetings:* None.
2. Minutes.
3. Ratification list.
4. Inv. Nos. 731–TA–1054 and 1055 (Final) (Light-Walled Rectangular Pipe and Tube from Mexico and Turkey)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before October 12, 2004.)
5. *Outstanding action jackets:*

(1) Document No. GC–04–095 concerning Inv. Nos. 701–TA–384 and 731–TA–806–808 (Review) (Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil, Japan, and Russia).

(2) Document No. GC–04–114 concerning proposed rulemaking and changes in Agency procedures.

(3) Document No. ID–04–031 concerning Inv. No. 332–454 (Remediation and Nature and Landscape Protection Services: An Examination of U.S. and Foreign Markets).

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Issued: September 9, 2004.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–21672 Filed 9–23–04; 11:11 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[EOIR No. 148]

Executive Office for Immigration Review; Notice of Class Action Judgment in Durnford v. Ashcroft

AGENCY: Executive Office for Immigration Review, Justice.

ACTION: Notice.

SUMMARY: This notice presents the Notice of Resolution of the class action settlement in *Durnford* v. *Aschroft,* EEOC Case No. 100–2000–07059X (formerly EEOC Case No. 100–A0–7059X). The Notice of Resolution of Class Action sets forth the rights of class members for this settlement. This notice is published to inform class members of the class action settlement.

DATES: This notice is effective September 27, 2004.

FOR FURTHER INFORMATION CONTACT: Further information about the Settlement Agreement is available from Class Counsel, Kator, Parks, & Weiser, P.L.L.C., 812 San Antonio St., Suite 100, Austin, Texas 78701, Telephone (512) 322–0600. Further information about the publication of this notice is available from Paula Hatch, Office of the General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, VA 22041, Telephone (703) 305–0322 (Ms. Hatch is not to be contacted about the terms of the Settlement Agreement).

SUMMARY: The Executive Office for Immigration Review (EOIR) is publishing this notice to inform class members in the class action entitled *Durnford* v. *Ashcroft,* EEOC Case No. 100–2000–07059X, of the settlement reached in that action. Details of this case are set forth in the ''Background of Litigation'' Section of the Appendix below.

White male applicants for employment not selected as immigration judges during 1994 and 1995 are class members in this case. Applications for immigration judge positions posted on October 31, 1995 or

later are not covered by this case. In order to receive monetary relief under the settlement agreement, a class member must submit a signed claim form and release. The claim form and release must be submitted to the claims administrator within 65 days of the notice of final approval of the class action settlement, which has not yet occurred.

Monetary relief is available under the settlement agreement. There will be no injunctive relief under the settlement agreement. The monetary relief available to each class member will be determined by a Claims Administrator, following a distribution formula attached to the settlement agreement.

Dated: September 17, 2004.

Kevin A. Ohlson,

Acting Director, Executive Office for Immigration Review.

Note: The appendix to this notice contains the Notice of Resolution of Class Action, Exhibit 4 to the settlement agreement.

Appendix

The following is the text of the Notice of Resolution of Class Action in the *Durnford* v. *Ashcroft* settlement agreement. The Notice of Resolution of Class Action is referenced as Exhibit 4 in the settlement agreement.

Notice of Resolution of Class Action

To: White male applicants for employment not selected as immigration judges during 1994 and 1995.

From: David Weiser and Jeremy Wright of Kator, Parks, & Weiser, P.L.L.C., 812 San Antonio St., Suite 100, Austin, Texas 78701.

Michael J. Kator of Kator, Parks, & Weiser, P.L.L.C., 1020 19th Street, NW., Suite 350, Washington, DC 20036.

Mike Milligan, 303 Texas Avenue, Suite 808, El Paso, Texas 79901.

Bruce I. Waxman, Chief Counsel, Employee/Labor Relations, Office of the General Counsel, Executive Office for Immigration Review, U.S. Department of Justice.

Please Read This Notice Carefully. This notice is sent to you because your rights may be affected by a proposed settlement agreement.

Overview

Purpose of this Notice.

This notice is given pursuant to 29 CFR 1614.204(g). You are being sent this notice because you may be a Class Member. The purpose of the notice is to advise you of a proposed settlement agreement (the Settlement Agreement) between the Class Agents and the United States Department of Justice, EOIR (the Agency), in the above-captioned class action before the Equal Employment Opportunity Commission (EEOC). This Settlement Agreement will affect the rights of all Class Members. This Notice describes the rights you may have under the Settlement Agreement and how you may assert those rights.

Recovery Under the Proposed Settlement Agreement

The Settlement Agreement, which is attached, provides that the Agency will pay a total of eleven million five hundred thousand dollars ($11.5 million), which will be deposited into a Settlement Fund. This $11.5 million is the entire payment by the Agency to settle this case. This payment covers all damages, interest, and taxes, as well as costs, fees, and expenses incurred by the Class Counsel for the totality of the litigation. A Claims Administrator designated by Class Counsel will be solely responsible for the distribution of the funds according to formulas which are attached as an exhibit to the Settlement Agreement. There will be no non-monetary relief.

Reasons for the Settlement

Continuing with the litigation would incur additional delay, risk and increasing expenditure. The parties are vigorously at odds over liability and damages. The Settlement provides benefit and certainty to the Class now instead of prolonging the disagreement.

Class Member Information Session

Class Counsel will host an information session for Class Members regarding the settlement on October 5, 2004 at 10 a.m. at the following location: Grand Hyatt Washington, 1000 H Street, NW., Washington, DC (''Metro Center''). Class Counsel will discuss in detail the terms of the Settlement Agreement and the distribution formula. Class Counsel will be available to respond to any questions or concerns of Class Members regarding the settlement. Class Counsel strongly encourages Class Members to participate in the information session.

Further Information

Further information about the settlement Agreement and this Notice is available from Class Counsel Kator, Parks, & Weiser, P.L.L.C., 812 San Antonio St., Suite 100, Austin, Texas 78701, Telephone (512) 322–0600, Facsimile (512) 477–2828, e-mail *IJ Class@katorparks.com.* Neither the Agency nor the EEOC can provide additional details.

Background of Litigation

Class Agent Lawrence D. Durnford, on behalf of himself and others similarly situated, filed an EEO complaint against the Agency on March 1, 1996, alleging discrimination on the basis of race (White) and sex (male). Mr. Durnford alleged discrimination in his non-selection for the position of immigration judge during 1994 and 1995. After several years of litigation on procedural and class certification issues, on April 25, 2002, the EEOC Administrative Judge (AJ) defined the Class as ''White male applicants for employment not selected as immigration judges during 1994 and 1995.''

In September 2002, the EEOC AJ bifurcated the issue of liability from that of damages. That month, the parties entered into extensive liability-related discovery and preparation, which included deposing 35 witnesses, including expert witnesses, the disclosure of extensive amounts of documents and the exchange of expert reports. During the pendency of discovery, Mark Glickman was added as a Class Agent. The hearing on liability, initially scheduled for June 2003, was stayed pending mediation by a private mediator. Mediation took place in Washington, DC and Austin, Texas.

Throughout litigation, the Agency denied any wrongdoing or liability. The Class and the Agency disagreed as to liability and damages, including the amount recoverable if the Class prevailed and the calculation of monetary damages. In January 2004, after nearly nine years of litigation and five months of mediation, the Agency and the Class Agents reached an agreement in principle. The agreement in principle was the basis for the negotiations that led to the Settlement Agreement.

Summary of Settlement Agreement

This Notice provides only a summary of the terms of the Settlement Agreement. While every effort has been made to ensure the accuracy of this summary, the specific terms of the Settlement Agreement shall govern. The Settlement Agreement is attached to this Notice. It will also be posted on the Web site of the Class Counsel at *http://www.katorparks.com/durnford.htm* and the Agency Web site at *http://www.usdoj.gov/eoir.*

The Agency will deposit $11.5 million into a Settlement Fund, which Class Counsel will establish as a qualified Settlement Fund under Part 468B of the Internal Revenue Code. A Claims Administrator, to be designated by Class Counsel, will administer the funds according to provisions of a distribution formula set forth in Exhibit 7 to the Settlement Agreement. The formula allocates the recovery in proportion to the injury suffered by each Class Member. The amount to be distributed to each Class Member is not known at this time because it will depend on the number of Class Members who claim relief and the formula calculations particular to each Class Member. In addition, a portion of the Settlement Fund will be allocated to the Class Agents and other Class Members according to contributions made during the Class aciton litigation. There will be no injunctive relief.

The Claims Administrator will have the sole authority to determine who is eligible to receive monetary relief. Anyone determined by the Claims Administrator to be a Class Member will be eligible to receive monetary relief. Pursuant to the Settlement Agreement and applicable regulations, no Class Member may opt out of the Settlement Agreement. However, any Class Member may elect not to receive the monetary relief afforded under this Settlement Agreeent. Any monetary relief that is unclaimed or rejected will be reallocated to the participating Class Members pursuant to the distribution formula, if feasible.

Final Approval of the terms of the Settlement Agreement shall bind all Class Members, including those not seeking recovery from the Settlement Fund. The Settlement Agreement extinguishes all claims, of all Class Members and the Class

Agents, in the past, present, or the future against the Agency pertaining to the selection of applicants for the position of immigration judge during 1994 and 1995. Each Class Member wishing to receive monetary relief of any kind must first complete the Claim Form and Release, which is Exhibit 1 to the Settlement Agreement.

Class Counsel are solely responsible for all aspects of the distribution of the monetary relief, including determining the distribution methodology set forth in Exhibit 7 to the Settlement Agreement and (by and through the appointed Claims Administrator) the determination of relief to be accorded each individual.

Except as specifically stated otherwise in the Claim Form and Release, all information provided to Class Counsel for administration and distribution of the Settlement Fund shall be treated as confidential. The confidentiality provisions in the Protective Order issued by the EEOC AJ in the administrative case will continue to govern materials used in the mediation, negotiation, and administration of the Settlement Agreement.

Under the Settlement Agreement, class counsel has designated the sum of three million nine hundred sixty-six thousand six hundred sixty-six dollars ($3,966,666) to be allocated to a Litigation Fund for attorneys' fees, costs and expenses out of the Agency's total payment of $11.5 million. In addition to attorney fees, this sum covers such items as the cost of the services of expert witnesses, deposition transcripts, travel, and mediation.

The Settlement Agreement is subject to Final Approval by the EEOC AJ. The Settlement Agreement becomes effective upon the date that the EEOC AJ issues a decision approving the Settlement and all appeals have been finally determined or the time for filing appeals has expired. Once effective, the terms of the Settlement Agreement are binding on all Class Members, even those who do not seek recovery from the Settlement Fund.

Class Counsel will be responsible for notifying Class Members of the EEOC AJ's Final Approval of the Settlement Agreement and providing Class Members with the Claim Form, Exhibit 1 to the Settlement Agreement, necessary to seek monetary relief from the Settlement Fund. This Claim Form, and the Release therein, must be executed and timely submitted in order to receive monetary relief.

No funds shall be distributed until any administrative appeals of the EEOC AJ's Fianl Approval to the EEOC have been fully and finally resolved or the time for such appeal has passed, and/or the Agency has affirmed the Settlement Agreement, and/or the Agency's opportunity to abrogate the Settlement Agreement has expired, pursuant to part VII of the Settlement Agreement.

Although the Claims Administrator will withhold monies for payments of FICA, income and employment taxes (if any), each individual receiving an award from the Settlement Fund shall be ultimately responsible for satisfying all personal tax obligations.

Rights of Class Members

Seek Monetary Relief or Do Nothing

You may seek monetary relief provided you qualify for allocation under the distribution formula and timely submit the Claim Form and Release. You must submit a signed Claim Form and Release to obtain monetary relief under the Agreement. Despite your eligibility, you may elect to not seek monetary relief.

Object to the Settlement Agreement

If you object to any terms within the Settlement Agreement because you believe they benefit only the Class Agents or are otherwise not fair, adequate and reasonable to the Class as a whole, you must file a written petition to vacate the Settlement Agreement, postmarked no later than 30 days from the date of this notice of resolution.[1] The petition should be sent to Administrative Judge Richard E. Schneider, Equal Employment Opportunity Commission, Washington Field Office, 1801 L St., NW., Suite 100, Washington, DC 20507–1002.

You must also send a copy of any objection to Class Counsel: David Weiser, Kator, Parks, & Weiser, P.L.L.C., 812 San Antonio St., Suite 100, Austin, Texas 78701; and to Agency Counsel: Bruce I. Waxman, Chief Counsel, Employee/Labor Relations, U.S. Department of Justice, Exeuctive Office for Immigration Review, Office of the General Counsel, 5107 Leesburg Pike, Suite 2600, Falls Church, VA 22041.

If you do not submit your objection in a timely manner, you waive your opportunity to present such objection or otherwise appeal. Your objection must show proof that you are a Class Member, state the basis for any objection, and provide documentation to support the objection.

Fairness Hearing

Pursuant to 29 CFR 1614.204(g)(4), the Administrative Judge will hold a hearing to determine the fairness, adequacy, and/or reasonableness of the Settlement Agreement on November 5, 2004, at the Embassy Suites Hotels, 1900 Diagnoal Road, Alexandria, VA, 22314 at 10 a.m.

If the EEOC AJ grants final approval to this Settlement Agreement despite objections or a petition to vacate, you will only be permitted to appeal the determination of Final Approval if you filed an objection or a petition to vacate with the EEOC AJ. The EEOC AJ will determine the rights of the Class Members with respect to the matters covered by the Settlement Agreement, and all Class Members are bound by the judgment.

[FR Doc. 04–21603 Filed 9–24–04; 8:45 am]

BILLING CODE 4410–30–M

[1] The notice of resolution is dated September 15, 2004. This statement does not refer to the date of publication in the **Federal Register**.

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Syngenta AG, AstraZeneca PLC, Koniklijke Cooperatie Cosun U.A. and Advanta B.V. Competitive Impact Statement, Proposed Final Judgment and Complaint

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. section 16(b) through (h), that a proposed Final Judgment, Hold Separate Stipulation and Order, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America* v. *Syngenta AG, et al.,* Civil Case No. 04 CV–1442. On August 25, 2004, the United States filed a Complaint alleging that the proposed acquisition by Syngenta AG (''Syngenta'') of Advanta B.V. (''Advanta''), a seed company jointly owned by two European companies, would violate section 7 of the Clayton Act, 15 U.S.C. 18. The proposed Final Judgment, filed the same time as the Complaint, requires Syngenta to divest Advanta's world-wide sugar beet seed business. Copies of the Complaint, proposed Final Judgment, Hold Separate Stipulation and Order, and Competitive Impact Statement are available for inspection at the Department of Justice in Washington, DC in Suite 215 North, 325 7th Street, NW., Washington, DC 20530 (telephone 202/514–2692), and at the Clerk's Office of the U.S. Court for the District of Columbia, 333 Constitution Avenue, NW., Washington, DC 20001.

Public comment is invited within 60 days of the date of this notice. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to Roger W. Fones, Chief, Transportation, Energy, and Agriculture Section, Antitrust Division, U.S. Department of Justice, 325 7th Street, NW., Suite 500, Washington, DC 20530 (telephone: 202/307–6351).

J. Robert Kramer, II,

Director of Operations, Antitrust Division.

Competitive Impact Statement

Plaintiff United States of America (''United States''), pursuant to section 2(b) of the Antitrust Procedures and Penalties Act (''APPA'' or ''Tunney Act''), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

On May 11, 2004, Syngenta AG (''Syngenta''), Syngenta Crop Protection AG, AstraZeneca Holdings B.V., AstraZeneca PLC, Koninklijke Vanderhave Groep B.V., and Koninklijke Cooperatie Cosun U.A. entered into an agreement under which Syngenta would purchase all the assets of Advanta B.V. (''Advanta''), a seed company jointly owned by AstraZeneca Holdings B.V. and Koninklijke Vanderhave Groep, B.V. The United States filed a civil antitrust Complaint on August 25, 2004, seeking to enjoin the proposed acquisition. The Complaint alleges that the acquisition likely would substantially lessen competition in the market for sugar beet seeds suitable for growing in the United States, in violation of section 7 of the Clayton Act. As a result of this loss of competition, prices of sugar beet seeds likely would increase and fewer new or improved sugar beet seed varieties likely would be developed, to the detriment of purchasers of sugar beet seeds, sugar beet processors, and consumers of sugar beet-based products.

At the same time the Complaint was filed, the United States also filed a proposed Final Judgment and Hold Separate Stipulation and Order, which are designed to eliminate the anticompetitive effects of the acquisition. Under the proposed Final Judgment, which is explained more fully below, Syngenta is required divest the worldwide sugar beet seed business of Advanta. Under the terms of the proposed Final Judgment and Hold Separate Stipulation and Order, Syngenta will take certain steps to ensure that Advanta's sugar beet seed business is operated as a competitively independent, economically viable, and ongoing business concern that remains independent and uninfluenced by the consummation of the acquisition, and that competition is maintained during the pendency of the ordered divestiture.

The United States and Defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. Description of the Events Giving Rise to the Alleged Violation

A. Defendants and the Proposed Transaction

Syngenta is a corporation organized and existing under the laws of Switzerland, with its principal offices in Basel, Switzerland. Syngenta is the ultimate parent entity of Syngenta Crop Protection AG. Syngenta is engaged in the development, production, and sale of agricultural products, including pesticides and seeds. Syngenta's total sales in 2003 were approximately $6.6 billion. In 2003, Syngenta's sales of sugar beet seeds in the United States were approximately $10 million; its global sugar beet seed sales were $99 million.

AstraZeneca PLC is a private limited company with its headquarters in London, England. AstraZeneca PLC is the ultimate parent entity of AstraZeneca Holdings B.V. Koninklijke Cooperatie Cosun U.A. is a cooperative with its headquarters in Cosunpark 1, the Netherlands. Koninklijke Cooperatie Cosun U.A. is the ultimate parent entity of Koninklijke Vanderhave Groep B.V.

Advanta is a company incorporated in the Netherlands with its headquarters in Kapelle, the Netherlands. AstraZeneca Holdings B.V. and Koninklijke Vanderhave Groep B.V. each hold 50% of the shares of Advanta. Advanta sells various kinds of agricultural seeds throughout the world, with global sales of 444 million euros ($548 million) in 2003. Advanta sells sugar beet seeds in the United States through its business unit Interstate Seeds. Advanta also markets sugar beet seeds in the United States through collaborations with Holly Hybrids, Seedex, and Croplan. In 2003, Advanta directly and through these collaborations had sugar beet seed sales of about $7 million in the United States.

Syngenta's acquisition of Advanta, as initially agreed to by Defendants on May 11, 2004, would lessen competition substantially in the market for sugar beet seeds suitable for growing in the United States. This acquisition is the subject of the Complaint and proposed Final Judgment filed by the United States on August 25, 2004.

B. The Effects of the Transaction on Competition for Sugar Beet Seeds Suitable for Growing in the United States

Sugar beet seeds are used by growers to produce sugar beets, which in turn are sold to sugar beet processors, who convert them into sugar for human consumption. Sugar beet growers in the United States purchased $50 million worth of sugar beet seeds in 2003.

Sugar beets are grown under many different climatic and environmental conditions throughout the United States. These different growing regions require sugar beet varieties with different characteristics. A sugar beet seed company identifies desirable traits for each region and breeds those traits into new varieties.

Advanta and Syngenta each have invested extensively in sugar beet seed research and development programs over a number of decades. Syngenta has breeding facilities in Longmont, Colorado and in Western Europe. Advanta also has several breeding facilities, all in Europe. Both develop sugar beet varieties specifically for the unique growing conditions found in various regions of the United States. For example, a sugar beet seed variety that is suitable for cultivation in France is not likely, without further development, to be suitable or attractive to growers in Minnesota or Idaho. The seed companies have not been equally successful in developing seeds for the various growing regions of the United States, and they compete to improve their sales in each region by developing seeds with better disease resistance, yield per acre, and sugar content.

Developing marketable sugar beet seeds can take five to ten years. During this development period, the seed developer will conduct coded registration trials in the region where the beet is intended to be grown. The results of these field trials are used to determine which new varieties will be submitted to sugar beet processors for coded registration trials. Each sugar beet processor in the United States annually conducts coded registration trials to select varieties of sugar beet seeds to recommend to the growers in the processor's growing region. These trials take two to three years to complete. Sugar beet growers typically will select for purchase only seed varieties that have been tested and recommended by the sugar processors to which they intend to market their crops.

Sugar beet seed companies that have processor-approved varieties compete for sales to growers based upon price and characteristics desired by growers, for example, traits that lower production costs, offer higher yield per acre, or provide resistance to diseases and pests prevalent in the growers' geographic region.

Syngenta develops and sells sugar beet seeds in the United States under the brand name Hilleshog. Syngenta accounts for nearly 20% of all the sugar beets seed developed and sold in the United States. Advanta sells sugar beet seeds through its business unit,

Interstate Seeds, under the brand name Vanderhave. Sugar beet seeds bred from genetic material developed by Advanta are also sold in the United States by Holly Hybrids and other companies. Advanta-bred sugar beet seed account for more than 16% of the seeds sold in the United States.

The market in the United States for sugar beet seeds suitable for growing in the United States is highly concentrated. Syngenta and Advanta are two of only three significant firms that develop sugar beet seeds for cultivation in the United States. The market for sugar beet seeds suitable for growing in the United States will become substantially more concentrated if Syngenta acquires Advanta. Syngenta's acquisition of Advanta will lessen competition substantially and make more likely increased prices and a slower pace of innovation.

New entry is not likely to thwart these anticompetitive effects. Successful entry into the sugar beet seed business is difficult, time consuming, and costly. Developing a new sugar beet seed variety can take five to ten years. Completing the trial tests required by a sugar beet processing company for acceptance on the processor's approved list of varieties can take an additional two to three years.

III. Explanation of the Proposed Final Judgment

The divestiture requirement of the proposed Final Judgment will eliminate the anticompetitive effects of the acquisition in sugar beet seeds by establishing a new, independent, and economically viable competitor. The proposed Final Judgment requires Syngenta, within 90 days after the filing of the Complaint, or 5 days after notice of the entry of the Final Judgment by the Court, whichever is later, to divest, as a viable ongoing business, Advanta's worldwide sugar beet seed business. These assets include all tangible and intangible assets necessary to run Advanta's worldwide sugar beet seed operations, including research and development facilities, customer lists and contracts, all registered plant breeders rights, and licenses. The United States may extend the period of time available to Syngenta to complete the divestiture up to an additional 120 days.

The proposed Final Judgment requires divestment of Advanta's worldwide sugar beet seed business, including two major research facilities located in Europe that focus on sugar beet seeds: a facility in Rilland-Bath, the Netherlands; and a facility in Tienen, Belgium. At these facilities, Advanta also develops sugar beet seeds with characteristics desirable for production in the United States, such as beets that are resistant to diseases found in the U.S., but not in Europe. Advanta then contracts with a U.S.-based company to grow the varieties of seeds it intends for the U.S. market. Requiring the divestiture of Advanta's worldwide sugar beet seed business, including these European operations, will insure that the acquire will have the assets necessary to continue to develop sugar beet seeds suitable for growing in the United States, as well as to produce and sell those seeds.

The assets must be divested in such a way as to satisfy the United States in its sole discretion that the operations can and will be operated by the purchaser as a viable, ongoing business that can compete effectively in the relevant market. Defendants must take all reasonable steps necessary to accomplish the divestiture quickly and shall cooperate with prospective purchasers.

In the event that Syngenta does not accomplish the divestiture within the periods prescribed in the proposed Final Judgment, the Final Judgment provides that the Court will appoint a trustee selected by the United States to effect the divestiture. If a trustee is appointed, the proposed Final Judgment provides that Syngenta will pay all costs and expenses of the trustee. The trustee's commission will be structured so as to provide an incentive for the trustee based on the price obtained and the speed with which the divestiture is accomplished. After his or her appointment becomes effective, the trustee will file monthly reports with the Court and the United States setting forth his or her efforts to accomplish the divestiture. At the end of six months, if the divestiture has not been accomplished, the trustee and the United States will make recommendations to the Court, which shall enter such orders as appropriate to carry out the purpose of the trust, including extending the trust or the term of the trustee's appointment.

The divestiture provisions of the proposed Final Judgment will eliminate the anticompetitive effects of the acquisition on the market for sugar beet seeds suitable for growing in the United States.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in Federal Court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no prima facie effect in any subsequent private lawsuit that may be brought against Defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The United States and Defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty days of the date of publication of this Competitive Impact Statement in the **Federal Register**. All comments received during this period will be considered by the Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of the United States will be filed with the Court and published in the **Federal Register**.

Written comments should be submitted to: Roger W. Fones, Chief, Transportation, Energy & Agriculture Section, Antitrust Division, United States Department of Justice, 325 Seventh Street, NW., Suite 500, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against Defendants. The United States could have continued the litigation and sought preliminary and permanent injunctions against Syngenta's acquisition of Advanta. The United

States is satisfied, however, that the divestiture of assets described in the proposed Final Judgment will preserve competition for the development, production, and sale of sugar beet seeds suitable for growing in the United States.

VII. Standard of Review Under the APPA for the Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the Court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. 16(e)(1). In making that determination, the Court shall consider:

(A) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) The impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial. 15 U.S.C. 16(e)(1)(A) & (B). As the United States Court of Appeals for the District of Columbia Circuit has held, the APPA permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1448–62 (D.C. Cir. 1995).

''Nothing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. 16(e)(2). Thus, in conducting this inquiry, ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Senator Tunney).[1] Rather:

> [a]bsent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

United States v. *Mid-America Dairymen, Inc.,* 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980 (W.D. Mo. 1977).

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS, Inc.,* 858 F.2d 456, 462 (9th Cir. 1988) (citing *United States* v. *Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)); *see also Microsoft,* 56 F.3d at 1460–62. Courts have held that:

> [t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''*within the reaches of the public interest.*'' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[2]

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainly of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' '' *United States* v. *AT&T,* 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *Gillette,* 406 F. Supp. at 716), *aff'd sub nom. Maryland* v. *United States,* 460 U.S. 1001 (1983); *see also United States* v. *Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy).

Moreover, the Court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the Court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459. Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. *Id.* at 1459–60.

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment. Dated: September 14, 2004.

Respectfully submitted,

''/s/''

Angela L. Hughes, D.C. Bar # 303420.

Final Judgment

Whereas, plaintiff, United States of America, filed its Complaint on August 25, 2004, plaintiff and defendants, by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party regarding any issue of fact or law;

And whereas, the defendants agree to be bound by the provisions of this Final Judgment pending its approval by the Court;

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[1] *See United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975) (recognizing it was not the court's duty to settle; rather, the court must only answer ''whether the settlement achieved [was] within the reaches of the public interest''). A ''public interest'' determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed by the Department of Justice pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. *See* H.R. Rep. No. 93–1463, 93rd Cong., 2d Sess. 8–9 (1974), reprinted in 1974 U.S.C.C.A.N. 6535, 6538.

[2] Cf. BNS, 858 F.2d at 463 (holding that the court's ''ultimate authority under the [APPA] is limited to approving or disapproving the consent decree''); *Gillette,* 406 F. Supp. at 716 (noting that, in this way, the court is constrained to ''look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass''). *See generally Microsoft,* 56 F.3d at 1461 (discussing whether ''the remedies [obtained I the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest' '').

And whereas, the essence of this Final Judgment is the prompt and certain divestiture of defendant Advanta's worldwide sugar beet seed business to assure that competition is not substantially lessened;

And whereas, plaintiff requires defendant Syngenta to make a certain divestiture for the purpose of remedying the loss of competition alleged in the Complaint;

And whereas, the defendants have represented to the United States that the divestiture required below can and will be made and that the defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

Now therefore, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is *Ordered, Adjudged and Decreed:*

I. Jurisdiction

This Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states a claim upon which relief may be granted against the defendants under section 7 of the Clayton Act, as amended, 15 U.S.C. 18.

II. Definitions

As used in this Final Judgment:

A. ''Acquirer'' or ''Acquirers'' means Fox Paine & Company, LLC or any alternative entity or entities to whom the defendant Syngenta divests Advanta's Sugar Beet Seed Business.

B. ''Advanta'' means Advanta B.V., a company incorporated in The Netherlands with its headquarters in Kapelle, The Netherlands, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, joint ventures, and their directors, officers, managers, agents, and employees.

C. ''Advanta's Sugar Beet Seed Business'' means Advanta's business engaged in the research, development, licensing (as licensor or as licensee), production or sale of agricultural sugar beet seeds anywhere in the world, including the business currently conducted through Interstate Seeds, a business unit of Advanta USA, Inc., and also includes:

1. The assets set forth in Schedule A;

2. All tangible assets other than those listed in Schedule A that are used in connection with Advanta's worldwide sugar beet seed operations, including but not limited to all research and development activities; all manufacturing and agricultural equipment, tooling and fixed assets, personal property, sugar beet seed inventory, germplasm, materials, supplies, and other tangible property; all licenses, permits, and authorizations issued by any governmental organization relating to Advanta's world-wide sugar beet seed operations; all contracts, agreements, leases, commitments, certifications, and understandings relating to Advanta's worldwide sugar beet seed operations, including supply and distribution agreements; all customer lists, contracts, accounts, and credit records; all performance records and all other records relating to Advanta's research, development, licensing, production or sale of sugar beet seed worldwide, provided, however, that the Advanta sugar beet seed assets to be divested shall not include Advanta facilities or assets that are predominantly used: (1) In connection with operations related to Advanta's worldwide non-sugar beet seed activities; or (2) in connection with the carrying out of Advanta's company-wide administrative functions; and

3. All intangible assets that are utilized in connection with Advanta's worldwide sugar beet seed operations, including but not limited to all patents, registered plant breeders' rights and trademarks; licenses and sublicenses; trade names; goodwill; service marks; service names; technical information; know-how; trade secrets; drawings; blueprints; designs; design protocols; specifications for materials; specifications for parts and devices; safety procedures for the handling of materials and substances; all research data concerning historic and current research and development; quality assurance and control procedures; design tools and simulation capability; all manuals and technical information Advanta provides to its employees, customers, suppliers, agents or licensees; and all research data concerning historic and current research and development efforts, including but not limited to designs of experiments and the results of successful and unsuccessful designs and experiments.

D. ''AstraZeneca'' means AstraZeneca PLC, a private limited company with its headquarters in London, England, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures (including AstraZeneca Holdings, a joint owner of Advanta) and their directors, officers, managers, agents, and employees.

E. ''The defendants'' means (1) Advanta; (2) AstraZenece; (3) Koninklijke; and (4) Syngenta.

F. ''Fox Paine'' means Fox Paine & Company, LLC a corporation with headquarters in Foster City, California, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, joint ventures, and their directors, officers, managers, agents, and employees.

G. ''Koninklijke'' means Koninklijke Cooperatie Cosun U.A., a co-operative with its headquarters in Cosunpark 1, The Netherlands, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, joint ventures (including Koninklijke Vanderhave Groep B.V., a joint owner of Advanta), and their directors, officers, managers, agents, and employees.

H. ''Syngenta'' means Syngenta AG, a company incorporated in Switzerland, with headquarters in Basel, Switzerland, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, joint ventures, and their directors, officers, managers, agents, and employees.

III. Applicability

A. This Final Judgment applies to the defendants, as defined above, and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

B. The defendants shall require, as a condition of the sale or other disposition of all or substantially all of their assets or of lesser business units or assets that include Advanta's Sugar Beet Seed Business, that the purchaser agree to be bound by the provisions of this Final Judgment, provided, however, that Syngenta need not obtain agreement from the Acquirer(s).

IV. Divestiture

A. Defendant Syngenta is ordered and directed, within ninety (90) calendar days after the date of filing of the Complaint in this matter, or five (5) calendar days after notice of the entry of this Final Judgment by the Court, whichever is later, to divest Advanta's Sugar Beet Seed Business in a manner consistent with this Final Judgment to an Acquirer acceptable to the United States in its sole discretion, except that as to the patents listed in Schedule A 2(b), defendant Syngenta will grant to the Acquirer an exclusive, royalty-free license for use in connection with sugar beets for the life of the patient plus any extensions. The United States, in its sole discretion, may agree to one or more extensions of this time period, not to exceed one hundred and twenty (120) calendar days in total, and shall notify the Court in each such circumstance. Defendant Syngenta agrees to use its best efforts to divest the Advanta Sugar

Beet Seed Business as expeditiously as possible.

B. In the event that the United States objects to Fox Paine as the Acquirer of Advanta's Sugar Beet Seed Business, or if for any other reason defendant Syngenta does not divest Advanta's Sugar Beet Seed Business to Fox Paine, defendant Syngenta promptly shall make known, by usual and customary means, the availability of Advanta's Sugar Beet Seed Business. Defendant Syngenta shall inform any person making inquiry regarding a possible purchase of Advanta's Sugar Beet Seed Business that it is being divested pursuant to this Final Judgment and provide that person with a copy of this Final Judgment. Syngenta shall offer to furnish to each prospective Acquirer, subject to customary confidentiality assurances, all information and documents relating to Advanta's Sugar Beet Seed Business customarily provided in a due diligence process except such information or documents subject to the attorney-client or work-product privileges. Syngenta shall make available such information to the United States at the same time that such information is made available to any other person.

C. Syngenta shall provide the Acquirer of Advanta's Sugar Beet Seed Business and the United States information relating to the personnel involved in the research, development, licensing, production, or sale of Advanta's sugar beet seeds anywhere in the world to enable the Acquirer to make offers of employment to these individuals. Syngenta will not interfere with any negotiations by the Acquirer to employ any of the defendants' employees whose responsibilities wholly or predominantly include the research, development, licensing, production, or sale of the products of Advanta's Sugar Beet Seed Business.

D. Syngenta shall permit prospective Acquirers of Advanta's Sugar Beet Seed Business to have reasonable access to personnel and to make inspections of the physical facilities of Advanta's Sugar Beet Seed Business; access to any and all environmental, zoning, and other permit documents and information; and access to any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

E. Syngenta shall warrant to the Acquirer of Advanta's Sugar Beet Seed Business that each asset will be operational on the date of divestiture.

F. The defendants shall not take any action that will impede in any way the operation or divestiture of Advanta's Sugar Beet Seed Business.

G. Syngenta shall warrant to the Acquirer of Advanta's Sugar Beet Seed Business that there are no material defects in the environmental, zoning, or other permits pertaining to the operation of Advanta's Sugar Beet Seed Business, and that following the sale of Advanta's Sugar Beet Seed Business, the defendants will not undertake, directly or indirectly, any challenges to the environmental, zoning, or other permits relating to the operation of Advanta's Sugar Beet Seed Business.

H. Unless the United States otherwise consents in writing, the divestiture pursuant to section IV, or by trustee appointed pursuant to section V, of this Final Judgment, shall include all of Advanta's Sugar Beet Seed Business, and shall be accomplished in such a way as to satisfy the United States, in its sole discretion, that Advanta's Sugar Beet Seed Business can and will be used by the Acquirer as part of a viable, ongoing business, engaged in researching, developing, licensing, producing and selling sugar beet seeds in the United States. Divestiture of Advanta's Sugar Beet Seed Business may be made to one or more Acquirers, provided that it is demonstrated to the sole satisfaction of the United States that the divested Sugar Beet Seed Business will remain viable and that divestiture of that business will remedy the competitive harm alleged in the Complaint. The divestiture, whether pursuant to section IV or section V of this Final Judgment:

1. Shall be made to an Acquirer or Acquirers that, in the United State's sole judgment, has the managerial intent and capability (including the necessary operational, technical and financial capability) to compete effectively in the research, development, licensing, production, and sale of sugar beet seeds in the United States; and

2. Shall be accomplished so as to satisfy the United States, in its sole discretion, that none of the terms of any agreement between an Acquirer or Acquirers and the defendants give the defendants the ability unreasonably to raise the Acquirer's costs, to lower the Acquirer's efficiency, or otherwise to interfere in the ability of the Acquirer to compete effectively.

V. Appointment of Trustee

A. If defendant Syngenta has not divested Advanta's Sugar Beet Seed Business within the time period specified in section IV(A), Syngenta shall notify the United States of that fact in writing. Upon application of the United States, which shall first have consulted with the European Commission, the Court shall appoint a trustee selected by the United States, and approved by the Court to effect the divestiture of Advanta's Sugar Beet Seed Business.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell Advanta's Sugar Beet Seed Business. The trustee shall have the power and authority to accomplish the divestiture to an Acquirer acceptable to the United States in its sole discretion at such price and on such terms as are then obtainable upon reasonable effort by the trustee, subject to the provisions of section IV, V, and VI of this Final Judgment, and shall have such other powers as this Court deems appropriate. Subject to section V(D) of this Final Judgment, the trustee may hire at the cost and expense of defendant Syngenta any investment bankers, attorneys, or other agents, who shall be solely accountable to the trustee, reasonably necessary in the trustee's judgment to assist in the divestiture.

C. The defendants shall not object to a sale of Advanta's Sugar Beet Seed Business by the trustee on any ground other than the trustee's malfeasance. Any such objections by the defendants must be conveyed in writing to the United States and the trustee within ten (10) calendar days after the trustee has provided the notice required under section VI.

D. The trustee shall serve at the cost and expense of Syngenta, on such terms and conditions as the United States approves, and shall account for all monies derived from the sale of Advanta's Sugar Beet Seed Business and for all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid Syngenta and the trust shall then be terminated. The compensation of the trustee and any professionals and agents retained by the trustee shall be reasonable in light of the value of Advanta's Sugar Beet Seed Business and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished, but timeliness is paramount.

E. Defendants shall use their best efforts to assist the trustee in accomplishing the required divestiture. The trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have full and complete access to the

personnel, books, records, and facilities of Advanta's Sugar Beet Seed Business, and the defendants shall develop financial and other information relevant to such business as the trustee may reasonably request, subject to reasonable protection for trade secret or other confidential research, development, or commercial information. The defendants shall take no action to interfere with or to impede the trustee's accomplishment of the divestiture.

F. After its appointment, the trustee shall file monthly reports with the United States and the Court setting forth the trustee's efforts to accomplish the divestiture ordered under this Final Judgment. To the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in Advanta's Sugar Beet Seed Business and shall describe in detail each contact with any such person. The trustee shall maintain full records of all efforts made to divest Advanta's Sugar Beet Seed Business.

G. If the trustee has not accomplished such divestiture within six months after its appointment, the trustee shall promptly file with the Court a report setting forth (1) The trustee's efforts to accomplish the required divestiture; (2) the reasons, in the trustee's judgment, why the required divestiture has not been accomplished; and (3) the trustee's recommendations. To the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report to the United States who shall have the right to make additional recommendations consistent with the purpose of the trust. The Court thereafter shall enter such orders as it shall deem appropriate to carry out the purpose of the Final Judgment, which may, if necessary, include, without limitation, extending the trust and the term of the trustee's appointment by a period requested by the United States.

VI. Notice of Proposed Divestiture

A. Within two (2) business days following execution of a definitive divestiture agreement, defendant Syngenta or the trustee, whichever is then responsible for effecting the divestiture required herein, shall notify the United States of any proposed divestiture required by section IV or V of this Final Judgment. If the trustee is responsible, it shall similarly notify Syngenta. The notice shall set forth the details of the proposed divestiture and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in Advanta's Sugar Beet Seed Business, together with full details of the same.

B. Within fifteen (15) calendar days of receipt by the United States of such notice, the United States may request from the defendants, the proposed Acquirer, any other third party, or the trustee if applicable, additional information concerning the proposed divestiture, the proposed Acquirer and any other potential Acquirer. The defendants and the trustee shall furnish any additional information requested within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree.

C. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after the United States has been provided the additional information requested from the defendants, the proposed Acquirer, any third party, and the trustee, whichever is later, the United States shall provide written notice to defendant Syngenta and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States provides written notice that it does not object, the divestiture may be consummated, subject only to defendants' limited right to object to the sale under section V(C) of this Final Judgment. Absent written notice that the United States does not object to the proposed Acquirer or upon objection by the United States, a divestiture proposed under section IV or section V shall not be consummated. Upon objection by the defendants under section V(C), a divestiture proposed under section V shall not be consummated unless approved by the Court.

VII. Financing

The defendants shall not finance all or any part of any purchase made pursuant to section IV or V of this Final Judgment.

VIII. Hold Separate

Until the divestiture required by this Final Judgment has been accomplished, the defendants shall take all steps necessary to comply with the Hold Separate Stipulation and Order entered by this Court. The defendants shall take no action that would jeopardize the divestiture order by this Court.

IX. Affidavits

A. Within twenty (20) calendar days of the filing of the Complaint in this matter, and every thirty (30) calendar days thereafter until the divestiture has been completed under section IV or V, the defendants shall deliver to the United States an affidavit that describes the fact and manner of its compliance with section IV or V of this Final Judgment. Each such affidavit shall include the name, address and telephone number of each person who, during the preceding thirty days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in Advanta's Sugar Beet Seed Business, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts Syngenta has taken to solicit buyers for Advanta's Sugar Beet Seed Business, and to provide required information to any prospective Acquirer, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by the United States to information provided by the defendants, including limitations on the information, shall be made within fourteen (14) calendar days of receipt of such affidavit.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, the defendants shall deliver to the United States an affidavit that describes in reasonable detail all actions the defendants have taken and all steps the defendants have implemented on an ongoing basis to comply with section VIII of this Final Judgment. The defendants shall deliver to the United States an affidavit describing any changes to the efforts and actions outlined in the defendants' earlier affidavits filed pursuant to this section within fifteen (15) calendar days after the change is implemented.

C. Defendant Syngenta shall keep all records of all efforts made to preserve Advanta's Sugar Beet Seed Business and to divest Advanta's Sugar Beet Seed Business until one year after such divestiture has been completed.

X. Compliance Inspections

A. For purposes of determining or securing compliance with this Final Judgment, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time

duly authorized representatives of the United States Department of Justice, including consultants and other persons retained by the United States, shall, upon written request of a duly authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the defendants, be permitted:

1. Access during the defendants' office hours to inspect and copy, or at the United States' option, to require the defendants to provide copies of, all books, ledgers, accounts, records and documents in the possession, custody, or control of the defendants, relating to any matters contained in this Final Judgment; and

2. To interview, either informally or on the record, the defendants' officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by the defendants.

B. Upon the written request of a duly authorized representative of the Assistant Attorney General in charge of the Antitrust Division, the defendants shall submit written reports, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this section shall be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by the defendants to the United States, the defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and the defendants mark each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure,'' then the United States shall give the defendants ten (10) calendar days notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XI. No Reacquisition

Defendants Syngenta and Advanta may not reacquire any part of Advanta's Sugar Beet Seed Business during the term of this Final Judgment.

XII. Retention of Jurisdiction

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XIII. Expiration of Final Judgment

Unless this Court grants an extension, this Final Judgment shall expire ten years from the date of its entry.

XIV. Public Interest Determination

Entry of this Final Judgment is in the Public interest.

Date:

Court approval subject to procedures of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16.

United States District Judge

BILLING CODE 4410–11–M

SCHEDULE A

1. FACILITIES TO BE DIVESTED TO THE ACQUIRER

At the Acquirer's option, all assets utilized in Advanta's Sugar Beet Seed Business located at:

West Fargo, North Dakota, USA

Kapelle, Netherlands

Rilland, Netherlands

Bergen Op Zoom, Netherlands

Tienen, Belgium

Nerac, France

Soissons, France

Gomiecourt, France

La Reunion, France

Boothby, Lincolnshire, England

Sleaford, Lincolnshire, England

Beijing, China

Cesena, Italy

Sopronhorpacs, Hungary

Leszno, Poland

Poznan, Poland

Nitra, Slovakia

Kiev, Ukraine

Moscow, Russia

Las Condes, Santiago, Chile

Paine, Chile

Marchena, Andalucia, Spain

Zaragoza, Aragon, Spain

SCHEDULE A

2(a). SUGAR BEET PATENTS TO BE DIVESTED TO THE ACQUIRER

COUNTRY / TERRITORY	FILING DATE	APPLICATION NO.	GRANT DATE	PATENT NO.	OWNER	TITLE
EP	08/18/1997	EP19970936530	11/12/2003	0938574	SES EUROPE N.V. S.A.	P15 OR METHOD FOR INDUCING VIRAL RESISTANCE INTO A PLANT (BNYVV RESISTANCE)
WO	8/18/1997	PCT/BE97/00092		W0 00/44915	SES EUROPE N.V. S.A	P15 OR METHOD FOR INDUCING VIRAL RESISTANCE INTO A PLANT (BNYVV RESISTANCE)
HU	8/18/1997	P-9904271			SES EUROPE N.V. S.A	P15 OR METHOD FOR INDUCING VIRAL RESISTANCE INTO A PLANT (BNYVV RESISTANCE)
US	8/18/1997	09/242,216	10/2/2001	6,297,428	SES EUROPE N.V. S.A	P15 OR METHOD FOR INDUCING VIRAL RESISTANCE INTO A PLANT (BNYVV RESISTANCE)
EA	8/18/1997	199900144			SES EUROPE N.V. S.A SES	P15 OR METHOD FOR INDUCING VIRAL RESISTANCE INTO A PLANT (BNYVV RESISTANCE)
SK	8/18/1997	PV 197-99			SES EUROPE N.V. S.A	P15 OR METHOD FOR INDUCING VIRAL RESISTANCE INTO A PLANT (BNYVV RESISTANCE)
UA	8/18/1997	99020962/M			SES EUROPE N.V. S.A	P15 OR METHOD FOR INDUCING VIRAL RESISTANCE INTO A PLANT (BNYVV RESISTANCE)
PL	8/18/1997	P-331837			SES EUROPE N.V. S.A	P15 OR METHOD FOR INDUCING VIRAL RESISTANCE INTO A PLANT (BNYVV RESISTANCE)
EP	7/9/1999	98870159.5		EP 1144551A	SES EUROPE N.V. S.A	METHOD OF GENETIC MODIFICATION OF A WILD TYPE VIRAL SEQUENCE
WO	7/9/1999	PCT/BE99/00089		W0 00/03025	SES EUROPE N.V. S.A	METHOD OF GENETIC MODIFICATION OF A WILD TYPE VIRAL SEQUENCE
US	7/9/1999	09/743,905			SES EUROPE N.V. S.A	METHOD OF GENETIC MODIFICATION OF A WILD TYPE VIRAL SEQUENCE

SCHEDULE A

COUNTRY / TERRITORY	FILING DATE	APPLICATION NO.	GRANT DATE	PATENT NO.	OWNER	TITLE
WO	01/26/2000	PCT/EP00/00609		W0 00/44915	SES EUROPE N.V. S.A	METHOD FOR CONVEYING BNYVV RESISTANCE TO SUGAR BEET PLANTS (RNA1)
EA	01/26/2000	200100820			SES EUROPE N.V. S.A	METHOD FOR CONVEYING BNYVV RESISTANCE TO SUGAR BEET PLANTS (RNA1)
EE	01/26/2000	0390/01 PC			SES EUROPE N.V. S.A	METHOD FOR CONVEYING BNYVV RESISTANCE TO SUGAR BEET PLANTS (RNA1)
HU	01/26/2000	P0105157			SES EUROPE N.V. S.A	METHOD FOR CONVEYING BNYVV RESISTANCE TO SUGAR BEET PLANTS (RNA1)
SK	01/26/2000	PV 1057-2001			SES EUROPE N.V. S.A	METHOD FOR CONVEYING BNYVV RESISTANCE TO SUGAR BEET PLANTS (RNA1)
US	01/26/2000	09/889,938			SES EUROPE N.V. S.A	METHOD FOR CONVEYING BNYVV RESISTANCE TO SUGAR BEET PLANTS (RNA1)
UA	01/26/2000	2001085927			SES EUROPE N.V. S.A	METHOD FOR CONVEYING BNYVV RESISTANCE TO SUGAR BEET PLANTS (RNA1)
PL	01/26/2000	P-349573			SES EUROPE N.V. S.A	METHOD FOR CONVEYING BNYVV RESISTANCE TO SUGAR BEET PLANTS (RNA1)
EP	01/27/1999	992002360.0			SES EUROPE N.V. S.A	METHOD FOR CONVEYING BNYVV RESISTANCE TO SUGAR BEET PLANTS (RNA1)
US	7/17/2000	09/617,659			SES EUROPE N.V. S.A	METHOD FOR OBTAINING A GENETICALLY MODIFIED PLANT (NAKED DNA)
EP	10/12/2000	00870230.0			SES EUROPE N.V. S.A	METHOD FOR OBTAINING A GENETICALLY MODIFIED PLANT (NAKED DNA)
WO	11/30/2001	PCT/GB01/05321			SES EUROPE N.V. S.A	T227-1 FLANKING SEQUENCES

SCHEDULE A

COUNTRY / TERRITORY	FILING DATE	APPLICATION NO.	GRANT DATE	PATENT NO.	OWNER	TITLE
US	11/30/2001	10/415,602			SES EUROPE N.V. S.A	T227-1 FLANKING SEQUENCES
EP	11/30/2001	01998654.6			SES EUROPE N.V. S.A	T227-1 FLANKING SEQUENCES
WO	6/25/2002	PCT/US02/19860			SES EUROPE N.V. S.A	DOUBLE FRUCTAN BEETS
US	6/25/2002	10/415,686			SES EUROPE N.V. S.A	DOUBLE FRUCTAN BEETS
EP	6/25/2002	EP02746637.4			SES EUROPE N.V. S.A	DOUBLE FRUCTAN BEETS

2(b). PATENTS WITH SUGAR BEET APPLICABILITY TO BE LICENSED TO THE ACQUIRER

COUNTRY / TERRITORY	FILING DATE	APPLICATION NO.	GRANT DATE	PATENT NO.	OWNER	TITLE
NL	2/7/1996 (priority)	1002275 (priority)	8/8/1997	1002275	Advanta Seeds B.V	MODIFICATION OF POLYSACCHARIDES
WO	2/7/1997	PCT/NL97/00039		W0 97/29186		
CA	2/7/1997	2,245,818				
EP	2/7/1997	97902728.1				
US CNT	3/29/2002	10/112,797				
EP	12/28/1992	92204098.5			Advanta Seeds B.V.	METHOD FOR OBTAINING TRANSGENIC PLANTS SHOWING MODIFIED FRUCTAN PATTERN
NL	4/15/1993	9300646				
WO	12/28/1993	PCT/NL93/00279				
EP	12/28/1993	94904344.2				
PL	12/28/1993	309606	6/30/2000	178789		
RU	12/28/1993	951156830	7/20/2000	2152997		
UA	12/28/1993	95063042				
US	8/3/1995	08/446,834	2/15/2000	6,025,542		
US CON	4/13/1998	09/059,484	11/16/1999	5,986,173		
NL	7/8/1994	9401140			Advanta Seeds B.V	PRODUCTION OF OLIGOSACCHARIDES IN TRANSGENIC PLANTS
NL	4/5/1995	1000064				
WO	7/7/1995	PCT/NL95/00241				
AU	7/7/1995	28091/95	5/6/1999	701190		
US CON	2/5/1998	09/019,385	11/14/2000	6,147,280		
US CON	3/24/2000	09/534,861				
US	5/2/1997	08/765,876				
NZ	7/7/1995	288753	6/8/2000	288753		
EP	7/7/1995	95923598				
JP	7/7/1995	50423496				

SCHEDULE A

3. SUGAR BEET TRADEMARKS TO BE DIVESTED TO THE ACQUIRER

Owner	Territory	Mark	Status	Registration number (Application number)	Registration date (Application date)
Advanta Seeds B.V.	China	VDH LOGO	Registered	581792	10 Feb 92
Advanta Seeds B.V.	China	VANDERHAVE LOGO	Registered	581791	28 May 02
D.J. Van derHave B.V.	Denmark	VANDERHAVE LOGO	Registered	8771/92	25 Sep 92
Advanta Seeds B.V.	Finland	VANDERHAVE LOGO	Registered	119724	05 Jun 92
Advanta Seeds B.V.	Finland	VDH LOGO	Registered	122449	05 Oct 92
Advanta Seeds B.V.	Norway	VANDERHAVE LOGO	Registered	152458	24 Sep 92
Advanta Seeds B.V.	Norway	VDH LOGO	Registered	152459	24 Sep 92
Advanta Seeds B.V.	Sweden	VDH LOGO	Registered	233845	30 Apr 92
Advanta Seeds B.V.	Sweden	VANDERHAVE LOGO	Registered	235329	29 May 92
Advanta Seeds B.V.	Argentina	VDH LOGO	Application	2438965	24 Jun 03
Advanta Seeds B.V.	Argentina	VANDERHAVE LOGO	Registered	1445900	30 Jun 93
Advanta Seeds B.V.	Austria	VANDERHAVE LOGO	Registered	513123	19 May 87
Advanta Seeds B.V.	Austria	VDH LOGO	Registered	513122	19 May 87
Advanta Seeds B.V.	Belarus	VDH LOGO	Registered	513122	19 May 87
Advanta Seeds B.V.	Belarus	VANDERHAVE LOGO	Registered	513123	19 May 87
Advanta Seeds B.V.	Benelux	VDH LOGO	Registered	334343	23 Jul 75
Advanta Seeds B.V.	Benelux	VANDERHAVE LOGO	Registered	334342	23 Jul 75

SCHEDULE A

Owner	Territory	Mark	Status	Registration number (Application number)	Registration date (Application date)
Advanta Seeds B.V.	Benelux	VDH LOGO + BG-SUPER	Registered	334344	30 Jul 75
Advanta Seeds B.V.	Benelux	VDH LOGO TURBO QUATTRO	Registered	419970	17 Jun 86
Advanta Seeds B.V.	Benelux	VDH LOGO + QUATTRO	Registered	420058	17 Jun 86
Advanta Seeds B.V.	Benelux	VDH + BAAL	Registered	407612	12 Apr 85
Advanta Seeds B.V.	Bosnia and	VANDERHAVE LOGO	Registered	513123	19 May 87
Advanta Seeds B.V.	Bosnia and	VDH LOGO	Registered	513122	19 May 87
Advanta Seeds B.V.	Bulgaria	VDH LOGO	Registered	513122	19 May 87
Advanta Seeds B.V.	Bulgaria	VANDERHAVE LOGO	Registered	513123	19 May 87
Advanta Seeds B.V.	Croatia	VANDERHAVE LOGO	Registered	513123	19 May 87
Advanta Seeds B.V.	Croatia	VDH LOGO	Registered	513122	19 May 87
Advanta Seeds B.V.	Czech Republic	VDH LOGO	Registered	513122	19 May 87
Advanta Seeds B.V.	Czech Republic	VANDERHAVE LOGO	Registered	513123	19 May 87
Advanta Seeds B.V.	Estonia	VDH LOGO	Registered	15880	01 Jun 95
Advanta Seeds B.V.	Estonia	VANDERHAVE LOGO	Registered	15652	04 May 95
Advanta Seeds B.V.	France	VDH LOGO	Registered	513122	19 May 87
Advanta Seeds B.V.	France	VANDERHAVE LOGO	Registered	513123	19 May 87
Advanta Seeds B.V.	Germany	VANDERHAVE LOGO	Registered	513123	19 May 87
Advanta Seeds B.V.	Germany	VDH LOGO	Registered	513122	17 Aug 90

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Owner	Territory	Mark	Status	Registration number (Application number)	Registration date (Application date)
Advanta Seeds B.V.	Germany	VANDERHAVE LOGO	Registered	513123	19 May 87
Advanta Seeds B.V.	Germany	VDH LOGO	Registered	513122	19 May 87
Advanta Seeds B.V.	Hungary	VANDERHAVE LOGO	Registered	513123	19 May 87
Advanta Seeds B.V.	Hungary	VDH LOGO	Registered	513122	19 May 87
Advanta Seeds B.V.	India	VDH LOGO	Application	594204B	08 Apr 93
Advanta Seeds B.V.	International	VDH LOGO	Registered	513122	19 May 87
Advanta Seeds B.V.	International	VANDERHAVE LOGO	Registered	513123	19 May 87
Advanta Seeds B.V.	Ireland	VANDERHAVE LOGO	Registered	144244	31 Jan 91
Advanta Seeds B.V.	Ireland	VDH LOGO	Registered	144245	31 Jan 91
Advanta Seeds B.V.	Italy	VDH LOGO	Registered	513122	19 May 87
Advanta Seeds B.V.	Italy	VANDERHAVE LOGO	Registered	513123	19 May 87
Advanta Seeds B.V.	Japan	VANDERHAVE LOGO	Registered	2545967	30 Jun 93
Advanta Seeds B.V.	Japan	VDH LOGO	Registered	2577323	30 Sep 93
Advanta Seeds B.V.	Kazakhstan	VANDERHAVE LOGO	Registered	513123	19 May 87
Advanta Seeds B.V.	Kazakhstan	VDH LOGO	Registered	513122	19 May 87
Advanta Seeds B.V.	Korea, Democratic	VANDERHAVE LOGO	Registered	513123	19 May 87
Advanta Seeds B.V.	Latvia	VDH LOGO	Registered	M31122	20 Nov 95
Advanta Seeds B.V.	Latvia	VANDERHAVE LOGO	Registered	M31358	20 Nov 95
Advanta Seeds B.V.	Lithuania	VDH LOGO	Registered	21380	18 Jan 93

SCHEDULE A

Owner	Territory	Mark	Status	Registration number (Application number)	Registration date (Application date)
Advanta Seeds B.V.	Lithuania	VANDERHAVE LOGO	Registered	21373	18 Jan 93
Advanta Seeds B.V.	Macedonia	VDH LOGO	Registered	513122	19 May 87
Advanta Seeds B.V.	Macedonia	VANDERHAVE LOGO	Registered	513123	19 May 87
Advanta Seeds B.V.	Moldova	VDH LOGO	Registered	513122	19 May 87
Advanta Seeds B.V.	Moldova	VANDERHAVE LOGO	Registered	513123	19 May 87
Advanta Seeds B.V.	Morocco	VANDERHAVE LOGO	Registered	513123	19 May 87
Advanta Seeds B.V.	Morocco	VDH LOGO	Registered	513122	19 May 87
Advanta Seeds B.V.	Portugal	VANDERHAVE LOGO	Registered	513123	19 May 87
Advanta Seeds B.V.	Portugal	VDH LOGO	Registered	513122	19 May 87
Advanta Seeds B.V.	Romania	VDH LOGO	Registered	513122	19 May 87
Advanta Seeds B.V.	Romania	VANDERHAVE LOGO	Registered	513123	19 May 87
Advanta Seeds B.V.	Russian Federation	VANDERHAVE LOGO	Registered	513123	19 May 87
Advanta Seeds B.V.	Russian Federation	VDH LOGO	Registered	513122	19 May 87
Advanta Seeds B.V.	Slovakia	VANDERHAVE LOGO	Registered	513123	19 May 87
Advanta Seeds B.V.	Slovakia	VDH LOGO	Registered	513122	19 May 87
Advanta Seeds B.V.	Slovenia	VDH LOGO	Registered	513122	19 May 87
Advanta Seeds B.V.	Slovenia	VANDERHAVE LOGO	Registered	513123	19 May 87
Advanta Seeds B.V.	Spain	VDH LOGO	Registered	513122	19 May 87
Advanta Seeds B.V.	Spain	VANDERHAVE LOGO	Registered	513123	19 May 87

SCHEDULE A

Owner	Territory	Mark	Status	Registration number (Application number)	Registration date (Application date)
Advanta Seeds B.V.	Switzerland	VDH LOGO	Registered	513122	19 May 87
Advanta Seeds B.V.	Switzerland	VANDERHAVE LOGO	Registered	513123	19 May 87
Advanta Seeds B.V.	Turkey	VANDERHAVE LOGO	Registered	162697	29 Jun 95
Advanta Seeds B.V.	Turkey	VDH LOGO	Registered	162485	29 Jun 95
Advanta Seeds B.V.	Ukraine	VDH LOGO	Registered	513122	19 May 87
Advanta Seeds B.V.	Ukraine	VANDERHAVE LOGO	Registered	513123	19 May 87
Advanta Seeds B.V.	U.K.	VDH LOGO	Registered	1454536	01 Feb 91
Advanta Seeds B.V.	U.K.	VANDERHAVE LOGO	Registered	1454538	01 Feb 91
Advanta Seeds B.V.	U.S.A.	VDH LOGO	Registered	1596720	15 May 90
Advanta Seeds B.V.	Uzbekistan	VDH LOGO	Registered	513122	19 May 87
Advanta Seeds B.V..	Uzbekistan	VANDERHAVE LOGO	Registered	513123	19 May 87
SES Europe N.V .S.A.	Benelux	'KIEMEND ZAAD'(IMAGE)	Registered	313523	29 Nov 72
SES Europe N.V .S.A.	Bosnia Herzegovina	'KIEMEND ZAAD'(IMAGE)	Registered	R394179	29 Nov 72
SES Europe N.V .S.A.	Germany	'KIEMEND ZAAD'(IMAGE)	Registered	R394179	29 Nov 72
SES Europe N.V .S.A.	France	'KIEMEND ZAAD'(IMAGE)	Registered	R394179	29 Nov 72
SES Europe N.V .S.A.	International (WIPO)	'KIEMEND ZAAD'(IMAGE)	Registered	R394179	29 Nov 72
SES Europe N.V .S.A.	Italy	'KIEMEND ZAAD'(IMAGE)	Registered	R394179	29 Nov 72
SES Europe N.V .S.A.	Yugoslavia	'KIEMEND ZAAD'(IMAGE)	Registered	R394179	29 Nov 72

SCHEDULE A

Owner	Territory	Mark	Status	Registration number (Application number)	Registration date (Application date)
SES Europe N.V .S.A.	Morocco	'KIEMEND ZAAD'(IMAGE)	Registered	R394179	29 Nov 72
SES Europe N.V .S.A.	Austria	'KIEMEND ZAAD'(IMAGE)	Registered	R394179	29 Nov 72
SES Europe N.V .S.A.	Portugal	'KIEMEND ZAAD'(IMAGE)	Registered	R394179	29 Nov 72
SES Europe N.V .S.A.	Spain	'KIEMEND ZAAD'(IMAGE)	Registered	R394179	29 Nov 72
SES Europe N.V .S.A.	Switzerland	'KIEMEND ZAAD'(IMAGE)	Registered	R394179	29 Nov 72

SCHEDULE A

4. SUGAR BEET PLANT BREEDER RIGHTS TO BE DIVESTED TO THE ACQUIRER

Species	Variety name	Registered owner	Country	Registration number (Application Number)	Registration date (Application date)	Status
Sugarbeet	Stru 2906	Hermann Strube	Community Plant Variety Office (CPVO)	(2002/0132)	(07.03.02)	Application pending
Sugarbeet	Dieck 3903	Dieckmann U.	CPVO	(2002/0116)	(28.02.02)	Application pending
Sugarbeet	Stru 3903	Hermann Strube	CPVO	(2002/0133)	(07.03.02)	Application pending
Sugarbeet	Dieck 12	Dieckmann U.	CPVO	8084	06.08.01	Granted
Sugarbeet	Dieck 13	Dieckmann U.	CPVO	9675	15.07.02	Granted
Sugarbeet	Dieck 24	Dieckmann U.	CPVO	9677	15.07.02	Granted
Sugarbeet	Dieck 28	Dieckmann U.	CPVO	9678	15.07.02	Granted
Sugarbeet	Dieck 29	Dieckmann U.	CPVO	9676	15.07.02	Granted
Sugarbeet	Stru 2901	Dr Hermann Strube	CPVO	10049	23.09.02	Granted
Sugarbeet	Stru 2902	Dr Hermann Strube	CPVO	10050	23.09.02	Granted
Sugarbeet	Stru 2903	Hermann Strube	CPVO	10547	10.02.03	Granted
Sugarbeet	Stru 4904	Hermann Strube	CPVO	(1999/1837)	(15.12.99)	Application pending
Sugarbeet	Stru 4903	Hermann Strube	CPVO	(1999/1836)	(15.12.99)	Application pending
Sugarbeet	F99201	Van der Have Sugar Beet Seed	CPVO	8080	06.08.01	Granted
Sugarbeet	F99202	Van der Have Sugar Beet Seed	CPVO	9067	02.04.02	Granted
Sugarbeet	F99203	Van der Have Sugar Beet Seed	CPVO	9068	02.04.02	Granted
Sugarbeet	M99202	Van der Have Sugar Beet Seed	CPVO	8079	06.08.01	Granted
Sugarbeet	M99401	Van der Have Sugar Beet Seed	CPVO	9664	15.07.02	Granted
Sugarbeet	M99402	Van der Have Sugar Beet Seed	CPVO	8203	06.08.01	Granted
Sugarbeet	F01204	Van der Have Sugar Beet Seed	CPVO	(2001/1309)	(13.08.01)	Application pending
Sugarbeet	SES001	SES Europe N.V. S.A.	CPVO	(2001/0635)	(06.04.01)	Application pending
Sugarbeet	SES002	SES Europe N.V. S.A.	CPVO	(2001/0636)	(06.04.01)	Application pending
Sugarbeet	SES003	SES Europe N.V. S.A.	CPVO	(2001/0637)	(06.04.01)	Application pending
Sugarbeet	SES004	SES Europe N.V. S.A.	CPVO	(2001/0638)	(06.04.01)	Application pending
Sugarbeet	SES005	SES Europe N.V. S.A.	CPVO	(2001/0639)	(06.04.01)	Application pending
Sugarbeet	SES006	SES Europe N.V. S.A.	CPVO	(2001/0640)	(06.04.01)	Application pending
Sugarbeet	SES007	SES Europe N.V. S.A.	CPVO	(20010641)	(06.04.01)	Application pending
Sugarbeet	SES008	SES Europe N.V. S.A.	CPVO	()2001/0642	(06.04.01)	Application pending
Sugarbeet	SES009	SES Europe N.V. S.A.	CPVO	(2001/0643)	(06.04.01)	Application pending

BILLING CODE 4410–11–C

Certificate of Service

I hereby certify that I have caused a copy of the foregoing Complaint, proposed final Judgment, and Hold Separate Stipulation and Order to be served on counsel for defendants in this matter in the manner set forth below:

By first class mail, postage prepaid:

Counsel for Defendant Syngenta AG:

Kenneth S. Prince, Esquire, Shearman & Sterling LLP, 599 Lexington Avenue, New York, NY 10022–6069.

Counsel for Defendants AstraZeneca plc, Koninklijke Cooperatie Cosun U.A., and Advanta B.V.:

Paul W. Bartel, II, Davis Polk & Wardwell, 450 Lexington Avenue. New York, NY 10017.

Angela L. Hughes,
Member of the DC Bar, #303420, Antitrust Division, U.S. Department of Justice, 325 Seventh Street, NW., Suite 500 Washington, DC 20530, (202) 307–6410, (202) 307–2784 (Fax).

Complaint

The United States of America, acting under direction of the Attorney General of the United States, brings this civil action to obtain equitable relief against the defendants and complains and alleges as follows:

1 . On May 11, 2004, Syngenta Crop Protection AG, Syngenta AG (''Syngenta''), AstraZeneca Holdings B.V., AstraZeneca PLC Koninklijke Vanderhave Groep B.V., and Koninklijke Cooperatie Cosun U.A. entered into an agreement under which Syngenta would purchase all the assets of Advanta B.V. (''Advanta''), a seed company jointly owned by AstraZeneca Holdings B.V. and Koninklijke Vanderhave Groep, V.B. The United States seeks to enjoin this transaction because it would significantly increase Syngenta's share of the highly concentrated market for sugar beet seeds in the United States, substantially lessening competition in that market.

2. Syngenta and Advanta are two of only three companies that develop virtually all of the sugar beet seeds sold in the United States. With Advanta eliminated as an independent competitor, competition for the development of new, improved varieties of sugar beets seeds will be reduced and anticompetitive coordination between the remaining two significant sugar beet seed companies will become more likely.

3. If Syngenta acquires Advanta, fewer new or improved varieties of sugar beet seeds are likely to be developed, or will be developed more slowly, and prices of sugar beet seeds are likely to increase. As a result, purchasers of sugar beet seeds and ultimate consumers of sugar beets will be harmed. The proposed acquisition therefore violates section 7 of the Clayton Act, as amended, 15 U.S.C. 18.

I. Jurisdiction and Venue

4. This Complaint is filed and this action is instituted under section 15 of the Clayton Act, 15 U.S.C. 25, in order to prevent and restrain the defendants from violating section 7 of the Clayton Act, 15 U.S.C. 18.

5. Defendants are engaged in the development, production, and sale of agricultural seeds, including sugar beet seeds, in the flow of interstate commerce. The defendants' activities in the development, production, and sale of agricultural seeds, including sugar beet seeds, substantially affect interstate commerce. The Court has subject matter jurisdiction over this action. 28 U.S.C. 1331, 1337(a) and 1345.

6. The defendants have consented to personal jurisdiction and venue in this judicial district.

II. The Defendants

7. Syngenta is a corporation organized and existing under the laws of Switzerland, with its principal offices in Basel, Switzerland. Through its subsidiary, Syngenta Crop Protection AG, Syngenta is engaged in the manufacture and sale of agriculture-related products, including crop protection products and seeds. Syngenta is the third largest agricultural seed company in the world, with global seed sales of $1 billion in 2003. In 2003, Syngenta's sales of sugar beet seeds in the United States, which are marketed under the Hilleshog brand, were approximately $10 million.

8. Advanta is a company incorporated in The Netherlands with its headquarters in Kapelle, The Netherlands. Advanta is the fifth-largest agricultural seed company in the world. Advanta sells its sugar beet seeds in the United States through its business unit Interstate Seeds. Advanta-bred sugar beet seeds are also marketed in the United States through collaborations with Holly Hybrids, Seedex, and Croplan. In 2003, Advanta, directly and through these collaborations, had sugar beet seed sales of about $7 million in the United States.

9. AstraZeneca PLC is a private limited company with its headquarters in London, England. AstraZeneca PLC is the ultimate parent entity of AstraZeneca Holdings B.V., which holds 50% of the shares of Advanta.

10. Koninklijke Cooperatie Cosun U.A. is a co-operative with its headquarters in Cosunpark 1, the Netherlands. Koninklijke Cooperatie Cosun U.A. is the ultimate parent entity of Koninklijke Vanderhave Groep B.V., which holds 50% of the shares of Advanta.

III. Trade and Commerce

11. Sugar beet seeds are used by growers to produce sugar beets, which in turn are sold to sugar beet processors, who convert them into sugar for human consumption. Sugar beet growers in the United States purchased $50 million worth of sugar beet seeds in 2003.

12. Sugar beets are grown under many different climatic and environmental conditions throughout the United States. These different growing regions require sugar beet varieties with different characteristics. A sugar beet seed company identifies desirable traits for each region and breeds those traits into new varieties.

13. Advanta and Syngenta each have invested extensively in sugar beet seed research and breeding programs over a number of decades. Syngenta has breeding facilities in Longmont, Colorado and in Western Europe. Advanta also has several breeding facilities, all in Europe. Both develop sugar beet varieties specifically for the unique growing conditions found in various regions of the United States. For example, a sugar beet seed variety that is suitable for cultivation in France is not likely, without further breeding, to be suitable or attractive to growers in Minnesota or Idaho. The seed companies have not been equally successful in developing seeds for the various growing regions of the United States, and they compete to improve their sales in each region by further development.

14. Developing marketable sugar beet seeds can take five to ten years. During this development period, the seed developer will conduct field trials in the region where the beet is intended to be grown. The results of these field trials are used to determine which new varieties will be submitted to sugar beet processors for coded registration trials.

15. Each sugar beet processor in the United States annually conducts trials to select varieties of sugar beet seeds to recommend to the growers in the processor's growing region. These trials take two to four years to complete. Sugar beet growers typically will only select for purchase seed varieties that have been tested and approved by the sugar processors to which they intend to market their crops.

16. Sugar beet seed companies that have processor-approved varieties compete for sales to growers based upon

price and characteristics desired by growers—for example, traits that lower production costs, offer higher yield per acre or provide resistance to diseases and pests prevalent in the growers' geographic region.

IV. The Relevant Markets

17. A small but significant increase in the price of sugar beet seeds would not cause growers of sugar beets in the United States to shift to other crops and use sufficiently fewer sugar beet seeds so as to make such a price increase unprofitable. Accordingly, sugar beet seeds suitable for growing in the United States is a line of commerce and a relevant product market within the meaning of Section 7 of the Clayton Act. The United states is a relevant geographic market within the meaning of Section 7 of the Clayton Act.

V. Anticompetitive Effects

18. The market for sugar beet seeds suitable for growing in the United States is highly concentrated. Only three major companies—Syngenta, Advanta, and one other—breed sugar beet seeds for cultivation in the United States.

19. Syngenta-developed sugar beet seeds account for nearly 20% of all the sugar beet seeds sold in the United States.

20. Advanta-developed sugar beet seeds account for more than 16% of the sugar beet seeds sold in the United States.

21. Purchasers of sugar beet seeds have benefited from competition between Syngenta and Advanta through lower prices and improved products.

22. The sugar beet seed market in the United States will become substantially more concentrated if Syngenta acquires Advanta. The number of significant sugar beet seed developers will be reduced from three to two. Using a measure of market concentration called the Herfindahl-Hirschman Index (''HHI'') (defined and explained in appendix A), the proposed transaction will increase the HHI in sugar beet seeds by more than 600 points to a post-acquisition level of over 5000.

23. The proposed transaction will substantially lessen competition for the research and development of sugar beet seeds suitable for cultivation in the United States. With only two major companies competing to develop new and better seeds, less innovation is likely.

24. The proposed transaction would make it more likely that the two remaining major seed companies will engage in anticompetitive coordination to increase prices or reduce production.

VI. Entry

25. Successful entry would not be timely, likely, or sufficient to thwart these anticompetitive effects.

26. Developing a new sugar beet seed variety takes five to ten years. Completing the trial tests required by sugar beet processing companies can take two to three additional years.

VII. Violation Alleged

27. The effect of Syngenta's proposed acquisition of Advanta may be to lessen competition substantially and tend to create a monopoly in interstate trade and commerce in violation of Section 7 of the Clayton Act.

28. Unless restrainted, the transaction likely will have the following effects, among others:

a. Competition generally in sugar beet seeds suitable for growing in the United States will be substantially lessened;

b. Actual competition between Syngenta and Advanta will be eliminated;

c. Innovation in development of sugar beet seeds will be reduced; and

d. Prices for sugar beet seeds will increase.

29. Unless prevented, the acquisition of Advanta by Syngenta would violate section 7 of the Clayton Act, as amended, 15 U.S.C. 18.

VIII. Requested Relief

Wherefore, Plaintiff requests:

1. That the proposed acquisition by Syngenta of Advanta be adjudged and decreed to be unlawful and to violate section 7 of the Clayton Act, as amended, 15 U.S.C. 18;

2. That defendants and all persons acting on their behalf be permanently enjoined from and restrained from carrying out the agreement dated May 11, 2004, or from entering into or carrying out any contract, agreement, understanding, or plan, the effect of which would be to combine the businesses or assets of Syngenta and Advanta;

3. That plaintiff be awarded its costs of this action; and

4. That plaintiff have such other relief as the Court may deem just and proper.

Dated: August 25, 2004.

Respectfully submitted,

R. Hewitt Pate (DC Bar #473598)
Assistant Attorney General.

J. Bruce McDonald
Deputy Assistant Attorney General.

Dorothy B. Fountain
Deputy Director of Operations and Civil Enforcement.

Roger W. Fones (DC Bar #303255)
Chief, Transportation, Energy & Agriculture Section.

Donna N. Kooperstein
Assistant Chief, Transportation, Energy & Agriculture Section.

Angela L. Hughes (DC Bar #303420)

Jill Ptacek

J. David McDowell
Trial Attorneys, United States Department of Justice, Antitrust Division, Transportation, Energy & Agriculture Section, 325 7th Street, NW., Suite 500, Washington, DC 20530 Telephone: (202) 307–6410, Facsimile: (202) 307–2784.

Appendix A—Definition of HHI

The term ''HHI'' means the Herfindahl-Hirschman Index, a commonly accepted measure of market concentration. The HHI is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of 30, 30, 20, and 20 percent, the HHI is 2,600 ($30^2 + 30^2 + 20^2 + 20^2 = 2{,}600$). The HHI takes into account the relative size and distribution of the firms in a market. It approaches zero when a market is occupied by a large number of firms of relatively equal size and reaches its maximum 10,000 when a market is controlled by a single firm. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.

Markets in which the HHI is between 1000 and 1800 are considered to be moderately concentrated, and markets in which the HHI is in excess of 1800 points are considered to be highly concentrated. Transactions that increase the HHI by more than 100 points in highly concentrated markets presumptively raise significant antitrust concerns under the Department of Justice and Federal Trade Commission 1992 Horizontal Merger Guidelines.

[FR Doc. 04–21548 Filed 9–24–04; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Office of the Secretary

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the

Paperwork Reduction Act of 1995 [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Civil Rights Center within the Office of the Assistant Secretary for Administration and Management is soliciting comments concerning the proposed extension of the collection of the Compliance Information Report—29 CFR part 31 (Title VI of the Civil Rights Act), Nondiscrimination—Disability—29 CFR part 32 (section 504 of the Rehabilitation Act), and Nondiscrimination—Workforce Investment Act—29 CFR part 37 (section 188 of the Workforce Investment Act). A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addresses section of this notice. In addition, a copy of the ICR in alternate formats of large print and electronic file on computer disk are available upon request.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before November 26, 2004.

ADDRESSES: Comments should be sent to Annabelle T. Lockhart, Director of the Civil Rights Center. Electronic mail is the preferred method of submittal of comments. Comments by electronic mail must be clearly identified as pertaining to the ICR and sent to *civilrightscenter@dol.gov.* Brief comments (maximum of five pages), clearly identified as pertaining to the ICR, may be submitted by facsimile machine (Fax) to (202) 693–6505. Where necessary, hard copies of comments, clearly identified as pertaining to the ICR, may also be delivered to the Civil Rights Center Director at the U.S. Department of Labor, 200 Constitution Ave., NW., Room N–4123, Washington, DC 20210. Because of problems with U.S. Postal Service mail delivery, the Civil Rights Center suggests that those submitting comments by means of the U.S. Postal Service should place those comments in the mail well before the deadline by which comments must be received.

Receipt of submissions, whether by U.S. Postal Service, e-mail, fax transmittal, or other means will not be acknowledged; however, the sender may request confirmation that a submission has been received, by telephoning the Civil Rights Center at the telephone numbers listed below.

Comments received will be available for public inspection during normal business hours at the above address. Persons who need assistance to review the comments will be provided with appropriate aids such as readers or print magnifiers. Copies of the ICR will be made available, upon request, in large print or electronic file on computer disk. Provision of the rule in other formats will be considered upon request. To schedule an appointment to review the comments and/or obtain the ICR in an alternate format contact the Civil Rights Center at (202) 693–6500 (Voice) or (202) 693–6515/16 (TTY). Please note that these are not toll free telephone numbers.

FOR FURTHER INFORMATION CONTACT: Gregory T. Shaw, Civil Rights Center, (202) 693–6501 (Voice) or (202) 693–6515/16 (TTY). Please note that these are not toll free telephone numbers.

SUPPLEMENTARY INFORMATION:

I. Background

The Compliance Information Report and its information collection is designed to ensure that programs or activities funded in whole or in part by the Department of Labor operate in a nondiscriminatory manner. The Report requires such programs and activities to collect, maintain and report upon request from the Department, race, ethnicity, sex, age and disability data for program applicants, eligible applicants, participants, terminees, applicants for employment and employees.

II. Desired Focus of Comments

The Department of Labor is particularly interested in comments which:

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

III. Current Actions

The Department of Labor seeks an extension of the current OMB approval of the paperwork requirements in the Compliance Information Report. Extension is necessary to ensure nondiscrimination in programs or activities funded in whole or in part by the Department of Labor.

Type of Review: Extension.

Agency: Civil Rights Center, Office of the Assistant Secretary for Administration and Management.

Title: Compliance Information Report—29 CFR part 31 (Title VI), Nondiscrimination-Disability—29 CFR part 32 (section 504), Nondiscrimination-Job Training Partnership Act—29 CFR part 34 (section 167).

OMB Number: 1225–0077.

Affected Public: State, local or Tribal governments.

Total Burden Cost (capital/startup): $0.00.

Total Burden Cost (operating/maintenance): $83,409.86.

Comments submitted in response to this comment request will be summarized and 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.

Signed in Washington, DC, this 21st day of September, 2004.

Annabelle T. Lockhart,

Director, Civil Rights Center.

[FR Doc. 04–21562 Filed 9–24–04; 8:45 am]

BILLING CODE 4510–23–P

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Study of IMLS Funded Digital Collections and Content—Collection Registry Entry/Edit Form, Submission for OMB Review, Comment Request

AGENCY: Institute of Museum and Library Services.

ACTION: Notice of requests for new information collection approval.

SUMMARY: The Institute of Museum and Library Services announces the following information collection has been submitted to the Office of Management and Budget for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this proposed form, with applicable supporting documentation, may be obtained by calling the Institute of Museum and Library Services, Director of Research and Technology,

Rebecca Danvers at (202) 606–2478. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 606–8636.

DATES: Comments must be received by October 27, 2004. The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumption 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.

ADDRESSES: For a copy of the form contact: Rebecca Danvers, Director of Research and Technology, Institute of Museum and Library Services, 1100 Pennsylvania Ave., NW., Room 223, Washington, DC 20506.

SUPPLEMENTARY INFORMATION:

I. Background

The Institute of Museum and Library Services is an independent Federal grant-making agency authorized by the Museum and Library Services act, Pub. L. 104–208. The IMLS provides a variety of grant programs to assist the nation's museums and libraries in improving their operations and enhancing their services to the public. Museums and libraries of all sizes and types may receive support from IMLS programs. In the National Leadership Grant Program, IMLS funds the digitization of library and museum collections.

The Collection Registry Entry/Edit Form is a Web-based form to collect electronically collection level data about digitization projects funded by the Institute of Museum and Library Services through the National Leadership Grant Program.

Agency: Institute of Museum and Library Services.

Title: IMLS Digital Collections and Content—Collection Registry Entry/Edit Form.

OMB Number: None.

Agency Number: 3137.

Frequency: Once.

Affected Public: Museums and libraries that created digital collections with IMLS funding.

Number of Respondents: 130.

Estimated Time Per Respondent: .5 hours.

Total Burden Hours: 30.

Total Annualized capital/startup costs: n/a.

Total Costs: $812.50.

FOR FURTHER INFORMATION CONTACT: Comments should be sent to Office of Information and Regulatory Affairs, Attn.: OMB Desk Officer for Education, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316.

Dated: September 21, 2004.

Rebecca Danvers,

Director, Research and Technology.

[FR Doc. 04–21556 Filed 9–24–04; 8:45 am]

BILLING CODE 7036–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; President's Committee on the Arts and the Humanities: Meeting #56

Pursuant to Section 10 (a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the President's Committee on the Arts and the Humanities (PCAH) will be held on Monday, October 11, 2004, from 9 a.m. to approximately 1 p.m. The meeting will be held at the Nasher Sculpture Center, Nasher Hall, 2001 Flora Street, Dallas, TX 75201.

The Committee meeting will begin at 9 a.m. with a welcome, introductions and reports on recent Committee activities. This will be followed by a presentation by John Nau, II, Chairman of the Advisory Council on Historic Preservation. The meeting will include reports, presented by agency representatives, from the National Endowment for the Humanities, the Institute of Museum and Library Services, and the National Endowment for the Arts. The remainder of the meeting will focus on discussion of current activities in the area of Youth Arts and Humanities Learning, including presentations by PCAH members James Farmer and William Strickland and Giselle Antoni, Director of Big Thought (Formerly Youth Audiences of North Texas). The meeting will adjourn after discussion of other business, as necessary, and closing remarks.

The President's Committee on the Arts and the Humanities was created by Executive Order in 1982 to advise the President, the two Endowments, and the Institute of Museum and Library Services on measures to encourage private sector support for the nation's cultural institutions and to promote public understanding of the arts and the humanities.

Any interested persons may attend as observers, on a space available basis, but seating is limited. Therefore, for this meeting, individuals wishing to attend must contact Georgiana Paul of the President's Committee seven days in advance at (202) 682–5409 or write to the Committee at 1100 Pennsylvania Avenue, NW., Suite 526, Washington, DC 20506. Further information with reference to this meeting can also be obtained from Ms. Paul.

If you need special accommodations due to a disability, please contact Ms. Paul through the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Dated: September 21, 2004.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 04–21555 Filed 9–24–04; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (Pub. L. 95–541)

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received under the Antarctic Conservation Act of 1978, Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at title 45 part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by October 27, 2004. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National

Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy at the above address or (703) 292–7405.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

The applications received are as follows:

Permit Application No. 2005–014

1. *Applicant:* Harold Heatwole, Department of Zoology, North Carolina State University, Raleigh, NC 27695–7617.

Activity for Which Permit is Requested: Take, and Import into the United States. The applicant proposes to collect up to ten samples each of moss, lichen falli, and soil samples from a variety of Antarctic Peninsula sites. The applicant will extract tardigrades for identification for a comprehensive survey of tardigrade fauna of the Antarctic and the Subantarctic islands. Tardigrade studies have been conducted in other areas of Antarctica and this study will add to the overall body of that work. The moss and lichen samples will ultimately be deposited with the New York Herbarium, whereas the soil samples will be autoclaved and sterilized.

Location: South Shetland Islands, Cuverville Island, Neko Harbor, Paradise Bay, Petermann Island, Port Lockroy, Gerlache Strait, Melchior Islands, Deception Island, and Hannah Point.

Dates: December 19, 2004 to January 1, 2005.

Nadene G. Kennedy,

Permit Officer, Office of Polar Programs.

[FR Doc. 04–21601 Filed 9–24–04; 8:45 am]

BILLING CODE 7555–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of September 27, 2004:

A Closed Meeting will be held on Wednesday, September 29, 2004, at 10 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), (9)(B), and (10) and 17 CFR 200.402(a)(5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Glassman, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the Closed Meeting scheduled for Wednesday, September 29, 2004, will be:

Formal orders of investigations;

Institution and settlement of injunctive actions; and

Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: September 22, 2004.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 04–21639 Filed 9–22–04; 4:09 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 69 FR 56467, September 21, 2004.

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

ANNOUNCEMENT OF ADDITIONAL MEETING: Additional Meeting.

A Closed Meeting will be held on Wednesday, September 22, 2004, at 4 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matter may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (8) and (10) and 17 CFR 200.402(a)(3), (5), (7), (8), and (10) permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Glassman, as duty officer, voted to consider the item listed for the closed meeting in a closed session, determined that Commission business required the above change and that no earlier notice thereof was possible.

The subject matter of the Closed Meeting scheduled for Wednesday, September 22, 2004, will be:

Regulatory matters regarding financial institutions.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 942–7070.

Dated: September 22, 2004.

Jonathan G. Katz,

Secretary.

[FR Doc. 04–21682 Filed 9–23–04; 12:07 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27891]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

September 21, 2004.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by October 18, 2004, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve

a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After October 18, 2004, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

E.ON AG, et al. (70–10196)

E.ON AG (''E.ON'') and E.ON UK Holding GmbH (''UK Holding''), both located at E.ON–Platz 1, 40479 Düsseldorf, Germany, and E.ON UK Ltd. (''UK Ltd.'') and Powergen Limited (formerly Powergen plc, ''Powergen''), both located at 53 New Broad Street, London EC2M 1SL, United Kingdom (collectively, ''Applicants''), have filed an application (''Application'') under section 5(d) of the Act.

Applicants request the Commission to find and declare that UK Holding,[1] an E.ON first tier, wholly owned subsidiary, UK Ltd.,[2] UK Holding's direct wholly owned subsidiary, and Powergen, UK Ltd.'s direct wholly owned subsidiary, are no longer holding companies under the Act and, further, to declare that, upon issuance of the order so finding and declaring, the registrations of UK Holding, UK Ltd. and Powergen will cease to be in effect.

E.ON is the parent holding company in the E.ON system of international utility companies. By order dated June 14, 2002 (''2002 Order''), the Commission authorized E.ON's acquisition of Powergen (''Acquisition''), the parent holding company in a United Kingdom (''UK'')-based public-utility holding company system, and certain related transactions.[3] E.ON, through its acquisition of Powergen, indirectly acquired LG&E Energy LLC (''LG&E Energy''), a registered public-utility holding company,[4] and its public-utility subsidiaries, Louisville Gas and Electric Company (''LG&E'') and Kentucky Utilities Company (''KU'').

E.ON owned Powergen through several tiers of intermediate holding companies. Powergen owned LG&E Energy through several tiers of intermediate holding companies, as well, with Powergen U.S. Investment Corp. (now E.ON U.S. Investment Corp.) (''EUSIC'') being LG&E Energy's immediate parent and a United States (''US'')-based intermediate registered holding company.[5] Powergen owned EUSIC through the following other Powergen intermediate holding companies: Powergen U.S. Holdings Limited, Powergen U.S. Investments, Powergen Luxembourg Holdings sarl and Powergen Luxembourg sarl (''Powergen Intermediate Holding Companies'').

In the Original Financing Application (which resulted in the 2002 Order), E.ON proposed, among other things, to simplify its corporate structure by transferring EUSIC from the UK-based Powergen chain of companies to E.ON U.S. Holding GmbH (''E.ON US''), a direct subsidiary of E.ON and a German-organized registered holding company. The 2002 Order reserved jurisdiction over E.ON's proposal to change the corporate structure, which E.ON proposed to effect in several steps over a period of time.[6]

In February 2003, the Commission released jurisdiction over and approved the transfer of EUSIC, the immediate parent company of LG&E Energy, from the E.ON system's UK-based Powergen chain of companies to E.ON US.[7] With the transfer of EUSIC's stock to E.ON US, the Powergen Intermediate Holding Companies ceased to hold voting interests, directly or indirectly, in, or to exercise any controlling influence over, LG&E Energy and, thus, ceased to be holding companies within the meaning of section 2(a)(7) of the Act. Thereafter, under section 5(d) of the Act, the Powergen Intermediate Holding Companies sought, and the Commission, by order dated October 28, 2003, found and declared that the Powergen Intermediate Holding Companies were no longer holding companies and, further, declared the registrations of these four companies to be no longer in effect.[8]

Powergen itself, although it no longer owned LG&E Energy, remained a registered holding company in October 2003, due to its continuing role in the management of LG&E Energy and LG&E and KU. Applicants state that, at this time, UK Holding, UK Ltd. and Powergen no longer have any responsibilities for, and exercise no controlling influence over, LG&E Energy.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E4–2389 Filed 9–24–04; 8:45 am]

BILLING CODE 8010–01–P

[1] E.ON UK Holding GmbH was formerly E.ON UK Verwaltungs GmbH.

[2] E.ON UK Ltd. was formerly E.ON UK plc.

[3] *See* E.ON AG, Holding Co. Act Release No. 27539 (June 14, 2002) (this order also consolidated E.ON's acquisition application (SEC File No. 70–9961) and E.ON's acquisition financing application (SEC File No. 70–9985) (''Original Financing Application''). On July 1, 2002, E.ON consummated the Acquisition and registered as a holding company under section 5 of the Act.

[4] LG&E Energy LLC was formerly LG&E Corporation. *See* E.ON AG, Holding Co. Act Release No. 27785 (December 29, 2003). Following the change in its corporate form and ownership structure, LG&E Energy ceased to rely on an exemption from registration under section 3(a)(1) of the Act and, on March 29, 2004, registered as a holding company pursuant to section 5 of the Act.

[5] By order dated December 6, 2000, the Commission authorized Powergen to acquire LG&E Energy. *See* Powergen plc, Holding Co. Act Release No. 27291 (December 6, 2000). After the issuance of the December 6, 2000, order, Powergen and the Powergen Intermediate Holding Companies registered under the Act. After the E.ON Acquisition, Powergen and the Powergen Intermediate Holding Companies remained registered pursuant to section 5 of the Act.

[6] Specifically, the 2002 Order reserved jurisdiction over E.ON's request to transfer EUSIC to E.ON U.S. in exchange for cash or a note.

[7] *See* Holding Co. Act Release No. 27654 (February 21, 2003).

[8] *See* Holding Co. Act Release No. 27745 (October 28, 2003).

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of The Village Green Bookstore, Inc.; Order of Suspension of Trading

September 23, 2004.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of The Village Green Bookstore, Inc. because it has been delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934 since August 1997.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the above-listed company is suspended for the period from 9:30 a.m. e.d.t. on September 23, 2004, through 11:59 p.m. e.d.t. on October 6, 2004.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 04–21684 Filed 9–23–04; 1:27 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–50412; File No. SR–NYSE–2004–46]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. To Amend Exchange Rule 104 Regarding Specialists' Ability to Establish a Proprietary Quote Interface to the Display Book

September 20, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 16, 2004, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in items I, II, and III below, which Items have been prepared by the NYSE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE is proposing to amend Exchange Rule 104 (Dealings by Specialists) to provide specialists with the ability to establish a special proprietary connection to the Display Book for the purpose of updating quotations systemically in Investment Company Units and Trust Issued Receipts. The text of the proposed rule change is set forth below. Additions are in italics.

Dealings by Specialists

Rule 104

(*a*) No specialist shall effect on the Exchange purchases or sales of any security in which such specialist is registered, for any account in which he, his member organization or any other member, allied member, or approved person, (unless an exemption with respect to such approved person is in effect pursuant to Rule 98) in such organization or officer or employee thereof is directly or indirectly interested, unless such dealings are reasonably necessary to permit such specialist to maintain a fair and orderly market, or to act as an odd-lot dealer in such security.

(*b*) *Specialists shall have the ability to establish an external quote application interface (''Quote API'') which utilizes proprietary algorithms that allow the specialist, on behalf of the dealer account, to systematically update the Exchange published bid or offer within the Display Book system in Investment Company Units (as defined in paragraph 703.16 of the Listed Company Manual), or Trust Issued Receipts (as defined in Rule 1200). Nothing in this rule shall be interpreted as modifying or relieving the specialist from his or her obligations and required compliance with all Exchange rules, policies and procedures.*

* * * * *

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 NYSE 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

Trading in decimals began in selected stocks on the Exchange on August 28, 2000. Since that time, the number of quotations published by the Exchange has increased exponentially. One impact of this increase in quotation traffic is an increased workload on specialists and their trading assistants who input quotes into the Exchange's trading systems.

Currently, the Exchange's trading systems require the specialist to instruct his trading assistant to manually enter an updated or new quotation into the Display Book in instances when the specialist wishes to insert proprietary interest into a quote. Specialists regularly utilize external applications, such as proprietary spreadsheet algorithms, to generate quote values for the specialist's account.

The Exchange proposes to provide specialists maintaining markets in Investment Company Units (''ICUs'') and Trust Issued Receipts (''TIRs''), with the ability to electronically interface with the Display Book via a proprietary connection (an ''Application Program Interface'' (''API'')) to allow quotes to be submitted from an external application to update both NYSE best quotes and NYSE LiquidityQuote.[3] These external quotes would flow through the Display Book to market data systems, as today. The API would enable specialists in ICUs and TIRs to price the security more readily by eliminating the need to convey instructions to the trading assistant to update the quotation. The API, based on a specialist's proprietary pricing mode, would automate this process. All rules pertaining to the publication of quotations would continue to apply in the new environment. The use of API would change the current mechanical function of updating quotations to an automatic quotation update based upon the same pricing model or algorithms currently employed by the specialist.

The Exchange proposes to amend Rule 104 to provide for the ability of a specialist to utilize these quote interfaces. The proposed amendment states that a specialist would not be relieved of any duty or responsibility with respect to quotes if such a link is established.

2. Statutory Basis

The Exchange believes that the basis for this proposed rule change is the requirement under section 6(b)(5)[4] of the Act that an exchange have rules that are designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] LiquidityQuote, or NYLQ, is a firm, two-sided, real-time quote that is intended to reflect where ''size'' exists in a stock outside the best bid or offer. It provides a single price quote representing the cumulative number of shares bid or offered on the limit order book, in the trading ''crowd'' and by specialists as principal. Along with the NYSE best bid or offer, or ''inside quote,'' the specialist maintains this second quote and continuously disseminates it in real-time throughout the day. *See* Securities Exchange Act Release No. 47614 (April 2, 2003), 68 FR 17140 (April 8, 2003) (SR–NYSE–2002–55).

[4] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change is effective upon filing pursuant to paragraph (A) of section 19(b)(3) [5] and Rule 19b–4(f)(5).[6] This proposed rule change effects a change in an existing order-entry or trading system of a self-regulatory organization that does not (1) significantly affect the protection of investors or the public interest, (2) impose any significant burden on competition, or (3) have the effect of limiting the access to or availability of the system.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2004–46 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–NYSE–2004–46. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal offices of the NYSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2004–46 and should be submitted on or before October 18, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E4–2386 Filed 9–24–04; 8:45 am]

BILLING CODE 8010–01–P

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 240.19b–4(f)(5).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–50410; File No. SR–PCX–2004–60]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc., Relating to Listing Standards for Income Deposit Securities (''IDS'')

September 17, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 20, 2004, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in items I, II and III below, which items have been prepared by PCX. The Exchange filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing.[5] On September 17, 2004, the Exchange amended the filing.[6] 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 Pacific Exchange, Inc. (''PCX'' or ''Exchange''), through its wholly owned subsidiary PCX Equities, Inc. (''PCXE''), proposes to amend its current listing requirements to specifically provide for the listing of units comprised of common stock and a debt security, sometimes referred to as income deposit securities (''IDS''). Under the proposed rule change, IDS units can be listed on the Exchange if each component of the IDS unit satisfies the initial listing standards applicable to that component. The text of the proposed rule change is below. Proposed new language is *italicized*.

* * * * *

PCX Equities, Inc.

Rule 5—Listings

* * * * *

General

Rule 5.2(b)—No change.

Commentary:

.01 The Exchange will generally authorize the listing of a unit if each of the component parts meet the applicable requirements for listing as set forth in PCXE Rules 5.2(c) and 5.2(e)(1)–(2).

* * * * *

Immediate Public Disclosure of Material Information

Rule 5.3(i)(2)—No change.

(i)–(vii) No Change.

(viii) Changes to the terms and conditions of a unit, such as changes to the terms and conditions of any of the components (including changes with respect to any original issue discount or other significant tax attributes of any component), or to the ratio of components within the unit. Such public notification should be as soon as practicable in relation to the effective date of the change, and should, at a

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(1).

[4] 17 CFR 240.19b–4.

[5] The Exchange asked the Commission to waive the five-day pre-filing notice requirement and the 30-day operative delay. *See* 17 CFR 240.19b–4(f)(6)(iii).

[6] *See* letter from Tania Blanford, PCX, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated September 16, 2004 (''Amendment No. 1''). Amendment No. 1 clarified the proposed rule text.

minimum, include release of an announcement to the national and business financial news-wire services. In addition, the issuer must also provide information regarding the terms and conditions of the components of the unit (including information with respect to any original issue discount or other significant tax attributes of any component), and the ratio of the components comprising the unit on its Web site, or if it does not maintain a Web site, include a description of the current terms and conditions of the components of the unit (including a description of any original issue discount or other significant tax attribute of any component) and the ratio of the components comprising the unit, in its annual report to unit holders.

* * * * *

Section 5. Maintenance Requirements and Delisting Procedures

Maintenance Requirements and Delisting Procedures

Rule 5.5(a)—No Change.

Commentary:

.01–.03—No change.

.04 In the case of units, the Exchange will normally consider suspending dealings in, or removing from the list, if any of the component parts do not meet the applicable listing standards as set forth in PCXE Rules 5.5(b) and 5.5(d). However, if one or more of the components is otherwise qualified for listing, that component may remain listed.

* * * * *

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 self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The self-regulatory organization 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 is proposing to amend its current listing requirements in order to provide clarity and transparency regarding the listing standards applicable to IDS units. The proposal is similar to listing standards that the Commission recently approved for the Nasdaq Stock Market, Inc., the New York Stock Exchange, Inc., and the American Stock Exchange, LLC.[7]

The Exchange proposes to amend PCXE Rule 5.2(b) to require that each component of an IDS unit satisfy the initial listing standards applicable to that component in order for the IDS to be eligible for initial listing. Thus, in the case of a unit consisting of a common stock and a bond, the common stock component would be required to satisfy the standards applicable to common stock and the bond would be required to satisfy the standards applicable to bonds.

The PCX also proposes a conforming change to the Exchange's continued listing requirements. The Exchange proposes to amend PCXE Rule 5.5(a) to specify that the Exchange will consider suspending or de-listing any unit trading on the Exchange if any of the component parts do not meet the applicable listing standards. The proposed change to Rule 5.5(b), however, will make clear that if any particular component in a unit is otherwise qualified for listing, such component may remain listed on the Exchange.[8]

Further, the Exchange proposes to amend PCXE Rule 5.3(i)(2) to require the issuer of a unit to immediately publicize any change in the terms of a listed unit, such as changes to the terms and conditions of any of the components or to the ratio of the components within the unit. The issuer must also provide current information in this regard on its Web site, or if it does not maintain a Web site, in its annual report to unit holders. Changes that should be publicized would include those resulting from a stock split or an automatic exchange of one or more components of the unit (*e.g.,* as a result of a secondary offering of units). The issuer would be expected to provide public disclosure as soon as practicable regarding the nature of and effective date of the change. For example, changes resulting from a stock split should be subject to prior disclosure, while changes with respect to original issue discount should be disclosed as soon as such information is available. The Exchange believes that this expanded disclosure requirement will help to ensure that sufficient information regarding the attributes of these securities is publicly available on a timely basis.

2. Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,[9] in general, and section 6(b)(5) of the Act,[10] in particular, in that it will promote just and equitable principles of trade; facilitate transactions in securities, remove impediments to and perfect the mechanisms of a free and open market and national market system; and 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 that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The PCX has designated the proposed rule change as one that does not significantly affect the protection of investors or the public interest; impose any significant burden on competition; and become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate.

Therefore, the foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further the purposes of the Act.

[7] *See* Securities and Exchange Act Release No. 34–49746 (May 20, 2004), 69 FR 30356 (May 27, 2004); Securities and Exchange Act Release No. 34–49515 (April 1, 2004), 69 FR 19592 (April 13, 2004); and Securities and Exchange Act Release No. 34–48666 (October 21, 2003), 68 FR 61239 (October 27, 2003), respectively.

[8] In contrast to a typical unit, which may trade for a limited amount of time (*e.g.,* thirty days), then automatically separate into its component parts which will be listed and traded, an IDS unit can be expected to trade as a unit for an extended period of time, although holders can have certain rights to separate.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

In accordance with Rule 19b–4(f)(6)(iii) under the Act,[13] this proposal does not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The Exchange has requested the Commission to waive the five-day pre-filing notice requirement and the 30-day operative delay so the proposed rule change will become immediately effective. The Commission believes waiving the five-day pre-filing notice requirement and the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that it recently approved similar proposals by Nasdaq, NYSE and Amex on which the Exchange's proposal is based.[14] The Amex proposal was published for comment and the Commission received no comments on it.[15] Finally, the Commission does not believe the Exchange's proposal raises any new regulatory issues.

For these reasons, the Commission designates the proposal to be effective and operative upon filing of the proposal with the Commission.[16]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–PCX–2004–60 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–PCX–2004–60. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the PCX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PCX–2004–60 and should be submitted on or before October 18, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E4–2385 Filed 9–24–04; 8:45 am]

BILLING CODE 8010–01–P

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] *See* Securities and Exchange Act Release No. 34–49746 (May 20, 2004), 69 FR 30356 (May 27, 2004); Securities and Exchange Act Release No. 34–49515 (April 1, 2004), 69 FR 19592 (April 13, 2004); and Securities and Exchange Act Release No. 34–48666 (October 21, 2003), 68 FR 61239 (October 27, 2003), respectively.

[15] *See id.*

[16] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–50390; File No. SR–PCX–2004–81]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc., Relating to the Exchange's Schedule of Fees and Charges

September 15, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4[2] thereunder, notice is hereby given that on August 23, 2004, the Pacific Exchange, Inc. (''PCX'' or ''Exchange''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in items I, II, and III below, which items have been prepared by PCX. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

PCX proposes to make a clarifying change to the PCX Schedule of Fees and Charges (''Schedule'') with respect to the options issue relinquishment request fee. The text of the proposed rule change is available at PCX and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PCX 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. PCX has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to make a clarifying change to the Schedule with respect to the options issue relinquishment request fee. Currently, an assigned Lead Market Maker (''LMM'') is charged a fee of $100 for each options issue the LMM requests to be relinquished. The Exchange proposes to clarify this fee by adding a footnote in the Schedule specifying that the fee will not apply in cases of involuntary delisting requests initiated by PCX.

According to the Exchange, the $100 options issue relinquishment request fee is designed to cover administrative costs associated with voluntary delisting requests initiated by LMMs. The Exchange represents that occasionally an issue relinquishment may result from an action that is initiated by PCX, as opposed to the LMM, due to internal system and/or business considerations. In such cases, the assigned LMM would not be assessed the $100 fee.

The Exchange also proposes to delete reference to a temporary fee waiver for Market Makers for each additional

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

options trading permit (''OTP'') (for which a Market Maker holds a primary appointment) beyond the first OTP held by such Market Maker. This waiver expired on June 30, 2004. Hence, the Exchange proposes to delete this language as obsolete.

2. Statutory Basis

The Exchange believes that the proposal is consistent with section 6(b) of the Act,[3] in general, and furthers the objectives of section 6(b)(5) of the Act,[4] in particular, because it is designed to promote just and equitable principals of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, 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 that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act[5] and subparagraph (f)(2) of Rule 19b–4[6] thereunder, because the proposed rule change establishes or changes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–PCX–2004–81 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. All submissions should refer to File Number SR–PCX–2004–81. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of PCX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PCX–2004–81 and should be submitted on or before October 18, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E4–2387 Filed 9–24–04; 8:45 am]

BILLING CODE 8010–01–P

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

[5] 15 U.S.C. 78s(b)(3)(A)(ii).

[6] 17 CFR 240.19b–4(f)(2).

[7] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3623; Amendment #1]

State of North Carolina

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency—effective September 12, 2004, the above numbered declaration is hereby amended to establish the incident period for this disaster as beginning September 7, 2004, and continuing through September 12, 2004.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is November 9, 2004, and for economic injury the deadline is June 10, 2005.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: September 15, 2004.

Cheri L. Cannon,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 04–21545 Filed 9–24–04; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Public Federal Regulatory Enforcement Fairness Hearing; Region IV Regulatory Fairness Board

The Small Business Administration Region IV Regulatory Fairness Board and the SBA Office of the National Ombudsman will hold a Public Hearing on Wednesday, October 6, 2004, at 8:30 a.m. at Wake Tech Community College, 600 New Waverly Place, Cary, NC 27511, phone (919) 851–5193, to receive comments and testimony from small business owners, small government entities, and small non-profit organizations concerning regulatory enforcement and compliance actions taken by Federal agencies.

Anyone wishing to attend or to make a presentation must contact Mike Ernandes in writing or by fax, in order to be put on the agenda. Mike Ernandes, Marketing & Outreach Specialist, SBA North Carolina District Office, 6302 Fairview Road, Suite 300, Charlotte, NC 28210, phone (704) 344–6588, fax (704) 344–6769, e-mail: *mike.ernandes@sba.gov.*

For more information, see our Web site at *http://www.sba.gov/ombudsman.*

Dated: September 21, 2004.

Peter Sorum,

Senior Advisor, Office of the National Ombudsman.

[FR Doc. 04–21544 Filed 9–24–04; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 4839]

Culturally Significant Objects Imported for Exhibition

Determinations: ''Nineteenth-Century European Paintings Galleries''

Summary: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 (68 FR 19875), I hereby determine that the objects to be included in the exhibition ''Nineteenth-Century European Paintings Galleries,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner. I also determine that the exhibition or display of the exhibit objects at The Metropolitan Museum of Art, New York, NY in late September 2004, for two years, and at possible additional venues yet to be determined, is in the national interest. Public notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, Department of State, (telephone: 202/619–6981). The address is Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: September 21, 2004.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 04–21612 Filed 9–24–04; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 4838]

Bureau of Nonproliferation

ACTION: Notice correction.

SUMMARY: The Department of State published a document in the **Federal Register** of September 20, 2004, concerning Imposition of Nonproliferation Measures on an Entity in China, Including A Ban on U.S. Government Procurement. This document contained an incorrect name.

FOR FURTHER INFORMATION CONTACT: On general issues: Vann H. Van Diepen, Office of Chemical, Biological and Missile Nonproliferation, Bureau of Nonproliferation, Department of State (202–647–1142). On U.S. Government procurement ban issues: Gladys Gines, Office of the Procurement Executive, Department of State (703–516–1691).

Correction

In the **Federal Register** of September 20, 2004, in FR Doc 04–21079 on page 56260–56261, in the third column, the correct name should read:

Xinshidai (also known as: China Xinshidai Company, XSD, China New Era Group or New Era Group).

Dated: September 21, 2004.

Holly West-Owen,

Federal Register Liaison, Department of State.

[FR Doc. 04–21611 Filed 9–24–04; 8:45 am]

BILLING CODE 4710–27–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Announcing the Thirteenth Quarterly Meeting of the Crash Injury Research and Engineering Network (CIREN)

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Meeting announcement.

SUMMARY: This notice announces the Thirteenth Quarterly Meeting of members of the Crash Injury Research and Engineering Network. CIREN is a collaborative effort to conduct research on crashes and injuries at ten Level 1 Trauma Centers linked by a computer network. Researchers can review data and share expertise, which could lead to a better understanding of crash injury mechanisms and the design of safer vehicles.

DATES: The meeting is scheduled from 9 a.m. to 5 p.m. on Thursday, November 4, 2004.

ADDRESSES: The meeting will be held at the University of Maryland-Baltimore in the Health Science Facility (Building 2, Room 130). The facility is located at the corner of Penn and Lombard Streets in Baltimore City.

TO REGISTER FOR THIS EVENT: Contact the National Study Center for Trauma and EMS at 410–328–5085 or e-mail *tkerns@som.umaryland.edu*. Registration is strongly recommended.

SUPPLEMENTARY INFORMATION: The CIREN System has been established and crash cases have been entered into the database by each Center. CIREN cases may be viewed from the NHTSA/CIREN Web site at: *http://www-nrd.nhtsa.dot.gov/departments/nrd-50/ciren/CIREN.html*. NHTSA has held three Annual Conferences where CIREN research results were presented. Further information about the three previous CIREN conferences is also available through the NHTSA Web site. NHTSA held the first quarterly meeting on May 5, 2000, with a topic of lower extremity injuries in motor vehicle crashes; the second quarterly meeting on July 21, 2000, with a topic of side impact crashes; the third quarterly meeting on November 30, 2000, with a topic of thoracic injuries in crashes; the fourth quarterly meeting on March 16, 2001, with a topic of offset frontal collisions; the fifth quarterly meeting on June 21, 2001, on CIREN outreach efforts; the sixth quarterly meeting (held in Ann Arbor, Michigan) with a topic of injuries involving sport utility vehicles; the seventh quarterly meeting on December 6, 2001, with a topic of Age Related Injuries (Elderly and Children); the eighth quarterly meeting on April 25, 2002, with a topic of Head and Traumatic Brain Injuries; the ninth quarterly meeting on August 22, 2002, at Harborview Injury Prevention and Research Center in Seattle, Washington with presentations highlighting the various research specialties of the Centers; the tenth Quarterly meeting on December 5, 2002, with a topic of Occult Injuries; the eleventh Quarterly Meeting on April 3, 2003, with papers on the injuries sustained in crashes where vehicles are mis-matched in terms of size or weight; and the twelfth quarterly meeting on December 5, 2003, at the University of Alabama at Birmingham with presentations on various research specialties of the Centers. Presentations from these meetings are available through the NHTSA Web site.

NHTSA plans to continue holding quarterly meetings on a regular basis to disseminate CIREN information to interested parties. This is the thirteenth

such meeting. The CIREN Centers will be presenting papers on a variety of research topics.

Should it be necessary to cancel the meeting due to inclement weather or to any other emergencies, a decision to cancel will be made as soon as possible and posted immediately on NHTSA's Web site *http://www.nhtsa.dot.gov/nhtsa/announce/meetings/*. If you do not have access to the Web site, you may call the contact listed below and leave your telephone or fax number. You will be called only if the meeting is postponed or canceled.

FOR FURTHER INFORMATION CONTACT: NHTSA or the Baltimore CIREN Center.

NHTSA, Mark Scarboro, Office of Advanced Safety Research, 400 Seventh Street, SW., Room 6220, Washington, DC 20590, telephone: (202) 366–5932.

Or

Baltimore CIREN Center, Tim Kerns, National Study Center for Trauma/EMS, 701 West Pratt Street, Room 553, Baltimore, MD 21201.

Issued on: September 21, 2004.

Joseph N. Kanianthra,

Associate Administrator for Vehicle Safety Research, National Highway Traffic Safety Administration.

[FR Doc. 04–21594 Filed 9–24–04; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–876X and AB–875X]

R.J. Corman Equipment Company, LLC—Abandonment Exemption—in Johnson, Magoffin and Breathitt Counties, KY; R.J. Corman Railroad Company/Bardstown Line—Discontinuance of Service Exemption—in Johnson, Magoffin and Breathitt Counties, KY

On September 7, 2004, (1) R.J. Corman Equipment Company, LLC (RJCE) and (2) R.J. Corman Railroad Company/Bardstown Line (RJCR) jointly filed with the Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903.[1] RCJE seeks to abandon and RJCR seeks to discontinue service on, a line of railroad known as the Dawkins Line, extending from milepost 0.05 at Dawkins, KY, to the end of the track at milepost 36.13 near Evanston, KY, a distance of approximately 36.08 miles in Johnson, Magoffin and Breathitt Counties, KY. The line traverses United States Postal Service Zip Codes 41240, 41260, 41222, 41465, and 41339 and includes the stations of Paintsville, Ivyton, Royalton, Magoffin and Skyline.

The line does not contain federally granted rights-of-way. Any documentation in the possession of RJCE and RJCR 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 issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by December 23, 2004.

Any offer of financial assistance (OFA) 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 OFA 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 October 15, 2004. Each trail use request must be accompanied by a $200 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket Nos. AB–876X and AB–875X and must be sent to: (1) Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001, and (2) Thomas J. Litwiler, 29 North Wacker Drive, Suite 920, Chicago, IL 60606–2832. Replies to the petition are due on or before October 15, 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 the 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 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 our Web site at *http://www.stb.dot.gov.*

Decided: September 21, 2004.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 04–21681 Filed 9–24–04; 8:45 am]

BILLING CODE 4915–01–P

[1] RJCE and RJCR are commonly controlled by Richard J. Corman and are part of the R.J. Corman family of railroads, which includes seven other Class III rail carriers in the eastern United States.

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Former Prisoners of War; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Advisory Committee on Former Prisoners of War (FPOW) will be held on October 12–14, 2004, in the Basement Conference Room, at the VA Boston Healthcare System, 150 South Huntington Avenue, Boston, MA 02130. Each day, the meeting will convene at 9 a.m. and end at 4:30 p.m. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the administration of benefits under Title 38, United States Code, for veterans who are former prisoners of war and to make recommendations on the needs of such veterans for compensation, health care, and rehabilitation.

The agenda for October 12 consists of an introduction of Committee members, remarks from dignitaries, a review of Committee reports, an update of activities since the last meeting, and time for FPOW veterans and/or the public to address the committee. The Chairman of the FPOW presumptive workgroup will provide a status report on the recommendations made to the Secretary. The agenda for October 13 includes reports on the progress of the VA FPOW Case Management training and the progress of the Special FPOW Care and Benefits Teams. The Director of the Robert E. Mitchell Center for Prisoners of War Studies will provide an update on center activities. The Committee will discuss the VA's responses to the Committee's previous recommendations. The Committee will

also hear presentations on activities in Veterans Health Administration VISN 1 Network. The day will conclude with new business and general discussion. On October 14, the Committee's medical and administrative work groups will meet separately to discuss their new recommendations and report to the Committee Chairman. Additionally, the Committee will analyze the comments discussed throughout the meeting for the development of a final report for the Secretary.

Members of the public may direct questions or submit written statements for review by the Committee in advance of the meeting to Renée L. Szybala, Director, Compensation and Pension Service (21), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

Dated: September 20, 2004.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 04–21543 Filed 9–24–04; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Prosthetics and Special Disabilities Programs; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Advisory Committee on Prosthetics and Special Disabilities Programs will be held November 9–10, 2004, at VA Headquarters, 810 Vermont Avenue, NW., Room 830, Washington, DC. Meeting sessions will convene at 8:30 a.m. on both days and will adjourn at 4:30 p.m. on November 9 and at 12 noon on November 19. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on VA's prosthetic programs designed to provide state-of-the-art prosthetics and the associated rehabilitation research, development, and evaluation of such technology. The Committee also provides advice to the Secretary on special disability programs which are defined as any program administered by the Secretary to serve veterans with spinal cord injury, blindness or vision impairment, loss of or loss of use of extremities, deafness or hearing impairment, or other serious incapacities in terms of daily life functions.

On the morning of November 9, the Committee will be briefed by the Chief Consultants, Rehabilitation Strategic Healthcare Group and Prosthetics and Sensory Aids. In the afternoon, the Committee will be briefed by the directors of VA's special disabilities programs (physical medicine and rehabilitation, audiology and speech pathology), and the national program directors of VA's ophthalmology and optometry programs. On the morning of November 10, the Committee will be briefed by the Director Rehabilitation Research and Development, and will subsequently discuss the annual Capacity Report as well as transition issues and benefits.

No time will be allocated for receiving oral presentations from the public. However, members of the public may direct questions or submit written statements for review by the Committee in advance of the meeting to Ms. Cynthia Wade, Veterans Health Administration, Patient Care Services, Rehabilitation Strategic Healthcare Group (117), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Any member of the public wishing to attend the meeting should contact Ms. Wade at (202) 273–8485.

Dated: September 20, 2004.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 04–21542 Filed 9–24–04; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 69, No. 186

Monday, September 27, 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 AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 04–048–1]

Notice of Request for Emergency Approval of an Information Collection

Correction

In notice document E4–2344 beginning on page 56990 in the issue of Thursday, September 23, 2004 make the following correction:

On page 56990, in the first column, in the **DATES** section, in the second line ''October 3, 2004 '' should read ''October 4, 2004 ''.

[FR Doc. Z4–2344 Filed 9–24–04; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50355; File No. SR-Amex-2004-23]

Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change and Amendment No. 1 Thereto and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 2 and 3 to the Proposed Rule Change by the American Stock Exchange LLC Relating to Generic Listing Standards for Trust Certificate Securities Linked to a Portfolio of Investment Grade Securities

Correction

In notice document E4–2245 beginning on page 56252 in the issue of Monday, September 20, 2004 make the following correction:

On page 56257, in the first column, in the first paragraph, in the final line, ''October 11, 2004'' should read ''October 12, 2004.''

[FR Doc. Z4–2245 Filed 9–24–04; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2003–15818]

Exemption To Allow Werner Enterprises, Inc. To Use Global Positioning System (GPS) Technology To Monitor and Record Drivers' Hours of Service

Correction

In notice document 04–21139 beginning on page 56474 in the issue of Tuesday, September 21, 2004, make the following correction:

On page 56474, in the first column, in the **DATES** section, in the second line, ''September 21, 2004'' should read ''September 21, 2006''.

[FR Doc. C4–21139 Filed 9–24–04; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Monday,
September 27, 2004

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Late Seasons and Bag and Possession Limits for Certain Migratory Game Birds; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AT53

Migratory Bird Hunting; Late Seasons and Bag and Possession Limits for Certain Migratory Game Birds

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes the hunting seasons, hours, areas, and daily bag and possession limits for general waterfowl seasons and those early seasons for which States previously deferred selection. Taking of migratory birds is prohibited unless specifically provided for by annual regulations. This rule permits the taking of designated species during the 2004–05 season.

DATES: This rule is effective on September 25, 2004.

FOR FURTHER INFORMATION CONTACT: Brian Millsap, Chief, or Ron W. Kokel, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 2004

On March 22, 2004, we published in the **Federal Register** (69 FR 13440) a proposal to amend 50 CFR part 20. The proposal provided a background and overview of the migratory bird hunting regulations process, and dealt with the establishment of seasons, limits, the proposed regulatory alternatives for the 2004–05 duck hunting season, and other regulations for migratory game birds under § § 20.101 through 20.107, 20.109, and 20.110 of subpart K. On June 9, 2004, we published in the **Federal Register** (69 FR 32418) a second document providing supplemental proposals for early- and late-season migratory bird hunting regulations frameworks and the regulatory, alternatives for the 2004–05 duck hunting season. The June 9 supplement also provided detailed information on the 2004–05 regulatory schedule and announced the Service Migratory Bird Regulations Committee (SRC) meetings.

On June 23–24, 2004, we held open meetings with the Flyway Council Consultants at which the participants reviewed information on the current status of migratory shore and upland game birds and developed recommendations for the 2004–05 regulations for these species plus regulations for migratory game birds in Alaska, Puerto Rico, and the Virgin Islands, special September waterfowl seasons in designated States, special sea duck seasons in the Atlantic Flyway, and extended falconry seasons. In addition, we reviewed and discussed preliminary information on the status of waterfowl as it relates to the development and selection of the regulatory packages for the 2004–05 regular waterfowl seasons. On July 21, 2004, we published in the **Federal Register** (69 FR 43694) a third document specifically dealing with the proposed frameworks for early-season regulations. On August 30, 2004, we published a final rule in the **Federal Register** (69 FR 52970) that contained final frameworks for early migratory bird hunting seasons from which wildlife conservation agency officials from the States, Puerto Rico, and the Virgin Islands selected early-season hunting dates, hours, areas, and limits. Subsequently, on September 1, 2004, we published a final rule in the **Federal Register** (69 FR 53564) amending subpart K of title 50 CFR part 20 to set hunting seasons, hours, areas, and limits for early seasons.

On July 28–29, 2004, we held open meetings with the Flyway Council Consultants at which the participants reviewed the status of waterfowl and developed recommendations for the 2004–05 regulations for these species. Proposed hunting regulations were discussed for late seasons. We published proposed frameworks for the 2004–05 late-season migratory bird hunting regulations on August 24, 2004, in the **Federal Register** (69 FR 52128). We published final late-season frameworks for migratory game bird hunting regulations, from which State wildlife conservation agency officials selected late-season hunting dates, hours, areas, and limits for 2004–05 in a September 23, 2004, **Federal Register**.

The final rule described here is the final in the series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations for 2004–05 and deals specifically with amending subpart K of 50 CFR part 20. It sets hunting seasons, hours, areas, and limits for species subject to late-season regulations and those for early seasons that States previously deferred.

NEPA Consideration

NEPA considerations are covered by the programmatic document, ''Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14),'' filed with the Environmental Protection Agency on June 9, 1988. We published a Notice of Availability in the **Federal Register** on June 16, 1988 (53 FR 22582), and our Record of Decision on August 18, 1988 (53 FR 31341). Copies are available from the address indicated under **ADDRESSES**. Additionally, in a proposed rule published in the April 30, 2001, **Federal Register** (66 FR 21298), we expressed our intent to begin the process of developing a new EIS for the migratory bird hunting program. We plan to begin the public scoping process in 2005.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act, as amended (16 U.S.C. 1531–1543; 87 Stat. 884), provides that, ''The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act'' (and) shall ''insure that any action authorized, funded or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat * * *.'' Consequently, we conducted formal consultations to ensure that actions resulting from these regulations would not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion, which concluded that the regulations are not likely to adversely affect any endangered or threatened species. Additionally, these findings may have caused modification of some regulatory measures previously proposed, and the final frameworks reflect any such modifications. Our biological opinions resulting from this Section 7 consultation are public documents available for public inspection at the address indicated under **ADDRESSES**.

Executive Order 12866

The migratory bird hunting regulations are economically significant and were reviewed by the Office of Management and Budget (OMB) under Executive Order 12866. As such, a cost/benefit analysis was initially prepared in 1981. This analysis was subsequently revised annually from 1990–1996, and then updated in 1998. We have updated again this year. It is further discussed below under the heading Regulatory Flexibility Act. Results from the 2004 analysis indicate that the expected welfare benefit of the annual migratory bird hunting frameworks is on the order of $734 million to $1.064 billion, with a midpoint estimate of

$899 million. Copies of the cost/benefit analysis are available upon request from the address indicated under **ADDRESSES** or from our Web site at *http://www.migratorybirds.gov.*

Regulatory Flexibility Act

These regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail as part of the 1981 cost-benefit analysis discussed under Executive Order 12866. This analysis was revised annually from 1990 through 1995. In 1995, the Service issued a Small Entity Flexibility Analysis (Analysis), which was subsequently updated in 1996, 1998, and 2004. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The 2004 Analysis was based on the 2001 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns, from which it was estimated that migratory bird hunters would spend between $481 million and $1.2 billion at small businesses in 2004. Copies of the Analysis are available upon request from the address indicated under **ADDRESSES** or from our Web site at *http://www.migratorybirds.gov.*

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule has an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, we do not plan to defer the effective date required by 5 U.S.C. 801 under the exemption contained in 5 U.S.C. 808(1).

Paperwork Reduction Act

We examined these regulations under the Paperwork Reduction Act of 1995. We utilize the information obtained from the various recordkeeping and reporting requirements imposed under regulations established in 50 CFR part 20, Subpart K, in the formulation of migratory game bird hunting regulations. Specifically, OMB has approved the information collection requirements of the Migratory Bird Harvest Information Program and assigned clearance number 1018–0015 (expires 10/31/2004). This information is used to provide a sampling frame for voluntary national surveys to improve our harvest estimates for all migratory game birds in order to better manage these populations. A Federal 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.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not ''significantly or uniquely'' affect small governments, and will not produce a Federal mandate of $100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

We have determined that this rule will not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on federally recognized Indian tribes and have determined that there are no effects.

Energy Effects—Executive Order 13211

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this rule is a significant regulatory action under Executive Order 12866, it is not expected to adversely affect energy supplies, distribution, or use. Thus, this action is not a significant energy action and no Statement of Energy Effects is required.

Takings Implication Assessment

In accordance with Executive Order 12630, this rule does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, this rule will allow hunters to exercise otherwise unavailable privileges, and, therefore, reduces restrictions on the use of private and public property.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act (MBTA). Annually, we prescribe frameworks from which the States make selections and employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. We develop the frameworks in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will ultimately make season selections, thereby having an influence on their own regulations. This process preserves the ability of the States and Tribes to determine which seasons meet their individual needs. Further, any State or Tribe may be more restrictive than the Federal frameworks at any time.

These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulations Promulgation

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, we intend that the public be given the greatest possible opportunity to comment. Thus, when the preliminary proposed rulemaking was published, we established what we believed were the longest periods possible for public comment. In doing this, we recognized that when the comment period closed, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, States would have insufficient time to select season dates and limits; to communicate those selections to us; and to establish and publicize the necessary regulations and procedures to implement their decisions. We, therefore, find that ''good cause'' exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these regulations will take effect immediately upon publication.

Accordingly, with each conservation agency having had an opportunity to participate in selecting the hunting seasons desired for its State or Territory on those species of migratory birds for which open seasons are now prescribed, and consideration having been given to all other relevant matters presented, certain sections of Title 50, chapter I, subchapter B, part 20, subpart K, are hereby amended as set forth below.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Dated: September 21, 2004.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

PART 20—[AMENDED]

■ For the reasons set out in the preamble, Title 50, chapter I, subchapter B, part 20, subpart K of the Code of Federal Regulations is amended as follows:

■ 1. The authority citation for part 20 continues to read as follows:

Authority: 16 U.S.C. 703–712 and 16 U.S.C. 742a–j, Pub. L. 106–108.

BILLING CODE 4310–55–P

Note - The following annual regulations provided for by §§20.104, 20.105, 20.106, 20.107, and 20.109 of 50 CFR part 20 will not appear in the Code of Federal Regulations because of their seasonal nature.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS. SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS AND FEDERAL INDIAN RESERVATIONS.

2. Section 20.104 is amended by adding the entries for the following States in alphabetical order to read as follows:

§20.104 Seasons, limits, and shooting hours for rails, woodcock, and common snipe.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset, except as otherwise restricted by State regulations.

Area descriptions were published in the August 30, 2004, (69 FR 52970) and the September Federal Registers.

NOTE: The following seasons are in addition to the seasons published previously in the September 1, 2004, Federal Register (69 FR 53564).

	Sora & Virginia Rails	Clapper & King Rails	Woodcock	Common Snipe
Daily bag limit	25 (1)	15 (2)	3	8
Possession limit	25 (1)	30 (2)	6	16

ATLANTIC FLYWAY

* * * * *

Maine	Sept. 1-Nov. 9	Closed	Oct. 1-Oct. 30	Sept. 1-Dec. 16

* * * * *

Massachusetts (4)	Sept. 1-Nov. 8	Closed	Oct. 14-Oct. 30 & Nov. 1-Nov. 13	Sept. 1-Dec. 15

* * * * *

Vermont	Closed	Closed	Oct. 7-Nov. 5	Oct. 6-Dec. 16

* * * * *

MISSISSIPPI FLYWAY

* * * * *

	Sora & Virginia Rails	Clapper & King Rails	Woodcock	Common Snipe
Louisiana	Sept. 18-Sept. 26 & Nov. 13-Jan. 12	Sept. 18-Sept. 26 & Nov. 13-Jan. 12	Dec. 18-Jan. 31	Nov. 6-Feb. 20
		* * * * *		
Tennessee				
Reelfoot Zone	Nov. 13-Nov. 14 & Dec. 2-Jan. 20	Closed	Oct. 30-Dec. 13	Nov. 14-Feb. 28
State Zone	Nov. 27-Nov. 28 & Dec. 2-Jan. 20	Closed	Oct. 30-Dec. 13	Nov. 14-Feb. 28
Wisconsin				
North Zone	Sept. 25-Nov. 23	Closed	Sept. 25-Nov. 8	Sept. 25-Nov. 23
South Zone	Oct. 2-Oct. 10 & Oct. 16-Dec. 5	Closed	Sept. 25-Nov. 8	Oct. 2-Oct. 10 & Oct. 16-Dec. 5
		* * * * *		
PACIFIC FLYWAY				
Arizona (16)				
North Zone	Closed	Closed	Closed	Oct. 8-Jan. 16
South Zone	Closed	Closed	Closed	Oct. 22-Jan. 30
		* * * * *		
Idaho				
Zone 1 & 2	Closed	Closed	Closed	Oct. 2-Jan. 14
Zones 3	Closed	Closed	Closed	Oct. 9-Jan. 21
		* * * * *		
Nevada				
Lincoln and Clark Counties	Closed	Closed	Closed	Oct. 9-Oct. 13 & Oct. 15-Jan. 23
Rest of State	Closed	Closed	Closed	Oct. 9-Oct. 13 & Oct. 15-Jan. 23
		* * * * *		
Oregon				
Zone 1	Closed	Closed	Closed	Oct. 16-Oct. 31 & Nov. 3-Jan. 30

	Sora & Virginia Rails	Clapper & King Rails	Woodcock	Common Snipe
Oregon (cont.)				
Zone 2	Closed	Closed	Closed	Oct. 9-Dec. 7 & Dec. 10-Jan. 23
Utah	Closed	Closed	Closed	Oct. 2-Jan. 15
		* * * * *		
Washington				
East Zone	Closed	Closed	Closed	Oct. 16-Oct. 20 & Oct. 23-Jan. 30
West Zone	Closed	Closed	Closed	Oct. 16-Oct. 20 & Oct. 23-Jan. 30
		* * * * *		

(1) The bag and possession limits for sora and Virginia rails apply singly or in the aggregate of these species.

(2) All bag and possession limits for clapper and king rails apply singly or in the aggregate of the two species and, unless otherwise specified, the limits are in addition to the limits on sora and Virginia rails in all States. In Connecticut, Delaware, Maryland, and New Jersey, the limits for clapper and king rails are 10 daily and 20 in possession.

* * * * *

(4) In Massachusetts, the sora daily limits are 5 daily and 5 in possession; the Virginia rail limits are 10 daily and 10 in possession.

* * * * *

(16) In Arizona, Ashurst Lake in Unit 5B is closed to common snipe hunting.

3. In Section 20.105, paragraphs (a), (b), and (f) are amended by adding the entries for the following States in alphabetical order and paragraph (e) is revised to read as follows:

§20.105 Seasons, limits, and shooting hours for waterfowl, coots, and gallinules.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset, except as otherwise restricted by State regulations. Area descriptions were published in the August 30 (69 FR 52970) and the September Federal Registers.

(a) Common Moorhens and Purple Gallinules
(Atlantic, Mississippi, and Central Flyways)

NOTE: The following seasons are in addition to the seasons published previously in the September 1, 2004, Federal Register (69 FR 53564). The zones named in this paragraph are the same as those used for setting duck seasons.

	Season Dates	Limits Bag	Limits Possession
ATLANTIC FLYWAY			
	* * * * *		
Georgia	Nov. 20-Nov. 28 &	15	30
	Dec. 11-Jan. 20		
	* * * * *		
Virginia	Oct. 7-Oct. 11 &	15	30
	Nov. 20-Dec. 4 &	15	30
	Dec. 11-Jan. 20	15	30
West Virginia			
Zone 1	Oct. 1-Oct. 16 &	15	30
	Dec. 10-Jan. 22	15	30
Zone 2	Oct. 1-Oct. 16 &	15	30
	Nov. 26-Jan. 8	15	30
	* * * * *		
MISSISSIPPI FLYWAY			
	* * * * *		
Louisiana	Sept. 18-Sept. 26 &	15	30
	Nov. 13-Jan. 12	15	30
Michigan			
North Zone	Sept. 25-Nov. 21 &	15	30
	Nov. 27-Nov. 28	15	30
Middle Zone	Oct. 2-Nov. 28 &	15	30
	Jan. 1-Jan. 2	15	30
South Zone	Oct. 9-Dec. 5 &	15	30
	Jan. 1-Jan. 2	15	30
Minnesota (2)	Sept. 25-Nov. 23	15	30
	* * * * *		

	Season Dates	Limits Bag	Limits Possession
Tennessee			
Reelfoot Zone	Nov. 13-Nov. 14 &	15	30
	Dec. 2-Jan. 23	15	30
State Zone	Nov. 27-Nov. 28 &	15	30
	Dec. 2-Jan. 23	15	30
Wisconsin			
North Zone	Sept. 25-Nov. 23	10	20
South Zone	Oct. 2-Oct. 10 &	10	20
	Oct. 16-Dec. 5		
* * * * *			
PACIFIC FLYWAY			
All States	Seasons are in aggregate with coots and listed in paragraph (e).		

* * * * *

(2) In Minnesota, the daily bag limit is 15 and the possession limit is 30 coots and moorhens in the aggregate.

(b) Sea Ducks (scoter, eider, and oldsquaw ducks in Atlantic Flyway)

NOTE: The following seasons are in addition to the seasons published previously in the September 1, 2004, Federal Register (69 FR 53564).

Within the special sea duck areas, the daily bag limit is 7 sea ducks of which no more than 4 may be scoters. Possession limits are twice the daily bag limit. These limits may be in addition to regular duck bag limits only during the regular duck season in the special sea duck hunting areas.

	Season Dates	Limits Bag	Limits Possession
Georgia	Nov. 20-Nov. 28 &	7	14
	Dec. 11-Jan. 30	7	14
* * * * *			
Maine (3)	Oct. 1-Jan. 31	7	14
Maryland	Oct. 2-Jan. 29	5	10
Massachusetts (4)	Oct. 6-Jan. 22	7	14

	Season Dates	Limits Bag	Limits Possession
	* * * * *		
North Carolina	Sept. 29-Jan. 29	7	14
	* * * * *		
South Carolina	Oct. 16-Jan. 30	7	14
Virginia	Oct. 7-Jan. 29	7	14

Note: Notwithstanding the provisions of this part 20, the shooting of crippled waterfowl from a motorboat under power will be permitted in Maine, Massachusetts, New Hampshire, Rhode Island, Connecticut, New York, Delaware, Virginia, and Maryland in those areas described, delineated, and designated in their respective hunting regulations as special sea duck hunting areas.

* * * * *

(3) In Maine, the daily bag limit for eiders is 5, possession 10.
(4) In Massachusetts, the daily bag limit may include no more than 4 eiders (only 1 of which may be a hen) and 4 long-tailed ducks.

* * * * *

(e) Waterfowl, Coots, and Pacific-Flyway Seasons for Common Moorhens and Purple Gallinules

Definitions

The Atlantic Flyway: Includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

The Mississippi Flyway: Includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

The Central Flyway: Includes Colorado (east of the Continental Divide), Kansas, Montana (Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except that the Jicarilla Apache Indian Reservation is in the Pacific Flyway), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

The Pacific Flyway: Includes the States of Arizona, California, Colorado (west of the Continental Divide), Idaho, Montana (including and to the west of Hill, Chouteau, Cascade, Meagher, and Park Counties), Nevada, New Mexico (the Jicarilla Apache Indian Reservation and west of the Continental Divide), Oregon, Utah, Washington, and Wyoming (west of the Continental Divide including the Great Divide Basin).

Light Geese: Includes lesser snow (including blue) geese, greater snow geese, and Ross' geese.

Dark Geese: Includes Canada geese, white-fronted geese, emperor geese, brant (except in California, Oregon, Washington, and the entire Atlantic Flyway) and all other geese except light geese.

ATLANTIC FLYWAY

Flyway-wide Restrictions

Duck Limits: The daily bag limit of 6 ducks may include no more than 4 mallards (2 hen mallards), 3 scaup, 1 black duck, 1 pintail, 1 canvasback, 1 mottled duck, 2 wood ducks, 2 redheads, and 1 fulvous tree duck. The possession limit is twice the daily bag limit.

Harlequin Ducks: All areas of the Flyway are closed to harlequin duck hunting.

Merganser Limits: The merganser limits include no more than 1 hooded merganser daily and 2 in possession.

	Season Dates	Limits Bag	Limits Possession
Connecticut			
Ducks:		6	12
North Zone:			
Canvasbacks	Dec. 6-Jan. 8		
Pintails	Oct. 14-Oct. 23 & Nov. 11-Dec. 4		
Other ducks	Oct. 14-Oct. 23 & Nov. 11-Jan. 8		
South Zone:			
Canvasbacks	Dec. 20-Jan. 22		
Pintails	Oct. 14-Oct. 21 & Nov. 23-Dec. 18		
Other ducks	Oct. 14-Oct. 21 & Nov. 23-Jan. 22		
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Canada Geese:			
NAP Zone:			
L-Unit	Oct. 1-Oct. 30 &	3	6
	Nov. 24-Jan. 13	3	6
H-Unit			
North Zone	Oct. 1-Oct. 18 &	2	4
	Nov. 23-Jan. 13	2	4
South Zone	Oct. 1-Oct. 18 &	2	4
	Nov. 23-Jan. 13	2	4
(special season)	Jan. 15-Feb. 15	5	10
AP Unit	Oct. 30-Nov. 6 &	3	6
	Nov. 19-Jan. 1	3	6
Light Geese:			
North Zone	Oct. 9-Feb. 5	15	--
South Zone	Oct. 9-Feb. 5	15	--

	Season Dates	Limits Bag	Limits Possession
Connecticut (cont.)			
Brant:			
North Zone	Nov. 12-Jan. 8	2	4
South Zone	Nov. 26-Jan. 22	2	4
Delaware			
Ducks :		6	12
Canvasbacks	Dec. 12-Jan. 15		
Pintails	Oct. 1-Oct. 5 &		
	Oct. 29-Nov. 6 &		
	Nov. 22-Dec. 11		
Other ducks	Oct. 1-Oct. 5 &		
	Oct. 29-Nov. 6 &		
	Nov. 22-Jan. 15		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Canada Geese	Nov. 22-Dec. 4 &	1	2
	Dec. 9-Dec. 23 &	1	2
	Dec. 24-Jan. 15	2	4
Light Geese:			
Bombay Hook NWR Zone (1)	Oct. 1-Jan. 14 &	15	--
	Feb. 7-Mar. 4	15	--
Rest of State (2)	Oct. 1-Nov. 10 &	15	--
	Nov. 22-Jan. 15 &	15	--
	Jan. 28-Mar. 9	15	--
Brant	Dec. 3-Jan. 29	2	4
Florida			
Ducks:		6	12
Canvasbacks	Nov. 20-Nov. 28 &		
	Dec. 11-Dec. 31		
Pintails	Nov. 20-Nov. 28 &		
	Dec. 11-Dec. 31		
Other ducks	Nov. 20-Nov. 28 &		
	Dec. 11-Jan. 30		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Canada Geese (3)	Nov. 20-Nov. 28 &	5	10
	Dec. 1-Jan. 30	5	10
Light Geese (4)	Nov. 20-Nov. 28 &	15	--
	Dec. 11-Jan. 30	15	--
Georgia			
Ducks:		6	12
Canvasbacks	Jan. 1-Jan. 30		
Pintails	Jan. 1-Jan. 30		
Other ducks	Nov. 20-Nov. 28 &		
	Dec. 11-Jan. 30		

	Season Dates	Limits Bag	Limits Possession
Georgia (cont.)			
Mergansers	Same as Other ducks	5	10
Coots	Same as Other ducks	15	30
Canada Geese (special season)	Same as Other ducks	5	10
Light Geese	Same as Other ducks	5	10
Brant	Closed	--	--
Maine			
Ducks (5):		4	8
North Zone:			
Canvasbacks	Oct. 4-Oct. 30		
Pintails	Oct. 4-Oct. 30		
Other ducks	Oct. 4-Dec. 11		
South Zone:			
Canvasbacks	Oct. 4-Oct. 30		
Pintails	Oct. 4-Oct. 30		
Other ducks	Oct. 4-Oct. 30 &		
	Nov. 15-Dec. 25		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	5	10
Canada Geese:			
North Zone	Oct. 4-Dec. 11	2	4
South Zone	Oct. 4-Oct. 30 &	2	4
	Nov. 15-Dec. 25	2	4
Light Geese	Oct. 4-Jan. 31	15	--
Brant	Oct. 4-Nov. 30	2	4
Maryland			
Ducks (6):		5	10
Canvasbacks	Dec. 27-Jan. 29		
Pintails	Oct. 9-Oct. 16 &		
	Jan. 4-Jan. 29		
Other ducks	Oct. 9-Oct. 16 &		
	Nov. 13-Nov. 26 &		
	Dec. 14-Jan. 29		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Canada Geese:			
RP Zone	Nov. 15-Nov. 26 &	5	10
	Dec. 9-Feb. 15	5	10
AP Zone	Nov. 18-Nov. 26 &	1	2
	Dec. 18-Jan. 6 &	1	2
	Jan. 7-Jan. 29	2	4
Light Geese (7)	Oct. 16-Nov. 26 &	15	--
	Dec. 4-Jan. 31 &	15	--
	Feb. 2-Mar. 9	15	--
Brant	Nov. 17-Nov. 26 &	2	4
	Dec. 14-Jan. 29	2	4

	Season Dates	Limits Bag	Limits Possession
Massachusetts			
Ducks (8):		6	12
Western Zone:			
Canvasbacks	Oct. 12-Nov. 15		
Pintails	Oct. 12-Nov. 15		
Other ducks	Oct. 12-Nov. 27 & Dec. 4- Dec. 25		
Central Zone:			
Canvasbacks	Oct. 13-Nov. 16		
Pintails	Oct. 13-Nov. 16		
Other ducks	Oct. 13-Nov. 27 & Dec. 17-Jan. 8		
Coastal Zone:			
Canvasbacks	Oct. 14-Oct. 23 & Nov. 25-Dec. 18		
Pintails	Oct. 14-Oct. 23 & Nov. 25-Dec. 18		
Other ducks	Oct. 14-Oct. 23 & Nov. 25-Jan. 22		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Canada Geese:			
NAP Zone			
Central Zone:	Oct. 13-Nov. 27 &	2	4
	Dec. 17-Jan. 8	2	4
(special season)	Jan. 15-Feb. 15	2	4
Coastal Zone:	Oct. 14-Oct. 23 &	2	4
	Nov. 25-Jan. 22	2	4
(special season)	Jan. 24-Feb. 15	5	10
AP Zone	Oct. 23-Nov. 27 &	3	6
	Dec. 10-Dec. 25	3	6
Light Geese:			
Western Zone	Same as for Other ducks	15	30
Central Zone	Same as for Other ducks &	15	30
	Jan. 15-Feb. 15	15	30
Coastal Zone	Same as for Other ducks &	15	30
	Jan. 24-Feb. 15	15	30
Brant:			
Western & Central Zone	Closed	--	--
Coastal Zone	Nov. 26-Jan. 22	2	4
New Hampshire			
Ducks :		6	12
Inland Zone:			
Canvasbacks	Nov. 24-Dec. 12		
Pintails	Oct. 5-Nov. 3		
Other ducks	Oct. 5-Nov. 14 & Nov. 24-Dec. 12		

	Season Dates	Limits Bag	Limits Possession
New Hampshire (cont.)			
Coastal Zone:			
Canvasbacks	Nov. 24-Dec. 23		
Pintails	Oct. 6-Oct. 17 & Nov. 24-Dec. 11		
Other ducks	Oct. 6-Oct. 17 & Nov. 24-Jan. 10		
Mergansers	Same as Other ducks	5	10
Coots	Same as Other ducks	15	30
Canada Geese:			
Inland Zone	Oct. 5-Nov. 14 &	2	4
	Nov. 24-Dec. 12	2	4
Coastal Zone	Oct. 6-Oct. 17 &	2	4
	Nov. 24-Jan. 10	2	4
Light Geese:			
Inland Zone	Oct. 5-Dec. 12	15	--
Coastal Zone	Oct. 6-Jan. 10	15	–
Brant:			
Inland Zone	Oct. 5-Nov. 14 &	2	4
	Nov. 24-Dec. 2	2	4
Coastal Zone	Oct. 6-Oct. 17 &	2	4
	Nov. 24-Dec. 31	2	4
New Jersey			
Ducks:		6	12
North Zone:			
Canvasbacks	Nov. 29-Jan. 1		
Pintails	Nov. 16-Nov. 27 & Dec. 11-Jan. 1		
Other ducks	Oct. 9-Oct. 30 & Nov. 16-Jan. 1		
South Zone:			
Canvasbacks	Nov. 20-Nov. 27 & Dec. 14-Jan. 8		
Pintails	Oct. 16-Oct. 23 & Dec. 14-Jan. 8		
Other ducks	Oct. 16-Nov. 27 & Dec. 14-Jan. 8		
Coastal Zone:			
Canvasbacks	Dec. 27-Jan. 29		
Pintails	Nov. 11-Nov. 13 & Dec. 2-Jan. 1		
Other ducks	Nov. 11-Nov. 13 & Nov. 25-Jan. 29		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30

	Season Dates	Limits Bag	Limits Possession
New Jersey (cont.)			
Canada Geese:			
North Zone	Nov. 13-Nov. 27 &	3	6
	Dec. 17-Jan. 22	3	6
South Zone	Nov. 20-Dec. 1 &	3	6
	Dec. 14-Jan. 22	3	6
Coastal Zone	Nov. 25-Dec. 4 &	3	6
	Dec. 13-Jan. 22	3	6
(special season)	Jan. 24-Feb. 15	5	10
Light Geese:			
North Zone	Nov. 6-Mar. 10	15	--
South Zone	Oct. 16-Oct. 23 &	15	--
	Nov. 15-Mar. 10	15	--
Coastal Zone	Oct. 9-Feb. 10	15	--
Brant:			
North Zone	Oct. 9-Oct. 30 &	2	4
	Nov. 27-Jan. 1	2	4
South Zone	Oct. 16-Nov. 27 &	2	4
	Dec. 25-Jan. 8	2	4
Coastal Zone	Nov. 11-Nov. 13 &	2	4
	Nov. 25-Jan. 18	2	4
New York			
Ducks:		6	12
Long Island Zone:			
Canvasbacks	Jan. 1-Jan. 30		
Pintails	Jan. 1-Jan. 30		
Other ducks	Nov. 20-Nov. 28 &		
	Dec. 11-Jan. 30		
Lake Champlain Zone:			
Canvasbacks	Nov. 1-Nov. 30		
Pintails	Oct. 6-Oct. 10 &		
	Oct. 23-Nov. 16		
Other ducks	Oct. 6-Oct. 10 &		
	Oct. 23-Dec. 16		
Northeastern Zone:			
Canvasbacks	Nov. 6-Dec. 5		
Pintails	Oct. 2-Oct. 17 &		
	Oct. 23-Nov. 5		
Other ducks	Oct. 2-Oct. 17 &		
	Oct. 23-Dec. 5		
Southeastern Zone:			
Canvasbacks	Dec. 4-Jan. 2		
Pintails	Nov. 13-Dec. 12		
Other ducks	Oct. 9-Oct. 17 &		
	Nov. 13-Jan. 2		

	Season Dates	Limits Bag	Possession
New York (cont.)			
Western Zone:			
Canvasbacks	Nov. 22-Dec. 7 &		
	Dec. 27-Jan. 9		
Pintails	Oct. 23-Nov. 21		
Other ducks	Oct. 23-Dec. 7 &		
	Dec. 27-Jan. 9		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Canada Geese:			
Western Long Island (NAP)	Nov. 20-Dec. 8 &	3	6
	Dec. 11-Jan. 30	3	6
(special season)	Feb. 7-Feb. 12	5	10
Eastern Long Island (NAP)	Nov. 20-Nov. 28 &	2	4
	Dec. 11-Jan. 30	2	4
Lake Champlain (AP) Zone (9)	Oct. 23-Dec. 6	3	6
Saint Lawrence (RP) Zone	Oct. 23-Dec. 31	5	10
Northeast (AP) Zone	Oct. 23-Dec. 6	3	6
East Central (AP) Zone	Nov. 6-Nov. 21 &	3	6
	Nov. 27-Dec. 25	3	6
West Central (AP) Zone	Oct. 23-Nov. 21 &	3	6
	Dec. 27-Jan. 10	3	6
Southwest (SJBP) Zone	Oct. 23-Dec. 31	2	4
South Central (RP)	Oct. 23-Nov. 28 &	5	10
	Dec. 15-Jan. 16	5	10
Light Geese:			
Long Island Zone	Nov. 20-Mar. 6	15	--
Lake Champlain Zone (9)	Oct. 6-Dec. 16 &	15	--
Northeastern Zone	Oct. 2-Jan. 1 &	15	--
	Feb. 24-Mar. 10	15	--
Southeastern Zone	Oct. 9-Jan. 8 &	15	--
	Feb. 24-Mar. 10	15	--
Western Zone	Oct. 23-Jan. 22 &	15	--
	Feb. 24-Mar. 10	15	--
Brant:			
Long Island Zone	Dec. 12-Jan 30	2	4
Lake Champlain Zone	Oct. 6-Nov. 24	2	4
Northeastern Zone	Oct. 2-Nov. 20	2	4
Southeastern Zone	Oct. 9-Nov. 27	2	4
Western Zone	Oct. 23-Dec. 11	2	4
North Carolina			
Ducks (10):		6	12
Canvasbacks	Dec. 27-Jan. 29		
Pintails	Dec. 27-Jan. 29		
Other ducks	Sept. 29-Oct. 2 &		
	Nov. 13-Dec. 4 &		
	Dec. 18-Jan. 29		

	Season Dates	Limits Bag	Limits Possession
North Carolina			
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Canada Geese:			
Resident Population Hunt Zone	Nov. 13-Dec. 4 &	5	10
	Dec. 18Jan. 29	5	10
Southern James Bay Hunt Zone	Oct. 6-Oct. 16 &	2	4
	Nov. 6-Dec. 31	2	4
Northeast Hunt Zone	Closed		
Light Geese	Oct. 20-Oct. 30 &	15	--
	Nov. 13-Mar. 5	15	--
Brant	Dec. 4-Jan. 31	2	4
Pennsylvania			
Ducks:		6	12
North Zone:			
Canvasbacks	Nov. 8-Dec. 11		
Pintails	Oct. 9-Oct. 23 &		
	Nov. 8-Nov. 26		
Other ducks	Oct. 9-Oct. 23 &		
	Nov. 8-Dec. 31		
South Zone:			
Canvasbacks	Nov. 25-Dec. 29		
Pintails	Oct. 9-Oct. 16 &		
	Nov. 15-Dec. 10		
Other ducks	Oct. 9-Oct. 16 &		
	Nov. 15-Jan. 14		
Northwest Zone:			
Canvasbacks	Nov. 13-Nov. 27 &		
	Dec 13-Dec. 31		
Pintails	Oct. 9-Nov. 12		
Other ducks	Oct. 9-Nov. 27 &		
	Dec. 13-Dec. 31		
Lake Erie Zone:			
Canvasbacks	Dec. 1-Jan. 4		
Pintails	Oct. 25-Nov. 27		
Other ducks	Oct. 25-Nov. 27 &		
	Dec. 1-Jan. 4		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Canada Geese:			
Eastern (AP) Zone	Nov. 15-Nov. 27 &	3	6
	Dec. 14-Jan. 20	3	6
(late season area)	Nov. 15-Nov. 27 &	3	6
	Dec. 8-Jan. 14	3	6
SJBP Zone	Nov. 15-Dec. 31	2	4
(special season)	Jan. 15-Feb. 15	5	10

	Season Dates	Limits Bag	Possession
Pennsylvania (cont.)			
Pymatuning Zone	Nov. 15-Nov. 27 &	1	2
	Dec. 6-Dec. 31	1	2
Resident (RP) Zone	Nov. 15-Nov. 27 &	5	10
	Dec. 10-Feb. 15	5	10
Special Late Season (portion of AP Zone)	Jan. 15-Feb. 15	5	10
Light Geese	Nov. 6-Mar. 10	15	--
Brant	Oct. 9-Dec. 6	2	4
Rhode Island			
Ducks:		6	12
Canvasbacks	Dec. 25-Jan. 23		
Pintails	Dec. 25-Jan. 23		
Other ducks	Oct. 8-Oct. 11 & Nov. 24-Nov. 28 & Dec. 4-Jan. 23		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Canada Geese	Nov. 20-Nov. 28 &	2	4
	Dec. 4-Jan. 23	2	4
(special season)	Jan. 28-Feb. 13	5	10
Light Geese	Oct. 9-Jan. 23	15	--
Brant	Nov. 20-Nov. 28 &	2	4
	Dec. 4-Jan. 13	2	4
South Carolina			
Ducks (11):		6	12
Canvasbacks	Jan. 1-Jan. 30		
Pintails	Jan. 1-Jan. 30		
Other ducks	Nov. 24-Nov. 28 & Dec. 17-Jan. 30		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Canada Geese (special season)	Nov. 24-Nov. 28 &	5	10
	Dec. 17-Feb. 21	5	10
Light Geese	Same as for Other ducks	15	--
Brant	Same as for Other ducks	2	4
Vermont			
Ducks:		6	12
Lake Champlain Zone:			
Canvasbacks	Nov. 1-Nov. 30		
Pintails	Oct. 6-Oct. 10 & Oct. 23-Nov. 16		
Other ducks	Oct. 6-Oct 10 & Oct. 23-Dec. 16		

	Season Dates	Limits Bag	Possession
Vermont (cont.)			
Interior Zone:			
Canvasbacks	Nov. 1-Nov. 30		
Pintails	Oct. 6-Nov. 4		
Other ducks	Oct. 6-Dec. 4		
Connecticut River Zone:			
Canvasbacks	Nov. 24-Dec. 12		
Pintails	Oct. 5-Nov. 3		
Other ducks	Oct. 5-Nov. 14 &		
	Nov. 24-Dec. 12		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Canada Geese			
Lake Champlain Zone (9):	Oct. 23-Dec. 6	3	6
Interior Zone (9):	Oct. 23-Dec. 6	3	6
Connecticut River Zone:	Oct. 5-Nov. 14 &	3	6
	Nov. 24-Dec. 12	3	6
Light Geese			
Lake Champlain Zone (9):	Oct. 6-Dec. 16	15	–
Interior Zone (9):	Oct. 6-Dec. 16	15	–
Connecticut River Zone:	Oct. 5-Dec. 12	15	–
Brant			
Lake Champlain Zone:	Oct. 6-Nov. 24	2	4
Interior Zone:	Oct. 6-Nov. 24	2	4
Connecticut River Zone:	Oct. 5-Nov. 14 &	2	4
	Nov. 24-Dec. 2	2	4
Virginia			
Ducks (12):		5	10
Canvasbacks	Dec. 27-Jan. 29		
Pintails	Dec. 27-Jan. 29		
Other ducks	Oct. 7-Oct. 11 &		
	Nov. 20-Dec. 4 &		
	Dec. 11-Jan. 29		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Canada Geese:			
Back Bay Area	Closed	--	--
Eastern (AP) Zone	Nov. 20-Dec. 4 &	1	2
	Dec. 24-Jan. 6 &	1	2
	Jan. 7-Jan. 29	2	4
Western (SJBP) Zone	Nov. 20-Dec. 4 &	2	4
	Dec. 15-Jan. 14	2	4
(special season)	Jan. 15-Feb. 15	5	10
Western (RP) Zone	Nov. 20-Dec. 4 &	2	4
	Dec. 15-Jan. 14 &	2	4
	Jan. 15-Feb. 15	5	10
Light Geese	Nov. 6-Mar. 10	15	--
Brant	Nov. 20-Nov. 27 &	2	4
	Dec. 11-Jan. 29	2	4

	Season Dates	Limits Bag	Limits Possession
West Virginia			
Ducks (13):		6	12
Zone 1:			
Canvasbacks	Dec. 24-Jan. 22		
Pintails	Dec. 24-Jan. 22		
Other ducks	Oct. 1-Oct. 16 & Dec. 10-Jan. 22		
Zone 2:			
Canvasbacks	Dec. 10-Jan. 8		
Pintails	Dec. 10-Jan. 8		
Other ducks	Oct. 1-Oct. 16 & Nov. 26-Jan. 8		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Canada Geese:			
Zone 1	Oct. 1-Oct. 16 &	3	6
	Dec. 9-Jan. 31	3	6
Zone 2	Oct. 1-Oct. 30 &	3	6
	Dec. 23-Jan. 31	3	6
Light Geese:			
Zone 1	Same as for Canada geese	5	10
Zone 2	Same as for Canada geese	5	10
Brant			
Zone 1	Dec. 10-Jan. 22	2	4
Zone 2	Nov. 26-Jan. 8	2	4

(1) In Delaware, the February 7 to March 4 Bombay Hook NWR snow goose season is open Mondays, Wednesdays, and Fridays only.
(2) In Delaware, the January 28 to March 9 Rest of State snow goose season is open Mondays, Wednesdays, Fridays, and Saturdays only.
(3) In Florida, the Canada goose season is only open in the Florida waters of Lake Seminole in Jackson County that are south of SR2, north of the Jim Woodruff Dam, and east of SR271.
(4) In Florida, the light goose season is only open north and west of the Suwannee River.
(5) In Maine, in addition to the daily bag limit, 2 additional teal may be taken. A possession limit of 12 ducks is permitted provided it includes 4 or more teal.
(6) In Maryland, the black duck season is closed October 9 through October 16. In addition to the daily bag limit, 1 additional teal may be taken.
(7) In Maryland, the February 2 to March 9 snow goose season is open Mondays, Wednesdays, Fridays, and Saturdays only.
(8) In Massachusetts, the daily bag limit may include no more than 4 of any single species in addition to the flyway-wide bag restrictions.
(9) In New York and Vermont, shooting hours for all geese ends at noon in October.
(10) In North Carolina, the season is closed for black ducks October 1 through November 30 and December 5 through December 17. The daily bag limit for Black and Mottled ducks are combined with no more than 1 allowed in the bag.
(11) In South Carolina, the daily bag limit of 6 may not exceed 1 female mallard and 1 black duck or 1 mottled duck in the aggregate.

(12) In Virginia, the season is closed for black ducks October 7 through October 11.
(13) In West Virginia, the daily bag limit may include no more than 4 long-tailed ducks and the season is closed for eiders, whistling ducks, and mottled ducks.

MISSISSIPPI FLYWAY

Flyway-wide Restrictions

Duck Limits: The daily bag limit of 6 ducks may include no more than 4 mallards (no more than 2 of which may be females), 3 mottled ducks, 1 black duck, 1 pintail, 1 canvasback, 2 redheads, 3 scaup, and 2 wood ducks. The possession limit is twice the daily bag limit.

Merganser Limits: The merganser limits include no more than 1 hooded merganser daily and 2 in possession. In states that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, of which only 1 daily and 2 in possession may be hooded mergansers.

	Season Dates	Limits Bag	Limits Possession
Alabama			
Ducks:		6	12
North Zone:			
Canvasbacks	Jan. 1-Jan. 30		
Pintails	Jan. 1-Jan. 30		
Other ducks	Nov. 26-Nov. 27 & Dec. 4-Jan. 30		
South Zone:			
Canvasbacks	Same as North Zone		
Pintails	Same as North Zone		
Other ducks	Same as North Zone		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Geese:			
Dark Geese:			
North Zone:			
SJBP Zone	Dec. 12-Jan. 30	2	4
Rest of North Zone	Oct. 2-Oct. 13 &	2	4
	Dec. 4-Jan. 30	2	4
South Zone	Same as Rest of North Zone	2	4
Light Geese	Same as for Dark Geese	5	5
Arkansas			
Ducks (1):		6	12
Canvasbacks	Jan. 1-Jan. 30		
Pintails	Nov. 20-Nov. 28 & Jan. 10-Jan. 30		
Other ducks	Nov. 20-Dec. 5 & Dec. 17-Dec. 24 & Dec. 26-Jan. 30		
Mergansers	Same as for Other ducks	5	10

	Season Dates	Limits Bag	Limits Possession
Arkansas (cont.)			
Coots	Same as for Other ducks	15	30
Geese:			
Canada:			
Northwest Zone	Oct. 2-Oct. 11 &	2	4
	Jan. 15-Feb. 6	2	4
Remainder of State	Jan. 15-Feb. 6	2	4
White-fronted	Nov. 11-Dec. 10 &	2	4
	Dec. 13-Feb. 6	2	4
Brant	Closed	--	--
Light Geese	Same as for White-fronted	20	--
Illinois			
Ducks:		6	12
North Zone:			
Canvasbacks	Oct. 30-Nov. 28		
Pintails	Oct. 16-Nov. 14		
Other ducks	Oct. 16-Dec. 14		
Central Zone:			
Canvasbacks	Nov. 13-Dec. 12		
Pintails	Oct. 30-Nov. 28		
Other ducks	Oct. 30-Dec. 28		
South Zone:			
Canvasbacks	Nov. 27-Dec. 26		
Pintails	Nov. 13-Dec. 12		
Other ducks	Nov. 13-Jan. 11		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Geese:			
Canada (2):			
North Zone:			
Northern Illinois:			
Quota Zone (2)	Oct. 16-Jan. 9	2	10
Rest of North Zone	Oct. 16-Jan. 9	2	10
Central Zone:			
Central Illinois:			
Quota Zone (2)	Oct. 30-Nov. 7 &	2	10
	Nov. 16-Jan. 31	2	10
Rest of Central Zone	Same as for Central IL Quota Zone	2	10
South Zone:			
Southern Illinois:			
Quota Zone (2)(3)	Nov. 13-Nov. 14 &	2	10
	Dec. 11-Jan. 31	2	10
Rest of South Zone	Same as for Southern IL Quota Zone	2	10
White-fronted (4):			
North Zone	Oct. 16--Jan. 9	2	4

	Season Dates	Limits Bag	Limits Possession
Illinois (cont.)			
Central Zone	Oct. 30-Nov. 7 &	2	4
	Nov. 16-Jan. 31	2	4
South Zone (3)	Nov. 13-Jan. 31	2	4
Brant (3) (4)	Same as for Light Geese	1	2
Light Geese (4):			
North Zone	Oct. 16-Jan. 9	20	--
Central Zone	Oct. 30-Jan. 31	20	–
South Zone (3)	Nov. 13-Jan. 31	20	–
Indiana			
Ducks:		6	12
North Zone:			
Canvasbacks	Oct. 23-Nov. 21		
Pintails	Oct. 23-Nov. 21		
Other ducks	Oct. 9-Oct. 11 &		
	Oct. 23-Dec. 18		
South Zone:			
Canvasbacks	Nov. 26-Dec. 25		
Pintails	Nov. 26-Dec. 25		
Other ducks	Oct. 16-Oct. 18 &		
	Nov. 26-Jan. 21		
Ohio River Zone:			
Canvasbacks	Nov. 25-Dec. 24		
Pintails	Nov. 25-Dec. 24		
Other ducks	Oct. 30-Oct. 31 &		
	Nov. 25-Jan. 21		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Geese:			
Canada:			
North Zone:			
SJBP Zone	Oct. 9-Oct. 11 &	2	4
	Oct. 23-Dec. 8	2	4
Rest of North Zone	Oct. 9-Oct. 11 &	2	4
	Oct. 23-Dec. 28	2	4
South Zone:	Oct. 16-Oct. 18 &	2	4
	Nov. 26-Jan. 31	2	4
Ohio River Zone:	Oct. 30-Oct. 31 &	2	4
	Nov. 25-Jan. 31	2	4
White-fronted and Brant	Same as for Light Geese	1	2
Light Geese	Oct. 9-Oct. 11 &	20	--
	Oct. 22-Jan. 31	20	--
Iowa			
Ducks:		6	12
North Duck Zone:			
Canvasbacks	Oct. 23-Nov. 21		

	Season Dates	Limits Bag	Possession
Iowa (cont.)			
Pintails	Sept. 18-Sept. 22 & Oct. 16-Nov. 9		
Other ducks	Sept. 18-Sept. 22 & Oct. 16-Dec. 9		
South Duck Zone:			
Canvasbacks	Oct. 23-Nov. 21		
Pintails	Sept. 25-Sept. 26 & Oct. 16-Nov. 12		
Other ducks	Sept. 25-Sept. 26 & Oct. 16-Dec. 12		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Geese:			
Canada:			
North Goose Zone	Sept. 25-Oct. 3 &	2	4
	Oct. 16-Dec. 5	2	4
South Goose Zone	Oct. 2-Oct. 10 &	2	4
	Oct. 30-Dec. 19	2	4
White-fronted:			
North Goose Zone	Sept. 25-Dec. 19	2	4
South Goose Zone	Oct. 2-Dec. 26	2	4
Brant:			
North Goose Zone	Same as for Canada geese	2	4
South Goose Zone	Same as for Canada geese	2	4
Light Geese	Sept. 25-Jan. 9	20	--
Kentucky			
Ducks:		6	12
West Zone:			
Canvasbacks	Jan. 1-Jan. 30		
Pintails	Jan. 1-Jan. 30		
Other ducks	Nov. 25-Nov. 28 & Dec. 6-Jan. 30		
East Zone:			
Canvasbacks	Jan. 1-Jan. 30		
Pintails	Jan. 1-Jan. 30		
Other ducks	Same as for West Zone		
Mergansers	Same as for Other Ducks	5	10
Coots	Same as for Other Ducks	15	30
Geese:			
Canada (2):			
Western Goose Zone (2):			
Fulton County	Dec. 6-Feb. 15	2	4
Rest of Zone	Dec. 6-Jan. 31	2	4
Pennyroyal/Coalfield Zone	Dec. 13-Jan. 31	2	4
Rest of State	Dec. 13-Jan. 31	2	4
White-fronted	Nov. 25-Jan. 31	2	4

	Season Dates	Limits Bag	Limits Possession
Kentucky (cont.)			
Brant	Nov. 25-Jan. 31	2	4
Light Geese			
Western Goose Zone:			
Fulton County (5)	Nov. 25-Feb. 15	20	–
Rest of Zone:	Nov. 25-Jan. 31	20	–
Rest of State	Nov. 25-Jan. 31	20	–
Louisiana			
Ducks:		6	12
West Zone:			
Canvasbacks	Dec. 18-Jan. 16		
Pintails	Nov. 13-Nov. 21 & Dec. 18-Jan. 7		
Other ducks	Nov. 13-Dec. 5 & Dec. 18-Jan. 23		
East Zone (including Catahoula Lake):			
Canvasbacks	Dec. 18-Jan. 16		
Pintails	Nov. 20-Nov. 28 & Dec. 18-Jan. 7		
Other ducks	Nov. 20-Dec. 5 & Dec. 18-Jan. 30		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Geese:			
Canada (6)	Jan. 15-Jan. 23	1	2
White-fronted	Same as for Brant	2	4
Brant	Nov. 6-Dec. 5 &	1	2
	Dec. 18-Feb. 11	1	2
Light Geese	Same as for Brant	20	--
Michigan			
Ducks (1):		6	12
North Zone:			
Canvasbacks	Oct. 25-Nov. 21 & Nov. 27-Nov. 28		
Pintails	Sept. 25-Oct. 24		
Other ducks	Sept. 25-Nov. 21 & Nov. 27-Nov. 28		
Middle Zone:			
Canvasbacks	Nov. 1-Nov. 28 & Jan. 1-Jan. 2		
Pintails	Oct. 2-Oct. 31		
Other ducks	Oct. 2-Nov. 28 & Jan. 1-Jan. 2		
South Zone:			
Canvasbacks	Nov. 8-Dec. 5 & Jan. 1-Jan. 2		

	Season Dates	Limits Bag	Possession
Michigan (cont.)			
Pintails	Oct. 9-Nov. 7		
Other ducks	Oct. 9-Dec. 5 &		
	Jan. 1-Jan. 2		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Geese:			
Canada (2):			
MVP Zone:			
Muskegon Wastewater Goose			
Management Unit (GMU) (2)	Oct. 26-Nov. 14 &	2	4
	Dec. 2-Dec. 6	2	4
Allegan County GMU (2)	Nov. 6-Nov. 14 &	1	2
	Jan. 1-Jan. 16	1	2
Rest of MVP Zone	Sept. 20-Oct. 10 &	2	4
	Dec. 4-Dec. 12	2	4
SJBP Zone:			
Saginaw County GMU (2)	Oct. 9-Nov. 27	1	2
Tuscola/Huron GMU (2)	Oct. 9-Nov. 27	1	2
Rest of SJBP Zone	Sept. 20-Oct. 10 &	2	4
	Dec. 4-Dec. 12	2	4
Special Season:			
Southern Michigan GMU	Jan. 1-Jan. 30	5	10
Central Michigan GMU	Jan. 1-Jan. 30	5	10
White-fronted and Brant	Sept. 20-Dec. 12	1	2
Light Geese	Sept. 20-Dec. 12	10	30
Minnesota			
Ducks:		6	12
Canvasbacks	Oct. 9-Nov. 7		
Pintails	Sept. 25-Oct. 24		
Other ducks	Sept. 25-Nov. 23		
Mergansers	Same as for Other ducks	5	10
Coots (7)	Same as for Other ducks	15	30
Geese:			
Canada:			
West Zone:			
West Central Zone	Oct. 21-Nov. 14	1	2
Rest of West Zone	Sept. 25-Oct. 29	1	2
(Special season)	Dec. 4- Dec. 13	5	10
Northwest Zone	Sept. 25-Nov. 3	1	2
(Special season)	Dec. 4-Dec. 13	5	10
Southeast Zone	Sept. 25-Nov. 23	2	4
(special season)	Dec. 10-Dec. 19	2	4
Rest of State	Sept. 25-Nov. 23	2	4
(special season)	Dec. 4-Dec. 13	5	10
White-fronted	Sept. 25-Dec. 19	2	4
Brant	Sept. 25-Dec. 19	1	2
Light Geese	Sept. 25-Dec. 19	20	40

	Season Dates	Limits Bag	Limits Possession
Mississippi			
Ducks:		6	12
Canvasbacks	Jan. 1-Jan. 30		
Pintails	Jan. 1-Jan. 30		
Other ducks	Nov. 26-Nov. 28 &		
	Dec. 4-Dec. 24 &		
	Dec. 26-Jan. 30		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Geese:			
Canada	Nov. 17-Nov. 28 &	3	6
	Dec. 4-Jan. 30	3	6
White-fronted	Nov. 6-Nov. 28 &	2	4
	Dec. 4-Jan. 30	2	4
Brant	Same as for Canada geese	2	4
Light Geese	Same as for White-fronted	20	--
Missouri			
Ducks and Mergansers:		6	12
North Zone:			
Canvasbacks	Oct. 30-Nov. 28		
Pintails	Oct. 30-Nov. 28		
Other ducks/mergansers	Oct. 30-Dec. 28		
Middle Zone:			
Canvasbacks	Nov. 6-Dec. 5		
Pintails	Nov. 6-Dec. 5		
Other ducks/mergansers	Nov. 6-Jan. 4		
South Zone:			
Canvasbacks	Nov. 26-Dec. 25		
Pintails	Nov. 26-Dec. 25		
Other ducks/mergansers	Nov. 26-Jan. 24		
Coots	Same as for Other ducks	15	30
Geese:			
Canada:			
North Zone	Sept. 25-Oct. 11 &	3	6
	Oct. 30-Nov. 28 &	2	4
	Dec. 26-Jan. 24	1	2
Middle Zone:			
Southeast Zone	Oct. 2-Oct. 12 &	3	6
	Nov. 26-Jan. 30	2	4
Rest of Middle Zone	Sept. 25-Oct. 14 &	3	6
	Nov. 6-Nov. 30 &	2	4
	Jan. 1-Jan. 30	1	2
South Zone	Oct. 2-Oct. 12 &	3	6
	Nov. 26-Jan. 30	2	4
White-fronted:			
North Zone	Oct. 30-Jan. 23	2	4

	Season Dates	Limits Bag	Limits Possession
Missouri (cont.)			
Middle Zone:			
Southeast Zone	Nov. 6-Jan. 30	2	4
Rest of Middle Zone	Nov. 6-Jan. 30	2	4
South Zone	Nov. 6-Jan. 30	2	4
Brant	Same as for Canada geese	1	2
Light Geese:			
North Zone	Oct. 30-Jan. 24	20	--
Middle Zone	Nov. 6-Jan. 30	20	--
South Zone	Nov. 6-Jan. 30	20	--
Ohio			
Ducks (1):		6	12
North Zone:			
Canvasbacks	Nov. 15-Nov. 28 & Dec. 18-Jan. 2		
Pintails	Oct. 16-Nov. 14		
Other ducks	Oct. 16-Nov. 28 & Dec. 18-Jan. 2		
South Zone:			
Canvasbacks	Dec. 18-Jan. 16		
Pintails	Dec. 18-Jan. 16		
Other ducks	Oct. 23-Nov. 7 & Dec. 18-Jan. 30		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Geese:			
Canada:			
North Zone:			
Lake Erie SJBP Zone	Oct. 16-Oct. 24 &	1	2
	Dec. 8-Jan. 2	1	2
Rest of North Zone	Oct. 16-Nov. 28 &	2	4
	Dec. 8-Jan. 2	2	4
(special season)	Jan. 16-Feb. 4	2	4
South Zone	Oct. 23-Nov. 17 &	2	4
	Dec. 18-Jan. 30	2	4
White-fronted and Brant	Same as for Canada geese	2	4
Light Geese	Same as for Canada geese	10	30
Tennessee			
Ducks (1):		6	12
Reelfoot Zone:			
Canvasbacks	Jan. 1-Jan. 30		
Pintails	Jan. 1-Jan. 30		
Other ducks	Nov. 13-Nov. 14 & Dec. 4-Jan. 30		
State Zone:			
Canvasbacks	Jan. 1-Jan. 30		
Pintails	Jan. 1-Jan. 30		

	Season Dates	Limits Bag	Limits Possession
Tennessee (cont.)			
Other ducks	Nov. 27-Nov. 28 &		
	Dec.4-Jan. 30		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Geese:			
Canada (8):			
Northwest Zone	Dec. 4-Feb. 13	2	4
Southwest Zone	Oct. 2-Oct. 10 &	2	4
	Dec. 12-Jan. 30	2	4
Kentucky/Barkley Lakes Zone	Same as for Southwest Zone	2	4
Rest of State	Oct. 2-Oct. 10 &	2	4
	Dec. 1-Jan. 30	2	4
White-fronted	Nov. 20-Feb. 13	2	4
Brant	Nov. 27-Jan. 31	2	4
Light Geese	Nov. 13-Feb. 27	20	--
Wisconsin			
Ducks:		6	12
North Zone:			
Canvasbacks	Oct. 16-Nov. 14		
Pintails	Sept. 25-Oct. 24		
Other ducks	Sept. 25-Nov. 23		
South Zone:			
Canvasbacks	Oct. 16-Nov. 14		
Pintails	Oct. 2-Oct. 10 &		
	Oct. 16-Nov. 5		
Other ducks	Oct. 2-Oct. 10 &		
	Oct. 16-Dec. 5		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	10	20
Geese:			
Canada (2):			
Horicon Zone	Sept. 16-Dec. 15	Tag System--See State Regulations	
Collins Zone	Sept. 16-Nov. 19	Tag System--See State Regulations	
Exterior Zone (2):			
Rock Prairie Subzone	Sept. 18-Oct. 31 &	1	2
	Nov. 1-Dec. 21	2	4
Mississippi River Subzone	Oct. 2-Oct. 10 &	1	2
	Oct. 16-Oct. 31 &	1	2
	Nov. 1-Dec. 15	2	4
Brown County Subzone	Same as Rock Prairie Subzone	–	--
Rest of Exterior Zone:			
North Duck Zone	Same as Rock Prairie Subzone	--	--
South Duck Zone	Same as Rock Prairie Subzone	--	--
White-fronted and Brant	Same as for Canada geese	1	2
Light Geese	Same as for Canada geese	10	30

(1) In Arkansas, Michigan, Ohio, and Tennessee, the daily bag limit may include no more than one hen mallard.
(2) Harvests of Canada geese will be limited by quotas established in the September 2004, Federal Register. When it has been determined that the quota of Canada geese allotted to the Northern Illinois, Central Illinois, and Southern Illinois Quota Zones in Illinois, the Ballard and Henderson-Union Subzones in Kentucky, the Allegan County, Muskegon Wastewater, Saginaw County, and Tuscola/Huron Goose Management Units in Michigan, and the Exterior Zone in Wisconsin will have been filled, the season for taking Canada geese in the respective Zone (and associated area, if applicable) will be closed either by the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing, or by the State through State regulations with such notice and time (not less than 48 hours) as they deem necessary.
(3) In Illinois, shooting hours for geese in the Southern Illinois Quota Zone through January 28 shall close at 3 p.m.
(4) In Illinois, white-fronted goose, light goose, and brant seasons will close with Canada goose seasons if the season closes early due the quota being reached.
(5) In Kentucky, in Fulton County, if the Canada goose season closes after January 31 and before February 15, the season for light geese will close with the Canada goose season.
(6) In Louisiana, during the Canada goose season, a special permit is required by the State.
(7) In Minnesota, the daily bag limit is 15 and the possession limit is 30 coots and moorhens in the aggregate.
(8) In Tennessee, see State regulations for permit requirements and additional restrictions.

CENTRAL FLYWAY

Flyway-wide Restrictions

Duck Limits: The daily bag limit of 6 ducks may include no more than 5 mallards (2 female mallards), 1 mottled duck, 1 pintail, 1 canvasback, 2 redheads, 3 scaup, and 2 wood ducks. The possession limit is twice the daily bag limit.

Merganser Limits: The daily bag limit is 5 mergansers with 10 in possession and may include no more than 1 hooded merganser daily and 2 in possession. In states that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, of which only 1 daily and 2 in possession may be hooded mergansers.

	Season Dates	Limits Bag	Limits Possession
Colorado			
Ducks:		6	12
Canvasbacks	Oct. 2-Oct. 24 & Oct. 30-Nov. 14		
Pintails	Same as for Canvasbacks		
Other ducks	Oct. 2-Oct. 24 & Oct. 30-Nov. 28 & Dec. 12-Jan. 23		
Coots	Same as for Other ducks	15	30
Mergansers	Same as for Other ducks	5	10
Dark Geese:			
Northern Front Range Unit	Oct. 2-Oct. 10 &	3	6
	Nov. 20-Feb. 13	3	6

	Season Dates	Limits Bag	Limits Possession
Colorado (cont.)			
South Park/San Luis Valley Unit	Same as N. Front Range Unit	3	6
North Park Unit	Same as N. Front Range Unit	3	6
Pueblo County	Dec. 4-Feb. 13	2	4
Rest of State in Central Flyway	Nov. 20-Feb. 13	3	6
Light Geese:			
Northern Front Range Unit	Nov. 20-Feb. 13	20	--
South Park/San Luis Valley Unit	Same as N. Front Range Unit	3	6
North Park Unit	Same as N. Front Range Unit	3	6
Pueblo County	Nov. 6-Feb. 20	20	--
Rest of State in Central Flyway	Nov. 6-Feb. 20	20	--
Kansas			
Ducks (1):		6	12
High Plains:			
Canvasbacks	Oct. 9-Nov. 16		
Pintails	Oct. 9-Nov. 16		
Other ducks	Oct. 9-Jan 4 & Jan. 22-Jan. 30		
Low Plains:			
Early Zone:			
Canvasbacks	Oct. 9-Nov. 16		
Pintails	Oct. 9-Nov. 16		
Other ducks	Oct. 9-Dec. 12 & Dec. 25-Jan. 2		
Late Zone:			
Canvasbacks	Oct. 30-Dec. 7		
Pintails	Oct. 30-Dec. 7		
Other ducks	Oct. 30-Jan. 2 & Jan. 22-Jan. 30		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Dark Geese (2):			
Canada	Oct. 23-Oct. 24 &	3	6
	Nov. 6-Feb. 6	3	6
White-fronted	Oct. 23-Oct. 24 &	2	4
	Nov. 6-Jan. 28	2	4
Light Geese	Oct. 23-Feb. 6	20	--
Montana			
Ducks:		6	12
Zone 1:			
Canvasbacks	Oct. 2-Nov. 9		
Pintails	Oct. 2-Nov. 9		
Other ducks	Oct. 2-Jan. 6		
Zone 2	Same as for Zone 1		
Mergansers	Same as for Other ducks	5	10

	Season Dates	Limits Bag	Possession
Montana (cont.)			
Coots	Same as Other ducks	15	30
Dark Geese	Oct. 2-Jan. 14	4	8
Light Geese	Oct. 2-Jan. 14	5	10
Nebraska			
Ducks:		6	12
High Plains:			
Canvasbacks	Oct. 2-Nov. 9		
Pintails	Oct. 2-Nov. 9		
Other ducks	Oct. 2-Dec. 12 & Dec. 18-Jan. 10		
Low Plains:			
Zones 1 and 2:			
Canvasbacks	Oct. 16-Oct. 17 & Oct. 23-Nov. 28		
Pintails	Same as for Canvasbacks		
Other ducks	Oct. 16-Oct. 17 & Oct. 23-Jan. 2		
Zones 3 and 4:			
Canvasbacks	Oct. 2-Nov. 9		
Pintails	Oct. 2-Nov. 9		
Other ducks	Oct. 2-Dec. 12 & Dec. 18-Dec. 19		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Geese:			
Canada:			
Niobrara Unit	Oct. 30-Feb. 1	3	6
East Unit	Oct. 2-Oct. 3 &	3	6
	Oct. 23-Jan. 23	3	6
North Central Unit	Oct. 2-Jan. 4	3	6
Platte River Unit	Oct. 30-Feb. 1	3	6
White-fronted	Oct. 2-Dec. 26	2	4
Light Geese:			
Rainwater Basin Area - East	Oct. 2-Jan. 14	20	--
Rainwater Basin Area - West	Oct. 2-Jan. 14	20	--
Rest of State	Oct. 2-Jan. 14	20	–
New Mexico			
Ducks and Mergansers (3):		6	12
North Zone:			
Canvasbacks	Oct. 9-Nov. 16		
Pintails	Oct. 9-Nov. 16		
Other ducks/mergansers	Oct. 9-Jan. 12		
South Zone:			
Canvasbacks	Dec. 23-Jan. 30		
Pintails	Dec. 23-Jan. 30		
Other ducks/mergansers	Oct. 27-Jan. 30		

	Season Dates	Limits Bag	Limits Possession
New Mexico (cont.)			
Coots	Same as for Other ducks	15	30
Dark Geese (4):			
Middle Rio Grande Valley Unit (4)	Jan. 17-Jan. 23	2	2
Rest of State	Oct. 17-Jan. 31	4	8
Light Geese	Oct. 17-Jan. 31	20	80
North Dakota			
Ducks:		6	12
High Plains:			
Canvasbacks	Sept. 25-Nov. 2		
Pintails	Sept. 25-Nov. 2		
Other ducks	Sept. 25-Dec. 5 & Dec. 11-Jan. 2		
Remainder of State:			
Canvasbacks	Sept. 25-Nov. 2		
Pintails	Sept. 25-Nov. 2		
Other ducks	Sept. 25-Dec. 5		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Geese:			
Canada Geese (5):			
High Plains Unit	Sept. 25-Dec. 23	3	6
Rest of State	Sept. 25-Dec. 23	3	6
White-fronted (5)	Sept. 25-Dec. 19	2	4
Light Geese (5)	Sept. 25-Dec. 23	20	--
Oklahoma			
Ducks:		6	12
High Plains:			
Canvasbacks	Oct. 9-Nov. 16		
Pintails	Oct. 9-Nov. 16		
Other ducks	Oct. 9-Jan. 12		
Low Plains:			
Zone 1:			
Canvasbacks	Oct. 30-Dec. 7		
Pintails	Oct. 30-Dec. 7		
Other ducks	Oct. 30-Dec. 12 & Dec. 18-Jan. 16		
Zone 2:			
Canvasbacks	Dec. 23-Jan. 30		
Pintails	Dec. 23-Jan. 30		
Other ducks	Nov. 13-Dec. 12 & Dec. 18-Jan. 30		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30

	Season Dates	Limits Bag	Possession
Oklahoma (cont.)			
Geese:			
Canada	Nov. 6-Dec. 12 &	3	6
	Dec. 18-Feb. 13	3	6
White-fronted	Nov. 6-Dec. 12 &	2	4
	Dec. 18-Feb. 4	2	4
Light Geese	Same as for Canada geese	20	--
South Dakota			
Ducks:		6	12
High Plains:			
Canvasbacks	Sept. 25-Nov. 2		
Pintails	Sept. 25-Nov. 2		
Other ducks	Sept. 25-Dec. 7 &		
	Dec. 11-Jan. 2		
Low Plains:			
North Zone:			
Canvasbacks	Sept. 25-Nov. 2		
Pintails	Sept. 25-Nov. 2		
Other ducks	Sept. 25-Dec. 7		
Middle Zone	Same as for North Zone		
South Zone:			
Canvasbacks	Oct. 9-Nov. 16		
Pintails	Oct. 9-Nov. 16		
Other ducks	Oct. 9-Dec. 21		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Geese:			
White-fronted	Sept. 25-Dec. 19	2	4
Canada:			
Unit 1	Sept. 25-Dec. 24	3	6
Unit 2	Oct. 23-Jan. 25	3	6
Unit 3:			
Power Plant Area	Sept. 25-Nov. 30 &	3	6
	Dec. 1-Dec. 12	2	4
Rest of Unit	Sept. 25-Dec. 12	3	6
Unit 4	Oct. 25-Dec. 21 &	3	6
	Jan. 8-Jan. 16	3	6
Light Geese	Sept. 25-Dec. 19	20	--
Texas			
Ducks:		6	12
High Plains:			
Canvasbacks	Dec. 18-Jan. 25		
Pintails	Dec. 18-Jan. 25		
Other ducks	Sept. 27-Oct. 4 &		
	Oct. 30-Jan. 25		

	Season Dates	Limits Bag	Possession
Texas (cont.)			
Low Plains:			
North Zone:			
Canvasbacks	Dec. 23-Jan. 30		
Pintails	Dec. 23-Jan. 30		
Other ducks	Nov. 6-Nov. 28 & Dec. 11-Jan. 30		
South Zone:			
Canvasbacks	Dec. 11-Jan. 18		
Pintails	Dec. 11-Jan. 18		
Other ducks	Sept. 27-Oct. 3 & Nov. 13-Jan. 18		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Geese:			
East Tier:			
South Zone:			
Canada geese and Brant	Nov. 6-Jan. 30	3	6
White-fronted	Nov. 6-Jan. 30	2	4
Light Geese	Nov. 6-Jan. 30	20	--
North Zone	Same as for South Zone		
West Tier:			
Dark Geese:			
Canada geese and Brant	Oct. 30-Feb. 1	3	6
White-fronted	Same as for Canada geese	1	2
Light Geese	Same as for Canada geese	20	--
Wyoming			
Ducks:		6	12
Zone 1:			
Canvasbacks	Oct. 2-Oct. 17 & Oct. 23-Nov. 14		
Pintails	Same as for Canvasbacks		
Other ducks	Oct. 2-Oct. 17 & Oct. 23-Jan. 11		
Zone 2:			
Canvasbacks	Sept. 25-Oct. 17 & Oct. 23-Nov. 7		
Pintails	Same as for Canvasbacks		
Other ducks	Sept. 25-Oct. 17 & Oct. 23-Dec. 12 & Dec. 18-Jan. 9		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Dark Geese:			
Zone 1	Oct. 2-Oct. 17 &	5	10
	Oct. 30-Dec. 12 &	5	10
	Dec. 18-Feb. 1	5	10

	Season Dates	Limits Bag	Possession
Wyoming (cont.)			
Zone 2	Sept. 25-Jan. 8	5	10
Zone 3	Oct. 2-Oct. 17 &	2	4
	Nov. 13-Feb. 10	5	10
Zone 4	Sept. 25-Oct. 10 &	5	10
	Oct. 30-Dec. 12 &	5	10
	Dec. 18-Feb. 1	5	10
Light Geese	Oct. 2-Dec. 31 &	10	40
	Jan. 27-Feb. 10	10	40

(1) In Kansas, the daily bag limit may include no more than 2 scaup and 1 hen mallard.
(2) See State regulations for additional restrictions.
(3) In New Mexico, the daily bag limit consists of no more than 5 mallards (of which only 2 may be hen mallards), 2 redheads, 2 scaup, 2 wood ducks, 1 hooded merganser, and 1 northern pintail (see dates by zone).
(4) In New Mexico, the season for dark geese is closed in Bernalillo and Sandoval Counties. In the Middle Rio Grande Valley Unit, a state permit is required.
(5) In North Dakota, the shooting hours for geese are one-half hour before sunrise to 1 p.m. through October 30 and until 2 p.m. the remainder of the season, except that during September 25 through December 23, shooting hours are one-half hour before sunrise to sunset on Saturdays and Wednesdays for Canada and white-fronted geese.

PACIFIC FLYWAY

Flyway-wide Restrictions

Duck and Merganser Limits: The daily bag limit of 7 ducks (including mergansers) may include no more than 2 female mallards, 1 pintail, 1 canvasback, 2 redheads, and 4 scaup. The possession limit is twice the daily bag limit.

Coot and Common Moorhen Limits: Daily bag and possession limits are in the aggregate for the two species.

Goose Limits: Daily bag limits for geese may not exceed 2 white-fronted geese and 3 light geese. The possession limit is twice the daily bag limit.

	Season Dates	Limits Bag	Possession
Arizona			
Ducks (1):		7	14
North Zone			
Canvasbacks	Nov. 18-Jan. 16		
Pintails	Nov. 18-Jan. 16		
Other ducks	Oct. 8-Jan. 16		
South Zone:			
Canvasbacks	Dec. 2-Jan. 30		

	Season Dates	Limits Bag	Limits Possession
Arizona (cont.)			
Pintails	Dec. 2-Jan. 30		
Other ducks	Oct. 22-Jan. 30		
Coots and moorhens	Same as Other ducks	25	25
Geese (2):			
North Zone	Oct. 8-Jan. 16	3	3
South Zone	Oct. 22-Jan. 30	3	3
California			
Ducks:		7	14
Northeastern Zone:			
Canvasbacks	Oct. 30-Dec. 7 & Dec. 20-Jan. 9		
Pintails	Oct. 9-Dec. 7		
Other ducks	Oct. 9-Jan. 9		
Colorado River Zone:			
Canvasbacks	Dec. 2-Jan. 30		
Pintails	Dec. 2-Jan. 30		
Other ducks	Oct. 22-Jan. 30		
Southern Zone:			
Canvasbacks	Dec. 2-Jan. 30		
Pintails	Oct. 23-Oct. 31 & Dec. 11-Jan. 30		
Other ducks	Oct. 23-Jan. 30		
Southern San Joaquin Valley Zone:			
Canvasbacks	Dec. 2-Jan. 30		
Pintails	Same as for Southern Zone		
Other ducks	Oct. 23-Nov. 13 & Nov. 20-Jan. 30		
Balance-of-State Zone:			
Canvasbacks	Dec. 2-Jan. 30		
Pintails	Oct. 30-Nov. 7 & Dec. 11-Jan. 30		
Other ducks	Oct. 30-Jan. 30		
Coots and moorhens:			
Northeastern Zone	Same as for Other ducks	25	25
Colorado River Zone	Same as for Other ducks	25	25
Southern Zone	Same as for Other ducks	25	25
Southern San Joaquin Valley Zone	Same as for Other ducks	25	25
Balance-of-State Zone	Same as for Other ducks	25	25
Geese:			
Northeastern Zone:		3	6
Canada Geese	Oct. 9-Jan. 16	2	4
Small Canada Geese (3)	Oct. 9-Jan. 16	1	2
White-fronted Geese	Oct. 9-Jan. 16	2	4
Light Geese	Oct. 9-Jan. 16	3	6

	Season Dates	Limits Bag	Limits Possession
California (cont.)			
Colorado River Zone:		6	12
Canada Geese	Oct. 22-Jan. 30	3	6
White-fronted Geese	Oct. 22-Jan. 30	3	6
Light Geese	Oct. 22-Jan. 30	3	6
Southern Zone:		5	10
Dark Geese:		3	6
Canada geese	Oct. 23-Jan. 30	3	6
Small Canada Geese (3)	Oct. 23-Jan. 30	1	2
White-fronted Geese	Oct. 23-Jan. 30	3	6
Light Geese	Oct. 23-Jan. 30	3	6
Balance-of-State Zone:		3	6
Dark Geese :		3	6
Canada:			
Del Norte & Humboldt	Oct. 30-Jan. 30	2	4
Sacramento Valley Area	Closed	--	--
Rest of Zone:	Oct. 30-Jan. 30	2	4
Small Canada geese (3)	Oct. 30-Jan. 30	1	2
White-fronted:			
Sacramento Valley Closure	Oct. 30-Dec. 14	2	4
Rest of Zone	Oct. 30-Jan. 30	3	6
Light Geese	Oct. 30-Jan. 30	3	6
Brant	Nov. 10-Dec. 9	2	4
Colorado			
Ducks:		7	14
Canvasbacks	Oct. 2-Oct. 17 & Nov. 3-Dec. 16		
Pintails	Same as for Canvasbacks		
Other ducks	Oct. 2-Oct. 17 & Nov. 3-Jan. 30		
Coots	Same as for Other ducks	25	25
Geese:	Oct. 4-Oct. 8 &	3	6
	Nov. 3-Jan. 30	3	6
Idaho			
Ducks:		7	14
Zone 1:			
Canvasbacks	Oct. 2-Nov. 30		
Pintails	Oct. 2-Nov. 30		
Other ducks	Oct. 2-Jan. 14		
Zone 2:			
Canvasbacks	Oct. 2-Nov. 30		
Pintails	Oct. 2-Nov. 30		
Other ducks (4)	Oct. 2-Jan. 14	5	10
Zone 3:			
Canvasbacks	Oct. 9-Dec. 7		
Pintails	Oct. 9-Dec. 7		

	Season Dates	Limits Bag	Limits Possession
Idaho (cont.)			
Other ducks (4)	Oct. 9-Jan. 21	5	10
Coots	Same as for Other ducks	25	25
Geese:			
Zone 1:		4	8
Dark	Oct. 2-Jan. 14	4	8
Light	Oct. 2-Jan. 14	3	6
Zone 2:		4	8
Dark	Oct. 9-Jan. 21	4	8
Light	Oct. 9-Jan. 21	3	6
Zone 3:		3	6
Dark	Same as for Zone 2	3	6
Light	Same as for Zone 2	3	6
Zone 4 (5):		4	8
Dark	Same as for Zone 1	4	8
Light	Same as for Zone 1	3	6
Zone 5:		4	8
Dark	Same as for Zone 1	4	8
Light	Same as for Zone 1	3	6
Montana			
Ducks:		7	14
Canvasbacks	Oct. 2-Nov. 30		
Pintails	Oct. 2-Nov. 30		
Other ducks	Oct. 2-Jan. 14		
Coots	Oct. 2-Jan. 14	25	25
Geese (6):			
Dark	Oct. 2-Jan. 14	4	8
Light	Oct. 2-Jan. 14	3	6
Nevada			
Ducks:		7	14
Lincoln & Clark Counties:			
Canvasbacks	Oct. 9-Oct. 13 & Oct. 30-Dec. 23		
Pintails	Same as for Canvasbacks		
Other ducks	Oct. 9-Oct. 13 & Oct. 15-Jan. 23		
Rest of State:			
Canvasbacks	Oct. 9-Oct. 13 & Oct. 15-Dec. 8		
Pintails	Oct. 9-Oct. 13 & Nov. 30-Jan. 23		
Other ducks	Oct. 9-Oct. 13 & Oct. 15-Jan. 23		
Coots and moorhens	Same as for Other ducks	8	16
Dark Geese:			
Lincoln & Clark Counties	Oct. 16-Jan. 23	2	4
Rest of State	Oct. 16-Jan. 23	3	6
Light Geese (7)	Same as Dark Geese	3	6

	Season Dates	Limits Bag	Possession
New Mexico			
Ducks:		7	14
Canvasbacks	Oct. 18-Dec. 16		
Pintails	Oct. 18-Dec. 16		
Other ducks	Oct. 18-Jan. 30		
Coots and Moorhens	Same as for Other ducks	12	24
Dark Geese:			
North Zone	Sept. 25-Oct. 10 &	3	6
	Nov. 1-Jan. 30	3	6
South Zone	Oct. 16-Jan. 30	2	4
Light Geese:			
North Zone	Same as Dark Geese	1	2
South Zone	Same as Dark Geese	1	2
Oregon			
Ducks:		7	14
Zone 1:			
Columbia Basin Unit:			
Canvasbacks	Oct. 16-Oct. 24 &		
	Dec. 11-Jan. 30		
Pintails	Same as for Canvasbacks		
Other ducks	Oct. 16-Oct. 31 &		
	Nov. 3- Jan. 30		
Rest of Zone 1	Same as for Columbia Basin Unit		
Zone 2:			
Canvasbacks	Oct. 9-Dec. 7		
Pintails	Oct. 9-Dec. 7		
Other ducks	Oct. 9-Dec. 7 &		
	Dec. 10-Jan. 23		
Coots	Same as for Other ducks	25	25
Geese:			
Northwest General Goose Zone:			
Dark Geese	Oct. 16-Oct. 31 &	4	8
	Nov. 11-Jan. 30	4	8
Light Geese	Same as for Dark Geese	3	6
Northwest Special Permit Zone (8):			
Dark Geese	Oct. 23-Nov. 7 &	4	8
	Nov. 20-Jan. 16 &	4	8
	Feb. 5-Feb. 27	4	8
Dusky Canada geese		1 per season	
Cackling Canada geese		4	8
Light Geese	Oct. 23-Nov. 7 &	3	6
	Nov. 20-Jan. 16	3	6
Southwest General Zone (9):			
Dark Geese	Oct. 16-Nov. 30 &	4	8
	Dec. 10-Jan. 30	4	8
Light Geese	Same as for Dark Geese	3	6

	Season Dates	Limits Bag	Limits Possession
Oregon (cont.)			
Eastern Zone:			
Klamath, Harney, Lake, and Malheur Counties:			
Dark Geese	Oct. 9-Nov. 30 &	4	8
	Dec. 17-Jan. 30	4	8
Cackling Canada geese		1	2
White-fronted geese:			
Lake County		2	4
Rest of Zone		4	8
Light Geese	Same as Dark Geese	3	6
Remainder of Eastern Zone:			
Dark Geese	Oct. 16-Oct. 24 &	4	8
	Nov. 3-Jan. 30	4	8
Cackling Canada geese		1	2
White-fronted geese		4	8
Light Geese	Same as Dark Geese	3	6
Brant	Nov. 13-Nov. 28	2	4
Utah (10)			
Ducks:		7	14
Zone 1:			
Canvasbacks	Oct. 2-Nov. 30		
Pintails	Oct. 2-Oct. 31&		
	Dec. 17-Jan. 15		
Other ducks	Oct. 2-Jan. 15		
Zone 2	Same as for Zone 1		
Coots	Same as for Other ducks	25	25
Geese:			
Light	Oct. 2-Jan. 15	3	6
Dark:			
Washington County (11)	Oct. 9-Jan. 22	3	6
Rest of State	Oct. 2-Jan. 15	3	6
Washington			
Ducks:		7	14
East Zone:			
Canvasbacks	Oct. 16-Oct. 20 &		
	Dec. 7-Jan. 30		
Pintails	Same as for Canvasbacks		
Other ducks	Oct. 16-Oct 20 &		
	Oct. 23-Jan. 30		
West Zone (12)	Same as for the East Zone		
Coots	Same as for Other ducks	25	25
Geese (13):			
Management Area 1 (15):			
Light Geese	Oct 16-Jan. 9	3	6
Dark Geese	Oct 16-Oct. 29 &	4	8
	Nov. 6-Jan. 30	4	8

	Season Dates	Limits Bag	Possession
Washington (cont.)			
Management Area 2A (14)	Nov. 27-Jan. 22	4	8
Dusky Canada geese		1 per season	
Late-Season Canada Geese	Feb. 5-Mar. 9	4	8
Dusky Canada geese		1 per season	
Management Area 2B (14)	Oct. 16-Oct. 30 &	4	8
	Nov. 6-Jan. 15		
Dusky Canada geese		1 per season	
Management Areas 3 (15)	Oct. 16-Oct. 29 &	4	8
	Nov. 6-Jan. 30	4	8
Management Areas 4 & 5 (15)	Oct. 16-Oct. 18 &	4	8
	Oct. 23-Jan. 30	4	8
Brant (16)	Nov. 20-Nov. 26 &	2	4
	Jan. 22-Jan. 30	2	4
Wyoming			
Ducks:		7	14
Canvasbacks	Sept. 25-Nov. 23		
Pintails	Sept. 25-Nov. 23		
Other ducks	Sept. 25-Jan. 8		
Coots	Same as for Other ducks	25	25
Dark Geese	Sept. 25-Dec. 31	3	6

(1) In Arizona, the daily limit may include no more than either 2 hen mallards or 2 Mexican-like ducks, or 1 of each; and not more than 4 hen mallards and Mexican-like ducks, in the aggregate, may be in possession.
(2) In Arizona, in Yuma County, La Paz County, Game Management Units 13B, 15, and that portion of Unit 16 lying within Mohave County, the bag and possession limits are 3 and 6 for Canada geese and 3 and 6 for light geese, respectively.
(3) In California, small Canada geese are cackling and Aleutian Canada geese.
(4) In Idaho, the daily limit in Zones 2 and 3 may include no more than 1hen mallards and not more than 2 hen mallards may be in possession.
(5) In Idaho, the season on light geese is closed in Fremont and Teton Counties.
(6) In Montana, check State regulations for special seasons/exceptions in Freezeout Lake WMA; Canyon Ferry; Flathead; Deer Lodge County; and Missoula County.
(7) In Nevada, there is no open season on light geese in Ruby Valley within Elko and White Pine Counties.
(8) In Oregon, the Northwest Special Permit Zone is closed to all goose hunting, except for designated areas. See State regulations for specific boundary descriptions, times, days, and other conditions of the special permit season.
(9) In Oregon, those portions of Coos and Curry Counties south of Bandon and west of US 101 are closed to all Canada goose hunting.
(10) In Utah, the shooting hours are 8:00 a.m. to sunset on October 2 in Cache, Salt Lake, Davis, Weber, and Box Elder Counties, and November 6 statewide.
(11) In Utah, the season in Washington County is for Canada geese only.
(12) In Washington, the daily bag limit in the West Zone may include no more than 4 scoters and 4 oldsquaws, with the possession limit twice the daily bag limit. The daily bag and possession limit, and the season limit, for harlequins is 1.
(13) In Washington, daily bag and possession limits may include no more than 3 and 6 light geese, respectively.

(14) In Washington, see State regulations for specific dates and conditions of permit hunts and closures for Canada geese.
(15) In Washington, in State Goose Area 4, hunting is only on Saturdays, Sundays, Wednesdays, and certain holidays. In State Goose Areas1, 3, and 5, hunting is everyday. See State regulations for details, including shooting hours.
(16) In Washington, brant may be hunted in Skagit and Pacific Counties only; see State regulations for specific dates.

(f) Youth Waterfowl Hunting Day

The following seasons are open only to youth hunters. Youth Hunters must be accompanied into the field by an adult at least 18 years of age. This adult can not duck hunt but may participate in other open seasons.

Definition
Youth Hunters: Includes youths 15 years of age or younger.

NOTE: The following seasons are in addition to the seasons published previously in the September 1, 2004, Federal Register (69 FR 53564). Bag and possession limits will conform to those set for the regular season.

	Season Dates
ATLANTIC FLYWAY	
Connecticut	
Ducks, mergansers, coots, and geese	Oct. 9 & 11
* * * * *	
Florida	
Ducks, mergansers, coots, moorhens, and geese (9)	Feb. 5 & 6
* * * * *	
Maryland	
Ducks, coots, mergansers, snow geese, Canada geese, and brant	Nov. 6
Massachusetts	
Ducks, mergansers, coots, and geese	Oct. 9 & 10
* * * * *	
North Carolina	
Ducks, mergansers, Canada geese (10), and coots	Feb. 5
* * * * *	
South Carolina	
Ducks, geese, mergansers, and coots	Feb. 5 & 6
* * * * *	

	Season Dates
Virginia	
Ducks, mergansers, coots, moorhens, gallinules, and Canada geese (11)	Oct. 23
* * * * *	
MISSISSIPPI FLYWAY	
* * * * *	
Arkansas	
Ducks, geese, mergansers, coots, moorhens, and gallinules	Dec. 11 & 12
Illinois	
Ducks, mergansers, coots, and geese:	
North Zone	Oct. 9 & 10
Central Zone	Oct. 23 & 24
South Zone	Oct. 30 & 31
Indiana	
Ducks, mergansers, coots, moorhens, gallinules, and geese:	
North Zone	Oct. 2 & 3
South Zone	Nov. 6 & 7
Ohio River Zone	Oct. 16 & 17
* * * * *	
Kentucky	
Ducks, mergansers, coots, moorhens, gallinules, and geese:	
East Zone	Oct. 9 & 10
West Zone	Feb. 5 & 6
Louisiana	
Ducks, mergansers, coots, moorhens, gallinules, and geese:	
West Zone	Nov. 6 & 7
East Zone	Nov. 13 & 14
* * * * *	
Mississippi	
Ducks, mergansers, coots, moorhens, gallinules, and geese	Feb. 5 & 6
Missouri	
Ducks, coots, and geese:	
North Zone	Oct. 23 & 24
Middle Zone	Oct. 30 & 31
South Zone	Nov. 20 & 21
Ohio	
Ducks, mergansers, coots, moorhens, gallinules, and geese	Oct. 9 & 10

	Season Dates
Tennessee	
Ducks, geese, mergansers, coots, moorhens, and gallinules	Feb. 5 & 6

* * * * *

CENTRAL FLYWAY

* * * * *

Kansas (5)	
Ducks, dark geese, mergansers and coots:	
High Plains	Oct. 2 & 3
Low Plains	
Early Zone	Oct. 2 & 3
Late Zone	Oct. 16 & 17

* * * * *

New Mexico	
Ducks, mergansers, and coots	
North Zone	Oct. 2 & 3
South Zone	Oct. 16 & 17

* * * * *

Oklahoma	
Ducks, mergansers, coots, and geese:	
High Plains	Oct. 2 & 3
Low Plains:	
Zone 1	Oct. 23 & 24
Zone 2	Nov. 6 & 7

* * * * *

Texas	
Ducks, mergansers, and coots:	
High Plains	Oct. 23 & 24
Low Plains:	
North Zone	Oct. 30 & 31
South Zone	Oct. 30 & 31

* * * * *

PACIFIC FLYWAY

Arizona (12)	
Ducks, geese, mergansers, coots, moorhens, and gallinules	
North Zone	Oct. 2
South Zone	Feb. 5

	Season Dates
California	
Ducks, geese, mergansers, coots, moorhens, and gallinules	
Northeastern Zone	Sept. 25 & 26
Colorado River Zone	Feb. 5
Southern Zone	Feb. 5 & 6
Southern San Joaquin Valley	Feb. 5 & 6
Balance-of-State Zone	Feb. 5 & 6
Colorado	
Ducks, dark geese, mergansers, and coots	Oct. 23 & 24
* * * * *	
Idaho	
Ducks, Canada geese, mergansers, and coots	Sept. 25 & 26
* * * * *	
Nevada	
Ducks, geese, mergansers, coots, moorhens, and gallinules	
Lincoln and Clark Counties	Jan. 29
Rest of State	Sept. 25
* * * * *	

* * * * *

(5) In Kansas, the adult accompanying the youth and nonresident youth, must be licensed and possess state and federal duck stamps as required by state or federal regulation to hunt waterfowl.

* * * * *

(9) In Florida, the Canada goose season is only open in the Florida waters of Lake Seminole in Jackson County that are south of SR 2, north of Jim Woodruff Dam, and east of SR271. The light goose season is only open north and west of the Suwannee River.
(10) In North Carolina, the daily bag limit in the Northeast Hunt Zone may not include Canada geese.
(11) In Virginia, the daily bag limit for Canada geese is 2.
(12) In Arizona, the youth hunter must be 14 years old or less.

4. Section 20.106 is amended by adding the entries for the following States in alphabetical order to read as follows:

§20.106 Seasons, limits, and shooting hours for sandhill cranes.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits on the species designated in this section are as follows:

Shooting and Hawking hours are one-half hour before sunrise until sunset, except as otherwise restricted by State regulations. Area descriptions were published in the August 30, 2004, Federal Register (69 FR 52970).

Note: The following seasons are in addition to the seasons published previously in the September 1, 2004, Federal Register (69 FR 53564).

	Season Dates	Limits Bag	Limits Possession
CENTRAL FLYWAY			
* * * * *			
Oklahoma (1)	Oct. 30-Jan. 30	3	6
* * * * *			
Texas (1):			
Zone A	Nov. 6-Feb. 1	3	6
Zone B	Nov. 27-Feb. 1	3	6
Zone C	Dec. 18-Jan. 16	2	4

(1) Each hunter participating in a regular sandhill crane hunting season must obtain and carry in his possession while hunting sandhill cranes a valid Federal sandhill crane hunting permit available without cost from conservation agencies in the States where crane hunting seasons are allowed. The permit must be displayed to any authorized law enforcement official upon request.

* * * * *

5. Section 20.107 is revised to read as follows:

§20.107 Seasons, limits, and shooting hours for swans.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits on the species designated in this section are as follows:

Shooting hours are one-half hour before sunrise until sunset, except as otherwise restricted by State regulations. Hunting is by State permit only.

NOTE: Successful permittees must immediately validate their harvest by that method required in State regulations.

	Season Dates	Limits Bag	Limits Possession
ATLANTIC FLYWAY			
North Carolina	Nov. 6-Jan. 31	1 tundra swan per season	

	Season Dates	Limits Bag	Possession
Virginia	Dec. 1-Jan 31	1 tundra swan per season	
CENTRAL FLYWAY (1)			
Montana	Oct. 2-Jan. 6	1 tundra swan per season	
North Dakota	Oct. 2-Dec. 12	1 tundra swan per season	
South Dakota	Oct. 2-Dec. 19	1 tundra swan per permit	
PACIFIC FLYWAY (1)(2)			
Montana (3)	Oct. 16-Dec. 1	1 swan per season	
Nevada (4)(5)	Oct. 16-Jan. 2	1 swan per season	
Utah (3)(5)	Oct. 2-Dec. 12	1 swan per season	

(1) See State regulations for description of area open to swan hunting.
(2) Any species of swan may be taken.
(3) All harvested swans and tags must be checked or registered within 3 days of harvest.
(4) All harvested swans and tags must be checked or registered within 5 days of harvest.
(5) Harvests of trumpeter swans are limited to 5 in Nevada and 10 in Utah. When it has been determined that the quota of trumpeter swans allotted to Nevada and Utah will have been filled, the season for taking of any swan species in the respective State will be closed by either the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing, or by the State through State regulations with such notice and time (not less than 48 hours) as they deem necessary.

6. Section 20.109 is amended by adding the entries for the following States in alphabetical order to read as follows:

§20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.
Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Hawking hours are one-half hour before sunrise until sunset except as otherwise restricted by State regulations. Area descriptions were published in the August 30 (69 FR 52970) and the September Federal Registers.

Limits: The daily bag limit may include no more than 3 migratory game birds, singly or in the aggregate. The possession limit is twice the daily bag limit. These limits apply to falconry during both regular hunting seasons and extended falconry seasons -- unless further restricted by State regulations. The falconry bag and possession limits are not in addition to regular season limits. Unless otherwise specified, extended falconry for ducks does not include sea ducks within the special sea duck areas. Although many States permit falconry during the gun seasons, only extended falconry seasons are shown below. Please consult State regulations for details.

NOTE: The following seasons are in addition to the seasons published previously in the September 1, 2004, Federal Register (69 FR 53564).

	Extended Falconry Dates
ATLANTIC FLYWAY	
Delaware	
* * * * *	
Ducks, mergansers, and coots	Jan. 27-Mar. 10
Brant	Jan. 31-Mar. 10
Florida	
* * * * *	
Ducks, mergansers, light geese, and coots (1)	Oct. 30-Nov. 12 & Feb. 7-Mar. 4
Georgia	
* * * * *	
Ducks, mergansers, gallinules, coots, and sea ducks	Nov. 13-Nov. 19 & Nov. 29-Dec. 10 & Jan. 31-Feb. 4
Maine	
Ducks, mergansers, and coots (4):	
North Zone	Dec. 9-Jan. 31
South Zone	Jan. 6-Feb. 28
Maryland	
* * * * *	
Ducks	Oct. 1-Oct. 6 & Jan. 30-Mar. 10
Brant	Jan. 30-Mar. 10
Massachusetts	
Ducks, mergansers, sea ducks, and coots	Oct. 6-Oct. 8 & Nov. 29-Dec. 3 Jan. 24-Feb. 7

	Extended Falconry Dates
New Hampshire	
Ducks, mergansers, and coots:	
Inland Zone	Nov. 15-Nov. 23 & Dec. 13-Jan. 17
Coastal Zone	Jan. 25-Mar. 10
New Jersey	
Woodcock:	
North Zone	Oct. 1-Oct. 20 & Nov. 14-Jan. 15
South Zone	Oct. 1-Nov. 12 & Nov. 28-Dec. 23 & Jan. 2-Jan. 15
Ducks, mergansers, coots, and brant:	
North Zone	Nov. 6-Nov. 15 & Jan. 2-Jan. 31
South Zone	Dec. 11-Dec. 13 & Jan. 9-Feb. 14
Coastal Zone	Nov. 14-Nov. 24 & Jan. 30-Feb. 28
New York	
Ducks, mergansers and coots:	
Long Island Zone	Nov. 1-Nov. 19 & Nov. 29-Dec. 10 & Jan. 31
Northeastern Zone	Oct. 1 & Oct. 18-Oct. 22 & Dec. 6-Dec. 31
Southeastern Zone	Oct. 1-Oct. 8 & Oct. 18-Nov. 12
Western Zone	Oct. 1-Oct. 22 & Dec. 8-Dec. 26
Pennsylvania	
Mourning doves	Oct. 6-Oct. 22 & Nov. 22-Dec.11

* * * * *

Ducks, mergansers, and coots:	
North Zone	Oct. 25-Nov. 6 & Jan. 1-Jan. 15 & Feb. 15-Mar. 10

	Extended Falconry Dates
Pennsylvania (cont.)	
South Zone	Oct. 18-Nov. 13 & Feb. 14-Mar. 10
Northwest Zone	Nov. 29-Dec. 11 & Jan. 1-Jan. 15 & Feb. 15-Mar. 10
Lake Erie Zone	Jan. 17-Mar. 10
Canada Geese:	
SJBP Zone	Feb. 26-Mar. 10
Pymatuning Zone	Dec. 18-Mar. 10
AP Zone	Mar. 4-Mar. 10
RP Zone	Feb. 26-Mar. 10
South Carolina	
Ducks, mergansers, and coots	Oct. 27-Nov. 23 & Nov. 29-Dec. 16
Virginia	
* * * * *	
Moorhens and gallinules	Dec. 5-Dec. 10 & Jan. 1-Feb. 28
Ducks, mergansers, and coots	Dec. 6-Dec. 10 & Jan. 31-Feb. 28
Canada Geese:	
Eastern (AP) Zone	Nov. 20 & Dec. 2-Dec. 11 & Jan. 25-Feb. 19
Western Zone	Nov. 20-Nov. 23 & Dec. 7-Dec. 11 & Feb. 16-Feb. 19
Brant	Nov. 6-Nov. 19 & Nov. 29-Dec. 10 & Jan. 31-Mar. 10
MISSISSIPPI FLYWAY	
Arkansas	
Ducks, mergansers, and coots	Dec. 6-Dec. 16 & Dec. 25 & Jan. 31-Feb. 20

	Extended Falconry Dates
* * * * *	
Illinois	
* * * * *	
Ducks, mergansers, and coots	Feb. 3-Mar. 10
Indiana	
* * * * *	
Ducks, mergansers, and coots:	
North Zone	Sept. 27-Oct. 1 & Feb. 8-Mar. 9
South Zone	Oct. 4-Oct. 10 & Feb. 10-Mar. 9
Ohio River Zone	Oct. 4-Oct. 10 & Feb. 10-Mar. 9
Iowa	
Ducks, mergansers, and coots	Dec. 15-Jan. 28
Dark Geese:	
North Goose Zone	Oct. 4-Oct. 15 & Dec. 6-Dec. 25
South Goose Zone	Oct. 11-Oct. 29 & Dec. 20-Jan. 1
Kentucky	
Ducks, mergansers, and coots	Nov. 5-Nov. 24 & Nov. 29-Dec. 5 & Jan. 31-Feb. 1
Canada Geese:	
Western Goose Zone:	
Fulton County	Nov. 10-Dec. 5
Rest of Zone	Nov. 5-Dec. 5
Pennyroyal/Coalfield Zone	Nov. 5-Dec. 12
Rest of State	Nov. 5-Dec. 12
White-fronted geese, brant, and light geese	Nov. 5-Nov. 24
Michigan	
Ducks, mergansers, coots, and moorhens	Jan. 25-Mar. 10

	Extended Falconry Dates
Minnesota	
* * * * *	
Ducks, mergansers, coots, moorhens, and gallinules	Nov. 24-Jan. 8
Mississippi	
Mourning Doves	Nov. 25-Dec. 17 & Jan. 22-Feb. 14
Ducks, mergansers and coots	Feb. 1-Feb. 4 & Feb. 7-Mar. 10
Missouri	
* * * * *	
Ducks, mergansers, and coots:	
North Zone	Sept. 11-Sept. 19 & Sept. 25-Oct. 29
Middle Zone	Sept. 11-Sept. 19 & Sept. 29-Nov. 5
South Zone	Sept. 11-Sept. 19 & Oct. 19-Nov. 25
Ohio	
Ducks, mergansers, and coots	Sept. 1-Sept. 15 & Oct. 9-Oct. 10 & Jan. 15-Feb. 13
Tennessee	
* * * * *	
Ducks, mergansers, and coots	Sept. 16-Oct. 25
Wisconsin	
Rails, snipe, moorhens, and gallinules	
North Duck Zone	Sept. 1-Sept. 24 & Nov. 24-Dec. 16
South Duck Zone	Sept. 1-Oct. 1 & Oct. 11-Oct. 15 & Dec. 6-Dec. 16
Woodcock	Sept. 1-Sept. 24 & Nov. 9-Dec. 16

	Extended Falconry Dates
Wisconsin (cont.)	
Ducks, mergansers, and coots	Sept. 18-Sept. 19 & Jan. 25-Mar. 10
CENTRAL FLYWAY	
Kansas	
Ducks, mergansers, and coots:	
Low Plains:	
Early Zone and Late Zone	Feb. 17-Mar. 10
Montana (2)	
Ducks, mergansers, and coots:	
Zones 1 and 2	Sept. 22-Oct. 1
* * * * *	
Oklahoma	
Ducks, mergansers, and coots:	
Low Plains:	
Zone 1	Dec. 13-Dec. 17 & Jan. 17-Feb. 2
Zone 2	Dec. 13-Dec. 17 & Jan. 31-Feb. 16
South Dakota	
Ducks, mergansers, and coots (1)	
High Plains	Sept. 4-Sept. 11
Low Plains	
North and Middle Zone	Sept. 4-Sept. 17 & Sept. 20-Sept. 24 & Dec. 8-Dec. 19
South Zone	Sept. 4-Sept. 17 & Sept. 20-Oct. 6
Texas	
* * * * *	
Ducks, mergansers, and coots:	
Low Plains:	
North Zone	Jan. 31-Feb. 21
South Zone	Jan. 19-Feb. 9

	Extended Falconry Dates

* * * * *

PACIFIC FLYWAY

Arizona

Doves	Sept. 13-Oct. 30
Ducks and mergansers:	
North Zone	Oct. 3-Oct. 7
South Zone	Jan. 31-Feb. 4

California

Ducks, mergansers, and coots:	
Northeastern Zone	Jan. 10-Jan. 21
Colorado River Zone	Jan. 31-Feb. 4
Southern Zone	Jan. 31-Feb. 4,
Balance-of-State Zone	Jan. 31-Feb. 4 & Feb. 7-Feb. 13
Southern San Joaquin Zone	Nov. 14-Nov. 19 & Jan. 31-Feb. 4
Canada Geese and White-fronted Geese:	
Northeastern Zone	Jan. 17-Jan. 21
Southern Zone	Jan. 31-Feb. 4
Balance-of-State Zone (5)	Same as for Ducks
Southern San Joaquin Zone	Same as for Ducks
Brant	
Northeastern Zone	Oct. 9-Nov. 9 & Dec. 10-Jan 21
Southern Zone	Oct. 23-Nov. 9 & Dec. 10-Feb. 4
Balance-of-State Zone	Oct. 30-Nov. 9 & Dec. 10-Feb. 13
Southern San Joaquin Zone	Oct. 23-Nov. 9 & Dec. 10-Feb. 6
Light Geese:	
Northeastern Zone	Jan. 17-Jan. 21
Southern Zone	Jan. 31-Feb. 4
Balance-of-State Zone	Same as for Ducks

* * * * *

	Extended Falconry Dates
New Mexico	
* * * * *	
Rails	Nov. 27-Jan. 2
* * * * *	
Utah	
Mourning and white-winged doves and band-tailed pigeons	Oct. 1-Dec. 16
* * * * *	

(1) In Florida, light geese may only be taken north and west of the Suwannee River.
(2) In Montana, the bag limit is 2 and the possession limit is 6.

* * * * *

(4) In Maine, the daily bag and possession limits for black ducks are 1 and 2, respectively.
(5) In California, the falconry season for Canada geese is closed in the Del Norte and Humbolt Area, the Sacramento Valley Area, and in the San Joaquin Valley Area.

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1300–End	(869–052–00069–8)	24.00	Apr. 1, 2004
22 Parts:			
1–299	(869–052–00070–1)	63.00	Apr. 1, 2004
300–End	(869–052–00071–0)	45.00	Apr. 1, 2004
23	(869–052–00072–8)	45.00	Apr. 1, 2004
24 Parts:			
0–199	(869–052–00073–6)	60.00	Apr. 1, 2004
200–499	(869–052–00074–4)	50.00	Apr. 1, 2004
500–699	(869–052–00075–2)	30.00	Apr. 1, 2004
700–1699	(869–052–00076–1)	61.00	Apr. 1, 2004
1700–End	(869–052–00077–9)	30.00	Apr. 1, 2004
25	(869–052–00078–7)	63.00	Apr. 1, 2004
26 Parts:			
§§ 1.0–1–1.60	(869–052–00079–5)	49.00	Apr. 1, 2004
§§ 1.61–1.169	(869–052–00080–9)	63.00	Apr. 1, 2004
§§ 1.170–1.300	(869–052–00081–7)	60.00	Apr. 1, 2004
§§ 1.301–1.400	(869–052–00082–5)	46.00	Apr. 1, 2004
§§ 1.401–1.440	(869–052–00083–3)	62.00	Apr. 1, 2004
§§ 1.441–1.500	(869–052–00084–1)	57.00	Apr. 1, 2004
§§ 1.501–1.640	(869–052–00085–0)	49.00	Apr. 1, 2004
§§ 1.641–1.850	(869–052–00086–8)	60.00	Apr. 1, 2004
§§ 1.851–1.907	(869–052–00087–6)	61.00	Apr. 1, 2004
§§ 1.908–1.1000	(869–052–00088–4)	60.00	Apr. 1, 2004
§§ 1.1001–1.1400	(869–052–00089–2)	61.00	Apr. 1, 2004
§§ 1.1401–1.1503–2A	(869–052–00090–6)	55.00	Apr. 1, 2004
§§ 1.1551–End	(869–052–00091–4)	55.00	Apr. 1, 2004
2–29	(869–052–00092–2)	60.00	Apr. 1, 2004
30–39	(869–052–00093–1)	41.00	Apr. 1, 2004
40–49	(869–052–00094–9)	28.00	Apr. 1, 2004
50–299	(869–052–00095–7)	41.00	Apr. 1, 2004
300–499	(869–052–00096–5)	61.00	Apr. 1, 2004

Title	Stock Number	Price	Revision Date
500–599	(869–052–00097–3)	12.00	[5]Apr. 1, 2004
600–End	(869–052–00098–1)	17.00	Apr. 1, 2004
27 Parts:			
1–199	(869–052–00099–0)	64.00	Apr. 1, 2004
200–End	(869–052–00100–7)	21.00	Apr. 1, 2004
28 Parts:			
0–42	(869–052–00101–5)	61.00	July 1, 2004
43–End	(869–050–00101–2)	58.00	July 1, 2003
29 Parts:			
0–99	(869–052–00103–1)	50.00	July 1, 2004
100–499	(869–052–00104–0)	23.00	July 1, 2004
500–899	(869–052–00105–8)	61.00	July 1, 2004
900–1899	(869–052–00106–6)	36.00	July 1, 2004
1900–1910 (§§ 1900 to 1910.999)	(869–052–00107–4)	61.00	July 1, 2004
1910 (§§ 1910.1000 to end)	(869–052–00108–2)	46.00	[8]July 1, 2004
1911–1925	(869–050–00108–0)	30.00	July 1, 2003
1926	(869–052–00110–4)	50.00	July 1, 2004
1927–End	(869–052–00111–2)	62.00	July 1, 2004
30 Parts:			
1–199	(869–052–00112–1)	57.00	July 1, 2004
200–699	(869–052–00113–9)	50.00	July 1, 2004
700–End	(869–052–00114–7)	58.00	July 1, 2004
31 Parts:			
0–199	(869–050–00114–4)	40.00	July 1, 2003
*200–End	(869–052–00116–3)	65.00	July 1, 2004
32 Parts:			
1–39, Vol. I		15.00	[2]July 1, 1984
1–39, Vol. II		19.00	[2]July 1, 1984
1–39, Vol. III		18.00	[2]July 1, 1984
1–190	(869–050–00116–1)	60.00	July 1, 2003
*191–399	(869–052–00118–0)	63.00	July 1, 2004
400–629	(869–052–00119–8)	50.00	[8]July 1, 2004
630–699	(869–052–00120–1)	37.00	[7]July 1, 2004
700–799	(869–052–00121–0)	46.00	July 1, 2004
800–End	(869–052–00122–8)	47.00	July 1, 2004
33 Parts:			
1–124	(869–050–00122–5)	55.00	July 1, 2003
125–199	(869–050–00123–3)	61.00	July 1, 2003
200–End	(869–050–00124–1)	50.00	July 1, 2003
34 Parts:			
1–299	(869–050–00125–0)	49.00	July 1, 2003
300–399	(869–050–00126–8)	43.00	[7]July 1, 2003
400–End	(869–050–00127–6)	61.00	July 1, 2003
35	(869–052–00129–5)	10.00	[6]July 1, 2004
36 Parts			
*1–199	(869–052–00130–9)	37.00	July 1, 2004
200–299	(869–050–00130–6)	37.00	July 1, 2003
300–End	(869–050–00131–4)	61.00	July 1, 2003
37	(869–050–00132–2)	50.00	July 1, 2003
38 Parts:			
0–17	(869–052–00134–1)	60.00	July 1, 2004
18–End	(869–050–00134–9)	62.00	July 1, 2003
39	(869–050–00135–7)	41.00	July 1, 2003
40 Parts:			
1–49	(869–050–00136–5)	60.00	July 1, 2003
50–51	(869–052–00138–4)	45.00	July 1, 2004
52 (52.01–52.1018)	(869–050–00138–1)	58.00	July 1, 2003
52 (52.1019–End)	(869–050–00139–0)	61.00	July 1, 2003
53–59	(869–052–00141–4)	31.00	July 1, 2004
60 (60.1–End)	(869–050–00141–1)	58.00	July 1, 2003
60 (Apps)	(869–050–00142–0)	51.00	[8]July 1, 2003
61–62	(869–050–00143–8)	43.00	July 1, 2003
63 (63.1–63.599)	(869–050–00144–6)	58.00	July 1, 2003
*63 (63.600–63.1199)	(869–052–00146–5)	50.00	July 1, 2004
63 (63.1200–63.1439)	(869–050–00146–2)	50.00	July 1, 2003
63 (63.1440–End)	(869–050–00147–1)	64.00	July 1, 2003
64–71	(869–050–00148–9)	29.00	July 1, 2003
72–80	(869–052–00151–1)	62.00	July 1, 2004
81–85	(869–050–00150–1)	50.00	July 1, 2003
86 (86.1–86.599–99)	(869–050–00151–9)	57.00	July 1, 2003
86 (86.600–1–End)	(869–050–00152–7)	50.00	July 1, 2003
87–99	(869–052–00155–4)	60.00	July 1, 2004
100–135	(869–050–00154–3)	43.00	July 1, 2003
136–149	(869–150–00155–1)	61.00	July 1, 2003
150–189	(869–050–00156–0)	49.00	July 1, 2003
190–259	(869–050–00157–8)	39.00	July 1, 2003
260–265	(869–050–00158–6)	50.00	July 1, 2003
266–299	(869–050–00159–4)	50.00	July 1, 2003
300–399	(869–050–00160–8)	42.00	July 1, 2003
400–424	(869–052–00163–5)	56.00	[8]July 1, 2004
425–699	(869–050–00162–4)	61.00	July 1, 2003
700–789	(869–050–00163–2)	61.00	July 1, 2003
790–End	(869–050–00164–1)	58.00	July 1, 2003
41 Chapters:			
1, 1–1 to 1–10		13.00	[3]July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3]July 1, 1984
3–6		14.00	[3]July 1, 1984
7		6.00	[3]July 1, 1984
8		4.50	[3]July 1, 1984
9		13.00	[3]July 1, 1984
10–17		9.50	[3]July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3]July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3]July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3]July 1, 1984
19–100		13.00	[3]July 1, 1984
1–100	(869–052–00167–8)	24.00	July 1, 2004
101	(869–052–00168–6)	21.00	July 1, 2004
102–200	(869–050–00167–5)	50.00	July 1, 2003
201–End	(869–050–00168–3)	22.00	July 1, 2003
42 Parts:			
1–399	(869–050–00169–1)	60.00	Oct. 1, 2003
400–429	(869–050–00170–5)	62.00	Oct. 1, 2003
430–End	(869–050–00171–3)	64.00	Oct. 1, 2003
43 Parts:			
1–999	(869–050–00172–1)	55.00	Oct. 1, 2003
1000–end	(869–050–00173–0)	62.00	Oct. 1, 2003
44	(869–050–00174–8)	50.00	Oct. 1, 2003
45 Parts:			
1–199	(869–050–00175–6)	60.00	Oct. 1, 2003
200–499	(869–050–00176–4)	33.00	Oct. 1, 2003
500–1199	(869–050–00177–2)	50.00	Oct. 1, 2003
1200–End	(869–050–00178–1)	60.00	Oct. 1, 2003
46 Parts:			
1–40	(869–050–00179–9)	46.00	Oct. 1, 2003
41–69	(869–050–00180–2)	39.00	Oct. 1, 2003
70–89	(869–050–00181–1)	14.00	Oct. 1, 2003
90–139	(869–050–00182–9)	44.00	Oct. 1, 2003
140–155	(869–050–00183–7)	25.00	Oct. 1, 2003
156–165	(869–050–00184–5)	34.00	Oct. 1, 2003
166–199	(869–050–00185–3)	46.00	Oct. 1, 2003
200–499	(869–050–00186–1)	39.00	Oct. 1, 2003
500–End	(869–050–00187–0)	25.00	Oct. 1, 2003
47 Parts:			
0–19	(869–050–00188–8)	61.00	Oct. 1, 2003
20–39	(869–050–00189–6)	45.00	Oct. 1, 2003
40–69	(869–050–00190–0)	39.00	Oct. 1, 2003
70–79	(869–050–00191–8)	61.00	Oct. 1, 2003
80–End	(869–050–00192–6)	61.00	Oct. 1, 2003
48 Chapters:			
1 (Parts 1–51)	(869–050–00193–4)	63.00	Oct. 1, 2003
1 (Parts 52–99)	(869–050–00194–2)	50.00	Oct. 1, 2003
2 (Parts 201–299)	(869–050–00195–1)	55.00	Oct. 1, 2003
3–6	(869–050–00196–9)	33.00	Oct. 1, 2003
7–14	(869–050–00197–7)	61.00	Oct. 1, 2003
15–28	(869–050–00198–5)	57.00	Oct. 1, 2003
29–End	(869–050–00199–3)	38.00	[9]Oct. 1, 2003
49 Parts:			
1–99	(869–050–00200–1)	60.00	Oct. 1, 2003

Title	Stock Number	Price	Revision Date
100–185	(869–050–00201–9)	63.00	Oct. 1, 2003
186–199	(869–050–00202–7)	20.00	Oct. 1, 2003
200–399	(869–050–00203–5)	64.00	Oct. 1, 2003
400–599	(869–050–00204–3)	63.00	Oct. 1, 2003
600–999	(869–050–00205–1)	22.00	Oct. 1, 2003
1000–1199	(869–050–00206–0)	26.00	Oct. 1, 2003
1200–End	(869–048–00207–8)	33.00	Oct. 1, 2003
50 Parts:			
1–16	(869–050–00208–6)	11.00	Oct. 1, 2003
17.1–17.95	(869–050–00209–4)	62.00	Oct. 1, 2003
17.96–17.99(h)	(869–050–00210–8)	61.00	Oct. 1, 2003
17.99(i)–end	(869–050–00211–6)	50.00	Oct. 1, 2003
18–199	(869–050–00212–4)	42.00	Oct. 1, 2003
200–599	(869–050–00213–2)	44.00	Oct. 1, 2003
600–End	(869–050–00214–1)	61.00	Oct. 1, 2003
CFR Index and Findings Aids	(869–052–00049–3)	62.00	Jan. 1, 2004
Complete 2004 CFR set		1,342.00	2004
Microfiche CFR Edition:			
Subscription (mailed as issued)		325.00	2004
Individual copies		2.00	2004
Complete set (one-time mailing)		298.00	2003
Complete set (one-time mailing)		298.00	2002

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2003, through January 1, 2004. The CFR volume issued as of January 1, 2002 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2004. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 2000, through July 1, 2004. The CFR volume issued as of July 1, 2000 should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 2002, through July 1, 2004. The CFR volume issued as of July 1, 2002 should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 2003, through July 1, 2004. The CFR volume issued as of July 1, 2003 should be retained.

[9] No amendments to this volume were promulgated during the period October 1, 2001, through October 1, 2003. The CFR volume issued as of October 1, 2001 should be retained.