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

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 305 and 319

[Docket No. APHIS–2006–0025]

Importation of Table Grapes From Namibia

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the fruits and vegetables regulations to allow the importation into the United States of fresh table grapes from Namibia under certain conditions. As a condition of entry, the grapes must undergo cold treatment and fumigation with methyl bromide and must be accompanied by a phytosanitary certificate with an additional declaration stating that the commodity has been inspected and found free of the specified pests. In addition, the grapes will also be subject to inspection at the port of first arrival. This action allows for the importation of grapes from Namibia into the United States while continuing to provide protection against the introduction of quarantine pests.

DATES: *Effective Date:* October 23, 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Sharon Porsche, Import Specialist, Commodity Import Analysis and Operations, Plant Health Programs, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1231; (301) 734–8758.

SUPPLEMENTARY INFORMATION:

Background

The regulations in ''Subpart—Fruits and Vegetables'' (7 CFR 319.56 through 319.56–8, referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests that are new to or not widely distributed within the United States.

On June 26, 2006, we published in the **Federal Register** (71 FR 36221–36225, Docket No. APHIS–2006–0025) a proposal [1] to amend the fruits and vegetables regulations to allow the importation of fresh table grapes, in commercial shipments only, from Namibia into the United States under certain conditions. As a condition of entry, we proposed that the grapes would be subject to a combined treatment of cold treatment in accordance with schedule T107–e and methyl bromide fumigation in accordance with schedule T104–a–1. In addition, because the cold and methyl bromide treatments would not effectively mitigate the pest risk posed by the mealybugs *Maconellicoccus hirsutus, Nipaecoccus vastator,* and *Rastrococcus iceryoides* or the mollusks *Cochlicella ventricosa* and *Theba pisana,* we proposed that the National Plant Protection Organization of Namibia would be required to conduct phytosanitary inspections for those pests and that each shipment of grapes would have to be accompanied by a phytosanitary certificate bearing the additional declaration: ''The grapes in this shipment have been inspected and found free of *Maconellicoccus hirsutus, Nipaecoccus vastator, Rastrococcus iceryoides, Cochlicella ventricosa* and *Theba pisana.*''

We solicited comments concerning our proposal for 60 days ending August 25, 2006. We received two comments by that date. The first comment was from a producer who was in favor of the importation of table grapes from Namibia. The second comment was from an industry group that expressed concern that the pest *Scirtothrips dorsalis* was not included in the preamble of the proposed rule on the list of pests that can be addressed by methyl bromide treatment. This was an inadvertent omission; the risks associated with *Scirtothrips dorsalis* were addressed within the pest risk assessment and risk mitigation documents associated with the proposed rule and the pest was cited specifically in the regulatory text of proposed § 319.56–2ss(b) as a pest for which treatment is required.

The commenter also expressed concern that Namibian table grapes would be shipped into the United States during a time period when they would be in direct competition with domestic table grapes (October and November) and that the economic analysis provided in the proposed rule focused too much on grapes intended for processed utilization (i.e., wine, juice, or raisins) rather than on grapes grown for the fresh market. Therefore, the commenter disagreed that the competitive impact of Namibian table grapes on domestic producers would be minimal. As stated in the proposed rule, grapes in Namibia mature in November, however, given that the grapes will be transported to the United States by cargo ship with a transit time of approximately 4 weeks, most grape shipments from Namibia would arrive from mid to late December until the end of January, well after peak harvest for domestic table grapes. The economic analysis in this final rule has been updated to reflect the additional information provided by the commenter regarding domestic grape production; however, that information did not affect the conclusions of our analysis. The impact of this rule on domestic table grape producers is still expected to be minimal.

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

Executive Order 12866 and Regulatory Flexibility Act

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

We are amending the fruits and vegetables regulations to allow the importation into the United States of fresh table grapes from Namibia under certain conditions. As a condition of entry, the grapes will be subject to both cold treatment and fumigation with methyl bromide and will have to be accompanied by a phytosanitary certificate with an additional declaration stating that the commodity

[1] To view the proposed rule and the comments we received, go to *http://www.regulations.gov,* click on the ''Advanced Search'' tab, and select ''Docket Search.'' In the Docket ID field, enter APHIS–2006–0025, then click on ''Submit.'' Clicking on the Docket ID link in the search results page will produce a list of all documents in the docket.

has been inspected and found free of the specified pests. In addition, the grapes will also be subject to inspection at the port of first arrival. This action will allow for the importation of grapes from Namibia into the United States while continuing to provide protection against the introduction of quarantine pests.

According to the Trade Law Center for Southern Africa, 7 grape companies in Namibia are currently cultivating 1,300 hectares, irrigated by water from the Orange River, and another 2,000 hectares are expected to be put to cultivation soon. Because of the climate in Namibia, grapes mature in November, which gives producers there a competitive advantage over producers in other southern hemisphere countries where the grape harvest begins in December. Imports of Namibian table grapes into the United States in the first year are expected to reach 22.5 40-foot containers (approximately 744,000 pounds), which would account for less than one-tenth of 1 percent of fresh table grape imports into the United States and less than one-tenth of 1 percent of total domestic utilized production of fresh table grapes. Total domestic utilized production accounted for approximately 50 percent of the total domestic consumption of fresh table grapes in 2004.[2] Gross revenue of utilized production of fresh table grapes produced in the United States was approximately $794 million.[3] Any displacement resulting from imports of Namibian fresh table grapes is likely to result in a reduction of less than one-tenth of 1 percent in gross revenue for producers, with at least part of the loss borne by foreign suppliers that share the same shipping season as Namibia, such as Chile.

The small business size standard for grape farming without making wine, as identified by the Small Business Administration (SBA) based upon North American Industry Classification System code 111332, is $750,000 or less in annual receipts.[4] While the available data do not provide the number of U.S. grape-producing entities according to size distribution as it relates to annual receipts, it is reasonable to assume that the majority of the operations are considered small businesses by SBA standards. According to the 2002 Census of Agriculture data, there were 23,856 grape farms in the United States in 2002.[5] It is estimated that approximately 93 percent of these grape farms had annual sales in 2002 of $500,000 or less, and are considered to be small entities by SBA standards.

The United States is a net importer of fresh table grapes. In 2004, the United States imported 1,322.8 million pounds of fresh table grapes with approximately 79 and 19 percent arriving from Chile and Mexico, respectively. In that same year, the United States exported approximately 606.3 million pounds of table grapes. Canada is the largest importer of U.S. fresh grapes, accounting for 44 percent of U.S. exports. The second and third largest importers of U.S. fresh grapes are Malaysia and Mexico, accounting for approximately 9 and 7 percent of U.S. grape exports, respectively.[6] U.S. imports of table grapes experienced an average increase of 6.6 percent annually over the last decade while exports have increased an average of 3.4 percent.[7] Fresh utilization of U.S. grape production only accounts, on average, for 13 percent of total utilized U.S. grape production annually. U.S. wine production and raisin production account for an average of 60 percent and 25 percent, respectively, of U.S. grape utilization annually.[8]

Domestic consumers would benefit because Namibian table grapes mature a month earlier than table grapes from other countries in the southern hemisphere, providing access to an increased supply of fresh table grapes for a longer period of time. The negative impact of imports from Namibia is expected to be minimal for domestic producers. Utilized production of fresh table grapes accounted for approximately 50 percent of total domestic consumption in 2004. Total gross revenue associated with the estimated quantity of Namibian imports is equivalent to less than one-tenth of 1 percent of the total gross revenue generated by U.S. fresh table grapes in 2004. In addition, any displacement of existing U.S. table grape supplies by Namibian imports is likely to be borne at least in part by foreign suppliers such as Chile, which shares the same shipping season as Namibia.

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

Executive Order 12988

This final rule allows fresh table grapes to be imported into the United States from Namibia. State and local laws and regulations regarding table grapes imported under this rule will be preempted while the fruit is in foreign commerce. Fresh table grapes are generally imported for immediate distribution and sale to the consuming public, and remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. No retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

Use of Methyl Bromide

Under this rule, table grapes imported into the United States from Namibia must be fumigated with methyl bromide in accordance with schedule T104–a–1 to kill external feeder insects. We estimate that between 1 and 22.5 40-foot containers of fresh table grapes will be imported from Namibia during the first shipping season. Importations may increase in future years. Fumigation using schedule T104–a–1 would require no more than 10 pounds of methyl bromide per container. No alternative treatment is currently available for these pests.

The United States is fully committed to the objectives of the Montreal Protocol, including the reduction and ultimately the elimination of reliance on methyl bromide for quarantine and preshipment uses in a manner that is consistent with the safeguarding of U.S. agriculture and ecosystems. APHIS reviews its methyl bromide policies and their effect on the environment in accordance with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*) and Decision XI/13 (paragraph 5) of the 11th Meeting of the Parties to the Montreal Protocol, which calls on the Parties to review their ''national plant, animal, environmental, health, and stored product regulations with a view to removing the requirement for the use of methyl bromide for quarantine and preshipment where technically and economically feasible alternatives exist.''

The United States Government encourages methods that do not use

[2] USDA ERS Briefing Room, Fruit and Tree Nut Yearbook, 2005.

[3] Gross revenue of fresh table grape utilization is derived assuming a grower price of $0.45 per pound (ERS).

[4] Based upon 2002 Census of Agriculture—State Data and the ''Small Business Size Standards by NAICS Industry,'' Code of Federal Regulations, Title 13, Chapter 1.

[5] The number of grape farms in the United States, as reported by the 2002 Census of Agriculture, is the total number of grape-producing operations, which also include grapes produced for processed utilization.

[6] Source: Global Trade Atlas.

[7] Source: USDA FAS, PS&D Online. ''Table Grapes: Production, Supply and Distribution in Selected Countries,'' *http://www.fas.usda.gov/psd/complete_tables/HTP-table6-104.htm.*

[8] USDA ERS Briefing Room, Fruit and Tree Nut Yearbook, 2005.

methyl bromide to meet phytosanitary standards where alternatives are deemed to be technically and economically feasible. In some circumstances, however, methyl bromide continues to be the only technically and economically feasible treatment against specific quarantine pests. In addition, in accordance with Montreal Protocol Decision XI/13 (paragraph 7), APHIS is committed to promoting and employing gas recapture technology and other methods whenever possible to minimize harm to the environment caused by methyl bromide emissions.

National Environmental Policy Act

An environmental assessment was prepared for, and made available for public comment through, the proposed rule for this rulemaking. No comments regarding the environmental assessment were received during the comment period for the proposed rule. The environmental assessment provides a basis for the conclusion that the importation of fresh table grapes under the conditions specified in this rule will not have a significant impact on the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

The environmental assessment and finding of no significant impact may be viewed on the Regulations.gov Web site.[9] Copies of the environmental assessment and finding of no significant impact are also available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579–0300.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

List of Subjects

7 CFR Part 305

Irradiation, Phytosanitary treatment, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements.

7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

■ Accordingly, we are amending 7 CFR parts 305 and 319 as follows:

PART 305—PHYTOSANITARY TREATMENTS

■ 1. The authority citation for part 305 continues to read as follows:

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

■ 2. In § 305.2, paragraph (h)(2)(i), the table is amended by adding, in alphabetical order, an entry for Namibia to read as follows:

§ 305.2 Approved treatments.

* * * * *

(h) * * *

(2) * * *

(i) * * *

Location	Commodity	Pest	Treatment schedule
*	*	*	*
Namibia	Grape	External feeders *Cryptophlebia leucotreta, Ceratitis capitata, Ceratitis rosa, Epichoristodes acerbella.*	MB T104–a–1. CT T107–e.
*	*	*	*

* * * * *

PART 319—FOREIGN QUARANTINE NOTICES

■ 3. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

■ 4. A new § 319.56–2ss is added to read as follows:

§ 319.56–2ss Conditions governing the entry of grapes from Namibia.

Grapes (*Vitis vinifera*) may be imported into the United States from Namibia only under the following conditions:

(a) The grapes must be cold treated for *Cryptophlebia leucotreta, Ceratitis capitata, Ceratitis rosa,* and *Epichoristodes acerbella* in accordance with part 305 of this chapter.

(b) The grapes must be fumigated for *Aleurocanthus spiniferus, Apate monachus, Bustomus setulosus, Ceroplastes rusci, Cryptoblabes gnidiella, Dischista cincta, Empoasca*

[9] Go to *http://www.regulations.gov,* click on the ''Advanced Search'' tab and select ''Docket Search.'' In the Docket ID field, enter APHIS–2006–0025, click on ''Submit,'' then click on the Docket ID link in the search results page. The environmental assessment and finding of no significant impact will appear in the resulting list of documents.

lybica, Eremnus atratus, Eremnus cerealis, Eremnus setulosus, Eutetranychus orientalis, Helicoverpa armigera, Icerya seychellarum, Macchiademus diplopterus, Oxycarenus hyalinipennis, Pachnoda sinuata, Phlyctinus callosus, Scirtothrips aurantii, Scirtothrips dorsalis, Spodoptera littoralis, and *Tanyrhynchus carinatus* in accordance with part 305 of this chapter.

(c) Each shipment of grapes must be accompanied by a phytosanitary certificate of inspection issued by the national plant protection organization of Namibia bearing the following additional declaration: ''The grapes in this shipment have been inspected and found free of *Maconellicoccus hirsutus, Nipaecoccus vastator, Rastrococcus iceryoides, Cochlicella ventricosa,* and *Theba pisana.*''

(d) The grapes may be imported in commercial shipments only.

(Approved by the Office of Management and Budget under control number 0579–0300)

Done in Washington, DC, this 18th day of September 2006.

W. Ron DeHaven,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 06–7891 Filed 9–20–06; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 916 and 917

[Docket No. FV06–916/917–1 FIR]

Nectarines and Peaches Grown in California; Revision of Handling Requirements for Fresh Nectarines and Peaches

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture is adopting, as a final rule, with a change, an interim final rule revising the handling requirements for California nectarines and peaches by modifying the grade, size, maturity, and pack requirements for fresh shipments of these fruits, beginning with 2006 season shipments. This rule also continues in effect the authorization for continued shipments of ''CA Utility'' quality nectarines and peaches, the establishment of weight-count standards for Peento type nectarines in volume-filled containers, and the elimination of the varietal container marking requirements. The marketing orders regulate the handling of nectarines and peaches grown in California and are administered locally by the Nectarine Administrative and Peach Commodity Committees (committees). This rule enables handlers to continue to ship fresh nectarines and peaches in a manner that meets consumer needs, increases returns to producers and handlers, and reflects current industry practices.

DATES: *Effective Date:* October 23, 2006.

FOR FURTHER INFORMATION CONTACT: Laurel May, Marketing Specialist, or Kurt Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California, 93721; Telephone (559) 487–5901, Fax: (559) 487–5906, or e-mail: *Laurel.May@usda.gov* or *Kurt.Kimmel@usda.gov.*

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

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order Nos. 916 and 917 (7 CFR parts 916 and 917) regulating the handling of nectarines and peaches grown in California, respectively, hereinafter referred to as the ''orders.'' The orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

USDA is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule continues in effect: (1) Revisions to the nectarine and peach grade, size, maturity, and pack requirements to better reflect current industry operating and marketing practices; (2) authorization for continued shipments of ''CA Utility'' quality nectarines and peaches during the 2006 and subsequent seasons to meet buyer needs; (3) establishment of weight-count standards for Peento type nectarines packed in volume-filled containers to assure pack uniformity; and (4) elimination of the varietal container marking requirements for nectarines and peaches to provide handlers more marketing flexibility.

Sections 916.52 and 917.41 of the orders provide authority for regulating the handling of fresh California nectarines and peaches. The regulations include grade, size, maturity, quality, pack, and container marking requirements. Such regulations are in effect on a continuing basis. The Nectarine Administrative Committee (NAC) and the Peach Commodity Committee (PCC), which are responsible for local administration of the orders, meet prior to and during each season to review the regulations. Committee meetings are open to the public and interested persons are encouraged to express their views at these meetings. USDA reviews committee recommendations and information, as well as information from other sources, and determines whether modification, suspension, or termination of the rules and regulations would tend to effectuate the declared policy of the Act.

The committees held such meetings on February 3, 2006, and unanimously recommended that the handling requirements be revised for the 2006 season, which was expected to begin at the end of March. No official crop estimates were available at the time of the committees' February meetings because the nectarine and peach trees were dormant. The committees subsequently met on April 27, 2006, and recommended 2006 crop estimates of 17,824,000 containers of nectarines and 20,242,000 containers of peaches. The 2006 nectarine crop is expected to be slightly smaller than the 2005 crop, which totaled approximately 18,618,000 containers. The 2006 peach crop is

expected to be slightly larger than the 2005 crop of approximately 20,177,000 containers.

Maturity Requirements

Sections 916.52 and 917.41 of the orders authorize the establishment of maturity requirements for nectarines and peaches, respectively. The minimum maturity level currently specified for nectarines and peaches is ''mature'' as defined in the standards. For most varieties, ''well-matured'' determinations for nectarines and peaches are made using maturity guides (e.g., color chips, along with other maturity tests as applied by the inspection service). These maturity guides are reviewed each year by the Shipping Point Inspection Service (SPI) to determine whether they need to be changed, based upon the most-recent information available on the individual characteristics of each nectarine and peach variety.

These maturity guides established under the handling regulations of the California tree fruit marketing orders have been codified in the Code of Federal Regulations as Table 1 in §§ 916.356 and 917.459, for nectarines and peaches, respectively.

The requirements in the 2006 handling regulations are the same as those that appeared in the 2005 handling regulations with a few exceptions. Those exceptions are explained in this rule.

Nectarines: Requirements for ''well-matured'' nectarines are specified in § 916.356 of the order's rules and regulations. This rule continues in effect the revision of Table 1 of paragraph (a)(1)(iv) of § 916.356 to add maturity guides for seven varieties of nectarines. Specifically, SPI recommended adding maturity guides for the Ruby Fire variety to be regulated at the G maturity guide; for the Burnectten (Spring Flare® 19) variety to be regulated at the H maturity guide, for the Burnecttwelve (Sweet Flare® 21) variety to be regulated at the I maturity guide, for the Burnectseven (Summer Flare® 28) and Zee Fire varieties to be regulated at the J maturity guide, and for the Prima Diamond XIX and Summer Jewel varieties to be regulated at the L maturity guide.

Peaches: Requirements for ''well-matured'' peaches are specified in § 917.459 of the order's rules and regulations. This rule continues in effect the revision of Table 1 of paragraph (a)(1)(iv) of § 917.459 to add maturity guides for seven peach varieties. Specifically, SPI recommended adding maturity guides for the Flavor Joy variety to be regulated at the H maturity guide; the King Sweet, Lady Lou, and Sugar Time (214LC68) varieties to be regulated at the I maturity guide; the August Dream variety to be regulated at the J maturity guide; and the Burpeachfive (July Flame®) and Burpeachsix (June Flame®) varieties to be regulated at the L maturity guide.

NAC and PCC recommended these maturity guide requirements based on SPI's continuing review of individual maturity characteristics and identification of the appropriate maturity guide corresponding to the ''well-matured'' level of maturity for nectarine and peach varieties in production.

Size Requirements

Both orders provide authority (in §§ 916.52 and 917.41) to establish size requirements. Size regulations encourage producers to leave fruit on the tree longer, which improves both size and maturity of the fruit. Acceptable fruit size provides greater consumer satisfaction and promotes repeat purchases, and, therefore, increases returns to producers and handlers. Increased fruit size results in increased numbers of packed containers of nectarines and peaches per acre, which also benefits producers and handlers.

Recommendations for size regulations are based on the specific characteristics of each variety. The NAC and PCC conduct studies each season on the range of sizes attained by the regulated varieties and those varieties with the potential to become regulated, and determine whether revisions to the size requirements are appropriate.

Nectarines: Section 916.356 of the order's rules and regulations specifies minimum size requirements for fresh nectarines in paragraphs (a)(2) through (a)(9). This rule continues in effect the revisions to § 916.356 that establish variety-specific minimum size requirements for nine varieties of nectarines that were produced in commercially significant quantities of more than 10,000 containers for the first time during the 2005 season. This rule also continues in effect to remove the variety-specific minimum size requirements for seven varieties of nectarines whose shipments fell below 5,000 containers during the 2005 season.

For example, one of the varieties recommended for addition to the variety-specific minimum size requirements is the Burnectten (Spring Flare® 19) variety of nectarines, recommended for regulation at a minimum size 96. Studies of the size ranges attained by the Burnectten (Spring Flare® 19) variety revealed that 100 percent of the containers met the minimum size of 96 during the 2004 and 2005 seasons. Sizes ranged from size 40 to size 96, with 0.2 percent of the fruit in the 40 sizes, 4.9 percent of the packages in the 50 sizes, 27.0 percent in the 60 sizes, 35.8 percent in the 70 sizes, 24.4 percent in the 80 sizes, and 7.7 percent in size 96 for the 2005 season.

A review of other varieties with the same harvesting period indicated that the Burnectten (Spring Flare® 19) variety was also comparable to those varieties in its size ranges for that time period. Discussions with handlers known to handle the variety confirm this information regarding minimum size and harvesting period, as well. Thus, the recommendation to place the Burnectten (Spring Flare® 19) variety in the variety-specific minimum size regulation at a minimum size 96 is appropriate. This recommendation results from size studies conducted over a two-year period.

Historical data such as this provides the NAC with the information necessary to recommend the appropriate sizes at which to regulate various nectarine varieties. In addition, producers and handlers of the varieties affected are personally invited to comment when such size recommendations are deliberated. Producer and handler comments are also considered at both NAC and subcommittee meetings when the staff receives such comments, either in writing or verbally.

For reasons similar to those discussed in the preceding paragraph, the introductory text of paragraph(a)(3) of § 916.356 continues in effect to be revised to include the Burnectten (Spring Flare® 19) variety; the introductory text of paragraph (a)(4) of § 916.356 continues in effect to be revised to include the Gee Sweet variety; and the introductory text of paragraph (a)(6) of § 916.356 continues in effect to be revised to include the Arctic Belle, August Sweet, Autumn Blaze, Giant Pearl, Prima Diamond X, Prince Jim 3, and Summer Jewel nectarine varieties.

This rule also continues in effect the revisions to the introductory text of paragraphs (a)(3), (a)(4), and (a)(6) of § 916.356 that remove seven varieties from the variety-specific minimum size requirements specified in these paragraphs because less than 5,000 containers of each of these varieties were produced during the 2005 season. Specifically, the introductory text of paragraph (a)(3) of § 916.356 continues in effect to be revised to remove the Early Diamond nectarine variety; the

introductory text of paragraph (a)(4) of § 916.356 continues in effect to be revised to remove the Arctic Rose, June Glo, May Diamond and Red Delight nectarine varieties; and the introductory text of paragraph (a)(6) of § 916.356 continues in effect to be revised to remove the Bright Sweet and Emelia nectarine varieties.

Nectarine varieties removed from the nectarine variety-specific minimum size requirements become subject to the non-listed variety size requirements specified in paragraphs (a)(7), (a)(8), and (a)(9) of § 916.356.

Peaches: Section 917.459 of the order's rules and regulations specifies minimum size requirements for fresh peaches in paragraphs (a)(2) through (a)(6), and paragraphs (b) and (c). This rule continues in effect revisions to § 917.459 that establish variety-specific minimum size requirements for eleven peach varieties that were produced in commercially significant quantities of more than 10,000 containers for the first time during the 2005 season. This rule also continues in effect to remove the variety-specific minimum size requirements for seven varieties of peaches whose shipments fell below 5,000 containers during the 2005 season.

For example, one of the varieties recommended for addition to the variety-specific minimum size requirements is the Island Prince variety of peaches, which was recommended for regulation at a minimum size 88. Studies of the size ranges attained by the Island Prince variety revealed that 100 percent of the containers met the minimum size of 88 during the 2004 and 2005 seasons. The sizes ranged from size 30 to size 88, with 3.8 percent of the containers meeting the size 30, 4.0 percent meeting the size 40, 42.1 percent meeting the size 50, 28.1 percent meeting the size 60, 11.8 percent meeting the size 70, 9.9 percent meeting the size 80, and 0.3 percent meeting the size 88 in the 2005 season.

A review of other varieties with the same harvesting period indicated that the Island Prince variety was also comparable to those varieties in its size ranges for that time period. Discussions with handlers known to pack the variety confirm this information regarding minimum size and the harvesting period, as well. Thus, the recommendation to place the Island Prince variety in the variety-specific minimum size regulation at a minimum size 88 is appropriate.

Historical data such as this provides the PCC with the information necessary to recommend the appropriate sizes at which to regulate various peach varieties. In addition, producers and handlers of the varieties affected are personally invited to comment when such size recommendations are deliberated. Producer and handler comments are also considered at both PCC and subcommittee meetings when the staff receives such comments, either in writing or verbally.

For reasons similar to those discussed in the preceding paragraph, the introductory text of paragraph (a)(3) of § 917.459 continues in effect to be revised to include the Island Prince and Snow Peak peach varieties; the introductory text of § (a)(5) of § 917.459 continues in effect to be revised to include the Bright Princess, Burpeachnineteen (Spring Flame® 22), Honey Sweet, Sierra Snow, and Sweet Crest peach varieties; and the introductory text of paragraph (a)(6) of § 917.459 continues in effect to be revised to include the Glacier White, Jasper Treasure, Spring Candy, and Valley Sweet peach varieties.

This rule also continues in effect the revision to the introductory text of paragraph (a)(6) of § 917.459 to remove the Autumn Ruby, Cherry Red, Early O'Henry, Gypsy Red, Pretty Lady, Supechfour (Amber Crest), and 244LE379 peach varieties from the variety-specific minimum size requirements specified in the section because less than 5,000 containers of each of these varieties was produced during the 2005 season.

Peach varieties removed from the peach variety-specific minimum size requirements become subject to the non-listed variety size requirements specified in paragraphs (b) and (c) of § 917.459.

NAC and PCC recommended these changes in the minimum size requirements based on a continuing review of the sizing and maturity relationships for these nectarine and peach varieties, and the consumer acceptance levels for various fruit sizes. This rule is designed to establish minimum size requirements for fresh nectarines and peaches consistent with expected crop and market conditions.

Grade and Quality Requirements

Sections 916.52 and 917.41 of the orders also authorize the establishment of grade and quality requirements for nectarines and peaches, respectively. Prior to the 1996 season, § 916.356 required nectarines to meet a modified U.S. No. 1 grade standard that included a slightly tighter requirement for scarring and a more liberal allowance for misshapen fruit. Prior to the 1996 season, § 917.459 required peaches to meet the requirements of a U.S. No. 1 grade, except for a more liberal allowance for open sutures that were not considered ''serious damage.''

Since 1996, shipments of nectarines and peaches meeting ''CA Utility'' quality requirements have been permitted each season. ''CA Utility'' fruit is lower in quality than that meeting the modified U.S. No. 1 grade requirements. Nevertheless, the fruit is acceptable in many markets. Use of the ''CA Utility'' quality option has allowed handlers the opportunity to remove marginal fruit from the U.S. No. 1 containers and pack it in ''CA Utility'' containers instead, which results in better quality U.S. No. 1 packs without sacrificing fruit.

The committees have recommended continuation of the authorization to ship ''CA Utility'' quality fruit each year since 1996, and did so again at their meetings on February 3, 2006, for the 2006 and subsequent seasons. This rule continues in effect to revise paragraph (d) of § 916.350 and 917.442, and paragraph (a)(1) of § 916.356 and 917.459 to permit shipments of nectarines and peaches meeting ''CA Utility'' quality requirements during the 2006 and subsequent seasons.

Weight-Count Standards

Under the provisions of § 916.52 of the order, NAC is authorized to establish weight-count standards for packed containers of nectarines. These standards define a maximum number of nectarines in a 16-pound sample when such fruit, which may be packed in tray-packed containers, is converted to volume-filled containers. In § 916.350 of the order's rules and regulations, weight-count standards are established for all varieties of nectarines (except the Peento type), in Tables 1 and 2 of paragraph (a)(5)(iv).

According to NAC, Peento varieties of donut nectarines have traditionally been packed in trays because they have been marketed as a premium variety, whose value justified the added packing costs. Recently, as the volume has increased, the value of the variety has diminished in the marketplace, and some handlers now desire to pack Peento variety nectarines in volume-filled containers to meet market demands. However, prior to this time, weight-count standards for Peento type nectarines had not been established in the order's rules and regulations. Previously, weight-count standards for nectarines were for round nectarines. Peento type nectarines are shaped like donuts and fit into volume-filled containers differently, so the existing weight count standards were inappropriate.

In an effort to standardize the conversion from tray-packing to volume-filling for Peento type nectarines, the committee staff conducted weight-count surveys during the 2005 season to determine optimum weight-counts for the varieties at various fruit sizes. As a result, the staff prepared a new weight-count table applicable to only the Peento varieties. The Tree Fruit Quality Subcommittee reviewed the weight-counts at their November 10, 2005, meeting. At its February 3, 2006, meeting, NAC approved the recommendation that the new weight-counts be implemented for the 2006 and subsequent seasons.

This rule continues in effect the revisions made to paragraph (a)(5)(iv) of § 916.350 by adding a new Table 3, establishing the weight-counts for Peento type nectarines, following Tables 1 and 2. In a conforming change, the titles of Tables 1 and 2 continue to be revised by adding the words ''except Peento type nectarines'' between the words ''nectarines'' and ''packed.'' Conforming changes will continue in effect to be made by adding the words ''except for Peento type nectarines'' at the end of paragraphs (a)(2)(ii), (a)(3)(ii), (a)(4)(ii), (a)(5)(ii), (a)(6)(ii), (a)(7)(ii), (a)(8)(ii), and (a)(9)(ii) of § 916.356.

The committee staff will continue to conduct weight-count surveys to ensure that the Peento varieties that are packed in volume-filled containers meet the weight-count standards established for tray-packed nectarines, and to ensure that the weight-counts continue to be appropriate.

Varietal Container Markings

Sections 916.350 and 917.442 of the orders' rules and regulations require that all containers and packages of nectarines and peaches (except for consumer packages in master containers or those mailed directly to consumers) shall be marked with the name of the variety of the fruit if it is known, or with ''Unknown Variety'' if the variety is not known.

Many industry members believe that variety recognition may limit the industry's ability to provide the best quality fruit at any given time during the harvest season. Factors such as weather can contribute to wide variability in harvest dates for individual varieties from year to year, making it difficult to meet customer demands on a timely basis. Eliminating the varietal container marking requirement would ease the transition that occurs when older trees are replaced with newly introduced varieties. New varieties could be substituted for obsolete varieties without risking the loss of market opportunities. Therefore, industry members suggested that elimination of the varietal container marking requirement would enable them to supply whichever varieties are appropriately mature throughout the season without regard for variety identity.

The Tree Fruit Quality Subcommittee discussed this issue at many of their meetings in 2004 and 2005. They believe that eliminating the requirement that variety names be marked on containers will allow handlers greater flexibility to supply the best possible nectarines and peaches to customers throughout the marketing season without regard to variety. Consumer satisfaction should be raised, which will in turn increase returns to growers and handlers.

Upon recommendation by the Tree Fruit Quality Subcommittee, NAC and PCC voted unanimously at their meetings on February 3, 2006, to recommend elimination of the requirement that fruit variety be marked on containers of nectarines and peaches. Accordingly, paragraphs (a)(2) of §§ 916.350 and 917.442 continue in effect to be amended by deleting the words, ''and, except for consumer packages in master containers and consumer packages mailed directly to consumers, the name of the variety, if known, or, when the variety name is not known, the words 'unknown variety.' A marketing name, trade mark, or brand name may be associated with a variety name, but cannot be substituted for the variety name.''

Additionally, paragraph (a)(11) of § 916.350 and paragraph (a)(12) of § 917.442 continue in effect to be amended by deleting the words ''the name of the variety, if known, or if the variety is not known, the words *Unknown Variety*.''

This rule reflects the need to revise the handling requirements for California nectarines and peaches, as specified. USDA believes that continuing this rule in effect will have a beneficial impact on producers, handlers, and consumers of fresh California nectarines and peaches.

This rule continues in effect the establishment of handling requirements for fresh California nectarines and peaches consistent with expected crop and market conditions, and will help ensure that all shipments of these fruits made each season meet acceptable handling requirements established under each of these orders. This rule also helps the California nectarine and peach industries to provide fruit desired by consumers. This rule continues in effect the establishment and maintenance of orderly marketing conditions for these fruits in the interests of producers, handlers, and consumers.

Final Regulatory Flexibility Analysis

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

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

Industry Information

There are approximately 180 California nectarine and peach handlers subject to regulation under the orders covering nectarines and peaches grown in California, and about 800 producers of these fruits in California. Small agricultural service firms, which include handlers, are defined by the Small Business Administration (13 CFR 121.201) as those whose annual receipts are less than $6,500,000. Small agricultural producers are defined by the Small Business Administration as those having annual receipts of less than $750,000. A majority of these handlers and producers may be classified as small entities.

The committees' staff has estimated that there are fewer than 26 handlers in the industry who could be defined as other than small entities. For the 2005 season, the committees' staff estimates that the average handler price received was $10.00 per container or container equivalent of nectarines or peaches. A handler would have to ship at least 650,000 containers to have annual receipts of $6,500,000. Given data on shipments maintained by the committees' staff and the average handler price received during the 2005 season, the committees' staff estimates that small handlers represent approximately 86 percent of all the handlers within the industry.

The committees' staff has also estimated that fewer than 10 percent of the producers in the industry could be defined as other than small entities. For the 2005 season, the committees' staff estimates that the average producer

price received was $5.25 per container or container equivalent for nectarines and peaches. A producer would have to produce at least 142,858 containers of nectarines and peaches to have annual receipts of $750,000. Given data maintained by the committees' staff and the average producer price received during the 2005 season, the committees' staff estimates that small producers represent more than 90 percent of the producers within the industry.

With an average producer price of $5.25 per container or container equivalent, and a combined packout of nectarines and peaches of approximately 38,776,500 containers, the value of the 2005 packout is estimated to be $203,576,600. Dividing this total estimated grower revenue figure by the estimated number of producers (800) yields an estimated average revenue per producer of about $254,471 from the sales of peaches and nectarines.

Regulatory Revisions

Under authority provided in §§ 916.52 and 917.41 of the orders, grade, size, maturity, pack, and container marking requirements are established for fresh shipments of California nectarines and peaches, respectively. Such requirements are in effect on a continuing basis. NAC and PCC met on February 3, 2006, and unanimously recommended that these handling requirements be revised for the 2006 season. These recommendations had been presented to the committees by various subcommittees, each charged with review and discussion of the changes. The changes: (1) Revise varietal size, maturity, and pack requirements to reflect changes in production and marketing practices; (2) authorize continued shipments of ''CA Utility'' quality nectarines and peaches during the 2006 and subsequent seasons; (3) establish weight-count standards for Peento type nectarines packed in volume-filled containers; and (4) eliminate the varietal container marking requirements for nectarines and peaches.

Minimum Maturity and Size Levels—Discussions and Alternatives

Sections 916.356 and 917.459 establish minimum fruit maturity levels. This rule continues in effect the annual adjustments to the maturity requirements for several varieties of nectarines and peaches. Maturity requirements are based on measurements suggested by maturity guides (e.g., color chips), as reviewed and recommended by SPI annually to determine the appropriate guide for each nectarine and peach variety. These annual adjustments reflect refinements in measurements of the maturity characteristics of nectarines and peaches as observed during previous seasons' inspections. Adjustments in the guides utilized ensure acceptable fruit maturity and increased consumer satisfaction while benefiting nectarine and peach producers and handlers.

Sections 916.356 and 917.459 of the orders' rules and regulations also establish minimum sizes for various varieties of nectarines and peaches. This rule continues in effect the adjustments to the minimum sizes authorized for certain varieties of each commodity for the 2006 season. Minimum size regulations are put in place to encourage producers to leave fruit on the trees for a longer period of time, increasing both maturity and fruit size. Increased fruit size increases the number of packed containers per acre, and coupled with heightened maturity levels, also provides greater consumer satisfaction, which in turn fosters repeat purchases that benefit producers and handlers alike.

Annual adjustments to minimum sizes of nectarines and peaches, such as these, are recommended by NAC and PCC based upon historical data, producer and handler information regarding sizes attained by different varieties, and trends in consumer purchases.

An alternative to such action would include not establishing minimum size regulations for these new varieties. Such an action, however, would be a significant departure from the committees' practices and represent a significant change in the regulations as they currently exist; would ultimately increase the amount of less acceptable fruit being marketed to consumers; and would be contrary to the long-term interests of producers, handlers, and consumers. For these reasons, this alternative was not recommended.

Grade and Quality Requirements—Discussions and Alternatives

In 1996, §§ 916.350 and 917.442 were revised to permit shipments of ''CA Utility'' quality nectarines and peaches as an experiment during the 1996 season only. Such shipments have subsequently been permitted each season. Although ''CA Utility'' fruit is lower in quality than that meeting the modified U.S. No. 1 grade requirements, it has been accepted in many markets. Between 1996 and 2004, shipments of ''CA Utility'' quality fruit ranged from 1 to 6 percent of total nectarine and peach shipments. In 2005, shipments of ''CA Utility'' quality fruit were 8.6 percent and 7.1 percent of total nectarine and peach shipments, respectively.

This rule continues in effect the authorization for continued shipments of ''CA Utility'' quality nectarines and peaches during the 2006 and subsequent seasons. Not authorizing such shipments would curtail shipments of fruit for which there is an appropriate market. Because ''CA Utility'' is widely accepted, it is no longer necessary to reconsider this authorization on an annual basis.

Weight-Count Standards—Discussions and Alternatives

Section 916.350 also establishes weight-count standards for nectarines packed in volume-filled containers. These standards define a maximum number of nectarines in a 16-pound sample when such fruit, which may be packed in tray-packed containers, is converted to volume-filled containers.

Peento type nectarines were formerly packed exclusively in trays because of their high market value. With increased production and lowered market value, retailers have begun requesting that packers place the donut-shaped fruit in volume-filled containers. Peento type nectarines fit into the boxes differently than spherical nectarines, so it is necessary to assign appropriate weight counts for Peento type nectarines in volume-filled containers.

The committee staff was directed to collect data during the 2005 season from which recommendations for change could be made. Extensive sampling of Peento type nectarines of various sizes provided the information needed for the committee to make recommendations regarding the new weight-count standards. The Tree Fruit Quality subcommittee reviewed these standards at their meeting on November 10, 2005. The standards were then presented to NAC, who unanimously recommended adding the new weight count standards for Peento type nectarines to the regulations at their meeting on February 3, 2006.

Without the appropriate weight-counts, Peento type nectarines cannot be packed in volume-filled containers. NAC believes that the recommended weight-count standards will satisfy the stated needs of retailers, will open additional market opportunities for the industry and will provide for uniformity of sizes between nectarines packed in tray- and volume-filled containers.

Varietal Container Marking Requirements—Discussions and Alternatives

Sections 916.350 and 917.442 of the orders' rules and regulations require

that all containers of nectarines and peaches be marked with the fruit's varietal name, if known.

Many industry members believe that variety recognition may limit the industry's ability to provide the best quality fruit at any given time during the harvest season. Factors such as weather can contribute to wide variability in harvest dates for individual varieties from year to year, making it difficult to meet customer demands on a timely basis. The committees believe that eliminating the varietal container marking requirement will ease the transition that occurs when older trees are replaced with newly introduced varieties. New varieties may be substituted for obsolete varieties without risking the loss of market opportunities. Therefore, industry members have suggested that elimination of the varietal container marking requirement will enable them to supply whichever varieties are appropriately mature throughout the season without regard for variety identity. They believe that consumer satisfaction will be raised, which will in turn increase returns to growers and handlers.

The Tree Fruit Quality Subcommittee discussed the issue at many of their recent meetings. Some members suggested that the requirement be left in place so that marketers and consumers would know what varieties of fruit they purchased and be encouraged to make repeat purchases. But the majority of subcommittee members voted to recommend elimination of the varietal container marking requirement, citing brand and commodity recognition in the market and easier transition to newer varieties as justification for the change. The Tree Fruit Subcommittee made the recommendation to both NAC and PCC, who agreed that varietal markings are no longer necessary or prudent, and in turn recommended at their February 3, 2006, meetings that the varietal container marking requirement be eliminated.

The committees make recommendations regarding the revisions in handling requirements after considering all available information, including recommendations by various subcommittees, comments of persons at subcommittee meetings, and comments received by committee staff. Such subcommittees include the Tree Fruit Quality Subcommittee, the Size Nomenclature Review Group, the Marketing Order Amendment Task Force, and the Executive Committee.

At the meetings, the impact of and alternatives to these recommendations are deliberated. These subcommittees, like the committees themselves, frequently consist of individual producers and handlers with many years of experience in the industry who are familiar with industry practices and trends. Like all committee meetings, subcommittee meetings are open to the public and comments are widely solicited. In the case of the Tree Fruit Quality Subcommittee, many growers and handlers who are affected by the issues discussed by the subcommittee attend and actively participate in the public deliberations, or call and/or write in their concerns and comments to the staff for presentation at the meetings. In addition, minutes of all subcommittee meetings are distributed to committee members and others who have requested them, and are also available on the committees' Web site, thereby increasing the availability of this critical information within the industry.

An interim final rule concerning this action was published in the **Federal Register** on April 10, 2006. Copies of the rule were posted on the committees' Web site and were also made available through the Internet by USDA and the Office of the Federal Register. That rule provided a 60-day comment period, which ended on June 9, 2006. One comment was submitted on the rule. The commenter pointed out that obsolete language that had previously been removed from § 916.356(a)(1) (69 FR 44457, July 26, 2004) was inadvertently included in the interim final rule. Therefore, this rule revises paragraph (a)(1) of § 916.356 by removing the obsolete language regarding the color requirement exemption for U.S. No. 1 grade nectarines.

Each of the recommended handling requirement changes for the 2006 season is expected to generate financial benefits for producers and handlers through increased fruit sales, compared to the situation that would exist if the changes were not adopted. Both large and small entities are expected to benefit from the changes, and the costs of compliance are not expected to be substantially different between large and small entities.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large nectarine or peach handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule. However, as previously stated, nectarines and peaches under the orders have to meet certain requirements set forth in the standards issued under the Agricultural Marketing Act of 1946 (7 CFR 1621 *et seq.*). Standards issued under the Agricultural Marketing Act of 1946 are otherwise voluntary.

In addition, the committees' meetings are widely publicized throughout the nectarine and peach industry and all interested parties are encouraged to attend and participate in committee deliberations on all issues. These meetings are held annually in the fall, winter, and spring. During the February 3, 2006, teleconference meeting all entities, large and small, were encouraged to express views on these issues. These regulations were also reviewed and thoroughly discussed at public subcommittee meetings held on November 30, 2004, and April 19, September 2, October 5, and November 10, 2005.

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

After consideration of all relevant matters presented, the information and recommendations submitted by the committees, the comment received, and other information, it is found that finalizing the interim final rule, with a change, as published in the **Federal Register** (71 FR 17970, April 10, 2006), will tend to effectuate the declared policy of the Act.

List of Subjects

7 CFR Part 916

Marketing agreements, Nectarines, Reporting and recordkeeping requirements.

7 CFR Part 917

Marketing agreements, Peaches, Pears, Reporting and recordkeeping requirements.

■ Accordingly, the interim final rule amending 7 CFR parts 916 and 917, which was published in the **Federal Register** at 71 FR 17970 on April 10, 2006, is adopted as a final rule with the following change:

PART 916—NECTARINES GROWN IN CALIFORNIA

■ 1. The authority citation for 7 CFR parts 916 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 916.356 [Amended]

■ 2. Section 916.356 paragraph (a)(1) introductory text is amended by removing words ''Provided further, That all varieties of nectarines which fail to meet the U.S. No. 1 grade only on account of lack of blush or red color due to varietal characteristics shall be considered as meeting the requirements of this subpart:''.

Dated: September 15, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 06–7868 Filed 9–20–06; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 622

[Docket No. 060525140–6221–02; I.D. 051106B]

RIN 0648–AT75

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery Off the Southern Atlantic States; Amendment 13C

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement Amendment 13C to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP), as prepared and submitted by the South Atlantic Fishery Management Council (Council). Amendment 13C establishes management measures to end overfishing of snowy grouper, golden tilefish, vermilion snapper, and black sea bass and measures to allow moderate increases in recreational and commercial harvest of red porgy consistent with the rebuilding program for that stock.

For the commercial fisheries, this final rule establishes restrictive quotas for snowy grouper, golden tilefish, vermilion snapper, and black sea bass and, after the quotas are met, prohibits all purchase and sale of the applicable species and restricts all harvest and possession to the applicable bag limit; establishes restrictive trip limits for snowy grouper and golden tilefish; requires at least 2-inch (5.1-cm) mesh in the back panel of black sea bass pots; requires black sea bass pots to be removed from the water after the quota is reached; changes the fishing year for black sea bass; increases the trip limit for red porgy; establishes a red porgy quota that would allow a moderate increase in harvest; and, after the red porgy quota is reached, prohibits all purchase and sale and restricts all harvest and possession to the bag limit.

For the recreational fisheries, this final rule reduces the bag limits for snowy grouper, golden tilefish, and black sea bass; increases the minimum size limit for vermilion snapper and black sea bass; changes the fishing year for black sea bass; and increases the bag limit for red porgy.

The intended effects of this final rule are to eliminate or phase out overfishing of snowy grouper, golden tilefish, vermilion snapper, and black sea bass; and increase red porgy harvest consistent with an updated stock assessment and rebuilding plan to achieve optimum yield. Finally, NMFS informs the public of the approval by the Office of Management and Budget (OMB) of the collection-of-information requirements contained in this final rule and publishes the OMB control numbers for those collections.

DATES: This final rule is effective October 23, 2006.

ADDRESSES: Copies of the Final Regulatory Flexibility Analysis (FRFA) and the Record of Decision (ROD) may be obtained from John McGovern, NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701; telephone 727–824–5305; fax 727–824–5308; e-mail *John.McGovern@noaa.gov.*

Comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted in writing to Jason Rueter at the Southeast Regional Office address (above) and to David Rostker, Office of Management and Budget (OMB), by e-mail at *David_Rostker@omb.eop.gov,* or by fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: John McGovern, telephone: 727–824–5305; fax: 727–824–5308; e-mail: *John.McGovern@noaa.gov.*

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery off the southern Atlantic states is managed under the FMP. The FMP was prepared by the Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

On May 18, 2006, NMFS published a notice of availability of Amendment 13C and requested public comment (70 FR 28841). On June 9, 2006, NMFS published the proposed rule to implement Amendment 13C and requested public comment (71 FR 33423). NMFS approved Amendment 13C on August 14, 2006. The rationale for the measures in Amendment 13C is provided in the amendment and in the preamble to the proposed rule and is not repeated here.

Comments and Responses

NMFS received a total of 32 comment letters: 17 addressed Amendment 13C, 6 addressed the Final Environmental Impact Statement (FEIS) associated with Amendment 13C, and 9 addressed the proposed rule. Four of these comment letters supported the proposed actions. The remaining comment letters opposed one or more of the proposed actions for reasons summarized below. Similar comments are consolidated, and each is followed by NMFS's response.

Comment 1: Concerns were raised about edits made to Amendment 13C after it was approved by the Council and its Scientific and Statistical Committee (SSC), and before it was transmitted for Secretarial review. At issue is whether NMFS altered the document without the Council's knowledge and in a way that was inconsistent with the Council's intent.

Response: At the December 2005 meeting, the Council chose several different preferred alternatives than those in the public hearing draft of Amendment 13C. Thus, when approving Amendment 13C for Secretarial review during its December 2005 meeting, the Council requested the NMFS and Council staffs work together through an Interdisciplinary Plan Team (IPT) to finalize the integrated amendment for Secretarial review. Specifically, the Council directed the IPT to modify a number of preferred alternatives, and to ''* * * complete the document as reflected by all the discussion here at this meeting with the preferreds and everything else.'' The IPT made the requested edits following the December Council meeting. Edits included modifying and supplementing analyses, as needed, to describe the effects of the Council's revised preferred alternatives that were chosen to further mitigate the unavoidable short-term

adverse socioeconomic impacts of ending overfishing. Additionally, the IPT corrected some statements and conclusions not supported by the analyses, added text describing the long-term benefits of the proposed actions, and added text describing the adverse effects of continued overfishing in response to a request of the Snapper Grouper Committee at its September 2005 meeting. The additional text was added in support of the Council for Environmental Quality's regulatory requirement to consider the magnitude of impacts at various spatial and temporal scales (40 CFR 1508.27).

For example, the DEIS reviewed by the Council in December 2005 stated, ''Preferred Alternative 2 (regardless of which sub-alternative is chosen) would have a disproportionately negative effect on North Carolina fishermen unless perhaps the fishing year is changed. The 100-lb (45.4-kg) gutted weight or 10-fish trip limit is intended to extend the fishery through December. However, it is likely that this amendment will be implemented in the middle of 2006. Without these trip limits, the quota will potentially be filled by the end of March 2006 according to average landings by state (Figure 4–4) mostly by those commercial fishermen fishing in south Florida, and then by others in areas south of Cape Fear. Once the fishing begins in North Carolina in late March or early April (dependant on the weather), it is likely that the majority of the 84,000 lbs (38,102 kg) of quota will be filled. This may allow for an unequal opportunity to fish between states and inequitable access to the resource.''

At its December 2005 meeting, the Council changed the quota for 2006 from 84,000 lb (38,102 kg) gutted weight to 151,000 lb (68,492 kg) gutted weight. Projections based on landings data from 1999 through 2003 indicated the 151,000-lb (68,492-kg) gutted weight commercial quota associated with the new preferred alternative would not be met until June 2006 rather than March or April 2006. Examination of historical data from 1999 through 2003 suggested North Carolina fishermen would be expected to land 62 percent of their average catch during 1999 through 2003 by June, and Florida fishermen would be expected to land 57 percent of their historical average catch during that same month. Additionally, the proposed trip limit is designed to provide for a year-round fishery in the first full year the regulations become effective and onwards, until eliminated or modified by the Council. Therefore, the IPT revised the document to clarify the Council's Preferred Alternative 2 would not likely have a disproportionate negative effect on North Carolina fishermen during 2006. This revision is supported by a review of preliminary landings data through April 2006 which indicates North Carolina fishermen landed substantially more snowy grouper than Florida fishermen during the first 4 months of this calendar year.

While, together, edits to the socioeconomic analyses made subsequent to Council approval were substantive, such edits were necessary to comply with legal mandates and were done in response to the Council's actions. All document edits and revisions proposed by the IPT were reviewed by the Southeast Regional Office's Social Science Branch Chief, then submitted to and reviewed by the Council staff, who incorporated them in the document before the Council Chair forwarded Amendment 13C to NMFS for Secretarial review on February 24, 2006.

Comment 2: Numerous individuals stated snowy grouper, golden tilefish, black sea bass, and vermilion snapper are in better shape than the assessments indicated.

Response: An inclusive and rigorous scientific process was used to assess the status of the stocks addressed in Amendment 13C. Status determinations for all four stocks were derived from the Southeast Data Assessment and Review (SEDAR) process. The SEDAR process involves a series of three workshops designed to ensure each stock assessment reflects the best available scientific information. First, representatives from State agencies, the South Atlantic Council, academia, NMFS, and other environmental and fishery interest groups, participate in a data workshop. The purpose of this workshop is to assemble and review available fishery dependent and independent data and information on a stock, and to develop consensus about what constitutes the best available scientific information, how that information should be used in an assessment, and what types of stock assessment models should be employed. For each assessment, representatives of each state provided available data on the species to be assessed. Second, assessment biologists from these agencies and organizations participate in an assessment workshop, during which the data obtained from the data workshop are input into one or more assessment models to estimate parameters used in evaluating the status of a stock and its fishery. Generally, multiple runs of each model are conducted, including a base run and a number of additional runs, to examine how differing data and assumptions affect results. Third, a review workshop is convened to provide representatives from the South Atlantic Council, NMFS, constituent groups, and the Center for Independent Experts the opportunity to peer review the results of the stock assessment workshop. The findings and conclusions of each SEDAR workshop are documented in a series of reports, which are ultimately reviewed and discussed by the Council's SSC. The Council's SSC concluded the snowy grouper, golden tilefish, vermilion snapper, and black sea bass assessments were based on the best available science.

Comment 3: Several letters assert the data supporting the actions proposed in the amendment are flawed and inadequate, and do not adequately represent conditions off North Carolina, where a large portion of the catch is harvested. Specifically at issue is text in the SEDAR report of the snowy grouper and golden tilefish peer review workshop, which states the data used in assessing the status of those stocks, ''are weaker than those generally expected in fisheries assessments.'' Also at issue is the use of headboat survey data and fishery-independent Marine Resources Monitoring, Assessment, and Prediction Program survey data as indices of abundance in the black sea bass, vermilion snapper, and snowy grouper stock assessments.

Response: SEDAR participants, Council advisory committees, the Council, and NMFS staff reviewed and considered these and other concerns about the adequacy of the data underlying the proposed actions in Amendment 13C. SEDAR workshops rejected the assertion the headboat index has no utility as an index of abundance. Although the SEDAR report of the snowy grouper and golden tilefish peer review workshop acknowledged data used in those assessments were relatively weak, the same report also states, ''The data used for both species were scientifically sound and appropriate for use in stock assessments (with minor exceptions), adequate to make useful inferences about stock status, and the best available for this purpose.'' The Council's SSC concluded the snowy grouper, golden tilefish, vermilion snapper, red porgy, and black sea bass assessments were based on the best available science. The Council's Snapper Grouper Committee acknowledged, while stock assessment findings are uncertain, there is no reason to assume such uncertainty leads to unrealistically pessimistic conclusions about stock status. Rather, the stocks could be in worse shape than indicated by the stock assessment.

Therefore, uncertainty should not be used as a reason to avoid taking action. The Council agreed with this conclusion when voting to submit Amendment 13C for Secretarial review in December 2005. The NMFS' Southeast Fisheries Science Center (SEFSC) reviewed and certified Amendment 13C and its supporting analyses as being based on the best available scientific information in April 2006. Finally, the amendment also was subject to a pre-dissemination review in May 2006 in compliance with the Information Quality Act.

Comment 4: Eight letters stated the recreational and commercial measures in Amendment 13C would have negative economic and social impacts. One group suggested the proposed actions in Amendment 13C do not adequately balance socioeconomic needs with the need to rebuild snapper-grouper stocks. Another letter stated Amendment 13C ignores national standards 6 and 8 of the Magnuson-Stevens Act, which require ''conservation and management shall take into account and allow for variations among, and contingencies in, fisheries, fisheries resources, and catches,'' and ''conservation and management measures shall, consistent with the requirements of the Magnuson-Stevens Act (including prevention of overfishing and rebuilding of overfished stocks), take in account the importance of fishery resources to fishing communities in order to (A) Provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.'', respectively.

Response: NMFS agrees the actions proposed in Amendment 13C will have immediate, short-term, negative socioeconomic impacts. The Council made efforts to minimize, to the extent practicable, the unavoidable adverse socioeconomic impacts of ending overfishing by modifying a number of alternatives identified as preferred in the DEIS to allow overfishing to be phased out over a 3-year period.

Together, the actions proposed in Amendment 13C are estimated to reduce the revenue of the commercial harvest sector $730,000 the first year the regulations are effective, and $1,080,000 in the third year, and each subsequent year the regulations are effective. The actions are estimated to decrease the net non-market benefits of the recreational sector $80,000 the first year the regulations are effective, and $1,120,000 in the second year and each subsequent year the regulations are effective.

NMFS is unable to quantify either the adverse socioeconomic effects of continued overfishing of the snowy grouper, golden tilefish, vermilion snapper, and black sea bass stocks, or the long-term benefits expected to accrue to fishery participants and communities as catch per unit effort and the age structure of the stocks improve in response to decreased fishing mortality rates. However, although unquantifiable, the adverse socioeconomic effects of inaction (not ending overfishing) are expected to far exceed those associated with the proposed actions, as continued overfishing would require fishermen to increase effort in the future as the size and age of target species further decrease and, ultimately, threaten the long-term viability of these fisheries. Furthermore, the proposed actions support the goal of rebuilding these important fisheries to higher abundance levels, increasing future catch per unit effort, and achieving the optimum yield. The long-term benefits of rebuilding stocks to sustainable, optimum yield levels exceed the short-term costs associated with the necessary restrictions to achieve stock rebuilding.

There is no guarantee all current fishery participants and related industries adversely affected by the proposed actions will experience the long-term benefits of ending overfishing. The short-term losses of some individuals could be sufficiently severe to encourage them to exit the fishery. While individual proposed actions are not expected to threaten the sustainability of fishing communities in the South Atlantic, the cumulative effects of the actions proposed in Amendment 13C, in conjunction with other State and regional fishery regulations and community changes, could be severe enough to change the economic and social structures of fishing communities over the long term. However, stock assessment models indicate that if adequate corrective action to end overfishing is not taken at this time, even more severe harvest restrictions would be required in the future. This would result in greater short-term, adverse socioeconomic effects than those associated with the proposed actions.

Comment 5: Two individuals stated the Council refused to consider an alternative that would have minimized adverse economic impacts on fishermen, particularly those from North Carolina, by establishing an annual commercial snowy grouper quota of 151,000 lb (68,492 kg) gutted weight. Several others advocated alternative snowy grouper quota and trip limits, including: A quota of 151,000 lb (68,492 kg) gutted weight and trip limit of 600 to 700 lb (272 to 318 kg) gutted weight; a quota of 172,000 lb (78,018 kg) gutted weight with a trip limit of 500 lb (227 kg) gutted weight; a trip limit of 30 fish; a trip limit of 1,500 lb (680 kg) gutted weight; and a moratorium on the commercial harvest of snowy grouper.

Response: The Council considered, but eliminated from detailed study, an alternative that would reduce the annual commercial snowy grouper quota from 344,508 lb (156,256 kg) gutted weight to 151,000 lb (68,492 kg) gutted weight and specify a commercial trip limit of 275 lb (125 kg) gutted weight until the quota is met. This alternative was not retained for detailed analysis because it would not end overfishing until 2022. The Council believes this alternative is too risky due to the poor status of the snowy grouper stock and life history characteristics that make it vulnerable to overfishing. The remaining quota and trip limit recommendations would allow overfishing to occur for an even longer period of time. A moratorium on the commercial harvest of snowy grouper would have minimal biological benefits relative to the proposed action because the commercial quota proposed by the Council essentially allows fishermen to retain their snowy grouper bycatch, which is expected to die when discarded.

Comment 6: Two groups suggested there should be different regulations for snowy grouper and other species by region because these species are perceived to be in better shape in the northern extent of their range and are more accessible in the southern part of their range.

Response: The Council considered but rejected in Amendment 13C, an alternative that would specify two separate commercial quotas for snowy grouper; one for fish landed in North Carolina, and another for fish landed in the remaining three South Atlantic states. The Council considered this alternative impractical because it was concerned regional quotas would be too low to manage effectively in-season.

Comment 7: One group suggested the proposed snowy grouper plan would negatively impact the blueline tilefish fishery in the northern part of the Council's jurisdiction because blueline tilefish and snowy grouper are caught together. Due to the small trip limit for snowy grouper, it may not be worthwhile for fishermen to make a trip for blueline tilefish. Furthermore, two groups suggested that, if fishermen did target blueline tilefish after the proposed snowy grouper trip limit and/or quota is met, then the snowy grouper stock could be adversely affected by

discard mortality because the release mortality rate of that species is estimated to be 100 percent.

Response: NMFS realizes blueline tilefish and snowy grouper are captured in the same locations, and is currently working with the Council to evaluate multispecies management alternatives to reduce bycatch of deep-water species in Snapper Grouper Amendment 15. This action is being evaluated separately from Amendment 13C to ensure debate about the composition and management of a proposed deep-water grouper unit does not delay Council action to effectively address overfishing of the snowy grouper stock.

Comment 8: One group commented that fishery management plans must establish a standardized bycatch reporting methodology.

Response: Currently, approximately 20 percent of commercial fishermen are asked to record discard information in NMFS logbooks. In addition, observer data has been provided by the Marine Fisheries Initiative Program and Cooperative Research Programs for ongoing bycatch studies, which will provide information for future management actions. In Amendment 15, the Council is reviewing alternative interim methodologies for monitoring and assessing bycatch in the snapper-grouper fisheries.

Comment 9: One group stated NMFS should disapprove the actions proposed in Amendment 13C for the snowy grouper and black sea bass fisheries, because they fail to immediately end decades of overfishing on these stocks as required by the Magnuson-Stevens Act's national standard 1. Another group expressed similar concerns with the delay in Council action to end overfishing and with the slow and stepped implementation of necessary restrictions, but encouraged the Secretary to quickly approve and implement the actions proposed in Amendment 13C because they represent reasonable and prudent steps toward finally rebuilding South Atlantic snapper-grouper fisheries. A third individual also supported the proposed actions, stating he has been fishing for 26 years, and the fish he catches are much smaller than they used to be.

Response: NMFS has determined the Council's proposed actions to immediately end or phase out overfishing of the snowy grouper, golden tilefish, vermilion snapper, and black sea bass stocks meet the biological objectives set forth in the Magnuson-Stevens Act, while minimizing to the extent practicable the unavoidable adverse short-term effects of such actions on fishing communities. The snowy grouper and black sea bass fisheries are economically important to both commercial and recreational fishermen. Because phasing-out overfishing on these stocks over a 3-year period would not compromise their long-term sustainability, ending overfishing on these stocks immediately would result in unnecessarily severe adverse impacts to affected fishermen, ancillary industries, and fishing communities.

Comment 10: One group stated Amendment 13C provides an inadequate range of reasonable alternatives for immediately ending overfishing of snowy grouper and black sea bass as required by the National Environmental Policy Act. Another group stated the amendment does not contain a reasonable range of alternatives for phasing out overfishing over time to minimize adverse socioeconomic impacts on fishing communities, as required by the Magnuson-Stevens Act and the Regulatory Flexibility Act.

Response: The Council evaluated a broad range of alternatives for ending overfishing on the snowy grouper, golden tilefish, vermilion snapper, and black sea bass stocks. The alternatives considered for each proposed action, with the exception of vermilion snapper, ranged from those that would end overfishing immediately to those that would phase out overfishing over short time periods that could reasonably be expected to assure long-term biological goals would not be compromised. The alternatives considered for the vermilion snapper stock evaluated the sustainability of a large range of allowable harvest levels in the context of historical catches and recent stock assessment information.

Comment 11: Amendment 13C only considers overfishing. A fully developed amendment would define conservation goals in terms of overfishing definitions, rebuilding periods, and other elements while providing a suite of alternatives that meet these objectives.

Response: The purpose of Amendment 13C is to end overfishing of four snapper-grouper stocks recently assessed through the SEDAR process. These actions originated from the Council's work on Snapper Grouper Amendment 13, which contained a broad range of actions to define management reference points, end overfishing and rebuild overfished stocks, consider a multispecies approach to management, address bycatch, modify permit renewal and transferability requirements, and address the scheduled sunset of regulations protecting the Oculina Experimental Closed Area.

NMFS announced in two **Federal Register** notices (68 FR 53706, September 12, 2003 and 70 FR 46126, July 26, 2005) the Council's intent to evaluate and propose separately some of the actions originally proposed in Amendment 13. The first notice announced the Council's intent to transfer the Oculina Experimental Closed Area action from Amendment 13 to Amendment 13A, and the remaining actions in Amendment 13 to Amendment 13B. This decision was intended to ensure the Council adequate time to fully evaluate a range of actions to address overfishing, rebuilding, and other issues in the snapper-grouper fishery without compromising the Council's ability to act on the Oculina Experimental Closed Area before its scheduled sunset date of June 27, 2004.

The second notice announced the Council's intent to address overfishing and a few other priority actions in a regulatory amendment, which later evolved into Amendment 13C. This decision was intended to ensure extended debate about multispecies management and other actions in Amendment 13B did not delay Council action to effectively address overfishing of key snapper-grouper stocks recently assessed through the SEDAR process, including snowy grouper, golden tilefish, vermilion snapper, and black sea bass, and to attend to a few other, less complicated issues. The Council is currently expediting the evaluation of alternative management reference points and rebuilding plans for the four stocks addressed in Amendment 13C in Amendment 15, which is scheduled to be implemented in 2007. The other actions referenced above and not evaluated in Amendments 13A or 13C remain in Amendment 13B.

Comment 12: One individual stated Executive Order 12866 should be applied to the proposed rule.

Response: A Regulatory Impact Review (RIR) was conducted to satisfy the requirements of Executive Order 12866 and the results of the review are contained in the amendment.

Comment 13: One group commented the proposed action to end overfishing on the vermilion snapper stock by the commercial fishery is insufficient. This group pointed out the FEIS states a 31-percent reduction in fishing mortality is required to end overfishing, but the proposed action would reduce fishing mortality by just 8 percent.

Response: The Council's initial preferred alternative for ending overfishing on the vermilion snapper stock would have reduced commercial

harvest by 31 percent. Numerous comments opposing this alternative indicated it was needlessly restrictive, and would have extremely negative short-term socioeconomic impacts on affected fishermen and fishing communities. After further discussion and review of landings data used in the vermilion snapper assessment, the Council developed and identified a proposed action that would minimize the unavoidable short-term adverse socioeconomic effects associated with ending overfishing on the vermilion snapper stock until the 2007 SEDAR assessment update is completed and presented to the Council.

The commercial quota proposed for vermilion snapper is equivalent to the average commercial landings during 1999 to 2003, and takes into consideration stakeholder concerns about the uncertainty of the assessment that prompted Council action to end overfishing of the vermilion snapper stock.

The recent stock assessment indicated overfishing was occurring during 1999–2001 when the commercial landings peaked at 1,680,000 lb (762,036 kg) gutted weight. Commercial landings have generally been below 1,100,000 lb (498,952 kg) gutted weight with occasional spikes in landings. Based on the ratio between the average fishing mortality during 1999–2001 and the fishing mortality which would produce maximum sustainable yield, a 31-percent reduction in catch would be needed to end overfishing immediately. During 2003 and 2004, a 30-percent reduction in landings from the 1999–2001 average occurred.

Although the stock assessment indicated overfishing was occurring during 1999–2001 the Scientific and Statistical Committee and Stock Assessment Review Panel stated the stock recruitment relationship was poorly defined, and it was uncertain whether or not the stock was overfished. Despite uncertain biomass values, optimum yield is estimated to be 1,630,000 lb (739,356 kg) gutted weight. As 68 percent of the total catch during 1999–2003 was taken by the commercial fishery, the commercial portion of the optimum yield would be 1,110,000 lb (498,952 kg) gutted weight which is roughly equivalent to the average landings during 1999–2003.

Due to uncertainty associated with the assessment, the Council believed it was best to cap landings at 1,100,000 lb (498,952 kg) gutted weight until a new stock assessment update was completed in 2007. A 30-percent reduction in landings during 2003–2004 would have ended overfishing. The proposed quota, which approximates the optimum yield, would prevent overfishing from occurring in the future and eliminate the occasional spikes in landings. Preventing peaks in fishing pressure and eliminating overfishing would stabilize stock biomass at current levels, ensuring there are no declines in the mean length and size/age at sexual maturity, and protecting the stock against recruitment overfishing.

Comment 14: Various groups advocated bag limits from five fish to two fish per person per day be considered for snowy grouper and golden tilefish rather than the preferred alternative of one fish per person per day. One group stated that hi-grading is less likely with a larger bag limit. One group stated their preference for a spawning season closure rather than a 1-fish bag limit.

Response: The Council did not consider bag limits exceeding two fish per person per day because the average catch of snowy grouper and golden tilefish is already low (*i.e.*, about one fish per angler per day) and the intent of the proposed actions is to end overfishing on these stocks. Also, the Council was concerned recreational fishing pressure might increase as stock biomass increases in response to reduced fishing pressure. The Council believed that a bag limit of one fish per person per day would provide a greater incentive than a 2-fish bag limit would provide for fishermen to avoid areas where golden tilefish and snowy grouper occur.

The Council considered, but eliminated from detailed study, alternatives to establish seasonal and/or area closures for the snowy grouper and golden tilefish stocks because these species could still be taken during a closed season or in a closed area when fishermen targeted co-occurring species, and the release mortality rate of these species is estimated to be nearly 100 percent.

Comment 15: A longline fisherman stated the proposed action to implement a stepped trip limit for the commercial snowy grouper fishery will make longlining for golden tilefish unprofitable and could eliminate longline vessels from the fishery. A hook-and-line fisherman stated the proposed stepped trip limit could disadvantage commercial hook-and-line fishermen by reducing the availability of snowy grouper to the fishery during the fall.

Response: NMFS and the Council are considering an action to address these concerns in Amendment 15. Specifically, an evaluation is being conducted on the effects of changing the golden tilefish fishing year to begin on September 1 to eliminate the possibility the hook-and-line fishery would be impacted by a fall closure, and eliminating the stepped trip limit strategy to lessen the economic impact of the reduced golden tilefish quota on longline fishermen.

Comment 16: One individual suggested the Council specify separate golden tilefish quotas for the longline and hook-and-line fisheries.

Response: The Council discussed alternatives that would specify separate quotas for fishermen using longline and hook-and-line gear, and determined they were not necessary. Because the commercial hook-and-line fishery catches a minor portion of the overall harvest, separate quotas for the two sectors would have little effect on restricting harvest.

Comment 17: One individual stated the Council should limit the number of black sea bass pots to 20 to 30 per boat, and require pots be returned to the dock after each trip. Another individual stated the Council should prohibit the use of black sea bass pots, or restrict the number of pots used per boat.

Response: The Council considered but eliminated from detailed study alternatives that would restrict the number of sea bass pots a fisher could deploy and require fishermen to return pots to the dock after each trip. The Council believes its proposed action to prohibit the use of black sea bass pots after the black sea bass quota is met will restrict the number of pots fishermen use over the course of a year.

Comment 18: One group suggested NMFS implement a less restrictive black sea bass regulation until new data became available on the status of the stock. Specifically, the group proposed a commercial quota of 477,000 lb (216,364 kg) gutted weight, a requirement to include a 2-inch (5-cm) back panel in black sea bass pots, a recreational size limit of 11 inches (28 cm) (total length), and a bag limit of 15 fish per person per day.

Response: The suggested alternative would not achieve the purpose of Amendment 13C because it is not sufficiently restrictive to end overfishing on the black sea bass stock.

Comment 19: One group opposed increasing the allowable red porgy catch, indicating that, although red porgy are numerous, very few individuals are of legal size. Another individual indicated the allowable catch level should be even larger than that proposed because red porgy have become so plentiful in some areas they are a nuisance.

Response: Both the commercial and recreational regulations proposed in Amendment 13C for red porgy are expected to constrain total harvest to a level that would not compromise stock rebuilding. This expectation is supported by the 2006 assessment update, which indicates the stock would recover ahead of schedule if the proposed harvest increases were maintained throughout the rebuilding period. The proposed quota would provide for a fishing mortality rate that remains well below the maximum threshold.

Classification

The Regional Administrator, Southeast Region, NMFS, determined that Amendment 13C is necessary for the conservation and management of the South Atlantic snapper-grouper fishery and is consistent with the Magnuson-Stevens Act and other applicable laws.

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

The Council and NMFS prepared an FEIS for Amendment 13C. The FEIS was filed with the Environmental Protection Agency (EPA) on May 18, 2006. A notice of availability was published on May 26, 2006 (71 FR 30399). In approving Amendment 13C, NMFS issued a Record of Decision (ROD) identifying the selected alternative. A copy of the ROD is available from NMFS (see **ADDRESSES**).

NMFS prepared an FRFA, as required by section 604 of the Regulatory Flexibility Act. The FRFA incorporates the initial regulatory flexibility analysis (IRFA), a summary of significant issues raised by public comments, NMFS responses to those comments, and a summary of the analyses completed to support the action. A copy of the full analysis is available from the NMFS (see **ADDRESSES**). A summary of the analysis follows.

This final rule will reduce the commercial quotas and establish trip limits for snowy grouper and golden tilefish, establish commercial quotas for vermilion snapper and black sea bass, establish a back-panel mesh size requirement for black sea bass pots, change the fishing year for the commercial and recreational black sea bass fisheries, establish a commercial quota and increase the trip limit for red porgy, reduce the recreational bag limit for snowy grouper and golden tilefish, increase the recreational minimum size limit of black sea bass, and increase the recreational bag limit of red porgy. The purpose of the final rule is to end overfishing for snowy grouper, golden tilefish, vermilion snapper, and black sea bass, and allow for an increase in the harvest of red porgy consistent with the rebuilding schedule for this species. The Magnuson-Stevens Act provides the statutory basis for the final rule.

Nine comment letters were received from the public in response to the proposed rule, 6 letters received on the FEIS, and 17 letters received on the Amendment. A complete summary of these comments and NMFS' responses is provided in the previous section of this final rule. No changes were made in the final rule as a result of these comments. Among the 32 comment letters, 8 individuals or organizations raised issues regarding the economic impacts of the proposed actions. These comments collectively stated the magnitude and distributional regional or sector adverse economic impacts were too great to justify the actions. NMFS agrees the actions in the final rule will have immediate, short-term, negative socioeconomic impacts. Estimates of the expected impacts, both total and average by individual entity, are provided in this assessment. This assessment also concludes, while individual actions of the final rule are not expected to threaten the sustainability of fishing communities in the South Atlantic, the cumulative effects of the actions contained in the final rule, in conjunction with other State and regional fishery regulations and community changes, could be severe enough to change the economic and social structures of fishing communities over the long term. However, although unquantifiable, the adverse socioeconomic effects of inaction are expected to far exceed those associated with the final rule, as continued overfishing would ultimately threaten the long-term viability of these fisheries, resulting in increased levels of business failure and adverse community change. Thus, while the assessment concludes there is no guarantee all current fishery participants and related industries adversely affected by the final rule will experience the long-term benefits of ending overfishing, as the short-term losses of some individuals could be sufficiently severe to result in their exit from the fishery, the final rule is expected to best meet the Council's goals of ending overfishing while minimizing adverse economic and community impacts.

No duplicative, overlapping, or conflicting Federal rules have been identified. The final rule will not impose any reporting or recordkeeping requirements. However, sea bass pot fishermen who encounter personal hardship and are unable to meet the pot removal requirements may request through application to the Regional Administrator, NMFS Southeast Region (RA), a grace period of up to 10 days. Completion of this application is not expected to require special skills, recordkeeping, or substantial allocation of time, which should not exceed 30 minutes. No fees or costs other than the time spent and postage are associated with this application.

Two general classes of small business entities are expected to be directly affected by the final rule, commercial fishing vessels and for-hire fishing vessels (charterboats and headboats). The Small Business Administration defines a small entity in the commercial fishing sector as a firm that is independently owned and operated, is not dominant in its field of operation, and has annual gross receipts not in excess of $3.5 million. For a for-hire business, the appropriate revenue benchmark is $6.0 million.

An analysis of the gross revenue per vessel for commercial vessels that harvest species addressed in this action was conducted using data from the NMFS Southeast logbook program. These vessels also operate in other federally permitted fisheries, some harvests of which are also reported in the Southeast logbook program. All harvests (snapper-grouper and non-snapper-grouper species) and associated gross revenues encompassed by the Southeast logbook program were summarized. During the period 2001 to 2004, average annual gross revenue per vessel did not exceed $14,000, and total annual gross revenue for an individual vessel did not exceed approximately $247,000. It should be noted these vessels may also operate in the for-hire sector and other commercial fisheries whose landings are not covered by the Southeast logbook. Thus, this analysis may underestimate the total gross revenue for some vessels, though any underestimation is not believed to be substantial.

A comprehensive study of vessels that participated in the South Atlantic snapper-grouper fishery in 1994 provided estimates of total vessel revenue from all fishing activities. Average net income (1994 dollars) from sampled boats, in declining order, was $83,224 for boats that primarily used bottom longlines in the northern area (St. Augustine, FL, northward); $23,075 for boats that primarily used black sea bass pots in the northern area, $15,563 for boats that primarily used bottom longlines in the southern area (south of St. Augustine, FL); $11,649 for boats that primarily used vertical lines in the southern area; and $8,307 for boats that primarily used vertical lines in the

northern area. Overall, boats in the northern area averaged $14,143 in net income based on average revenues of $48,702, while boats in the southern area averaged $12,388 net income based on average revenues of $39,745.

Although some fleet activity may exist in the snapper-grouper fishery, the extent of such has not been determined. Thus, all vessels are assumed to be unique business entities. Given the gross revenue profile captured by 2001–2004 Southeast logbook program data and the findings of the 1994 survey, it is assumed all vessels represent small business entities.

Charterboats are defined as boats for hire carrying 6 or fewer passengers that charge a fee to rent the entire boat. Headboats are for-hire vessels with a larger passenger capacity that charge a fee per individual angler. Using 1998 survey data, two methods were used to determine the average gross revenue per vessel for the for-hire sector. The first method summarized the survey response to total gross revenue provided by the vessel owner. The second method calculated gross revenue based on the survey response to the average price per trip/passenger and the average number of trips/passengers taken/carried per year. The second method consistently generated higher estimates of average gross revenues, suggesting either over-reporting of the individual data elements utilized in the calculated method or under-reporting of gross revenues. The analysis of the expected impacts of the proposed action, however, assumed the alternative estimation methods generated an acceptable range of the true average gross revenues for this sector. For the charterboat sector, these results (1998 dollars) are as follows: $51,000 to $69,268 for Florida Atlantic coast vessels; $60,135 to $73,365 for North Carolina vessels; $26,304 to $32,091 for South Carolina vessels; and $56,551 to $68,992 for Georgia vessels. For the headboat sector, the results are: $140,714 to $299,551 for Florida (east and west coast) vessels, and $123,000 to $261,990 for vessels in the other South Atlantic states. Similar to the commercial harvest sector, some fleet activity may exist within the for-hire sector. The magnitude and identity of such is unknown, however, and all vessels are assumed to represent unique business entities. Given the gross revenue profiles generated, it is assumed all for-hire operations expected to be affected by this final rule are small business entities.

During 2004, 1,066 commercial vessels were permitted to operate in the snapper-grouper fishery. Not all permitted vessels operate every year, and some vessels are believed to obtain permits for either speculative purposes or as insurance against further restriction in commercial fisheries. Nevertheless, the total number of permitted vessels is considered an upper bound on the potential universe of vessels in the snapper-grouper fishery. The lower bound is assumed to be the number of vessels active in 2003—906 vessels. Thus, the range of vessels assumed to potentially operate in the commercial snapper-grouper fishery is 906 to 1,066. A subset of these vessels harvest the five species addressed in this action. From 2001 through 2004, the number of vessels that harvested any of the species addressed in this action ranged from 396 to 459 and are assumed to be the universe of potentially affected entities in the commercial harvest sector. This represents 37 percent (396/1,066) to 51 percent (459/906) of the entire universe of entities potentially active in the snapper-grouper fishery. Thus, it is determined a substantial number of small entities in the commercial harvest sector would be affected by this final rule.

For the for-hire sector, 1,594 snapper-grouper for-hire permits were issued to vessels in the southern Atlantic states in 2004. The for-hire fishery operates as an open access fishery, and not all permitted vessels are necessarily active in the fishery. Some vessel owners purchase open access permits as insurance for uncertainties in the fisheries in which they currently operate. A 1999 study of the Southeast for-hire industry estimated a total of 1,080 charter vessels and 96 headboats supplied for-hire services in Florida (east and west coast) and the rest of the South Atlantic in 1997.

Data on the number of for-hire vessels that actually harvest the species addressed by this action are not available. However, harvest data for 1999–2003 indicate most (70 percent) of the headboat harvest in the South Atlantic is comprised of snapper-grouper species, and approximately 36 percent of total snapper-grouper headboat harvest is comprised of the species addressed in this action. Therefore, it is assumed all South Atlantic headboats harvest or target snapper-grouper species, and it is likely a substantial number of headboats will be affected by measures in this final rule.

Data on the charter sector also imply a substantial number of charterboat entities will be affected by this final rule. Based on 2003 data, snapper-grouper species are caught on 28 percent of all charter trips, while 14 percent of the charter sector's snapper-grouper harvest is comprised of species addressed by this action.

The economic impact can be ascertained by examining two issues: Disproportionality and profitability. The disproportionality question is, do the regulations place a substantial number of small entities at a significant competitive disadvantage to large entities? All vessel operations affected by this final rule are considered small entities so the issue of disproportionality does not arise in the present case. However, among the entities in the commercial harvest sector, there is a high degree of diversity in terms of primary gear employed and level of engagement in the snapper-grouper fishery. The snowy grouper and golden tilefish actions are expected to have a proportionally higher negative short-term impact on vessels which employ longline gear or fish off south and central Florida. The vermilion snapper quota is expected to have a relatively larger negative impact on vessels that employ hook-and-line gear or fish off Georgia and Northeast Florida. The black sea bass management measures are expected to have a proportionally higher negative impact on vessels that utilize black sea bass pots in North Carolina. Although the red porgy management measures will increase the allowable harvest and revenues in the commercial fishery, most of the increase in revenue is expected to be realized by vessels that employ hook-and-line gear.

The short-term impacts on the for-hire sector from this final rule for the snowy grouper and golden tilefish management measures are expected to be minimal. In contrast, for-hire vessels are expected to bear substantially larger short-term negative impacts associated with implementation of the regulations for vermilion snapper and black sea bass. Assessment of the impacts on for-hire vessels is limited to expected reductions in harvest because the econometric models to predict changes in for-hire trips and subsequent changes in revenues as a result of the regulations contained in the final rule are not available. The short-term reduction in harvest of these two species is expected to be proportionally greater in the headboat sector than the charterboat or private boat sectors. For the vermilion snapper fishery, the final rule is expected to reduce vermilion snapper harvests by 21 percent in the private/charter sector compared to 30 percent in the headboat sector. Similarly, the regulations for black sea bass are expected to reduce black sea bass

harvests by 27 percent (year 1) in the charter/private sector compared to 41 percent (year 1) in the headboat sector.

The final rule is expected to result in an increase in recreational red porgy harvest and associated benefits and is projected to increase red porgy harvest in the headboat sector by 36 percent and by 21 percent in the charter/private recreational fishery sector.

The profitability question is, do the regulations significantly reduce profit for a substantial number of small entities? In the recreational fishery, for-hire business entities are expected to lose revenues and profits as a result of trip cancellation by clients who determine the measures will significantly affect the quality of the fishing experience. As previously discussed, these losses cannot be estimated at this time due to data limitations. However, it is reasonable to assume the greater the reduction in harvest, the higher the likelihood of trip cancellation and potential revenue loss. Even though it is not possible to calculate the change in profitability expected to arise from the final rule, given the dependence of the for-hire sector on the harvest of vermilion snapper and black sea bass, it is reasonable to assume the expected harvest reductions may result in a substantial adverse impact on the profitability of affected for-hire entities. The estimated reduction in consumer surplus for anglers that participate in the headboat sector (approximately $577,000) as a result of the final rule in these two fisheries is approximately 19 percent of total estimated consumer surplus generated from the snapper-grouper fishery for this sector (approximately $2.978 million). Similar analysis is not possible for the charter sector because this sector was combined with the private recreational sector in the assessment results. Although it is inappropriate to translate these results one-for-one into expected trip cancellations, they demonstrate the potential magnitude of trip cancellation and potential business revenue and profit changes.

In the commercial harvest sector, data from 2001 through 2004 were used to examine the profitability of vessels that are likely to be affected by the final rule. This analysis encompassed an average of 408 vessels per year. Because the analysis for red porgy was conducted using data during a different time period (1995 through 1998), the revenue increase associated with this measure was not included in the assessment of the short-term cumulative effects of the final rule. Instead, the estimated increase in net cash flow in the commercial harvest sector due to red porgy regulations is presented separately.

Net vessel revenues (gross revenue minus trip costs and opportunity cost of labor) were estimated from landings reported to the Southeast logbook program. Over the period 2001 to 2004, a large proportion (67 percent) of the entities included in this analysis earned less than $10,001 per year. Also, a number of vessels appeared to operate at a loss or break-even condition. These results could be an indication a high proportion of the commercial fishermen in the Southeast are part-time fishermen who supplement their household income by other employment. Another explanation of the results is not all of the fishing revenues for these vessels are reported in the Southeast logbooks and/or the vessels are engaged in for-hire activities. Revenues and costs associated with commercial fishing on trips that did not harvest any of the species covered by this action, commercial fishing not captured by the Southeast logbook program, and for-hire activities are not reflected in the results contained in the following analyses. As such, total and net revenues for entire fishing business operations are unknown, and the following analysis likely overstates total and average individual impacts on the affected entities. The magnitude of this overstatement, however, cannot be determined.

During the first year of implementation, the harvest restrictions for golden tilefish, snowy grouper, vermilion snapper, and black sea bass are expected to result in a total net short-term annual loss of $0.735 million to the commercial harvest sector, or 12 percent of the total net revenue for trips that harvested any of the affected species. The final rule will implement a stepped-down approach on harvest restrictions for snowy grouper and black sea bass over a 3-year period, and the cumulative effects of the proposed measures for these four species is expected to increase to $1.085 million in the third year.

When evaluated at the individual vessel/entity level, the average annual loss per affected entity associated with the final rule in the first year is expected to vary between $760 and $3,261, and the maximum net loss per boat is expected to vary between $26,533 and $76,390 per year. On average, 219 vessels (54 percent of potentially affected entities) are not expected to incur losses under the final rule.

Revenue loss per vessel was classified as Range I ($1–$500), Range II ($501–$10,000), or Range III (greater than $10,000). The short-term economic effects of the final rule are not expected to be distributed evenly across all affected entities. During the first year of implementation of the final rule, it is expected 21 vessels would sustain Range III losses (an average of $22,764 per vessel) and collectively account for 62 percent of the total net loss in the commercial harvest sector. Conversely, 82 entities are expected to sustain Range I losses ($102 per vessel), and 86 entities are expected to sustain Range II losses ($3,165 per vessel) and account for 37 percent of the total net loss in the commercial harvest sector.

Vessel profitability is expected to decrease by more than 10 percent for 86 vessels (21 percent of the 408 potentially affected entities) during the first year of implementation of this final rule.

This final rule is expected to result in a loss in net revenue of more than 10 percent for the 21 vessels that experience a Range III reduction. Also, 80 percent of all affected entities (16 vessels) that experience a Range III decrease in net revenue are expected to realize more than a 25 percent reduction in profitability. In contrast, profitability is expected to decrease by more than 10 percent for only 24 percent (7 vessels) of all vessels that are likely to sustain Range I losses.

For red porgy, this final rule is expected to increase short-term revenue to the commercial harvest sector by $0.07 million annually. The estimated increase in earnings of 32 vessels (10 percent of the 317 vessels expected to be affected by the red porgy action) are expected to exceed $2,500 per vessel annually. The estimated average net revenue increase per vessel within the red porgy fishery is $221 ($70,000/317) per year.

In summary, this final rule is expected to result in a 12-percent loss in short-term net revenue to the commercial harvest sector. At least 26 percent of potentially affected entities are expected to sustain more than $501 losses in net revenue, and 31 percent of all affected entities (13 percent of all potentially affected entities) are expected to experience more than a 25 percent decrease in profitability during the first year of implementation of the proposed action. The reductions in profitability are expected to increase through the third year as total target harvest reductions are achieved. Thus, both the magnitude and distributional effects of the reduction in net revenues could increase over this period of time. However, the delayed implementation of the full harvest reductions could allow operational adaptation by the affected entities, resulting in smaller

total impacts and smaller distributional effects than those discussed above. In addition to the impacts described for the commercial finfish harvest sector, certain segments of the for-hire sector are expected to experience substantial reductions in allowable harvests of certain species as a result of the final rule and may experience commensurate reductions in revenues if unable to maintain service demand through the substitution of other species.

Three alternatives, including the status quo and the preferred alternative, were considered for the proposed action to establish management measures for the commercial fishery consistent with ending overfishing in the snowy grouper fishery. The status quo would allow continued overfishing and would, therefore, not achieve the Council's objective or the requirements of the Magnuson-Stevens Act.

The third alternative would have achieved the full commercial quota reduction in the first year of implementation, rather than the step-down provision of the proposed action and, as such, would result in greater short-term adverse economic impacts than the proposed action.

Three alternatives, including the status quo and the preferred alternative, were considered for the proposed action to establish management measures for the recreational fishery consistent with ending overfishing in the snowy grouper fishery. The status quo would have allowed continued overfishing and would, therefore, not achieve the Council's objective or the requirements of the Magnuson-Stevens Act.

Due to the low catch per unit effort in the recreational fishery, the third alternative would not have resulted in sufficient harvest reduction to achieve the goal of ending overfishing. Therefore, although this alternative would have resulted in lower short-term adverse economic impacts to the recreational sector (*i.e.*, an annual short-term reduction in consumer surplus of $3,497, compared to a $5,402 reduction for the preferred alternative), this alternative would not achieve the Council's objective or the requirements of the Magnuson-Stevens Act.

Three alternatives, including the status quo and two quota alternatives, one of which was the preferred alternative, were considered for the proposed action to establish management measures for the commercial fishery consistent with ending overfishing in the golden tilefish fishery. The status quo would allow continued overfishing and would, therefore, not achieve the Council's objective or the requirements of the Magnuson-Stevens Act.

For each quota alternative, five step-down trip limit alternatives, including the status quo, and two step-down trigger date control options, including the status quo no control trigger date, were considered. Under the quota specified by the proposed action, the trip limit alternatives encompassed either a lower trip limit, 3,000 lb (1,361 kg), than the proposed action or a less restrictive harvest trigger, 85 percent of the quota, for the step down. The short-term adverse economic impacts of all trip limit alternative combinations that include the 75-percent harvest trigger would be expected to be approximately equal to or greater than those of the proposed action. The trip limit alternative combinations that include the 85-percent harvest trigger would generate lower short-term adverse economic impacts than the proposed action. However, this higher trigger would result in a shorter fishing season, on average, than the proposed action. Although these impacts were not able to be quantified, shorter fishing seasons are recognized to result in adverse price effects, market disruptions, and disruptions of business operation. Therefore, the expected longer season projected under the proposed action was determined to best meet the Council's objectives.

Under the alternative quota specification, the expected adverse short-term economic impacts of seven of the ten trip limit and trigger date combinations are projected to be less than those of the proposed action due to the 3-year progression to the target quota of 295,000 lb (133,810 kg), which is implemented in the third year under this alternative, resulting in larger allowable harvests the first 2 years. This alternative, however, would not end overfishing as soon as practicable and would, therefore, not meet the Council's objective or the requirements of the Magnuson-Stevens Act.

Four alternatives, including the status quo and the preferred alternative, were considered for the proposed action to establish management measures for the recreational fishery consistent with ending overfishing in the golden tilefish fishery. The status quo would allow continued overfishing and would, therefore, not achieve the Council's objective.

Due to the low catch per unit effort in the recreational fishery, the third alternative would not have resulted in sufficient harvest reduction to achieve the goal of ending overfishing. Therefore, although this alternative would have resulted in lower short-term adverse economic impacts to the recreational sector, this alternative would not achieve the Council's objective.

The fourth alternative would impose greater restrictions on recreational golden tilefish harvest, resulting in greater adverse economic impacts than the proposed action.

Ten alternatives, including the status quo and the preferred alternative, were considered for the proposed action to establish management measures for the commercial fishery consistent with ending overfishing in the vermilion snapper fishery. The status quo would allow continued overfishing and would, therefore, not achieve the Council's objective or the requirements of the Magnuson-Stevens Act.

Eight alternatives would have established lower commercial quotas (either 757,000 or 821,000 lb (343,369 or 372,399 kg) gutted weight) than the preferred alternative, in addition to alternative minimum size and trip limits. These quotas represent reductions in allowable harvest greater than is necessary to end overfishing of this resource. Further, each of the eight alternatives would result in greater adverse economic impacts than the proposed action.

Nine alternatives, including the status quo and the preferred alternative, were considered for the proposed action to establish management measures for the recreational fishery consistent with ending overfishing in the vermilion snapper fishery. The status quo would allow continued overfishing and would, therefore, not achieve the Council's objective or the requirements of the Magnuson-Stevens Act.

In addition to the minimum size limit increase of the proposed action, one alternative to the proposed action would reduce the daily bag limit to six fish. Although this alternative would increase the likelihood of ending overfishing relative to the proposed action, this alternative would result in greater adverse economic impacts than the proposed action.

A similar alternative would, in addition to the minimum size limit increase, impose lower, but differential, bag limits on the for-hire and recreational sectors. Similar to the alternative discussed above, although this alternative would increase the likelihood of ending overfishing relative to the proposed action, this alternative would result in greater adverse economic impacts than the proposed action.

Two alternatives to the proposed vermilion snapper recreational action would maintain the current minimum

size limit but impose fishery closures for different periods: October through December and January through February. Both alternatives are projected to result in lower adverse economic impacts than the proposed action. However, these estimates do not incorporate additional potential adverse impacts associated with potential fishing trip cancellation as a result of the closures. These impacts cannot be determined at this time. The addition of these impacts to these alternatives, however, may result in greater total adverse impacts compared to the proposed action. Further, although the proposed action may not end overfishing, depending on the level of the current vermilion snapper biomass, these alternatives are not expected to achieve as much progress toward the goal of ending overfishing as the proposed action and, as such, do not meet the Council's objectives.

Two alternatives to the proposed recreational vermilion snapper action would retain the closures specified in the alternatives discussed above and add reductions in the bag limit to six fish and five fish, respectively. Although each of these alternatives would be expected to achieve greater progress toward ending overfishing relative to the proposed action, each would also result in greater adverse economic impacts than the proposed action.

The ninth and final alternative to the proposed recreational vermilion snapper action would include the minimum size limit increase in the proposed action and close the fishery from January through February. This alternative would achieve greater harvest reductions than the proposed action, thereby accomplishing more progress toward ending overfishing. This action would also, however, result in greater adverse economic impacts than the proposed action. Due to uncertainty associated with the stock assessment for vermilion snapper, the Council believed it was best to cap landings at 1,100,000 lb (498,952 kg) gutted weight until a new stock assessment update was competed in 2001. A 30-percent reduction in landings during 2003–2004 would have ended overfishing. The proposed quota, which approximates the optimum yield, would prevent overfishing from occurring in the future.

Eight alternatives, including the status quo and the preferred alternative, were considered for the proposed action to establish management measures for the commercial fishery consistent with ending overfishing in the black sea bass fishery. The status quo would allow continued overfishing and would, therefore, not achieve the Council's objective.

The third alternative would have established a lower quota than that specified for the first 2 years under the proposed action, but 10 percent greater than the third-year quota. Thus, this alternative would be expected to result in greater adverse economic impacts than the proposed action in the first 2 years, but slightly lesser impacts in subsequent years. Although the effects of such could not be quantified, the Council determined that a more gradual progression to a lower quota would support greater adaptive behavior by participants and result in lower total adverse economic impacts.

The fourth alternative would have established the lower third-year quota target of the proposed action immediately and also would have established an increased minimum size limit and trip limits. This alternative would result in greater adverse economic impacts, $0.32 million, than the proposed action.

The fifth alternative would have established a quota equal to that specified in the second year of the proposed action and an increased minimum size limit. This alternative would result in greater adverse economic impacts in the first 2 years, $0.74 million, than the proposed action, but less impacts thereafter. This alternative would not, however, achieve the necessary harvest reductions to meet the Council's objective to end overfishing.

The sixth alternative would add trip limits and an increase in the minimum size limit to the measures contained in the proposed action. Because this alternative would be more restrictive than the proposed action, this alternative would result in greater adverse economic impacts, $0.22-$0.32 million over the course of the first 3 years.

The seventh alternative would not impose a quota but would, instead, in addition to the mesh size specification of the proposed action, limit harvest and/or possession of black sea bass to the recreational bag limit. This alternative would result in greater adverse economic impacts, $0.26 million, than the proposed action.

The eighth and final alternative to the proposed action on the commercial black sea bass fishery would impose the mesh size specification of the proposed action and increase the minimum size limit. Although this alternative would result in less adverse economic impacts than the proposed action, this alternative would not achieve the necessary harvest reductions to meet the Council's objective of ending overfishing.

Eight alternatives, including the status quo and the preferred alternative, were considered for the proposed action to establish management measures for the recreational fishery consistent with ending overfishing in the black sea bass fishery. The status quo would allow continued overfishing and would, therefore, not achieve the Council's objective.

The third alternative to the proposed action would immediately establish a lower allocation than the first 2 years of the proposed action, but greater than that of the third and subsequent years, as well as an immediate increase in the minimum size limit matching the specification in the second year of the proposed action. The bag limit specifications of both alternatives are identical. Since this alternative is more aggressive in achieving desired reductions, the short-term adverse impacts, $ 1.5 million, are greater than those of the proposed action. Further, the progressive achievement of the target restrictions in the proposed action allow for more gradual adaptation to the new restrictions and the changes to the business environment they may engender.

The fourth alternative to the proposed action would immediately establish the third-year allocation of the proposed action, forgo the second increase in the minimum size limit, and reduce the bag limit to four fish per person per day. Although the quantifiable adverse economic impacts of this alternative are lower than those of the proposed action, these impacts do not account for additional potential adverse impacts associated with trip cancellation due to the severe reduction (80 percent) in the daily bag limit. These additional adverse impacts are expected to result in this alternative having a greater adverse economic impact than the proposed action.

The fifth alternative would establish a recreational allocation equal to that of the second year under the proposed action and limit the increase in the minimum size limit to 1 inch (2.5 cm). Although this alternative would result in lower adverse economic impacts, $873,000, than the proposed action, the resultant harvest reductions would be insufficient to meet the Council's objective.

The sixth alternative would mimic the allocation specifications of the proposed action but would limit the minimum size limit increase to 1 inch (2.5 cm) while reducing the daily bag limit to four fish. Similar to the discussion of

the second alternative above, the analytical results do not capture the full potential impacts associated with the bag limit reduction, and this alternative is expected to result in greater adverse economic impact, *i.e.*, in excess of $1.5 million, than the proposed action.

The seventh alternative would simply reduce the bag limit to 10 fish per person per day. This alternative would not achieve the necessary harvest reductions to meet the Council's objective.

The eighth and final alternative to the proposed action for the recreational black sea bass fishery would simply increase the minimum size limit 1 inch (2.5 cm). This alternative would not achieve the necessary harvest reductions to meet the Council's objective.

Five alternatives, including the status quo and the preferred alternative, were considered for the proposed action to establish management measures to increase the allowable harvest in the recreational and commercial fisheries for red porgy. A recent stock assessment indicates the stock is rebuilding and catches can be increased without overfishing or compromising the approved rebuilding schedule.

The third alternative would be identical to the proposed action except for allowing a smaller recreational bag limit. This alternative would result in lower economic benefits than the proposed action.

The fourth alternative similarly imposes the smaller recreational bag limit and reduces the number of fish that can be harvested per commercial trip relative to the proposed action, while allowing the limit to remain in effect year-round rather than just May through December. Although this alternative would result in slightly greater benefits to the commercial sector, the benefits to the recreational sector would be less than those of the proposed action, and the Council determined that overall the proposed action would be more effective in allowing increased benefits relative to the status quo while protecting against harvest overages.

The fifth and final alternative to the proposed action on the red porgy fishery would implement the commercial trip limits of the second alternative discussed above, while allowing the higher daily recreational bag limit of the proposed action. Although this alternative would result in the higher economic benefits associated with the more liberal increases for both harvest sectors, the Council determined that the more conservative harvest potential associated with the commercial trip limits of the proposed action would be more effective in insuring that harvest overages do not occur.

Copies of the FRFA are available from NMFS (see **ADDRESSES**).

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the final rule, and shall designate such publications as ''small entity compliance guides.'' As part of the rulemaking process, NMFS prepared a fishery bulletin, which also serves as a small entity compliance guide. The fishery-bulletin will be sent to all vessel permit holders for the South Atlantic Snapper-Grouper fishery.

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by OMB under control number 0648–0013. Public reporting burden for the requirement to submit a letter of request to the RA for sea bass pot removal is estimated to average 10 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments on these burden estimates or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by e-mail to *David_Rostker@omb.eop.gov*, or fax to 202–395–7285.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 622

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

Dated: September 18, 2006.

Samuel D. Rauch III,

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

■ For the reasons set out in the preamble, 15 CFR Chapter IX and 50 CFR Chapter III are amended as follows:

15 CFR Chapter IX

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

■ 1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

■ 2. In § 902.1, paragraph (b), the table is amended by adding in the left column under 50 CFR, in numerical order, ''622.40(d)(2)'', and in the right column, in the corresponding position, the control number ''–0013'', as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648–)
* * * * *	
50 CFR	
* * * * *	
622.40(d)(2)	–0013
* * * * *	

50 CFR Chapter VI

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

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

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

■ 4. In § 622.30, paragraph (e) is added to read as follows:

§ 622.30 Fishing years.

* * * * *

(e) *South Atlantic black sea bass*—June 1 through May 31.

■ 5. In § 622.36, paragraph (b)(5) is revised to read as follows:

§ 622.36 Atlantic EEZ seasonal and/or area closures.

* * * * *

(b) * * *

(5) *Red porgy.* During January, February, March, and April, the harvest

or possession of red porgy in or from the South Atlantic EEZ is limited to three per person per day or three per person per trip, whichever is more restrictive. In addition, this limitation is applicable in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued without regard to where such red porgy were harvested. Such red porgy are subject to the prohibition on sale or purchase, as specified in § 622.45(d)(5).

■ 6. In § 622.37, paragraphs (e)(1)(ii) and (e)(3)(i) are revised to read as follows:

§ 622.37 Size limits.

* * * * *

(e) * * *

(1) * * *

(ii) Vermillion snapper—12 inches (30.5 cm), TL.

* * * * *

(3) * * *

(i) *Black sea bass.* (A) For a fish taken by a person subject to the bag limit specified in § 622.39(d)(1)(vii):

(*1*) Through May 31, 2007—11 inches (27.9 cm), TL; and

(*2*) On and after June 1, 2007—12 inches (30.5 cm), TL.

(B) For a fish taken by a person not subject to the bag limit in § 622.39(d)(1)—10 inches (25.4 cm), TL.

* * * * *

■ 7. In § 622.39, paragraphs (d)(1)(ii), (d)(1)(vi), (d)(1)(vii), and (d)(2)(ii) are revised to read as follows:

§ 622.39 Bag and possession limits.

* * * * *

(d) * * *

(1) * * *

(ii) Groupers and tilefish, combined—5. However, within the 5-fish aggregate bag limit:

(A) No more than two fish may be gag or black grouper, combined;

(B) No more than one fish may be a snowy grouper;

(C) No more than one fish may be a golden tilefish; and

(D) No goliath grouper or Nassau grouper may be retained.

* * * * *

(vi) Red porgy—3.

(vii) Black sea bass—15.

* * * * *

(2) * * *

(ii) A person aboard a vessel may not possess red porgy in or from the EEZ in excess of three per day or three per trip, whichever is more restrictive.

* * * * *

■ 8. In § 622.40, paragraphs (c)(3)(i) and (d)(2) are revised to read as follows:

§ 622.40 Limitations on traps and pots.

* * * * *

(c) * * *

(3) * * *

(i) A sea bass pot used or possessed in the South Atlantic EEZ must have mesh sizes as follows (based on centerline measurements between opposite, parallel wires or netting strands):

(A) For sides of the pot other than the back panel:

(*1*) Hexagonal mesh (chicken wire)—at least 1.5 inches (3.8 cm) between the wrapped sides;

(*2*) Square mesh—at least 1.5 inches (3.8 cm) between sides; or

(*3*) Rectangular mesh—at least 1 inch (2.5 cm) between the longer sides and 2 inches (5.1 cm) between the shorter sides.

(B) For the entire back panel, *i.e.,* the side of the pot opposite the side that contains the pot entrance, mesh that is at least 2 inches (5.1 cm) between sides.

* * * * *

(d) * * *

(2) *South Atlantic EEZ*—(i) *Sea bass pots.* (A) In the South Atlantic EEZ, sea bass pots may not be used or possessed in multiple configurations, that is, two or more pots may not be attached one to another so that their overall dimensions exceed those allowed for an individual sea bass pot. This does not preclude connecting individual pots to a line, such as a ''trawl'' or trot line.

(B) A sea bass pot must be removed from the water in the South Atlantic EEZ when the quota specified in § 622.42(e)(5) is reached. The RA may authorize a grace period of up to 10 days for removal of pots after a closure is in effect based on exigent circumstances which include, but are not limited to, insufficient advance notice of a closure or severe weather. In addition, a person may request that the RA grant such a grace period based on severe personal hardship, such as equipment failure or the vessel operator's health, by providing a letter outlining the nature and circumstances of the severe personal hardship to be received by the RA no later than the effective date of the closure. The RA will advise the requester of the approval or disapproval of the request. After a closure is in effect, a black sea bass may not be retained by a vessel that has a sea bass pot on board.

(ii) *Golden crab traps.* Rope is the only material allowed to be used for a buoy line or mainline attached to a golden crab trap.

■ 9. In § 622.42, paragraph (e) is revised to read as follows:

§ 622.42 Quotas.

* * * * *

(e) *South Atlantic snapper-grouper, excluding wreckfish.* The quotas apply to persons who are not subject to the bag limits. (See § 622.39(a)(1) for applicability of the bag limits.) The quotas are in gutted weight, that is, eviscerated but otherwise whole.

(1) *Snowy grouper.* (i) For the fishing year that commences January 1, 2006—151,000 lb (68,492 kg).

(ii) For the fishing year that commences January 1, 2007—118,000 lb (53,524 kg).

(iii) For the fishing year that commences January 1, 2008, and for subsequent fishing years–84,000 lb (38,102 kg).

(2) *Golden tilefish*—295,000 lb (133,810 kg).

(3) *Greater amberjack*—1,169,931 lb (530,672 kg).

(4) *Vermilion snapper*—1,100,000 lb (498,952 kg).

(5) *Black sea bass.* (i) For the fishing year that commences June 1, 2006—477,000 lb (216,364 kg).

(ii) For the fishing year that commences June 1, 2007—423,000 lb (191,870 kg).

(iii) For the fishing year that commences June 1, 2008, and for subsequent fishing years—309,000 lb (140,160 kg).

(6) *Red porgy*—127,000 lb (57,606 kg).

* * * * *

■ 10. In § 622.43, paragraphs (a)(5) and (b)(1) are revised to read as follows:

§ 622.43 Closures.

(a) * * *

(5) *South Atlantic greater amberjack, snowy grouper, golden tilefish, vermilion snapper, black sea bass, and red porgy.* The appropriate bag limits specified in § 622.39(d)(1) and the possession limits specified in § 622.39(d)(2) apply to all harvest or possession of the applicable species in or from the South Atlantic EEZ, and the sale or purchase of the applicable species taken from the EEZ is prohibited. In addition, the bag and possession limits for the applicable species and the prohibition on sale/purchase apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested.

* * * * *

(b) * * *

(1) The prohibition on sale/purchase during a closure for Gulf reef fish, king and Spanish mackerel, royal red shrimp, or specified snapper-grouper species in

paragraphs (a)(1), (a)(3)(iii), (a)(4), or (a)(5) and (a)(6), respectively, of this section does not apply to the indicated species that were harvested, landed ashore, and sold prior to the effective date of the closure and were held in cold storage by a dealer or processor.

* * * * *

■ 11. In § 622.44, paragraphs (c)(2), (c)(3), (c)(4), and (c)(5) are revised to read as follows:

§ 622.44 Commercial trip limits.

* * * * *

(c) * * *

(2) *Golden tilefish.* (i) Until 75 percent of the fishing year quota specified in § 622.42(e)(2) is reached—4,000 lb (1,814 kg).

(ii) After 75 percent of the fishing year quota specified in § 622.42(e)(2) is reached—300 lb (136 kg). However, if 75 percent of the fishing year quota has not been taken on or before September 1, the trip limit will not be reduced. The Assistant Administrator, by filing a notification of trip limit change with the Office of the Federal Register, will effect a trip limit change specified in this paragraph, (c)(2)(ii), when the applicable conditions have been taken.

(iii) See § 622.43(a)(5) for the limitations regarding golden tilefish after the fishing year quota is reached.

(3) *Snowy grouper.* (i) During the 2006 fishing year, until the quota specified in § 622.42(e)(1)(i) is reached—275 lb (125 kg).

(ii) During the 2007 fishing year, until the quota specified in § 622.42(e)(1)(ii) is reached—175 lb (79 kg).

(iii) During the 2008 and subsequent fishing years, until the quota specified in § 622.42(e)(1)(iii) is reached—100 lb (45 kg).

(iv) See § 622.43(a)(5) for the limitations regarding snowy grouper after the fishing year quota is reached.

(4) *Red porgy.* (i) From May 1 through December 31—120 fish.

(ii) From January 1 through April 30, the seasonal harvest limit specified in § 622.36(b)(5) applies.

(iii) See § 622.43(a)(5) for the limitations regarding red porgy after the fishing year quota is reached.

(5) *Greater amberjack.* Until the fishing year quota specified in § 622.42(e)(3) is reached, 1,000 lb (454 kg). See § 622.43(a)(5) for the limitations regarding greater amberjack after the fishing year quota is reached.

* * * * *

■ 12. In § 622.45, paragraph (d)(8) is added to read as follows:

§ 622.45 Restrictions on sale/purchase.

* * * * *

(d) * * *

(8) No person may sell or purchase a snowy grouper, golden tilefish, greater amberjack, vermilion snapper, black sea bass, or red porgy harvested from or possessed in the South Atlantic by a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued for the remainder of the fishing year after the applicable commercial quota for that species specified in § 622.42(e) has been reached. The prohibition on sale/purchase during these periods does not apply to such of the applicable species that were harvested, landed ashore, and sold prior to the applicable commercial quota being reached and were held in cold storage by a dealer or processor.

* * * * *

[FR Doc. 06–7940 Filed 9–18–06; 2:59 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9280]

RIN 1545–BE10

Section 411(d)(6) Protected Benefits; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to final regulations that were published in the **Federal Register** on August 9, 2006 (71 FR 45379) that provide guidance on certain issues under section 411(d)(6) of the Internal Revenue Code (Code), including the interaction between the anti-cutback rules of section 411(d)(6) and the nonforfeitability requirements of section 411(a).

EFFECTIVE DATE: This correction is effective August 9, 2006.

FOR FURTHER INFORMATION CONTACT: Pamela R. Kinard, at (202) 622–6060 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction are under section 411(d)(6) of the Code.

Need for Correction

As published, the final regulations (TD 9280), contain errors that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

■ Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.411(d)–3 is amended by revising paragraph (a)(3)(i), second sentence and (a)(4) *Example 4* (ii), second sentence to read as follows:

§ 1.411(d)–3 Section 411 (d)(6) protected benefits.

(a) * * *

(3) * * * However, such an amendment does not violate section 411(d)(6) to the extent it applies with respect to benefits that accrue after the applicable amendment date.

(4) * * *

Example 4 * * *

(ii) * * * A method of avoiding a section 411 (d)(6) violation with respect to account balances attributable to benefits accrued as of the applicable amendment date and earnings thereon would be for Plan D to provide for the vested percentage of G and each other participant in Plan E to be no less than the greater of the vesting percentages under the two vesting schedules (for example, for G and each other participant in Plan E to be 20% vested upon completion of 3 years of service, 40% vested upon completion of 4 years of service, and fully vested upon completion of 5 years of service) for those account balances and earnings.

* * * * *

Cynthia Grigsby,

Senior Federal Liaison Officer, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 06–7862 Filed 9–20–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9280]

RIN 1545–BE10

Section 411(d)(6) Protected Benefits; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains a correction to final regulations that were published in the **Federal Register** on August 9, 2006 (71 FR 45379) that provide guidance on certain issues under section 411(d)(6) of the Internal Revenue Code (Code), including the interaction between the anti-cutback rules of section 411(d)(6) and the nonforfeitability requirements of section 411(a).

EFFECTIVE DATES: This correction is effective August 9, 2006.

FOR FURTHER INFORMATION CONTACT: Pamela R. Kinard, at (202) 622–6060 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction are under section 411(d)(6) of the Code.

Need for Correction

As published, the final regulations (TD 9280), contain an error that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (TD 9280), which were the subject of FR Doc. E6–12885, is corrected as follows:

On page 45381, column 1, in the preamble, the last paragraph, line 8, the language ''retained, subject to a certain'' is corrected to read ''retained, subject to certain''.

Cynthia Grigsby,

Senior Federal Liaison Officer, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 06–7864 Filed 9–20–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD05–06–068]

RIN 1625–AA08

Special Local Regulations for Marine Events; John H. Kerr Reservoir, Clarksville, VA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary special local regulations for the ''Clarksville Hydroplane Challenge'', a power boat race to be held on the waters of the John H. Kerr Reservoir adjacent to Clarksville, Virginia. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of the John H. Kerr Reservoir adjacent to Clarksville, Virginia during the power boat race.

DATES: This rule is effective from 7:30 a.m. on October 7 to 6:30 p.m. on October 8, 2006.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket (CGD05–06–068) and are available for inspection or copying at Commander (dpi), 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, Inspections and Investigations Branch, at (757) 398–6204.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On July 21, 2006, we published a Notice of proposed rulemaking (NPRM) entitled Special Local Regulations for Marine Events; John H. Kerr Reservoir, Clarksville, VA in the **Federal Register** (71 FR 41407). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be contrary to the public interest, since immediate action is needed to ensure the safety of the event participants, support craft and other vessels transiting the event area. However, advance notifications will be made to affected waterway users via marine information broadcasts, area newspapers and local radio stations.

Background and Purpose

On October 7 and 8, 2006, the Virginia Boat Racing Association will sponsor the ''Clarksville Hydroplane Challenge'', on the waters of the John H. Kerr Reservoir. The event will consist of approximately 70 inboard hydroplanes racing in heats counter-clockwise around an oval racecourse. A fleet of spectator vessels is anticipated 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 Comments and Changes

The Coast Guard did not receive comments in response to the Notice of proposed rulemaking (NPRM) published in the **Federal Register**. Accordingly, the Coast Guard is establishing temporary special local regulations on specified waters of the John H. Kerr Reservoir, Clarksville, Virginia.

Regulatory Evaluation

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

We expect the economic impact of this temporary rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Although this regulation will prevent traffic from transiting a portion of the John H. Kerr Reservoir adjacent to Clarksville, Virginia during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect. Extensive advance notifications will be made to the maritime community via Local Notice to Mariners, marine information broadcasts, area newspapers and local radio stations, so mariners can adjust their plans accordingly. Vessel traffic will be able to transit the regulated area between heats, when the Coast Guard Patrol Commander deems it is safe to do so.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. This temporary rule would affect the following entities, some of which might

be small entities: the owners or operators of vessels intending to transit this section of the John H. Kerr Reservoir during the event.

This rule would not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be enforced for only a short period, from 7:30 a.m. on October 7 to 6:30 p.m. on October 8, 2006. The regulated area will apply to a segment of the reservoir adjacent to State Route 15 Highway Bridge and Occoneechee State Park. Marine traffic may be allowed to pass through the regulated area with the permission of the Coast Guard Patrol Commander. In the case where the Patrol Commander authorizes passage through the regulated area during the event, vessels will be required to proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course. Before the enforcement period, we would 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 offered to assist small entities in understanding this temporary rule so that they can better evaluate its effects on them and participate in the rulemaking process.

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

Collection of Information

This rule 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 rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it 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 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 and Department of Homeland Security Management Directive 5100.1, 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 amends 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–T05–068 to read as follows:

§ 100.35–T05–068 John H. Kerr Reservoir, Clarksville, Virginia.

(a) *Regulated area.* The regulated area is established for the waters of the John H. Kerr Reservoir, adjacent to the State Route 15 Highway Bridge and Occoneechee State Park, Clarksville, Virginia, from shoreline to shoreline, bounded on the south by a line running northeasterly from a point along the shoreline at latitude 36°37′14″ N, longitude 078°32′46.5″ W, thence to latitude 36°37′39.2″ N, longitude 078°32′08.8″ W, and bounded on the north by the State Route 15 Highway Bridge. All coordinates reference Datum NAD 1983.

(b) *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 Sector Hampton Roads.

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

(3) *Participant* includes all vessels participating in the Clarksville Hydroplane Challenge under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector Hampton Roads.

(c) *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 and then proceed only as directed.

(ii) All persons and vessels shall comply with the instructions of the Official Patrol.

(iii) When authorized to transit the regulated area, all vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course.

(d) *Enforcement period.* This section will be enforced from 7:30 a.m. on October 7 to 6:30 p.m. on October 8, 2006.

Dated: September 8, 2006.

Larry L. Hereth,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 06–7792 Filed 9–20–06; 8:45 am]

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DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024–AC99

Curecanti National Recreation Area, Personal Watercraft Use

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: This final rule designates areas where personal watercraft (PWC) may be used in Curecanti National Recreation Area, Colorado. This final rule implements the provisions of the National Park Service (NPS) general regulations authorizing park areas to allow the use of PWC by promulgating a special regulation. Individual parks must determine whether PWC use is appropriate for a specific park area based on an evaluation of that area's enabling legislation, resources and values, other visitor uses, and overall management objectives.

DATES: *Effective Date:* This rule is effective September 21, 2006.

ADDRESSES: Mail inquiries to Superintendent, Curecanti National Recreation Area, 102 Elk Creek, Gunnison, CO 81230 or e -mail NPS at *CURE_Superintendent@nps.gov*.

FOR FURTHER INFORMATION CONTACT: Jerry Case, Regulations Program Manager, National Park Service, 1849 C Street, NW., Room 7241, Washington, DC 20240. Phone: (202) 208–4206. E-mail: *jerry_case@nps.gov*.

SUPPLEMENTARY INFORMATION:

Background

Personal Watercraft Regulation

On March 21, 2000, the National Park Service published a regulation (36 CFR 3.24) on the management of personal watercraft (PWC) use within all units of the national park system (65 FR 15077). The regulation prohibits PWC use in all national park units unless the NPS determines that this type of water-based recreational activity is appropriate for the specific park unit based on the legislation establishing that park, the park's resources and values, other visitor uses of the area, and overall management objectives. The regulation prohibited PWC use in all park units effective April 20, 2000, except 21 preserves, lakeshores, seashores, and recreation areas. The regulation established a 2-year grace period following the final rule publication to provide these 21 park units time to consider whether PWC use should be allowed. On November 7, 2002 PWC use was discontinued at Curecanti National Recreation Area.

Description of Curecanti National Recreation Area

Curecanti National Recreation Area (Curecanti) was established in 1965 to provide for conservation of scenic, natural, historic, archeological, and wildlife values. The goal of the National Recreation Area is to provide for public use and enjoyment while ensuring visitor safety, resource preservation, and conservation. Curecanti is located along U.S. Highway 50 (U.S. 50) west of Gunnison, Colorado.

Three reservoirs, named for corresponding dams on the Gunnison River, form the heart of Curecanti. The three reservoirs are Blue Mesa Reservoir, Morrow Point Reservoir, and Crystal Reservoir. Blue Mesa Reservoir is Colorado's largest body of water and is home to the biggest Kokanee Salmon fishery in the United States. Morrow Point Reservoir is the beginning of the Black Canyon of the Gunnison. Crystal Reservoir is the site of the Gunnison Diversion Tunnel, a National Historic Civil Engineering Landmark. In addition to the three reservoirs, recently discovered dinosaur fossils, a 5,000 acre archeological district, a narrow gauge train, and traces of 6,000 year old dwellings further enhance the significance of Curecanti.

Purpose of Curecanti National Recreation Area

The purpose and significance statements listed below are from Curecanti's *Strategic Plan and General Management Plan*. Curecanti National Recreation Area was established for the following purposes:

1. Conserve the scenery, natural, historic, and archeological resources, and wildlife of Curecanti.

2. Provide for public use and enjoyment in such a way as to ensure visitor safety and resource preservation or conservation by establishing and maintaining facilities and providing protection and interpretive services.

3. Manage the lands, waters, and activities of Curecanti in such a way that it does not interfere with the purposes of the Colorado River Storage Project Act and other Bureau of

Reclamation agreements affecting the operation of the Aspinall Unit.

4. Mitigate the loss of fish and wildlife resources as a result of the Colorado River Storage Project.

Significance of Curecanti National Recreation Area

The following statements summarize the significance of Curecanti:

1. Blue Mesa Reservoir is one of the largest high-altitude bodies of water in the United States. It provides an exciting diversity of water recreation opportunities for windsurfers, sail boaters, and water skiers.

2. The scenic values of the canyon, the needles, the pinnacles, and the reservoirs provide dramatic contrast, which causes visitors to slow down, pause, and reflect on the diversity of the landscape and its spaciousness.

3. Curecanti provides one of the best cold-water fishing opportunities in the nation. This is due primarily to the Kokanee salmon run occurring in Blue Mesa. The Morrow Point and Crystal Reservoirs' trout fisheries routinely attract fishing enthusiasts from throughout the nation because of the high-quality trout fishing and uniqueness of the canyon environment.

4. The prehistoric and historic stories of human culture in the Curecanti area are recorded in the traces and tracks left by Native Americans, miners, railroaders, and ranchers. The cultural history of this area documents not only the human struggles to survive but also how changing human value systems; economic, social, and technological changes; and the importance of water have shaped the use and character of the land and its people. Cultural history contains archeological examples of some of the oldest villages found in North America, predating the building of the pyramids.

5. The narrow-gauge railroad exhibit in Cimarron graphically portrays the story of technology's effects of shaping people and using land; the agony and difficulties of building track in narrow canyons in the winter where the sun seldom shined; and of taking the hard way instead of the easy trail. Examples of a locomotive, tender, and caboose used on the railroad are on exhibit at Cimarron.

The park's mission statement is as follows: ''Curecanti National Recreational Area will preserve, protect, and interpret the tremendous collection of nationally significant, diverse natural and cultural resources balanced with the provision of outstanding recreational opportunities.''

Authority and Jurisdiction

Under the National Park Service's Organic Act of 1916 (Organic Act) (16 U.S.C. 1 *et seq.*) Congress granted the NPS broad authority to regulate the use of the Federal areas known as national parks. In addition, the Organic Act (16 U.S.C. 3) authorizes the NPS, through the Secretary of the Interior, to ''make and publish such rules and regulations as he may deem necessary or proper for the use and management of the parks * * *''

16 U.S.C. 1a–1 states, ''The authorization of activities shall be conducted in light of the high public value and integrity of the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established * * *''

As with the United States Coast Guard, NPS's regulatory authority over waters subject to the jurisdiction of the United States, including navigable waters and areas within their ordinary reach, derives from the U.S. Constitution. In regard to the NPS, based upon the Property and Commerce Clauses, Congress in 1976 directed the NPS to ''promulgate and enforce regulations concerning boating and other activities on or relating to waters within areas of the National Park System, including waters subject to the jurisdiction of the United States * * *'' (16 U.S.C. 1a–2(h)). In 1996 the NPS published a final rule (61 FR 35136, July 5, 1996) amending 36 CFR 1.2(a)(3) to clarify its authority to regulate activities within the National Park System boundaries occurring on waters subject to the jurisdiction of the United States.

PWC Use at Curecanti National Recreation Area

Curecanti National Recreation Area includes Blue Mesa Reservoir, which was created with the completion of the Blue Mesa Dam. Blue Mesa Reservoir is comprised of three basins: Sapinero, Cebolla, and Iola as well as various arms. The basins are often referred to as the main body of the reservoir to distinguish activities there from activities in the arms.

Approximately 1 million visitors use Curecanti's facilities annually. This figure includes visitors who pursue water-based recreation activities on the reservoir and those who engage in other recreation opportunities. Motorboats and other watercraft have been used in Curecanti since 1975. Personal watercraft have emerged at Curecanti only since their introduction in the 1980s, and particularly since the summer of 1995 when personal watercraft were available for rent from a park concessioner. Park staff believes PWC use has increased since 1995, and a registration survey mailed to vessel users requesting an annual permit revealed that in 2000, 0.69% of over 400 respondents were PWC users. The annual use is estimated to have been 792 PWC in 2002, and is predicted to increase at approximately 2% annually to 965 PWC in 2012. Based on ranger observation, most PWC users are from Colorado, they limit their PWC use to approximately 2 hours, and they wear a wetsuit because of cold-water temperatures and high afternoon winds. In addition, PWC use has conflicted with both bank and boat fishermen from Dry Creek to Bay of Chickens. Before the prohibition on PWC use, the General Management Plan and Superintendent's Compendium allowed personal watercraft and other watercraft to operate only on the main body of the Blue Mesa Reservoir and lake arms with speed and zone restrictions. PWC use was prohibited in all other areas of the park through restrictions on horsepower and restrictions on motorized vessels. Personal watercraft generally did not operate at the extreme ends of lake arms because the arms are narrow in width. On the main body of the reservoir, personal watercraft were widely distributed. In addition to the main body, high-use areas include the Iola Basin and Colorado State Highway 149 (Highway 149) areas. Other locations with limited use include Stevens Creek, Cebolla Basin, Soap Creek Arm, Bay of Chickens, and the main marina at Elk Creek.

This rulemaking is focusing exclusively on PWC use at the park. The park also intends to develop a water/vessel management plan for the use of other vessels.

NPRM and Environmental Assessment

On March 17, 2006, the National Park Service published a Notice of Proposed Rulemaking (NPRM) for the operation of PWC at Curecanti (71 FR 13792). The proposed rule for PWC use was based on alternative A (one of three alternatives considered) in the Environmental Assessment (EA) prepared by NPS for Curecanti. The EA was open for public review and comment from June 11, 2003 until July 13, 2003. The EA is available at *http://www.nps.gov/cure/webvc/pwc_use.htm*.

The purpose of the environmental assessment was to evaluate a range of alternatives and strategies for the management of PWC use at Curecanti to ensure the protection of park resources and values while offering recreational

opportunities as provided for in the National Recreation Area's enabling legislation, purpose, mission, and goals. The assessment assumed alternatives would be implemented beginning in 2002 and considered a 10-year period, from 2002 to 2012. The assessment also compared each alternative to PWC use before November 7, 2002, when the prohibition took effect.

The environmental assessment evaluated three alternatives addressing the use of personal watercraft at Curecanti:

Alternative A—By using a special regulation, the park would reinstate PWC use as previously managed prior to November 7, 2002, and would add one buffer zone as described below. Under this alternative, PWC use would occur in areas of Blue Mesa Reservoir and portions of the lake arms. Areas appropriate for PWC use would include Sapinero, Cebolla, and Iola Basins; Bay of Chickens; Dry Creek; Elk Creek; the Highway 149 area; and Lake Fork, Soap Creek, and West Elk arms. Operation of all motorized watercraft would continue to be prohibited in areas east of Beaver Creek within the Gunnison River Canyon and in the area downstream from the East Portal diversion dam. All designated launch areas on Blue Mesa Reservoir (developed and unimproved) would remain open to PWC use. Personal watercraft would be allowed to land on any shoreline at Blue Mesa Reservoir.

The following areas would remain closed to all boating, including personal watercraft, and shoreline entry: Blue Mesa Dam downstream for 225 yards, Morrow Point Dam downstream for 130 yards, Crystal Dam downstream for 700 yards, and East Portal diversion dam upstream for 60 yards. In addition, the following areas would be zoned as flat wake speed areas: The area upstream from Lake City Bridge to Beaver Creek; the area within the arms of Blue Mesa Reservoir that is less than 1,000 feet from shore to shore at full pool level. These areas will be marked by designated buoys. These arms include Soap Creek Arm, West Elk Arm, Lake Fork Arm, and Cebolla Arm; narrow waterways off the Bay of Chickens and Dry Creek; Elk Creek and Lake Fork Marinas; and Iola and Stevens Creek boat launch areas.

In addition to the areas outlined above, a 100-foot buffer zone from the shoreline would be established at the Stevens Creek campground, as marked by buoys. The buffer area would be zoned as a flat wake speed area. A buffer zone will provide for the protection of an active Gunnison sage grouse lek and nesting area, and would mitigate potential noise impacts from PWC use and associated shoreline use during the lek and nesting season (mid-March–July).

Alternative B—Same as alternative A, with the following additional restrictions. This alternative would establish a 100-foot buffer zone along the south shore of Blue Mesa Reservoir from 0.5 mile west of Iola to 0.5 mile east of Middle Bridge for soundscape, cultural resource, and wildlife protection as well as to prevent erosion.

Alternative B includes further speed restrictions. Under this alternative, the additional speed restrictions would apply to PWC use in each of the lake arms on Blue Mesa Reservoir from the mouth of each lake arm upriver to the flat wake areas. In these restricted areas PWC use would need to operate at flat wake speeds when within 150 feet of another boat, a person in or floating on the water, shore fisherman, a launching ramp, a dock, or a designated swimming area.

No-Action Alternative—The park would continue the PWC prohibition. PWC use would not be reinstated and the National Park Service would not take action to draft a special regulation to reinstate PWC use.

Alternative A is the park's preferred alternative because it best fulfills the park responsibilities as trustee of the sensitive habitat; ensures safe, healthful, productive, and aesthetically and culturally pleasing surroundings; and attains a wider range of beneficial uses of the environment without degradation, risk of health or safety, or other undesirable and unintended consequences.

This final rule contains regulations to implement alternative A at Curecanti.

Summary of Comments

A proposed rule on PWC use in the Curecanti National Recreation Area was published in the **Federal Register** for public comment on March 17, 2006, with the comment period lasting until May 16, 2006 (71 FR 13792). The National Park Service (NPS) received 2,325 timely written comments regarding the EA and proposed regulation. Of the comments, 1,935 were form letters in 10 different formats, 345 were on a petition, and 45 were separate letters. Of the 45 separate letters, 37 were from individuals, 7 from organizations, and 1 from a public agency. Within the following discussion, the term ''commenter'' refers to an individual, organization, or public agency that responded. The term ''comments'' refers to statements made by a commenter.

General Comments

1. Several commenters, including Bluewater Network and the American Canoe Association, stated that the EA failed to use the best data available and picked alternative A without adequate scientific justification.

NPS Response: The EA analyzed every applicable impact topic with the best available data, as required by Council on Environmental Quality regulations (40 CFR 1502.22). Where data was lacking, best professional judgment prevailed using assumptions and extrapolations from scientific literature, other park units where personal watercraft are used, and personal observations of park staff.

2. Several commenters stated that allowing PWC use with additional restrictions violates the park's enabling legislation and NPS mandate to protect resources from harm.

NPS Response: The NPS analysis of PWC use specifically considered the requirements of Curecanti National Recreation Area's enabling legislation. The authorizing legislation for Curecanti was carefully considered when developing alternatives for the EA. The objective of the EA, as described in the ''Purpose and Need'' Chapter of the EA, was derived from the enabling legislation for Curecanti. As a result, the alternatives presented in the EA were developed to protect resources and values while providing recreational opportunities at Curecanti. As required by NPS policies, the impacts associated with PWC and other recreational uses are evaluated under each alternative to determine the potential for impairment to park resources. NPS has concluded that alternative A would not result in impairment of park resources and values for which the Curecanti was established. The recreation area's enabling legislation also states that the ''Secretary shall administer Curecanti National Recreation Area for general purposes of public outdoor recreation.'' The goal of the national recreation area is to provide each visitor with an educational, enjoyable, safe and memorable experience.

3. One commenter suggested clarifying the language in the proposed rule about landing restrictions near the dam.

NPS Response: We agree and text has been added to the rule to address the buoyed barricaded sections in the vicinity of the dams, where boats are not allowed.

4. One commenter stated the analysis did not adequately consult with and seek the expertise of various agencies,

which appears to violate the NPS PWC regulations.

NPS Response: The final PWC regulation published by the NPS in March 2000 indicates that we intend to seek the expertise of the U.S. Environmental Protection Agency (EPA), Occupational Safety and Health Administration (OSHA) and other relevant agencies and literature when deciding whether to allow continued PWC use in units of the National Park System. The EA references EPA and OSHA regulations and studies throughout the document.

5. Several commenters stated that the decision violates the Organic Act and will result in the impairment of resources.

NPS Response: The ''Summary of Laws and Policies'' section in the ''Environmental Consequences'' chapter of the EA summarizes the three overarching laws that guide the NPS in making decisions concerning protection of park resources. These laws, as well as others, are also reflected in the NPS Management Policies. An explanation of how the NPS applied these laws and policies to analyze the effects of personal watercraft on Curecanti resources and values can be found under ''Impairment Analysis'' in the ''Methodology'' section of the EA.

Under the EA's methodology, an impairment to a particular park resource or park value is indicated when the impact reaches the magnitude of ''major,'' as defined by its context, duration, and intensity and must also affect the ability of the National Park Service to meet its mandates as established by Congress in the park's enabling legislation. For each impact topic, the EA establishes thresholds or indicators of magnitude of impact. For each impact topic, when the intensity approached ''major,'' the park would consider mitigation measures to reduce the potential for ''major'' impacts, thus reducing the potential for impairment. The NPS has determined that the preferred alternative would not result in impairment of park resources or values.

6. One commenter is concerned about PWC use conflicting with swimmers and anglers at Curecanti.

NPS Response: Additional management restrictions have been put into effect in the regulation to prevent conflicts with swimmers, shore anglers and watercraft. The popular day use areas, such as Dry Creek and Bay of Chickens, have flat wake buoys in place to keep vessels at flat wake speeds in congested areas until they are out into open water. The preferred alternative would keep this restriction in place.

7. One commenter is concerned that the assumption of PWC growth at Curecanti may be underanalyzed, and instead of using a 2 percent growth rate in the analysis, a 5 percent growth rate would more accurately reflect the conditions in Colorado.

NPS Response: The estimated annual increase in PWC use of 2% appears justified in light of several lines of evidence. While the overall increase in PWC use from 1994 to 2002 is over 300%, the majority of that increase occurred through 1997. Since then, the increases decreased every year to the point where there was a net decrease of 1% between 2001 and 2002. This decrease in PWC use in Colorado parallels the decrease in nationwide PWC use and the decrease in visitors to the park between 1999 and 2001. The projected annual growth in population in the region and the state is 1.7 to 2.0%. For this combination of reasons, the projected increase in PWC use at the park is reasonable.

Comments Regarding Water Quality

8. Several commenters stated that research indicated that direct-injection 2-stroke engines are dirtier than 4-stroke engines.

NPS Response: Total hydrocarbons (THC) emissions factors for 2-stroke carbureted PWC engines are approximately 13 times greater than for 4-stroke PWC engines. This is a major factor in the EPA rule requiring the phase out of carbureted 2-stroke engines. However, the two-stroke direct injection engines are almost as clean burning as the four-stroke.

9. One commenter stated that the analysis disregarded or overlooked relevant research regarding impacts to water quality from PWC use as well as the impact to downstream resources and long-term site specific water quality data on PWC pollutants.

NPS Response: The EA states that in 2002 impacts to water quality from PWC on a high-use day would be negligible for all chemicals evaluated based on ecological and human health benchmarks and for benzo(a)pyrene based on human health benchmarks.

10. One commenter stated that the assumption that there is enough water in the lake to dilute PWC pollutants to levels that do not violate state and Federal standards is incorrect, and that the concentration of PWC operation in certain areas of the lake means that there is less water available for mixing.

NPS Response: As described on pages 51 and 52 of the EA, the effective mixing zone volume of 52,433 acre-feet (which is compared to the threshold volumes) is based on the difference between the volume at minimum pool (192,270 acre-feet) and the volume at the thermocline (139,837 acre-feet). This is a conservative estimate of the mixing zone for the reservoir because the lowest recorded elevation of the reservoir is 7,428 feet while the minimum pool elevation is 7,393 feet, a difference of 35 feet. At the time of preparation of the EA (January 2003), the elevation was 7,445 feet, 52 feet above minimum pool. While PWC use may be concentrated in, but not restricted to, areas between Elk Creek and the Lake City Bridge and in the Soap Creek Arm, water in these areas will mix with waters outside of the areas. The maximum calculated threshold volume needed to dilute emissions from personal watercraft under any alternative is 4,534 acre-feet for benzene in 2002 (see Table 18 of EA). Impacts to water quality are termed negligible in view of the fact that the threshold volume is less than the available mixing zone volume and that the half-life of benzene is less than 5 hours. This assessment of adverse impacts due to PWC use on a peak-use day (16 personal watercraft) is conservative even if PWC use is concentrated in a few areas of the reservoir.

11. One commenter stated that the analysis represents an outdated look at potential emissions from an overstated PWC population of conventional 2-stroke engines, and underestimated the accelerating changeover to 4-stroke and new 2-stroke engines. The EA also states that benzo(a)pyrene concentrations in gasoline range from 0.19 to 2.8 mg/kg, but the EA chooses the highest figure for the analysis. The net effect is that the analysis overestimates potential PWC hydrocarbon emissions, including benzene and polycystic aromatic hydrocarbons (PAHs), to the water in Blue Mesa Reservoir.

NPS Response: Assumptions regarding PWC use (16 per day in 2002 and 20 per day in 2012) were based on actual count data from the month of July 2002 and on park staff observations. Because of holiday timing in 2001 and poor weather, the observation of 9 personal watercraft on a peak-use day was thought to be more typical of a non-peak use summer day, not a peak-use day. Therefore, peak-use PWC numbers in 2002 were estimated to be 16 vessels. PWC use at other times of the year ranged from 0 to 4 PWC per day. Data for the years 2001 and 2002 were the only data available for Curecanti (page 75 of EA). Because data from other years were not available, trends in PWC use at Curecanti could not be determined for use in the EA. The July 2002 estimate can be considered a ''worst case''

estimate, but it is not ''unrealistic'' since it is based on actual Curecanti data and park staff observations. Despite these conservative estimates, impacts to water quality from personal watercraft are judged to be negligible for all alternatives evaluated. If the assumptions used were less than conservative, the conclusions could not be considered protective of the environment, while still being within the range of expected use.

12. One commenter stated that even minor oil spills can cause increased levels of volatile organic compounds (VOCs) and PAHs in the water, which will cause damage to aquatic wildlife.

NPS Response: Impacts to wildlife from PWC under alternative A range from negligible to minor adverse. Impacts to water quality from the discharge of fuel constituents under alternative A range from negligible to minor adverse.

13. One commenter stated that levels of methyl tertiary-butyl ether (MTBE) levels must be tested and disclosed to the public, yet the EA does not disclose the levels of toxins (BTEX, PAHs and MTBE) from samples taken in the summer of 2000.

NPS Response: MTBE was not included in the analysis of impacts to water quality because MTBE is banned in Colorado and is unlikely to be brought into the park in large quantities. Although potential concentrations of gasoline-related constituents in the water were not included in the proposed rule, they were used in the calculations of water volumes needed to dilute constituents to levels below the ecotoxicological and human health benchmarks in the Environmental Consequences section of the EA.

Colorado is not the only state to ban MTBE. According to data provided by the Energy Information Administration (EIA) (*http://www.eia.doe.gov/oiaf/servicerpt/mtbeban/table1.htm*), which was last updated March 27, 2003, 17 states have banned or restricted the concentration of MTBE in gasoline.

Comments Regarding Air Quality

14. One commenter stated that the analysis failed to mention the impact of PWC permeation losses on local air quality.

NPS Response: Permeation losses of volatile organic compounds (VOCs) from personal watercraft were not included in the calculation of air quality impacts primarily because these losses are insignificant relative to emissions from other operating watercraft. Also, permeation losses were not included because of numerous related unknown contributing factors such as the number of personal watercraft refueling at the reservoir and the location of refueling (inside or outside of the airshed). Using the permeation loss numbers in the comment (estimated to be half the total of 7 grams of losses per 24 hours from the fuel system), the permeation losses per hour from fuel systems are orders of magnitude less than emissions from operating personal watercraft. Therefore, we believe the inclusion of permeation losses would not have a significant effect on the results of the air quality impact analyses.

15. One commenter expressed concern that PWC emissions were declining faster than forecasted by the EPA. As the Sierra Report documents, in 2002, hydrocarbons (HC) + nitrogen oxides (NO_X) emissions from the existing fleet of PWC were already 23% lower than they were before the EPA regulations became effective, and will achieve reductions greater than 80% by 2012.

NPS Response: The EPA data incorporated into the 1996 Spark Ignition Marine Engine rule were used as the basis for the assessment of air quality, and not the Sierra Research data. It is agreed that these data show a greater rate of emissions reductions than the assumptions in the 1996 Rule and in the EPA NONROAD Model, which was used to estimate emissions. However, the level of detail included in the Sierra Research report has not been carried into the EA for reasons of consistency and conformance with the model predictions. Most states use the EPA NONROAD Model for estimating emissions from a broad array of mobile sources. To provide consistency with state programs and with the methods of analysis used for other similar NPS assessments, the NPS has elected not to base its analysis on focused research such as the Sierra Report for assessing PWC impacts.

It is agreed that the relative quantity of HC + NO_X are a very small proportion of the county based emissions and that this proportion will continue to be reduced over time. The EA takes this into consideration in the analysis.

For consistency and conformity in approach, the NPS has elected to rely on the assumptions in the 1996 Spark Ignition Engine Rule which are consistent with the widely used NONROAD emissions estimation model. The outcome is that estimated emissions from combusted fuel may be in the conservative range, if compared to actual emissions.

Comments Regarding Soundscapes

16. One commenter stated that continued PWC use at Curecanti will not result in sound emissions that exceed the applicable Federal or State noise abatement standards, and technological innovations by the PWC companies will continue to result in substantial sound reductions.

NPS Response: The NPS concurs that on-going and future improvements in engine technology and design would likely further reduce the noise emitted from PWC. However, given the ambient noise levels in the recreation area, it is unlikely that the improved technology could reduce all cumulative impacts of motorized vessels beyond minor to moderate through out the recreation area.

17. One commenter stated that the NPS places too much hope in new technologies significantly reducing PWC noise since there is little possibility that the existing fleet of more than 1.1 million machines (most of which are powered by conventional two-stroke engines) will be retooled to reduce noise. Furthermore, many PWC owners modify the exhaust system to increase horsepower and thrust, which can render useless the attempts by manufacturers to reduce engine noise levels.

NPS Response: The analysis of the preferred alternative states that noise from PWC would continue to have minor to moderate, temporary adverse impacts, and that impact levels would be related to number of PWC and sensitivity of other visitors. This recognizes that noise will occur and will bother some visitors, but site-specific modeling was not needed to make this assessment. The availability of noise reduction technologies is also growing, and we are not aware of any scientific studies that show these technologies do not reduce engine noise levels. Also, the analysis did not rely heavily on any noise reduction technology. It recognizes that the noise from the operation of PWC will always vary, depending on the speed, manner of use, and wave action present.

Although PWC use does occur throughout the lake, it is concentrated more in certain areas, and this is noted in the soundscapes impact analysis that follows the introductory statements and assumptions listed on page 104 of the EA. The analysis did not assume even distribution of PWC and predicted moderate impacts from concentrated PWC use in one area.

Comments Regarding Wildlife and Threatened and Endangered Species

18. One commenter stated that the analysis lacked site-specific data for impacts to wildlife, fish, and threatened and endangered species at Curecanti.

NPS Response: The park did not conduct site-specific studies regarding potential effects of PWC use on wildlife species at Curecanti. Analysis of potential impacts of PWC use on wildlife at the national recreation area was based on best available data, input from park staff, and the results of analysis using that data.

19. One commenter stated that PWC use and human activities associated with their use may not be any more disturbing to wildlife species than any other type of motorized or non-motorized watercraft. The commenter cites research by Dr. Rodgers, of the Florida Fish and Wildlife Conservation Commission, whose studies have shown that PWC are no more likely to disturb wildlife than any other form of human interaction. PWC posed less of a disturbance than other vessel types. Dr. Rodgers' research clearly shows that there is no reason to differentiate PWC from motorized boating based on claims on wildlife disturbance.

NPS Response: Based on the documents provided as part of this comment, it appears that PWC are no more apt to disturb wildlife than are small outboard motorboats; however, disturbance from both PWC and outboard motorboats does occur. In addition to this conclusion, Dr. Rogers recommends that buffer zones be established, creating minimum distances between boats (personal watercraft and outboard motorboats) and nesting and foraging waterbirds. Under the final rule, there will be a 100-foot buffer around Steven's Creek campground for Gunnison sage grouse protection. This buffer area will be zoned as flat wake speed for all motorized watercraft. The arms of the lake would remain flat wake speed areas to minimize disturbances to wildlife and visitors. Impacts to wildlife and wildlife habitat under all the alternatives were judged to be minor to moderate from all visitor activities.

20. One commenter is concerned that the EA does not consider a large enough area inland in its analysis for PWC noise and its impact upon wildlife. The EA states that PWC may disturb wildlife along the shore, extending inland approximately 100 feet, while the distance used for analyzing impacts upon humans is ¾ of a mile.

NPS Response: The evaluation area used in the EA for noise impacts to wildlife is 200 feet, not 100 feet from the shoreline. Even within this relative short distance from personal watercraft, noise impacts to wildlife are expected to be short-term and either minor or negligible. Noise levels from PWC use would be decreased further at greater distances. However, additional potentially affected wildlife may be present within 3/4 mile of the shoreline. Therefore impact levels may increase slightly from those described for the various alternatives and wildlife categories. In the errata to the EA, impacts described as negligible were changed to minor, impacts described as minor were changed to moderate, and ranges of impacts from negligible to minor were changed to minor to moderate.

21. Several commenters are concerned about PWC impacting the Gunnison sage grouse and its habitat and lek located near Stevens Creek campground.

NPS Response: Under the final rule, a 100-foot buffer area, as marked by buoys, will be implemented around Steven's Creek campground for protection of the Gunnison sage grouse lek. This buffer area will be zoned as flat wake speed for all motorized vessels.

22. One comment stated that the additional buffer zones proposed for Gunnison sage grouse protection are not necessary because the NPS already has procedures in place that protect the grouse lek located near Stevens Creek campground.

NPS Response: The flat wake zone near Stevens Creek campground will apply to all motorized boats, and would afford additional protection to the Gunnison sage grouse during the lek season, which extends from March through mid-May, when PWC and other boats may be in use on the reservoir.

Comments Regarding Vegetation

23. One commenter stated that there has been no documentation of any adverse effects to shoreline vegetation from PWC use.

NPS Response: The NPS agrees. There are no sensitive shoreline species and vegetation along the Blue Mesa Reservoir shoreline is generally lacking. The shoreline buffer established near Stevens Creek campground and in the arms of the lake will provide some additional protection from erosion caused from wave action created by PWC. Shoreline vegetation is more likely to be impacted from wave action when the reservoir is at full pool.

Comments Regarding Visitor Safety

24. One commenter stated that the conclusion that PWC use poses a health and safety risk ''primarily to the operators'' themselves is mistaken and the analysis does not adequately assess the safety threat posed to park visitors by PWC use.

NPS Response: Incidents involving watercraft of all types, including PWC, are reported to and logged by NPS staff. A very small proportion of incidents in the recreation area are estimated to go unreported. In the ''Visitor Conflicts and Visitor Safety'' section of the ''Affected Environment'' chapter of the EA, it is reported by the National Transportation Safety Board that in 1996 personal watercraft represented 7.5% of state-registered recreational boats but accounted for 36% of recreational boating accidents. In the same year, PWC operators accounted for more than 41% of people injured in boating accidents. PWC operators accounted for approximately 85% of the persons injured in accidents studied in 1997.

25. One commenter stated that the accident data used in the analysis was outdated and incorrect because PWC accidents are reported more often than other boating accidents.

NPS Response: The mediating factors described in the comment are recognized. However, these factors are unlikely to fully explain the large difference in percentages (PWC are only 7.5% of registered vessels, yet they are involved in 36% of reported accidents). In other words, PWC are 5 times more likely to have a reportable accident than are other boats. Despite these national boating accident statistics, impacts of PWC use and visitor conflicts are judged to be negligible relative to swimmers and minor impact relative to other motorboats at the national recreation area.

26. Several commenters stated that the NPS analysis downplayed the threat PWC pose to the visiting public, specifically regarding PWC fire hazards.

NPS Response: According to the National Marine Manufacturers Association (NMMA), PWC manufacturers have sold roughly 1.2 million watercraft during the last ten years. Out of 1.2 million PWC sold, the U.S. Coast Guard had only 90 reports of fires/explosions in the years from 1995–1999. This is less than 1% of PWC boats having reports of problems associated with fires/explosions. As far as the recall campaigns conducted by Kawasaki and Bombardier, the problems that were associated with fuel tanks were fixed. Kawasaki conducted a recall for potentially defective fuel filler necks and fuel tank outlet gaskets on 23,579 models from the years 1989 and 1990. The fuel tank problems were eliminated in Kawasaki's newer models, and the 1989 and 1990 models are most likely not in use anymore, since life expectancy of a PWC is only five to seven years, according to the PWC Industry Association (PWIA). Bombardier also did a recall for its 1993, 1994, and 1995 models to reassess possible fuel tank design flaws.

However, the number of fuel tanks that had to be recalled was a very small percent of the 1993, 1994, and 1995 fleets, because fuel tank sales only amounted to 2.16% of the total fleet during this period (Bombardier Inc.). The replacement fuel tanks differed from those installed in the watercraft subject to the recall in that the replacement tanks had revised filler neck radius, and the installation procedure now also requires revised torque specifications and the fuel system must successfully complete a pressure leak test. Bombardier found that the major factor contributing to PWC fires/explosions was over-torquing of the gear clamp. Bombardier was legally required by the U.S. Coast Guard to fix 9.72% of the recalled models. Out of 125,349 recalls, the company repaired 48,370 units, which was approximately 38% of the total recall, far exceeding their legal obligation to repair units with potential problems.

Further, fuel tank and engine problems that could be associated with PWC fires have been reduced significantly since the NMMA set requirements for meeting manufacturing regulations established by the U.S. Coast Guard. Many companies even choose to participate in the more stringent Certification Program administered by the NMMA. The NMMA verifies annually, or whenever a new product is put on the market, boat model lines to determine that they satisfy not only the U.S. Coast Guard regulations but also the more rigorous standards based on those established by the American Boat and Yacht Council.

27. One commenter stated that demographic and usage information demonstrates that today's PWC owner typically uses PWC for family-oriented outings, and that they are not reckless ''stunt'' operators.

NPS Response: NPS agrees that some PWC operators are more mature and are not reckless with their machines, and that many trips are family-oriented. However, PWC use does vary, and many operators still use the machines for ''thrill,'' including stunts, wake jumping, and other more risky exercises. Some users can still create disturbances or safety concerns, especially if children are operating the vessel. As part of the implementation of the final rule, NPS will provide additional enforcement and education to minimize the possibility of any serious injuries.

28. One commenter stated that even though the industry has attempted to promote three-person PWC as family machines, they are advertised and marketed as thrillcraft that tout the machine's speed and power in advertisements.

NPS Response: NPS agrees. However, some PWC operators are better educated and are not reckless with their machines, and many trips are family-oriented. PWC use does vary, and many operators still use the machines for ''thrill,'' including stunts, wake jumping, and other more risky exercises.

29. One commenter stated that several agencies, including the U.S. Coast Guard and the National Association of State Boating Law Administrators, recommend uniform application of flat wake zones to all motorized vessels.

NPS Response: The flat wake restrictions apply to all vessels, not just PWC. All vessels are required to observe the flat wake regulatory buoys as required by 36 CFR 3.6(c).

30. Several commenters were concerned about the NPS' reliance on PWC ''self-policing'' regarding speed and flat wake zones, and that both alternative A and B will require additional staff to monitor and enforce the restrictions.

NPS Response: The EA does state that generally there is at least one law enforcement ranger on the reservoir daily during daylight hours. There are also employees from other divisions who make boating contacts and/or report violations they observe while performing their tasks on the reservoir. Park staff noted that visitors frequently report violators of boating regulations, especially in the marinas.

Furthermore, enforcement would also be required under the no-action alternative. The park is fully aware that this new regulation will require short-term changes and reallocation of assets and resources, with an increase in enforcement. However, this effort will generally occur at popular boating use areas that are already the focus of enforcement activity. Enforcement of the November 6, 2002, prohibition of PWC required an increased focus on education and PWC enforcement during routine patrols at a limited number of popular use areas. This education and enforcement effort became successful in about two boating seasons. Additional educational efforts and a presence on the water by park rangers are proven methods of protecting resources for the future enjoyment of all visitors, with the end result of enhancing the visitor experience.

Comments Regarding Cultural Resources

31. One commenter stated that the analysis refers to a potential concern that the ability of PWC operators to access remote areas of the park unit might make certain cultural, archeological and ethnographic sites vulnerable to looting or vandalism.

NPS Response: The EA was focused on the analysis of impacts from PWC use. The use of a PWC can make it easier to reach some remote upstream areas, compared to hiking to these areas and we agree that the type of impacts to cultural resources from any users of remote areas of the park would be similar if they can reach these areas. However, there is no indication of any instances where these problems have occurred from PWC users. Nor is there any reason to believe that PWC users are any more likely to pose these concerns than canoeists, kayakers, hikers, or others who might access these same areas.

Comments Regarding Socioeconomics

32. Several commenters stated that the proposed rule fails to mention the economic impacts on the PWC-related businesses in the area. One of the comments also mentions a recently published economic study that discusses the economic impact of prohibiting PWC at national parks nationwide.

NPS Response: NPS reviewed the Trade Partnership study quoted in the comment, which concludes that PWC sales grew steadily through 1995, and have declined dramatically since then. The study blames this decline in sales on the PWC prohibition at National Parks. While the PWC prohibition at some National Park units may have contributed slightly to decline in PWC sales, NPS disagrees with the study's conclusion that the prohibition is the primary reason for the decline in sales. Initially PWC use occurred in only 32 of the 87 park units that allow motorized boating. These 32 park units comprise a very small percentage of the total waterways in the United States that can accommodate PWC. A decline in PWC sales can be attributed to many other reasons, including economic reasons, perceptions about the machines, and limitations by other public entities. In fact, at least 34 states have either implemented or considered regulating PWC use and operation, and various Federal agencies have managed PWC use differently than other classes of motorized watercraft.

The economic analysis report quoted in the comment (*Economic Analysis of Management Alternatives for Personal Watercraft in Curecanti National Recreation Area,* MACTEC Engineering 2003) concludes that the rule is not expected to reduce any of the local area's PWC-related businesses' profit margins or reduce the competitiveness

of PWC rental and retail businesses. The report also concludes that increases in revenue are projected under the rule, relative to the no-action alternative, for firms selling and renting PWC to Curecanti visitors.

The purpose of the economic analysis was not to look at national economic trends of the service-wide rule, but to consider local and regional economic impacts of the Curecanti proposed rule.

Changes to the Final Rule

The final rule is the same as proposed in the NPRM, except that language has been added to paragraph (d)(1) of § 7.51 to address the buoyed barricaded sections in the vicinity of the Blue Mesa Dam, where boats are not allowed. This change was made in response to comments, as discussed in section 3 of the Summary of Comments, above.

Compliance With Other Laws

Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and has not been reviewed by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The National Park Service has completed the report ''Economic Analysis of Management Alternatives for Personal Watercraft in Curecanti National Recreation Area'' (MACTEC Engineering, July 2003). This document may be viewed on the park's Web site at: *http://www.nps.gov/cure/webvc/pwc_use.htm.*

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. Actions taken under this rule will not interfere with other agencies or local government plans, policies or controls. This rule is an agency specific rule.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. This rule will have no effects on entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. No grants or other forms of monetary supplements are involved.

(4) This rule does not raise novel legal or policy issues. This rule is one of the special regulations being issued for managing PWC use in National Park Units. The National Park Service published general regulations (36 CFR 3.24) in March 2000, requiring individual park areas to adopt special regulations to authorize PWC use. The implementation of the requirement of the general regulation continues to generate interest and discussion from the public concerning the overall effect of authorizing PWC use and National Park Service policy and park management.

Regulatory Flexibility Act

The Department of the Interior certifies that this rulemaking will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This certification is based on a report entitled ''Economic Analysis of Management Alternatives for Personal Watercraft in Curecanti National Recreation Area'' (MACTEC Engineering, July 2003). This document may be viewed on the park's Web site at: *http://www.nps.gov/cure/webvc/pwc_use.htm.*

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This final rule:

a. Does not have an annual effect on the economy of $100 million or more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

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.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. This rule is an agency specific rule and does not impose any other requirements on other agencies, governments, or the private sector.

Takings (Executive Order 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. A taking implication assessment is not required. No taking of personal property will occur as a result of this rule.

Federalism (Executive Order 13132)

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This final rule only affects use of NPS administered lands and waters. It has no outside effects on other areas by allowing PWC use in specific areas of the park.

Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This regulation does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is not requried. An OMB Form 83–I is not required.

National Environmental Policy Act.

As a companion document to the NPRM, NPS issued the *Personal Watercraft Use Environmental Assessment for Curecanti National Recreation Area.* The Environmental Assessment (EA) was open for public review and comment from June 11, 2003 until July 13, 2003. A Finding of No Significant Impact (FONSI) was approved on June 16, 2006. These documents are available at *http://www.nps.gov/cure/webvc/pwc_use.htm,* or copies can be obtained directly from the park.

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) and 512 DM 2, we have evaluated potential effects on Federally recognized Indian tribes and have determined that there are no potential effects.

Administrative Procedure Act

This rule allows use of PWC in Curecanti National Recreation Area under specified conditions. Because current regulations do not allow use of PWC at all, this rule relieves a restriction on the public. For this reason, and because NPS wishes to allow the public to take advantage of the new rules as soon as possible, this final rule is effective upon publication in the **Federal Register,** as allowed by the

Administrative Procedure Act at 5 U.S.C. 553(d)(1).

The proposed rule was published in the **Federal Register** (71 FR 13792) on March 17, 2006, with a 60-day period for notice and comment consistent with the requirements of 5 U.S.C. 553(b).

List of Subjects in 36 CFR Part 7

National Parks, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, the National Park Service amends 36 CFR part 7 as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

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

Authority: 16 U.S.C. 1, 3, 9a, 460(q), 462(k); Sec. 7.96 also issued under D.C. Code 8–137(1981) and D.C. Code 40–721 (1981).

■ 2. Add new paragraph (d) to § 7.51 to read as follows:

§ 7.51 Curecanti Recreation Area.

* * * * *

(d) *Personal Watercraft (PWC).* PWC may operate within Curecanti National Recreation Area in the following designated areas and under the following conditions:

(1) PWC may operate and land on Blue Mesa Reservoir between Beaver Creek and Blue Mesa dam, except that PWC may not operate in the buoyed barricaded section in the vicinity of the dam.

(2) PWC must operate at ''flat wake'' speeds within Blue Mesa Reservoir in the following areas upstream of designated buoys:

(i) Soap Creek arm at approximate longitude 107°8′9″ N latitude 38°30′16″ W.

(ii) West Elk arm at approximate longitude 107°16′45″ N latitude 38°29′43″ W.

(iii) Cebolla arm at approximate longitude 107°12′16″ N latitude 38°27′37″ W.

(iv) Lake Fork arm at approximate longitude 107°18′19″ N latitude 38°27′2″ W.

(3) PWC must operate at ''flat wake'' speeds in the following areas:

(i) Within 100' of shoreline inside Dry Creek cove.

(ii) Within 500' of shoreline along old highway 50 and Bay of Chickens.

(iii) Within the buoyed area around Elk Creek and Lake Fork marinas.

(iv) Within the buoyed area at Iola, Stevens Creek, and Ponderosa boat launch.

(v) From Lake city bridge east to Beaver Creek.

(vi) Within 100′ of shoreline adjacent to Stevens Creek campground.

(4) PWC may only be launched from designated boat launch sites.

(5) The Superintendent may temporarily limit, restrict or terminate access to the areas designated for PWC use after taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives.

David M. Verhey,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 06–7846 Filed 9–20–06; 8:45 am]

BILLING CODE 4312–52–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 60

[EPA–OAR–2004–0510; FRL–8221–4]

RIN 2060–AF83

Methods for Measurement of Visible Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes Methods 203A, 203B, and 203C for determining visible emissions using data reduction procedures that are more appropriate for State Implementation Plan (SIP) rules than Method 9, the method currently used. This action was requested by the States and is needed for the special data reduction requirements in their rules. The intended effect is to provide States with an expanded array of data reduction procedures for determining compliance with their SIP opacity regulations.

In addition, this action amends various testing provisions in the New Source Performance Standards (NSPS) to correct inadvertent errors and amend a testing provision.

DATES: This final rule is effective on September 21, 2006.

ADDRESSES: EPA has established a docket for this action under Docket ID No. OAR–2004–0510. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Air and Radiation Docket, Docket ID No. OAR–2004–0510, EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Robin Segall, Measurement Technology Group (E143–02), Air Quality Assessment Division, EPA, Research Triangle Park, North Carolina 27711; telephone (919) 541–0893; fax number (919) 541–0516; electronic mail address: *segall.robin@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

Categories and entities potentially regulated by the final rule include the following:

TABLE 1.—MAJOR ENTITIES POTENTIALLY AFFECTED BY THIS ACTION

Examples of regulated entities	SIC codes	NAICS codes
Fossil Fuel Steam Generators	4931	221112
Industrial, Commercial, Institutional Steam Generating Units	4961	22133
Electric Generating	4911	221119
Portland Cement Plants	3241	327310
Petroleum Refineries	2911	324110
Hot Mix Asphalt Facilities	2951	324121
Kraft Pulp Mills	2611	3221
Municipal Solid Waste	4953	562213

TABLE 1.—MAJOR ENTITIES POTENTIALLY AFFECTED BY THIS ACTION—Continued

Examples of regulated entities	SIC codes	NAICS codes
Secondary Lead Smelters	3341	331492
Secondary Brass and Bronze Production Plants	3351	331421
Basic Oxidation Process Furnaces	3312	331111
Sewage Treatment Plants	4952	221320
Coal Preparation Plants	1221	212111
Ferroalloy Production Facilities	3313	331112
Electric Arc Furnaces	3312	331111
Glass Manufacturing Plants	3211	327211
Grain Elevators	0111	111141
Lime Manufacturing Plants	2812	325181
Metallic Mineral Processing Plants	1011	212210
Non-Metallic Mineral Processing Plants	1411	212311
Phosphate Rock Plants	1475	212392
Ammonium Sulfate Manufacturing Facilities	2873	325311
Asphalt Processing	2952	3244122
Asphalt Roofing Manufacturing	2952	324122
Calciners and Dryers in Mineral Industries	1479	212393

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. This table lists examples of the types of entities EPA is now aware could potentially be affected by the final rule. Other types of entities not listed could also be affected. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. How can I access electronic copies of this document and other related information?

In addition to being available in the docket, an electronic copy of today's final rule will also be available on the Worldwide Web (WWW) through the Technology Transfer Network (TTN). Following the Administrator's signature, a copy of the final rule will be placed on the TTN's policy and guidance page for newly proposed or promulgated rules at *http://www.epa.gov/ttn/oarpg.* The TTN provides information and technology exchange in various areas of air pollution control.

C. Judicial Review

Under Section 307(b)(1) of the Clean Air Act (CAA), judicial review of the final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by November 20, 2006. Under Section 307(d)(7)(B) of the CAA, only an objection to the final rule that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Under CAA section 307(b)(2), the requirements established by the final rule may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

D. Outline

The information presented in this preamble is organized as follows:

I. General Information
A. Does this action apply to me?
B. How can I access electronic copies of this document and other related information?
C. Judicial Review
D. Outline
II. Background and Summary of Proposed Rule
III. Response to Comments
A. Stringency of Current Standards Not Affected
B. Four Readings Not a Reliable Data Sample
IV. Changes to the Proposed Rule
A. Performance Results Added to the Methods
B. 15-Second Interval Option Removed From Method 203C
V. Summary of Amendments to the NSPS
A. Petroleum Refineries (Subpart J)
B. Kraft Pulp Mills (Subpart BB)
C. Municipal Solid Waste Landfills (Subpart WWW)
D. Performance Specification 2, Appendix B of Part 60
VI. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act
D. Unfunded Mandates Reform Act
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer Advancement Act
J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
K. Congressional Review Act

II. Background and Summary of Proposed Rule

In 1974, Method 9 of Appendix A to 40 CFR part 60 was revised. In the preamble to that rule, we recognized that the Method 9 data reduction techniques were not appropriate for some types of State implementation plan (SIP) opacity regulations. The preamble also stated the Agency's intent to propose procedures to enforce SIP limitations that were not adequately addressed by Method 9. Such SIP limitations included those with time-exception provisions (a specified number of minutes in an hour in which the opacity limit may be exceeded), as well as those that specify averaging times other than the 6 minutes advocated by Method 9. Also, Method 9 did not address data reduction procedures for instantaneous opacity limitations which are included in some SIP. In order to provide appropriate data reduction procedures for opacity limits that differ from Method 9, we proposed new test procedures for evaluating compliance with opacity standards in 1986.

The 1986 proposal contained field and observer certification procedures identical to those of Method 9, the only difference being the data reduction procedures for determining compliance with SIP regulations that contained time-exception, time-averaged, and instantaneous limitations. The 1986 proposal indicated that we would select the visible emission test method and data reduction procedures that best ensured enforcement of the SIP opacity standard in a manner consistent with the original language in the federally-

approved or promulgated SIP. We also proposed procedures for analyzing fugitive dust.

Between this 1986 proposal and the proposal of Methods 203A, B, and C in 1993, technical work continued in several areas. We completed a collaborative study of the effect of shorter observation intervals, and we developed several implementation tools, including a revised sample visible emissions observation (VEO) form to assist States in specifying the appropriate test method for the opacity limit proposed in the SIP or SIP revision.

The proposal of Methods 203A, B, and C divided the procedures proposed in 1986 into three distinct methods, allowing a State to specify the exact data reduction procedures to be used in compliance determinations. The three methods incorporated the certification procedures for observers from Method 9 without change. The only procedural differences between Methods 203A, B, and C and Method 9 are in the provisions for recording observations and data reduction.

Since the 1993 proposal of Methods 203A, B, and C, we are not aware of any new methods or changes to existing methods that would lead to substantial changes in our approach. Therefore, with one exception, we believe it is appropriate to complete this action with the changes noted in the preamble. We are not taking final action at this time with regard to procedures for fugitive dust.

III. Responses to Comments

A. Stringency of Current Standards Not Affected

The most frequent comment concerned the possibility of current regulations being affected by these new methods. Examples of these concerns are: (1) Method 203B would increase the stringency of current time-exception regulations, (2) Methods 203A, B, and C would displace Tennessee's four federally approved visible emission methods, and (3) decreasing the averaging time demands an increase in the level of the standard.

Methods 203A, B, and C are not retroactive; they do not apply to existing regulations. Methods 203A, 203B, and 203C are example methods for States to use in developing their SIP regulations. The addition of these methods to Appendix M of Part 51 will increase the number of opacity methods available to the State and will not affect the stringency of any existing standard.

A comment regarding the data reduction procedures of Method 203B expressed a similar concern. Some current time-exception methods count the number of 1-minute averages that are over the maximum opacity specified. The sum of 1-minute averages must not exceed the number of exception-minutes specified in the applicable standard. Method 203B contains slightly different data reduction procedures in which the readings are not averaged, but each reading is viewed as a 15-second block of time. The number of readings above the specified opacity limit is multiplied by 0.25 resulting in the total number of minutes during which the maximum opacity level is exceeded. Method 203B is a slightly more stringent procedure than summing 1-minute averages. As mentioned above, Methods 203A, B, and C are not retroactive and the stringency of visible emission procedures need to be taken into account when the new or revised emission limits are developed.

B. Four Readings Not a Reliable Data Sample

We proposed two options when using Method 203C: Averaging four 15-second readings or averaging twelve 5-second readings. One commenter stated that four 15-second readings were not sufficient for Method 203C. Upon further review and examination of the data, we agree with the commenter and have eliminated the four 15-second reading option. Only the second option, averaging twelve 5-second readings, is prescribed in Method 203C.

We also received comments on the proposed procedures for fugitive dust. However, because we are not taking final action on these procedures at this time, we are not responding to the comments here.

IV. Changes to Proposed Methods 203A, B, and C

A. Performance Results Added to the Methods

The error associated with each method has been summarized from various field studies and is presented in Section 13 of each method.

B. 15-Second Interval Option Removed From Method 203C

The proposed option to use four 15-second readings for instantaneous limitation regulations has been removed from Method 203C. Twelve 5-second readings will be used when Method 203C is specified for instantaneous regulations.

V. Summary of Amendments to the NSPS

Technical amendments are being made to 40 CFR Part 60 to correct existing errors in Subparts J, BB, and Appendix B and to amend a testing requirement in Subpart WWW. These technical amendments were proposed in the **Federal Register** on August 5, 2005 (70 FR 45608). No comments were received from the public concerning these amendments.

A. Petroleum Refineries (Subpart J)

In § 60.106(b)(3) of the petroleum refinery NSPS, the equation for determining the coke burn-off rate is being corrected.

B. Kraft Pulp Mills (Subpart BB)

In § 60.284 of the kraft pulp mills NSPS, an inadvertent paragraph requiring that continuous emission monitors be subject to the quality assurance provisions of Appendix F is being deleted.

C. Municipal Solid Waste Landfills (Subpart WWW)

In § 60.752(b)(2)(iii)(A) of the municipal solid waste landfill NSPS, open flares are required to comply with the general flare provisions of § 60.18. In these provisions, the heat content of the flare gas is determined from an analysis of its organic compound and hydrogen content using Methods 18 and ASTM D1946, respectively. Methane is the primary organic compound of significance in landfill gas, and hydrogen is not likely to be present. Method 3C is easier to use than Method 18 and has a more appropriate measurement range for the methane levels encountered at landfills. In addition, Method 3C determines oxygen and nitrogen which are needed to determine the flare gas exit velocity. In the past, sources have requested and received permission to used Method 3C in place of Methods 18 and ASTM D1946 under this rule. This amendment makes Method 3C the required test method for methane and removes the requirement to measure hydrogen by ASTM D1946.

D. Performance Specification 2, Appendix B of Part 60

In Performance Specification 2, an inadvertent omission in an October 17, 2000 amendment removed an allowance for low-emitters when conducting relative accuracy tests. This amendment reinstates the allowance.

VI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735 October 4, 1993), the Agency must determine whether the regulatory

action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The 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.

We have determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review. We have determined that this regulation would result in none of the economic effects set forth in Section 1 of the Order because it does not impose emission measurement requirements beyond those specified in the current regulations, nor does it change any emission standard.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The new test methods do not add information collection requirements beyond what is currently mandated.

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.

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.

C. Regulatory Flexibility Act

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. Entities potentially affected by this action include those listed in Table 1 of **SUPPLEMENTARY INFORMATION**.

After considering the economic impacts of today's final rule on small entities, we have concluded that this action will not have a significant economic impact on a substantial number of small entities. This final rule will not impose any requirements on small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. The rule imposes no enforceable duty on any State, local, or tribal governments or the private sector. In any event, EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, today's rule is not subject to the requirements of Sections 202 and 205 of the UMRA.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. This rule simply makes available alternative data reduction procedures that States can use at their discretion under their SIP opacity regulations.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' are defined in the Executive Order to include regulations that 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.''

This rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, Executive Order 13132 does not apply to this rule.

F. Executive Order 13175: Consultation and Coordination With Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This final rule does not have tribal implications as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. In this final rule, we are simply adding test methods at the request of the States to increase the flexibility in testing for opacity of emissions. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, 12(d) (15 U.S.C. 272), directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, business practices, *etc.*) that are developed or adopted by VCS bodies. The NTTAA requires EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable VCS. During this rulemaking, we identified no VCS that might be applicable. Specifically, there were none that addressed opacity data reduction provisions differently than what currently exists in Method 9 of 40 CFR Part 60, Appendix A.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12848 (58 FR 7629, February 11, 1994) requires that each Federal agency make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations. This rule contains optional test procedures that do not place disproportionate human health or environmental effects of minority or low-income populations.

K. Congressional Review Act

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

List of Subjects in 40 CFR Parts 51 and 60

Administrative practice and procedure, Air pollution control, Carbon monoxide, Continuous emission monitors, Environmental protection, Intergovernmental relations, Lead, New sources, Nitrogen dioxide, Ozone, Particulate matter, Performance specifications, Reporting and recordkeeping requirements, Sulfur oxides, Test methods and procedures, Volatile organic compounds.

Dated: September 14, 2006.

Stephen L. Johnson,

Administrator.

■ For the reasons stated in the preamble, title 40, chapter I, of the Code of Federal Regulations is amended as follows:

PART 51—[AMENDED]

■ 1. The authority citation for part 51 continues to read as follows:

Authority: 23 U.S.C. 101; 42 U.S.C. 7401–7671q.

■ 2. Appendix M is amended by numerically adding the following method titles at the beginning of Appendix M and by numerically adding Methods 203A, 203B, and 203C as follows:

Appendix M to Part 51—Recommended Test Methods for State Implementation Plans

* * * * *

Method 203A—Visual Determination of Opacity of Emissions from Stationary Sources for Time-Averaged Regulations.

Method 203B—Visual Determination of Opacity of Emissions from Stationary Sources for Time-Exception Regulations.

Method 203C—Visual Determination of Opacity of Emissions from Stationary Sources for Instantaneous Regulations.

* * * * *

Method 203A—Visual Determination of Opacity of Emissions from Stationary Sources for Time-Averaged Regulations

1.0 Scope and Application

What is Method 203A?

Method 203A is an example test method suitable for State Implementation Plans (SIP) and is applicable to the determination of the opacity of emissions from sources of visible emissions for time-averaged regulations. A time-averaged regulation is any regulation that requires averaging visible emission data to determine the opacity of visible emissions over a specific time period.

Method 203A is virtually identical to EPA's Method 9 of 40 CFR Part 60, Appendix A, except for the data-reduction procedures, which provide for averaging times other than 6 minutes. Therefore, using Method 203A with a 6-minute averaging time would be the same as following EPA Method 9. The certification procedures for this method are

identical to those provided in Method 9 and are provided here, in full, for clarity and convenience. An example visible emission observation form and instructions for its use can be found in reference 7 of Section 17 of Method 9.

2.0 Summary of Method

The opacity of emissions from sources of visible emissions is determined visually by an observer certified according to the procedures in Section 10 of this method. Readings taken every 15 seconds are averaged over a time period specified in the applicable regulation ranging from 2 minutes to 6 minutes.

3.0 Definitions [Reserved]

4.0 Interferences [Reserved]

5.0 Safety [Reserved]

6.0 Equipment and Supplies

What equipment and supplies are needed?

6.1 Stop Watch. Two watches are required that provide a continuous display of time to the nearest second.

6.2 Compass (optional). A compass is useful for determining the direction of the emission point from the spot where the visible emissions (VE) observer stands and for determining the wind direction at the source. For accurate readings, the compass should be magnetic with resolution better than 10 degrees. It is suggested that the compass be jewel-mounted and liquid-filled to dampen the needle swing; map reading compasses are excellent.

6.3 Range Finder (optional). Range finders determine distances from the observer to the emission point. The instrument should measure a distance of 1000 meters with a minimum accuracy of ±10 percent.

6.4 Abney Level (optional). This device for determining the vertical viewing angle should measure within 5 degrees.

6.5 Sling Psychrometer (optional). In case of the formation of a steam plume, a wet- and dry-bulb thermometer, accurate to 0.5 °C, are mounted on a sturdy assembly and swung rapidly in the air in order to determine the relative humidity.

6.6 Binoculars (optional). Binoculars are recommended to help identify stacks and to characterize the plume. An 8 x 50 or 10 x 50 magnification, color-corrected coated lenses and rectilinear field of view is recommended.

6.7 Camera (optional). A camera is often used to document the emissions before and after the actual opacity determination.

6.8 Safety Equipment. The following safety equipment, which should be approved by the Occupational Safety and Health Association (OSHA), is recommended: orange or yellow hard hat, eye and ear protection, and steel-toed safety boots.

6.9 Clipboard and Accessories (optional). A clipboard, several ball-point pens (black ink recommended), a rubber band, and several visible emission observation forms facilitate documentation.

7.0 Reagents and Standards (Reserved]

8.0 Sample Collection, Preservation, Storage, and Transport

What is the Test Procedure?

An observer qualified in accordance with Section 10 of this method must use the following procedures to visually determine the opacity of emissions from stationary sources.

8.1 Procedure for Emissions from Stacks. These procedures are applicable for visually determining the opacity of stack emissions by a qualified observer.

8.1.1 Position. You must stand at a distance sufficient to provide a clear view of the emissions with the sun oriented in the 140-degree sector to your back. Consistent with maintaining the above requirement as much as possible, you must make opacity observations from a position such that the line of vision is approximately perpendicular to the plume direction, and when observing opacity of emissions from rectangular outlets (*e.g.*, roof monitors, open baghouses, non-circular stacks), approximately perpendicular to the longer axis of the outlet. You should not include more than one plume in the line of sight at a time when multiple plumes are involved and, in any case, make opacity observations with the line of sight perpendicular to the longer axis of such a set of multiple stacks (*e.g.*, stub stacks on baghouses).

8.1.2 Field Records. You must record the name of the plant, emission location, type of facility, observer's name and affiliation, a sketch of the observer's position relative to the source, and the date on a field data sheet. An example visible emission observation form can be found in reference 7 of Section 17 of this method. You must record the time, estimated distance to the emission location, approximate wind direction, estimated wind speed, description of the sky condition (presence and color of clouds), and plume background on the field data sheet at the time opacity readings are initiated and completed.

8.1.3 Observations. You must make opacity observations at the point of greatest opacity in that portion of the plume where condensed water vapor is not present. Do not look continuously at the plume but, instead, observe the plume momentarily at 15-second intervals.

8.1.3.1 Attached Steam Plumes. When condensed water vapor is present within the plume as it emerges from the emission outlet, you must make opacity observations beyond the point in the plume at which condensed water vapor is no longer visible. You must record the approximate distance from the emission outlet to the point in the plume at which the observations are made.

8.1.3.2 Detached Steam Plumes. When water vapor in the plume condenses and becomes visible at a distinct distance from the emission outlet, you must make the opacity observation at the emission outlet prior to the condensation of water vapor and the formation of the steam plume.

8.2 Recording Observations. You must record the opacity observations to the nearest 5 percent every 15 seconds on an observational record sheet such as the example visible emission observation form in reference 7 of Section 17 of this method. Each observation recorded represents the average opacity of emissions for a 15-second period. The overall length of time for which observations are recorded must be appropriate to the averaging time specified in the applicable regulation.

9.0 Quality Control [Reserved]

10.0 Calibration and Standardization

10.1 What are the Certification Requirements? To receive certification as a qualified observer, you must be trained and knowledgeable on the procedures in Section 8.0 of this method, be tested and demonstrate the ability to assign opacity readings in 5 percent increments to 25 different black plumes and 25 different white plumes, with an error not to exceed 15 percent opacity on any one reading and an average error not to exceed 7.5 percent opacity in each category. You must be tested according to the procedures described in Section 10.2 of this method. Any smoke generator used pursuant to Section 10.2 of this method must be equipped with a smoke meter which meets the requirements of Section 10.3 of this method. Certification tests that do not meet the requirements of Sections 10.2 and 10.3 of this method are not valid.

The certification must be valid for a period of 6 months, and after each 6-month period, the qualification procedures must be repeated by an observer in order to retain certification.

10.2 What is the Certification Procedure? The certification test consists of showing the candidate a complete run of 50 plumes, 25 black plumes and 25 white plumes, generated by a smoke generator. Plumes must be presented in random order within each set of 25 black and 25 white plumes. The candidate assigns an opacity value to each plume and records the observation on a suitable form. At the completion of each run of 50 readings, the score of the candidate is determined. If a candidate fails to qualify, the complete run of 50 readings must be repeated in any retest. The smoke test may be administered as part of a smoke school or training program, and may be preceded by training or familiarization runs of the smoke generator during which candidates are shown black and white plumes of known opacity.

10.3 Smoke Generator.

10.3.1 What are the Smoke Generator Specifications? Any smoke generator used for the purpose of Section 10.2 of this method must be equipped with a smoke meter installed to measure opacity across the diameter of the smoke generator stack. The smoke meter output must display in-stack opacity, based upon a path length equal to the stack exit diameter on a full 0 to 100 percent chart recorder scale. The smoke meter optical design and performance must meet the specifications shown in Table 203A–1 of this method. The smoke meter must be calibrated as prescribed in Section 10.3.2 of this method prior to conducting each smoke reading test. At the completion of each test, the zero and span drift must be checked and, if the drift exceeds ± 1 percent opacity, the condition must be corrected prior to conducting any subsequent test runs. The smoke meter must be demonstrated at

the time of installation to meet the specifications listed in Table 203A–1 of this method. This demonstration must be repeated following any subsequent repair or replacement of the photocell or associated electronic circuitry including the chart recorder or output meter, or every 6 months, whichever occurs first.

10.3.2 How is the Smoke Meter Calibrated? The smoke meter is calibrated after allowing a minimum of 30 minutes warm-up by alternately producing simulated opacity of 0 percent and 100 percent. When a stable response at 0 percent or 100 percent is noted, the smoke meter is adjusted to produce an output of 0 percent or 100 percent, as appropriate. This calibration must be repeated until stable 0 percent and 100 percent readings are produced without adjustment. Simulated 0 percent and 100 percent opacity values may be produced by alternately switching the power to the light source on and off while the smoke generator is not producing smoke.

10.3.3 How is the Smoke Meter Evaluated? The smoke meter design and performance are to be evaluated as follows:

10.3.3.1 Light Source. You must verify from manufacturer's data and from voltage measurements made at the lamp, as installed, that the lamp is operated within 5 percent of the nominal rated voltage.

10.3.3.2 Spectral Response of the Photocell. You must verify from manufacturer's data that the photocell has a photopic response; *i.e.*, the spectral sensitivity of the cell must closely approximate the standard spectral-luminosity curve for photopic vision which is referenced in (b) of Table 203A–1 of this method.

10.3.3.3 Angle of View. You must check construction geometry to ensure that the total angle of view of the smoke plume, as seen by the photocell, does not exceed 15 degrees. Calculate the total angle of view as follows:

$$\varphi_v = 2 \tan^{-1} (d/2L)$$

Where:

φ_v = Total angle of view
d = The photocell diameter + the diameter of the limiting aperture
L = Distance from the photocell to the limiting aperture.

The limiting aperture is the point in the path between the photocell and the smoke plume where the angle of view is most restricted. In smoke generator smoke meters, this is normally an orifice plate.

10.3.3.4 Angle of Projection. You must check construction geometry to ensure that the total angle of projection of the lamp on the smoke plume does not exceed 15 degrees. Calculate the total angle of projection as follows:

$$\varphi_P = 2 \tan^{-1} (d/2L)$$

Where:

φ_P = Total angle of projection
d = The sum of the length of the lamp filament + the diameter of the limiting aperture
L = The distance from the lamp to the limiting aperture.

10.3.3.5 Calibration Error. Using neutral-density filters of known opacity, you must check the error between the actual response and the theoretical linear response of the smoke meter. This check is accomplished by first calibrating the smoke meter according to Section 10.3.2 of this method and then inserting a series of three neutral-density filters of nominal opacity of 20, 50, and 75 percent in the smoke meter path length. Use filters calibrated within 2 percent. Care should be taken when inserting the filters to prevent stray light from affecting the meter. Make a total of five non-consecutive readings for each filter. The maximum opacity error on any one reading shall be ±3 percent.

10.3.3.6 Zero and Span Drift. Determine the zero and span drift by calibrating and operating the smoke generator in a normal manner over a 1-hour period. The drift is measured by checking the zero and span at the end of this period.

10.3.3.7 Response Time. Determine the response time by producing the series of five simulated 0 percent and 100 percent opacity values and observing the time required to reach stable response. Opacity values of 0 percent and 100 percent may be simulated by alternately switching the power to the light source off and on while the smoke generator is not operating.

11.0 Analytical Procedures [Reserved]

12.0 Data Analysis and Calculations

12.1 Time-Averaged Regulations. A set of observations is composed of an appropriate number of consecutive observations determined by the averaging time specified (*i.e.*, 8 observations for a two minute average). Divide the recorded observations into sets of appropriate time lengths for the specified averaging time. Sets must consist of consecutive observations; however, observations immediately preceding and following interrupted observations shall be deemed consecutive. Sets need not be consecutive in time and in no case shall two sets overlap. For each set of observations, calculate the average opacity by summing the opacity readings taken over the appropriate time period and dividing by the number of readings. For example, for a 2-minute average, eight consecutive readings would be averaged by adding the eight readings and dividing by eight.

13.0 Method Performance

13.1 Time-averaging Performances. The accuracy of test procedures for time-averaged regulations was evaluated through field studies that compare the opacity readings to a transmissometer. Analysis of these data shows that, as the time interval for averaging increases, the positive error decreases. For example, over a 2-minute time period, 90 percent of the results underestimated opacity or overestimated opacity by less than 9.5 percent opacity, while over a 6-minute time period, 90 percent of the data have less than a 7.5 percent positive error. Overall, the field studies demonstrated a negative bias. Over a 2-minute time period, 57 percent of the data have zero or negative error, and over a 6-minute time period, 58 percent of the data have zero or negative error. This means that observers are more likely to assign opacity values that are below, rather than above, the actual opacity value. Consequently, a larger percentage of noncompliance periods will be reported as compliant periods rather than compliant periods reported as violations. Table 203A–2 highlights the precision data results from the June 1985 report: ''Opacity Errors for Averaging and Non Averaging Data Reduction and Reporting Techniques.''

14.0 Pollution Prevention [Reserved]

15.0 Waste Management [Reserved]

16.0 Alternative Procedures [Reserved]

17.0 References

1. U.S. Environmental Protection Agency. Standards of Performance for New Stationary Sources; Appendix A; Method 9 for Visual Determination of the Opacity of Emissions from Stationary Sources. Final Rule. 39 FR 219. Washington, DC. U.S. Government Printing Office. November 12, 1974.

2. Office of Air and Radiation. ''Quality Assurance Guideline for Visible Emission Training Programs.'' EPA–600/S4–83–011. Quality Assurance Division. Research Triangle Park, NC. May 1982.

3. Office of Research and Development. ''Method 9—Visible Determination of the Opacity of Emissions from Stationary Sources.'' February 1984. Quality Assurance Handbook for Air Pollution Measurement Systems. Volume III, Section 3.1.2. Stationary Source Specific Methods. EPA–600–4–77–027b. August 1977. Office of Research and Development Publications, 26 West Clair Street, Cincinnati, OH.

4. Office of Air Quality Planning and Standards. ''Opacity Error for Averaging and Non-averaging Data Reduction and Reporting Techniques.'' Final Report–SR–1–6–85. Emission Measurement Branch, Research Triangle Park, NC. June 1985.

5. U.S. Environmental Protection Agency. Preparation, Adoption, and Submittal of State Implementation Plans. Methods for Measurement of PM_{10} Emissions from Stationary Sources. Final Rule. **Federal Register**. Washington, DC. U.S. Government Printing Office. Volume 55, No. 74. Pages 14246–14279. April 17, 1990.

6. Office of Air Quality Planning and Standards. ''Collaborative Study of Opacity Observations of Fugitive Emissions from Unpaved Roads by Certified Observers.'' Emission Measurement Branch, Research Triangle Park, NC. October 1986.

7. Office of Air Quality Planning and Standards. ''Field Data Forms and Instructions for EPA Methods 203A, 203B, and 203C.'' EPA 455/R–93–005. Stationary Source Compliance Division, Washington, DC, June 1993.

18.0 Tables, Diagrams, Flowcharts, and Validation Data

TABLE 203A–1.—SMOKE METER DESIGN AND PERFORMANCE SPECIFICATIONS

Parameter	Specification
a. Light Source	Incandescent lamp operated at nominal rated voltage.
b. Spectral response of photocell	Photopic (daylight spectral response of the human eye—Citation 3).
c. Angle of view	15° maximum total angle.
d. Angle of projection	15° maximum total angle.
e. Calibration error	±3% opacity, maximum.
f. Zero and span drift	±1% opacity, 30 minutes
g. Response time	5 seconds.

TABLE 203A–2.—PRECISION BETWEEN OBSERVERS: OPACITY AVERAGING

Averaging period	Number of observations	Standard deviation (% opacity)	Amount with <7.5% opacity difference
15-second	140,250	3.4	87
2 minutes	17,694	2.6	92
3 minutes	11,836	2.4	92
6 minutes	5,954	2.1	93

Method 203B—Visual Determination of Opacity of Emissions From Stationary Sources for Time-Exception Regulations

1.0 Scope and Application

What is Method 203B?

Method 203B is an example test method suitable for State Implementation Plans (SIPs) and is applicable to the determination of the opacity of emissions from sources of visible emissions for time-exception regulations. A time-exception regulation means any regulation that allows predefined periods of opacity above the otherwise applicable opacity limit (*e.g.*, allowing exceedances of 20 percent opacity for 3 minutes in 1 hour.)

Method 203B is virtually identical to EPA's Method 9 of 40 CFR part 60, Appendix A, except for the data-reduction procedures, which have been modified to apply to time-exception regulations. The certification procedures for this method are identical to those provided in Method 9. An example of a visible emission observation form and instructions for its use can be found in reference 7 of Section 17 of Method 203A.

2.0 Summary of Method

The opacity of emissions from sources of visible emissions is determined visually by a qualified observer.

3.0 Definitions [Reserved]

4.0 Interferences [Reserved]

5.0 Safety [Reserved]

6.0 Equipment and Supplies

What equipment and supplies are needed?

The same as specified in Section 6.0 of Method 203A.

7.0 Reagents and Standards [Reserved]

8.0 Sample Collection, Preservation, Storage, and Transport

What is the Test Procedure?

The observer qualified in accordance with Section 10 of Method 203A must use the following procedures for visually determining the opacity of emissions.

8.1 Procedures for Emissions From Stationary Sources. The procedures for emissions from stationary sources are the same as specified in 8.1 of Method 203A.

8.2 Recording Observations. You must record opacity observations to the nearest 5 percent at 15-second intervals on an observational record sheet. Each observation recorded represents the average opacity of emissions for a 15-second period. The overall length of time for which observations are recorded must be appropriate to the applicable regulation.

9.0 Quality Control [Reserved]

10.0 Calibration and Standardization

The Calibration and Standardization requirements are the same as specified in Section 10 of Method 203A.

11.0 Analytical Procedures [Reserved]

12.0 Data Analysis and Calculations

Data Reduction for Time-Exception Regulations. For a time-exception regulation, reduce opacity observations as follows: Count the number of observations above the applicable standard and multiply that number by 0.25 to determine the minutes of emissions above the target opacity.

13.0 Method Performance

13.1 Time-Exception Regulations. ''Opacity Errors for Averaging and Non-Averaging Data Reduction and Reporting Techniques'' analyzed the time errors associated with false compliance or false non-compliance determinations resulting from a sample of 1110 opacity readings with 6-minute observation periods. The study applied a 20 percent opacity standard. Fifty-one percent of the data showed zero error in time determinations. The standard deviation was 97.5 seconds for the 6-minute time period.

13.1.1 Overall, the study showed a negative bias. Each reading is associated with a 15-second block of time. The readings were multiplied by 15 seconds and the resulting time spent above the standard was compared to the transmissometer results. The average amount of time that observations deviated from the transmissometer's determinations was –8.3 seconds. Seventy percent of the time determinations were either correct or underestimated the time of excess emissions. Consequently, a larger percentage of noncompliance periods would be reported as compliant periods rather than compliant periods reported as violations.

13.1.2 Some time-exception regulations reduce the data by averaging over 1-minute periods and then counting those minutes above the standard. This data reduction procedure results in a less stringent standard than determinations resulting from data reduction procedures of Method 203B.

14.0 Pollution Prevention [Reserved]

15.0 Waste Management [Reserved]

16.0 Alternative Procedures [Reserved]

17.0 References

The references are the same as specified in Section 17 of Method 203A.

18.0 Tables, Diagrams, Flowcharts, and Validation Data [Reserved]

Method 203C—Visual Determination of Opacity of Emissions From Stationary Sources for Instantaneous Limitation Regulations

1.0 Scope and Application

What is Method 203C?

Method 203C is an example test method suitable for State Implementation Plans (SIPs) and is applicable to the determination of the opacity of emissions from sources of visible emissions for regulations with an instantaneous opacity limitation. An instantaneous opacity limitation is an opacity limit which is never to be exceeded.

Method 203C is virtually identical to EPA's Method 9 of 40 CFR Part 60, Appendix A, except for 5-second reading intervals and the data-reduction procedures, which have been modified for instantaneous limitation regulations. The certification procedures for

this method are virtually identical to Method 9. An example visible emission observation form and instructions for its use can be found in reference 7 of Section 17 of Method 203A.

2.0 Summary of Method

The opacity of emissions from sources of visible emissions is determined visually by an observer certified according to the procedures in Section 10 of Method 203A.

3.0 Definitions [Reserved]

4.0 Interferences [Reserved]

5.0 Safety [Reserved]

6.0 Equipment and Supplies

The equipment and supplies used are the same as Section 6.0 of Method 203A.

7.0 Reagents and Standards [Reserved]

8.0 Sample Collection, Preservation, Storage, and Transport

What is the Test Procedure?

The qualified observer must use the following procedures for visually determining the opacity of emissions.

8.1 Procedures for Emissions From Stationary Sources. These are the same as Section 8.1 of Method 203A.

8.1.1 Position. Same as Section 8.1.1 of Method 203A.

8.1.2 Field Records. Same as Section 8.1.2 of Method 203A.

8.1.3 Observations. Make opacity observations at the point of greatest opacity in that portion of the plume where condensed water vapor is not present. Do not look continuously at the plume, instead, observe the plume momentarily at *5-second* intervals.

8.1.3.1 Attached Steam Plumes. Same as Section 8.1.3.1 of Method 203A.

8.1.3.2 Detached Steam Plumes. Same as Section 8.1.3.2 of Method 203A.

8.2 Recording Observations. You must record opacity observations to the nearest 5 percent at 5-second intervals on an observational record sheet. Each observation recorded represents the average of emissions for the 5-second period. The overall time for which recordings are made must be of a length appropriate to the applicable regulation for which opacity is being measured.

9.0 Quality Control [Reserved]

10.0 Calibration and Standardization

The calibration and standardization procedures are the same as Section 10 of Method 203A.

11.0 Analytical Procedures [Reserved]

12.0 Data Analysis and Calculations

12.1 Data Reduction for Instantaneous Limitation Regulations. For an instantaneous limitation regulation, a 1-minute averaging time will be used. You must divide the observations recorded on the record sheet into sets of consecutive observations. A set is composed of the consecutive observations made in 1 minute. Sets need not be consecutive in time, and in no case must two sets overlap. You must reduce opacity observations by dividing the sum of all observations recorded in a set by the number of observations recorded in each set.

12.2 Reduce opacity observations by averaging 12 consecutive observations recorded at 5-second intervals. Divide the observations recorded on the record sheet into sets of 12 consecutive observations. For each set of 12 observations, calculate the average by summing the opacity of the 12 observations and dividing this sum by 12.

13.0 Method Performance

The results of the ''Collaborative Study of Opacity Observations at Five-second Intervals by Certified Observers'' are almost identical to those of previous studies of Method 9 observations taken at 15-second intervals and indicate that observers can make valid observations at 5-second intervals. The average difference of all observations from the transmissometer values was 8.8 percent opacity, which shows a fairly high negative bias. Underestimating the opacity of the visible emissions is more likely than overestimating the opacity of the emissions.

14.0 Pollution Prevention [Reserved]

15.0 Waste Management [Reserved]

16.0 Alternative Procedures [Reserved]

17.0 References

The references are the same as references 1–7 in Method 203A in addition to the following:

1. Office of Air Quality Planning and Standards. ''Collaborative Study of Opacity Observations at Five-second Intervals by Certified Observers.'' Docket A–84–22, IV–A–2. Emission Measurement Branch, Research Triangle Park, N.C. September 1990.

18.0 Tables, Diagrams, Flowcharts, and Validation Data

* * * * *

PART 60—[AMENDED]

■ 3. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7413, 7414, 7416, 7601, and 7602.

■ 4. Amend § 60.106(b)(3) by revising the equation to read as follows:

§ 60.106 Test methods and procedures.

* * * * *

(b) * * *

(3) * * *

$$R_c = K_1 Q_r (\%CO_2 + \%CO) + K_2 Q_a - K_3 Q_r (\%CO/2 + \%CO_2 + \%O_2)$$

* * * * *

■ 5. Revise § 60.284(f) to read as follows:

§ 60.284 Monitoring of emissions and operations.

* * * * *

(f) The procedures under § 60.13 shall be followed for installation, evaluation, and operation of the continuous monitoring systems required under this section. All continuous monitoring systems shall be operated in accordance with the applicable procedures under Performance Specifications 1, 3, and 5 of appendix B of this part.

§ 60.752 [Amended]

■ 6. Revise § 60.752(b)(2)(iii)(A) to read as follows:

§ 60.752 Standards for air emissions from municipal solid waste landfills.

* * * * *

(b) * * *

(2) * * *

(iii) * * *

(A) An open flare designed and operated in accordance with § 60.18 except as noted in § 60.754(e);

* * * * *

§ 60.754 [Amended]

■ 7. Amend § 60.754 by adding paragraph (e) to read as follows:

§ 60.754 Test Methods and Procedures.

* * * * *

(e) For the performance test required in § 60.752(b)(2)(iii)(A), the net heating value of the combusted landfill gas as determined in § 60.18(f)(3) is calculated from the concentration of methane in the landfill gas as measured by Method 3C. A minimum of three 30-minute Method 3C samples are determined. The measurement of other organic components, hydrogen, and carbon monoxide is not applicable. Method 3C may be used to determine the landfill gas molecular weight for calculating the flare gas exit velocity under § 60.18(f)(4).

■ 8. In Appendix A–7, Method 24 is amended by adding Section 6.7 to read as follows:

Appendix A–7 to Part 60—Test Methods 19 Through 25E

* * * * *

Method 24—Determination of Volatile Matter Content, Water Content, Density, Volume Solids, and Weight Solids of Surface Coatings

* * * * *

6.7 ASTM D 6419–00, Test Method for Volatile Content of Sheet-Fed and Coldset Web Offset Printing Inks.

* * * * *

■ 9. In Appendix B, Performance Specification 2 is amended by adding a sentence to the end of Section 13.2 to read as follows:

Appendix B to Part 60—Performance Specifications

* * * * *

Performance Specification 2—Specifications and Test Procedures for SO_2 and NO_X Continuous Emission Monitoring Systems in Stationary Sources

* * * * *

13.2 * * * For SO_2 emission standards of 130 to and including 86 ng/J (0.30 and 0.20 lb/million Btu), inclusive, use 15 percent of the applicable standard; below 86 ng/J (0.20 lb/million Btu), use 20 percent of the emission standard.

* * * * *

[FR Doc. 06–7907 Filed 9–20–06; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket No. FEMA–7945]

Suspension of Community Eligibility

AGENCY: Mitigation Division, Federal Emergency Management Agency (FEMA), Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

EFFECTIVE DATES: The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

ADDRESSES: If you want to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office.

FOR FURTHER INFORMATION CONTACT: David Stearrett, Mitigation Division, 500 C Street, SW., Washington, DC 20472, (202) 646–2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the NFIP, 42 U.S.C. 4001 *et seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, FEMA has identified the Special Flood Hazard Areas (SFHAs) in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year, on FEMA's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

■ Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for part 64 is revised to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in SFHAs
Region II				
New Jersey:				
Barnegat, Township of, Ocean County	340396	December 17, 1973, Emerg; December 15, 1982, Reg; September 29, 2006, Susp.	09/29/2006	09/29/2006
Bay Head, Borough of, Ocean County.	345281	November 6, 1970, Emerg; August 13, 1971, Reg; September 29, 2006, Susp.	.....do*	Do.
Beachwood, Borough of, Ocean County	340368	October 23, 1974, Emerg; May 1, 1979, Reg; September 29, 2006, Susp.	.....do	Do.
Berkeley, Township of, Ocean County ..	340369	July 2, 1971, Emerg; May 19, 1981, Reg; September 29, 2006, Susp.	.....do	Do.
Brick, Township of, Ocean County	345285	June 30, 1970, Emerg; August 8, 1972, Reg; September 29, 2006, Susp.	.....do	Do.
Dover, Township of, Ocean County	345293	October 23, 1970, Emerg; March 24, 1972, Reg; September 29, 2006, Susp.	.....do	Do.
Eagleswood, Township of, Ocean County.	340372	June 27, 1974, Emerg; February 16, 1983, Reg; September 29, 2006, Susp.	.....do	Do.
Island Heights, Borough of, Ocean County.	340374	September 6, 1974, Emerg; June 15, 1979, Reg; September 29, 2006, Susp.	.....do	Do.
Jackson, Township of, Ocean County ..	340375	January 12, 1973, Emerg; September 16, 1982, Reg; September 29, 2006, Susp.	.....do	Do.
Lakewood, Township of, Ocean County	340378	August 4, 1972, Emerg; March 15, 1977, Reg; September 29, 2006, Susp.	.....do	Do.
Long Beach, Township of, Ocean County.	345301	May 29, 1970, Emerg; March 26, 1971, Reg; September 29, 2006, Susp.	.....do	Do.
Manchester, Township of, Ocean County.	340382	October 10, 1973, Emerg; May 2, 1983, Reg; September 29, 2006, Susp.	.....do	Do.
Mantoloking, Borough of, Ocean County.	340383	January 14, 1972, Emerg; September 30, 1977, Reg; September 29, 2006, Susp.	.....do	Do.
Ocean, Township of, Ocean County	340518	April 30, 1974, Emerg; January 6, 1983, Reg; September 29, 2006, Susp.	.....do	Do.
Ocean Gate, Borough of, Ocean County.	340384	May 16, 1975, Emerg; May 19, 1981, Reg; September 29, 2006, Susp.	.....do	Do.
Pine Beach, Borough of, Ocean County	340385	April 14, 1975, Emerg; August 11, 1978, Reg; September 29, 2006, Susp.	.....do	Do.
Plumstead, Township of, Ocean County	340386	January 14, 1975, Emerg; September 30, 1981, Reg; September 29, 2006, Susp.	.....do	Do.
Point Pleasant, Borough of, Ocean County.	345313	January 29, 1971, Emerg; July 7, 1972, Reg; September 29, 2006, Susp.	.....do	Do.
Seaside Heights, Borough of, Ocean County.	340389	July 28, 1975, Emerg; July 16, 1979, Reg; September 29, 2006, Susp.	.....do	Do.
Seaside Park, Borough of, Ocean County.	345319	December 11, 1970, Emerg; August 13, 1971, Reg; September 29, 2006, Susp.	.....do	Do.
Ship Bottom, Borough of, Ocean County.	345320	May 29, 1970, Emerg; April 2, 1971, Reg; September 29, 2006, Susp.	.....do	Do.
South Toms River, Borough of, Ocean County.	340392	June 27, 1975, Emerg; January 6, 1983, Reg; September 29, 2006, Susp.	.....do	Do.
Tuckerton, Borough of, Ocean County	340395	August 9, 1973, Emerg; May 2, 1983, Reg; September 29, 2006, Susp.	.....do	Do.
Region III				
Maryland:				
Barnesville, Town of, Montgomery County.	240094	June 26, 1978, Emerg; August 10, 1979, Reg; September 29, 2006, Susp.	.....do	Do.
Brookeville, Town of, Montgomery County.	240166	August 4, 1986, Emerg; June 19, 1989, Reg; September 29, 2006, Susp.	.....do	Do.
Gaithersburg, City of, Montgomery County.	240050	February 2, 1973, Emerg; December 1, 1982, Reg; September 29, 2006, Susp.	.....do	Do.
Montgomery County, Unincorporated Areas.	240049	October 13, 1972, Emerg; July 2, 1979, Reg; September 29, 2006, Susp.	.....do	Do.
Somerset, Town of, Montgomery County.	240134	March 9, 2006, Emerg; Reg; September 29, 2006; September 29, 2006, Susp.	.....do	Do.
Pennsylvania: Atglen, Borough of, Chester County.	420273	July 30, 1974, Emerg; December 4, 1984, Reg; September 29, 2006, Susp.	.....do	Do.
Avondale, Borough of, Chester County	421473	August 29, 1975, Emerg; November 4, 1987, Reg; September 29, 2006, Susp.	.....do	Do.
Birmingham, Township of, Chester County.	421474	November 14, 1974, Emerg; April 15, 1981, Reg; September 29, 2006, Susp.	.....do	Do.
Caln, Township of, Chester County	422247	August 14, 1975, Emerg; September 30, 1981, Reg; September 29, 2006, Susp.	.....do	Do.
Charlestown, Township of, Chester County.	421475	November 24, 1975, Emerg; December 4, 1984, Reg; September 29, 2006, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in SFHAs
Coatesville, City of, Chester County	420274	December 26, 1974, Emerg; May 17, 1982, Reg; September 29, 2006, Susp.	do	Do.
Downingtown, Borough of, Chester County.	420275	December 3, 1971, Emerg; April 15, 1977, Reg; September 29, 2006, Susp.	do	Do.
East Bradford, Township of, Chester County.	420276	August 16, 1974, Emerg; April 15, 1977, Reg; September 29, 2006, Susp.	do	Do.
East Brandywine, Township of, Chester County.	421476	November 21, 1975, Emerg; February 1, 1984, Reg; September 29, 2006, Susp.	do	Do.
East Caln, Township of, Chester County.	421477	October 10, 1974, Emerg; September 30, 1980, Reg; September 29, 2006, Susp.	do	Do.
East Coventry, Township of, Chester County.	421478	December 3, 1975, Emerg; February 17, 1982, Reg; September 29, 2006, Susp.	do	Do.
East Fallowfield, Township of, Chester County.	421479	November 3, 1975, Emerg; June 1, 1983, Reg; September 29, 2006, Susp.	do	Do.
East Goshen, Township of, Chester County.	420277	January 21, 1972, Emerg; July 5, 1977, Reg; September 29, 2006, Susp.	do	Do.
East Marlborough, Township of, Chester County.	421480	March 28, 1975, Emerg; July 16, 1981, Reg; September 29, 2006, Susp.	do	Do.
East Nantmeal, Township of, Chester County.	421481	April 14, 1976, Emerg; February 1, 1984, Reg; September 29, 2006, Susp.	do	Do.
East Nottingham, Township of, Chester County.	421482	February, 9, 1976, Emerg; September 4, 1985, Reg; September 29, 2006, Susp.	do	Do.
East Pikeland, Township of, Chester County.	421483	September 6, 1974, Emerg; March 16, 1981, Reg; September 29, 2006, Susp.	do	Do.
East Vincent, Township of, Chester County.	420278	February 9, 1973, Emerg; December 1, 1977, Reg; September 29, 2006, Susp.	do	Do.
East Whiteland, Township of, Chester County.	420279	June 16, 1972, Emerg; June 1, 1989, Reg; September 29, 2006, Susp.	do	Do.
Easttown, Township of, Chester County	422600	November 14, 1974, Emerg; March 16, 1981, Reg; September 29, 2006, Susp.	do	Do.
Elk, Township of, Chester County	422286	January 14, 1975, Emerg; July 30, 1982, Reg; September 29, 2006, Susp.	do	Do.
Elverson, Borough of, Chester County	422287	February 13, 1976, Emerg; February 25, 1983, Reg; September 29, 2006, Susp.	do	Do.
Franklin, Township of, Chester County	422288	July 6, 1983, Emerg; March 1, 1986, Reg; September 29, 2006, Susp.	do	Do.
Highland, Township of, Chester County	422289	August 25, 1977, Emerg; April 8, 1983, Reg; September 29, 2006, Susp.	do	Do.
Honeybrook, Township of, Chester County.	422290	November 10, 1975, Emerg; August 1, 1984, Reg; September 29, 2006, Susp.	do	Do.
Kennett, Township of, Chester County	422586	December 8, 1975, Emerg; June 1, 1984, Reg; September 29, 2006, Susp.	do	Do.
Kennett Square, Borough of, Chester County.	420280	April 21, 1975, Emerg; July 16, 1981, Reg; September 29, 2006, Susp.	do	Do.
London Britain, Township of, Chester County.	422273	February 5, 1975, Emerg; December 31, 1982, Reg; September 29, 2006, Susp.	do	Do.
London Grove, Township of, Chester County.	422274	October 17, 1974, Emerg; February 11, 1983, Reg; September 29, 2006, Susp.	do	Do.
Londonderry, Township of, Chester County.	421484	December 12, 1974, Emerg; September 24, 1984, Reg; September 29, 2006, Susp.	do	Do.
Lower Oxford, Township of, Chester County.	421485	September 30, 1975, Emerg; October 15, 1985, Reg; September 29, 2006, Susp.	do	Do.
Malvern, Borough of, Chester County	420281	June 20, 1974, Emerg; January 16, 1981, Reg; September 29, 2006, Susp.	do	Do.
Modena, Borough of, Chester County	420282	October 10, 1974, Emerg; November 19, 1987, Reg; September 29, 2006, Susp.	do	Do.
New Garden, Township of, Chester County.	422275	November 3, 1975, Emerg; October 15, 1982, Reg; September 29, 2006, Susp.	do	Do.
New London, Township of, Chester County.	422276	May 13, 1975, Emerg; November 12, 1982, Reg; September 29, 2006, Susp.	do	Do.
Newlin, Township of, Chester County	421486	October 24, 1975, Emerg; August 1, 1984, Reg; September 29, 2006, Susp.	do	Do.
North Coventry, Township of, Chester County.	420283	January 26, 1973, Emerg; August 15, 1978, Reg; September 29, 2006, Susp.	do	Do.
Oxford, Borough of, Chester County	420284	June 17, 1975, Emerg; September 17, 1982, Reg; September 29, 2006, Susp.	do	Do.
Parkesburg, Borough of, Chester County.	422277	June 11, 1975, Emerg; June 1, 1983, Reg; September 29, 2006, Susp.	do	Do.
Penn, Township of, Chester County	421487	October 15, 1975, Emerg; December 17, 1982, Reg; September 29, 2006, Susp.	do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in SFHAs
Pennsbury, Township of, Chester County.	420285	September 29, 1972, Emerg; December 28, 1976, Reg; September 29, 2006, Susp.	.....do	Do.
Phoenixville, Borough of, Chester County.	420287	August 1, 1974, Emerg; November 5, 1980, Reg; September 29, 2006, Susp.	.....do	Do.
Pocopson, Township of, Chester County.	420286	January 21, 1972, Emerg; April 15, 1977, Reg; September 29, 2006, Susp.	.....do	Do.
Sadsbury, Township of, Chester County	421488	December 31, 1975, Emerg; October 15, 1985, Reg; September 29, 2006, Susp.	.....do	Do.
Schuylkill, Township of, Chester County	421489	January 30, 1975, Emerg; November 5, 1980, Reg; September 29, 2006, Susp.	.....do	Do.
South Coatesville, Borough of, Chester County.	420288	December 10, 1975, Emerg; May 3, 1982, Reg; September 29, 2006, Susp.	.....do	Do.
South Coventry, Township of, Chester County.	421490	April 29, 1975, Emerg; July 18, 1983, Reg; September 29, 2006, Susp.	.....do	Do.
Spring City, Borough of, Chester County.	420289	June 4, 1975, Emerg; March 16, 1981, Reg; September 29, 2006, Susp.	.....do	Do.
Thornbury, Township of, Chester County.	420290	February 18, 1972, Emerg; March 1, 1977, Reg; September 29, 2006, Susp.	.....do	Do.
Tredyffrin, Township of, Chester County	420291	September 17, 1971, Emerg; April 17, 1978, Reg; September 29, 2006, Susp.	.....do	Do.
Upper Oxford, Township of, Chester County.	422278	August 6, 1975, Emerg; February 25, 1983, Reg; September 29, 2006, Susp.	.....do	Do.
Upper Uwchlan, Township of, Chester County.	421491	March 10, 1976, Emerg; August 19, 1985, Reg; September 29, 2006, Susp.	.....do	Do.
Uwchlan, Township of, Chester County	421492	October 11, 1974, Emerg; September 30, 1980, Reg; September 29, 2006, Susp.	.....do	Do.
Valley, Township of, Chester County	421206	May 23, 1974, Emerg; August 1, 1984, Reg; September 29, 2006, Susp.	.....do	Do.
Wallace, Township of, Chester County	421493	February 11, 1976, Emerg; March 11, 1983, Reg; September 29, 2006, Susp.	.....do	Do.
Warwick, Township of, Chester County	421494	November 28, 1975, Emerg; March 1, 1984, Reg; September 29, 2006, Susp.	.....do	Do.
West Bradford, Township of, Chester County.	421495	February 10, 1975, Emerg; July 16, 1981, Reg; September 29, 2006, Susp.	.....do	Do.
West Brandywine, Township of, Chester County.	421496	August 6, 1975, Emerg; September 28, 1979, Reg; September 29, 2006, Susp.	.....do	Do.
West Caln, Township of, Chester County.	421497	May 19, 1976, Emerg; January 17, 1985, Reg; September 29, 2006, Susp.	.....do	Do.
West Chester, Borough of, Chester County.	420292	December 3, 1971, Emerg; July 5, 1977, Reg; September 29, 2006, Susp.	.....do	Do.
West Fallowfield, Township of, Chester County.	422602	March 19, 1975, Emerg; April 1, 1983, Reg; September 29, 2006, Susp.	.....do	Do.
West Goshen, Township of, Chester County.	420293	January 26, 1973, Emerg; November 2, 1977, Reg; September 29, 2006, Susp.	.....do	Do.
West Marlborough, Township of, Chester County.	422279	May 20, 1975, Emerg; January 18, 1984, Reg; September 29, 2006, Susp.	.....do	Do.
West Nantmeal, Township of, Chester County.	421498	February 12, 1975, Emerg; August 1, 1984, Reg; September 29, 2006, Susp.	.....do	Do.
West Nottingham, Township of, Chester County.	422280	July 2, 1976, Emerg; October 15, 1985, Reg; September 29, 2006, Susp.	.....do	Do.
West Pikeland, Township of, Chester County.	421151	April 10, 1974, Emerg; June 1, 1983, Reg; September 29, 2006, Susp.	.....do	Do.
West Sadsbury, Township of, Chester County.	422281	March 23, 1976, Emerg; August 5, 1985, Reg; September 29, 2006, Susp.	.....do	Do.
West Vincent, Township of, Chester County.	421499	August 11, 1975, Emerg; November 19, 1987, Reg; September 29, 2006, Susp.	.....do	Do.
West Whiteland, Township of, Chester County.	420295	November 5, 1971, Emerg; May 2, 1977, Reg; September 29, 2006, Susp.	.....do	Do.
Westtown, Township of, Chester County.	420294	November 26, 1971, Emerg; June 1, 1977, Reg; September 29, 2006, Susp.	.....do	Do.
Willistown, Township of, Chester County.	422282	October 17, 1974, Emerg; October 15, 1981, Reg; September 29, 2006, Susp.	.....do	Do.
Region IV				
Alabama:				
Bessemer, City of, Jefferson County	010115	May 13, 1975, Emerg; June 1, 1981, Reg; September 29, 2006, Susp.	.....do	Do.
Brookside, Town of, Jefferson County ..	010118	May 29, 1975, Emerg; February 18, 1981, Reg; September 29, 2006, Susp.	.....do	Do.
Kimberly, Town of, Jefferson County	010265	January 16, 1976, Emerg; June 18, 1981, Reg; September 29, 2006, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in SFHAs
Lipscomb, City of, Jefferson County	010126	July 25, 1975, Emerg; January 2, 1981, Reg; September 29, 2006, Susp.	....do	Do.
Morris, Town of, Jefferson County	010264	March 11, 1980, Emerg; June 3, 1986, Reg; September 29, 2006, Susp.	....do	Do.
Pinson, City of, Jefferson County	010447	November 10, 2004, Emerg; November 10, 2004, Reg; September 29, 2006, Susp.	....do	Do.
Warrior, City of, Jefferson County	010263	May 12, 1975, Emerg; January 2, 1981, Reg; September 29, 2006, Susp.	....do	Do.
Wilsonville, Town of, Shelby County	010404	October 27, 1993, Emerg; March 1, 1995, Reg; September 29, 2006, Susp.	....do	Do.
Florida:				
Cross City, Town of, Dixie County	120074	June 26, 1975, Emerg; September 16, 1982, Reg; September 29, 2006, Susp.	....do	Do.
Horseshoe Beach, Town of, Dixie County.	120326	July 25, 1975, Emerg; November 2, 1983, Reg; September 29, 2006, Susp.	....do	Do.
Georgia: Lawrenceville, City of, Gwinnett County.	130099	August 28, 1974, Emerg; May 15, 1980, Reg; September 29, 2006, Susp.	....do	Do.
Kentucky:				
Bell County, Unincorporated Areas	210010	March 28, 1975, Emerg; February 18, 1981, Reg; September 29, 2006, Susp.	....do	Do.
Middlesboro, City of, Bell County	215190	December 4, 1970, Emerg; May 28, 1971, Reg; September 29, 2006, Susp.	....do	Do.
Pineville, City of, Bell County	210012	November 21, 1973, Emerg; June 1, 1978, Reg; September 29, 2006, Susp.	....do	Do.
Tennessee:				
Brentwood, City of, Williamson County	470205	March 23, 1973, Emerg; February 1, 1978, Reg; September 29, 2006, Susp.	....do	Do.
Fairview, City of, Williamson County	470242	August 18, 1986, Emerg; September 1, 1990, Reg; September 29, 2006, Susp.	....do	Do.
Franklin, City of, Williamson County	470206	September 25, 1974, Emerg; July 2, 1980, Reg; September 29, 2006, Susp.	....do	Do.
Johnson City, City of, Washington County.	475432	May 22, 1970, Emerg; May 22, 1970, Reg; September 29, 2006, Susp.	....do	Do.
Region V				
Indiana:				
Altona, Town of, DeKalb County	180045	September 10, 1975, Emerg; August 19, 1985, Reg; September 29, 2006, Susp.	....do	Do.
Auburn, City of, DeKalb County	180046	June 11, 1975, Emerg; July 18, 1983, Reg; September 29, 2006, Susp.	....do	Do.
Butler, City of, DeKalb County	180047	March 6, 1975, Emerg; August 19, 1985, Reg; September 29, 2006, Susp.	....do	Do.
DeKalb County, Unincorporated Areas	180044	November 8, 1976, Emerg; January 5, 1989, Reg; September 29, 2006, Susp.	....do	Do.
Garrett, City of, DeKalb County	180048	March 7, 1975, Emerg; February 11, 1976, Reg; September 29, 2006, Susp.	....do	Do.
Hamilton, Town of, Steuben County	180248	November 20, 1975, Emerg; August 19, 1986, Reg; September 29, 2006, Susp.	....do	Do.
St. Joe, Town of, DeKalb County	180049	July 16, 1975, Emerg; January 3, 1985, Reg; September 29, 2006, Susp.	....do	Do.
Waterloo, Town of, DeKalb County	180050	March 6, 1975, Emerg; September 4, 1985, Reg; September 29, 2006, Susp.	....do	Do.
Michigan:				
Armada, Village of, Macomb County	260742	November 7, 1983, Emerg; May 17, 1990, Reg; September 29, 2006, Susp.	....do	Do.
Auburn Hills, City of, Oakland County	260263	August 7, 1973, Emerg; July 16, 1979, Reg; September 29, 2006, Susp.	....do	Do.
Beverly Hills, Village of Oakland County	260256	November 2, 1973, Emerg; June 15, 1979, Reg; September 29, 2006, Susp.	....do	Do.
Birmingham, City of, Oakland County	260168	May 5, 1972, Emerg; May 15, 1980, Reg; September 29, 2006, Susp.	....do	Do.
Bloomfield, Township of, Oakland County.	260169	May 22, 1973, Emerg; January 6, 1983, Reg; September 29, 2006, Susp.	....do	Do.
Clarkston Village of, Oakland County	260472	June 18, 1976, Emerg; March 2, 1983, Reg; September 29, 2006, Susp.	....do	Do.
Clinton, Township of, Macomb County	260121	February 9, 1973, Emerg; August 1, 1979, Reg; September 29, 2006, Susp.	....do	Do.
Commerce, Township of Oakland County.	260473	July 20, 1976, Emerg; March 16, 1981, Reg; September 29, 2006, Susp.	....do	Do.
Farmington, City of, Oakland County	260171	December 15, 1972, Emerg; July 16, 1980, Reg; September 29, 2006, Susp.	....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in SFHAs
Farmington Hills, of Oakland County	2260172	March 30, 1973, Emerg; February 1, 1980, Reg; September 29, 2006, Susp.	.....do	Do.
Franklin, Village of Oakland County	260325	March 7, 1975, Emerg; December 1, 1971, Reg; September 29, 2006, Susp.	.....do	Do.
Fraser, City of, Macomb County	260122	February 16, 1973, Emerg; April 2, 1979, Reg; September 29, 2006, Susp.	.....do	Do.
Harrison, Township of, Macomb County	260123	December 8, 1972, Emerg; May 5, 1981, Reg; September 29, 2006, Susp.	.....do	Do.
Holly, Township of, Macomb County	260474	November 4, 1981, Emerg; February 1, 1988, Reg; September 29, 2006, Susp.	.....do	Do.
Independence, Township of, Oakland County.	260475	June 10, 1983, Emerg; June 10, 1983, Reg; September 29, 2006, Susp.	.....do	Do.
Keego Harbor, City of, Oakland County	260173	June 20, 1975, Emerg; December 1, 1982, Reg; September 29, 2006, Susp.	.....do	Do.
Lake Angelus, City of, Oakland County	260700	August 18, 2003, Emerg; August 18, 2003, Reg; September 29, 2006, Susp.	.....do	Do.
Lake Orion, Village of, Oakland County	260588	March 22, 1976, Emerg; September 16, 1981, Reg; September 29, 2006, Susp.	.....do	Do.
Lenox, Township of, Macomb County	261014	January 15, 1998, Emerg; September 29, 2006, Reg; September 29, 2006, Susp.	.....do	Do.
Lyon, Township of, Oakland County	261032	March 28, 2001, Emerg; September 29, 2006, Reg; September 29, 2006, Susp.	.....do	Do.
Macomb, Township of, Macomb County	260445	December 16, 1977, Emerg; February 4, 1981, Reg; September 29, 2006, Susp.	.....do	Do.
Mount Clemens, City of, Macomb County.	260124	April 5, 1973, Emerg; July 16, 1980, Reg; September 29, 2006, Susp.	.....do	Do.
New Haven, Village of, Macomb County	260446	July 25, 1975, Emerg; September 17, 1980, Reg; September 29, 2006, Susp.	.....do	Do.
Northville, City of, Oakland County	260235	March 29, 1976, Emerg; September 16, 1981, Reg; September 29, 2006, Susp.	.....do	Do.
Novi, City of, Oakland County	260175	March 11, 1974, Emerg; April 3, 1978, Reg; September 29, 2006, Susp.	.....do	Do.
Oakland, Township of, Oakland County	260476	December 23, 1982, Emerg; December 23, 1982, Reg; September 29, 2006, Susp.	.....do	Do.
Pontiac, City of, Oakland County	260177	August 7, 1973, Emerg; August 15, 1979, Reg; September 29, 2006, Susp.	.....do	Do.
Ray, Township of, Oakland County	260910	August 7, 1973, Emerg; August 15, 1979, Reg; September 29, 2006, Susp.	.....do	Do.
Rochester, City of, Oakland County	260326	April 9, 1976, Emerg; May 5, 1981, Reg; September 29, 2006, Susp.	.....do	Do.
Rochester Hills, City of, Oakland County.	260471	July 22, 1975, Emerg; September 16, 1981, Reg; September 29, 2006, Susp.	.....do	Do.
South Lyon, City of, Oakland County	261037	October 12, 2001, Emerg; September 29, 2006, Reg; September 29, 2006, Susp.	.....do	Do.
Southfield, City of, Oakland County	260179	December 1, 1971, Emerg; September 28, 1979, Reg; September 29, 2006, Susp.	.....do	Do.
St. Clair Shores, City of, Macomb County.	260127	December 1, 1972, Emerg; August 1, 1979, Reg; September 29, 2006, Susp.	.....do	Do.
Sterling Heights, City of, Macomb County.	260128	January 12, 1973, Emerg; August 3, 1981, Reg; September 29, 2006, Susp.	.....do	Do.
Sylvan Lake, City of, Oakland County	260701	March 8, 1977, Emerg; November 16, 1983, Reg; September 29, 2006, Susp.	.....do	Do.
Troy, City of, Oakland County	260180	February 23, 1973, Emerg; May 2, 1983, Reg; September 29, 2006, Susp.	.....do	Do.
Warren, City of, Macomb County	260129	April 6, 1973, Emerg; May 1, 1979, Reg; September 29, 2006, Susp.	.....do	Do.
Washington, Township of, Macomb County.	260447	February 12, 1982, Emerg; February 12, 1982, Reg; September 29, 2006, Susp.	.....do	Do.
Waterford, Township of, Oakland County.	260284	August 16, 1974, Emerg; February 2, 1983, Reg; September 29, 2006, Susp.	.....do	Do.
West Bloomfield, Township of, Oakland County.	260182	March 30, 1973, Emerg; March 2, 1983, Reg; September 29, 2006, Susp.	.....do	Do.
White Lake, Township of, Oakland County.	260479	February 11, 1985, Emerg; February 11, 1985, Reg; September 29, 2006, Susp.	.....do	Do.
Wolverine Lake, Village of, Oakland County.	260480	September 23, 1975, Emerg; May 1, 1987, September 29, 2006, Susp.	.....do	Do.
Region VII				
Missouri:				
Blue Springs, City of, Jackson County	290169	October 18, 1974, Emerg; September 15, 1978, Reg; September 29, 2006, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in SFHAs
Branson, City of, Taney County	290436	December 10, 1971, Emerg; October 26, 1976, Reg; September 29, 2006, Susp.	.....do	Do.
Buckner, City of, Jackson County	290170	March 29, 1976, Emerg; September 15, 1978, Reg; September 29, 2006, Susp.	.....do	Do.
Bull Creek, Village of, Taney County	290916	December 6, 1993, Emerg; September 30, 1997, Reg; September 29, 2006, Susp.	.....do	Do.
Grain Valley, City of, Jackson County	290737	October 9, 1979, Emerg; October 9, 1979, Reg; September 29, 2006, Susp.	.....do	Do.
Grandview, City of, Jackson County	290171	March 16, 1973, Emerg; June 15, 1979, Reg; September 29, 2006, Susp.	.....do	Do.
Greenwood, City of, Jackson County	290711	October 11, 1977, Emerg; January 3, 1979, Reg; September 29, 2006, Susp.	.....do	Do.
Hollister, City of, Taney County	290437	February 14, 1975, Emerg; March 18, 1985, Reg; September 29, 2006, Susp.	.....do	Do.
Independence, City of, Clay and Jackson Counties.	290172	October 15, 1971, Emerg; February 1, 1979, Reg; September 29, 2006, Susp.	.....do	Do.
Jackson County, Unincorporated Areas	290492	June 19, 1974, Emerg; September 29, 1978, Reg; September 29, 2006, Susp.	.....do	Do.
Lake Lotawana, City of, Jackson County.	290697	November 10, 1976, Emerg; November 1, 1979, Reg; September 29, 2006, Susp.	.....do	Do.
Lee's Summit, City of, Jackson County	290174	February 4, 1972, Emerg; April 3, 1978, Reg; September 29, 2006, Susp.	.....do	Do.
Levasy, City of, Jackson County	290175	February 13, 1975, Emerg; September 29, 1978, Reg; September 29, 2006, Susp.	.....do	Do.
Oak Grove, City of, Jackson County	290694	August 13, 1976, Emerg; September 5, 1979, Reg; September 29, 2006, Susp.	.....do	Do.
Raytown, City of, Jackson County	290176	February 27, 1975, Emerg; September 15, 1978, Reg; September 29, 2006, Susp.	.....do	Do.
Rockaway Beach, Town of, Taney County.	290438	April 26, 1999, Emerg; March 1, 2000, Reg; September 29, 2006, Susp.	.....do	Do.
Sugar Creek, City of, Clay and Jackson Counties.	290178	January 25, 1977, Emerg; January 3, 1979, Reg; September 29, 2006, Susp.	.....do	Do.
Taney County, Unincorporated Areas	290435	June 20, 2002, Emerg; April 1, 2004, Reg; September 29, 2006, Susp.	.....do	Do.
Region VIII				
Montana: Lincoln County, Unincorporated Areas.	300157	April 3, 1978, Emerg; August 1, 1980, Reg; September 29, 2006, Susp.	.....do	Do.
Wyoming:				
Jackson, Town of, Teton County	560052	August 8, 1975, Emerg; May 4, 1989, Reg; September 29, 2006, Susp.	.....do	Do.
Teton County, Unincorporated Areas	560094	April 19, 1978, Emerg; May 4, 1989, Reg; September 29, 2006, Susp.	.....do	Do.

*-do- = Ditto.
Code for reading third column: Emerg.-Emergency; Reg.-Regular; Susp-Suspension.

Dated: September 14, 2006.

David I. Maurstad,

Mitigation Division Director, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 06–7949 Filed 9–20–06; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 060216044–6044–01; I.D. 091806B]

Fisheries of the Economic Exclusive Zone Off Alaska; Shallow-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

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

ACTION: Temporary rule; inseason adjustment; opening; request for comments.

SUMMARY: NMFS is opening directed fishing for species that comprise the shallow-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA), effective 0700 hours, Alaska local time (A.l.t), September 20, 2006. This adjustment is necessary to allow a 12–hour fishery for species that comprise the shallow-water species fishery by vessels using trawl gear in the GOA to resume, without exceeding the 2006 Pacific halibut bycatch allowance specified for the shallow-water species fishery in the GOA.

DATES: Effective 0700 hours, A.l.t., September 20, 2006, through 1900 hours, A.l.t., September 20, 2006.

Comments must be received at the following address no later than 4:30 p.m., A.l.t., October 3, 2006.

ADDRESSES: Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Walsh. Comments may be submitted by:

- Mail to: P.O. Box 21668, Juneau, AK 99802;
- Hand delivery to the Federal Building, 709 West 9th Street, Room 420A, Juneau, Alaska;
- FAX to 907–586–7557;
- E-mail to *shallowtrawl2@noaa.gov* and include in the subject line of the e-mail comment the document identifier: goaswx4sroc (E-mail comments, with or without attachments, are limited to 5 megabytes); or

Webform at the Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions at that site for submitting comments.

FOR FURTHER INFORMATION CONTACT: Jennifer Hogan, 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 2006 Pacific halibut bycatch allowance specified for the shallow-water species fishery in the GOA is 900 metric tons (mt) as established by the 2006 and 2007 harvest specifications for groundfish of the GOA (71 FR 10870, March 3, 2006). NMFS closed directed fishing for species that comprise the shallow-water species fishery by vessels using trawl gear in the GOA under § 679.21(d)(7)(i) on September 1, 2006 (71 FR 51784, August 31, 2006) and September 6, 2006 (71 FR 53339, September 11, 2006).

As of September 15, NMFS has determined that 206 mt of halibut bycatch allowance for the fishery remains. Therefore, in accordance with § 679.25(a)(1)(i) and 679.25(a)(2)(i)(A), NMFS is adjusting the trawl shallow-water species fishery in the GOA by opening the fishery at 0700 hrs, A.l.t., September 20, 2006, and prohibiting directed fishing for shallow-water species by vessels using trawl gear in the GOA at 1900 hrs, A.l.t., September 20, 2006. This action has the effect of opening the fishery for 12 hours. Regulations at § 679.23(b) specify that the time of all openings and closures of fishing seasons other than the beginning and end of the calendar fishing year is 1200 hrs, A.l.t. Current information shows the expected trawl Pacific halibut bycatch rates observed in groundfish fisheries during the fourth season in the GOA to be 300 mt per day. The Administrator, Alaska Region, NMFS, has determined that the 2006 Pacific halibut bycatch allowance specified for the trawl fisheries could be exceeded if a 24–hour fishery were allowed to occur. NMFS intends that the halibut bycatch allowance not be exceeded and, therefore, will not allow a 24–hour directed fishery.

NMFS is taking this action to allow a controlled fishery to occur, thereby preventing the overharvest of the Pacific halibut bycatch allowance specified for the trawl shallow-water species fishery designated in accordance with the 2006 and 2007 harvest specifications for groundfish in the GOA (71 FR 10870, March 3, 2006) and § 679.21(d). In accordance with § 679.25(a)(2)(iii), NMFS has determined that prohibiting directed fishing at 1900 hrs, A.l.t., September 20, 2006, after a 12 hour opening is the least restrictive management adjustment to allow the fishing industry opportunity to harvest species that comprise the shallow-water species fishery without exceeding the fourth seasonal apportionment of the 2006 Pacific halibut bycatch allowance for the shallow-water species fishery in the GOA. Pursuant to § 679.25(b)(5), NMFS has considered data regarding inseason prohibited species bycatch rates observed in groundfish fisheries in the GOA in making this adjustment.

The species and species groups that comprise the shallow-water species fishery are pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, skates and ''other species.''

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

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of the fishery, not allow the full utilization of the species and species groups that comprise the shallow-water species fishery, and therefore reduce the public's ability to use and enjoy the fishery resource. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 15, 2006.

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

Without this inseason adjustment, NMFS could not allow the shallow-water species fishery by vessels using trawl gear in the GOA to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until October 3, 2006.

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 18, 2006.

James P. Burgess,

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

[FR Doc. 06–7939 Filed 9–18–06; 2:59 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 71, No. 183
Thursday, September 21, 2006

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

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM2006–1; Order No. 1479]

Rate and Classification Requests

AGENCY: Postal Rate Commission.

ACTION: Proposed rulemaking.

SUMMARY: Commission rules include five sets of rules with sunset provisions. The Commission proposes to reissue four of these sets of rules with limited revisions. These include shortening and standardizing the intervention period (where applicable); eliminating the sunset provisions and, in one set, redesignating provisions to conform to Office of **Federal Register** style and making minor editorial revisions. Reissuance of these sets of rules, as revised, will allow the Service to have continued flexibility and will enhance administrative efficiency. The Commission seeks comments on whether the other set of rules (for certain Express Mail requests) should be reissued.

DATES: Initial comments due October 13, 2006; reply comments due October 20, 2006.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6820.

SUPPLEMENTARY INFORMATION:

Regulatory History

54 FR 11394 (March 20, 1989).
54 FR 33681 (August 16, 1989).
60 FR 54981 (October 27, 1995).
61 FR 24447 (May 15, 1996).
66 FR 54436 (October 29, 2001).

The Commission's Rules of Practice and Procedure, 39 CFR 3001.1 *et seq.*, include five sets of rules that are subject to 5-year sunset provisions. Generally, these rules, which are set to expire November 28, 2006, provide for expedited consideration of various Postal Service requests for a recommended decision. They include the following five sets of rules: 57–60, market response Express Mail rate requests; 69–69c, minor classification changes; 161–166, market tests of proposed classification changes; 171–176, provisional service changes of limited duration; and 181–182, multi-year test periods for proposed new services.

The Commission seeks comments on rules 57–60. Those rules will lapse unless reissued. The Commission proposes to reissue the remaining sets of rules, amended to eliminate the sunset provision. The Commission also proposes to standardize and shorten the time period for interventions as of right in proceedings involving minor classification changes, market tests, and provisional service changes.[1]

As a ministerial matter, the attached rules reflect minor editorial changes for clarity and consistency. These minor changes are not intended to have substantive effect. In addition, the rules for minor classification changes (3001.69–69c) are renumbered as 3001.69(a)–(f) to conform to Office of the Federal Register style preference.

Interested persons are invited to comment on the forgoing proposals and on rules 57–60. Initial comments are due October 13, 2006; reply comments, if any, are due October 20, 2006.

The substance and history of each rule are briefly discussed below.

I. Market Response Rate Requests for Express Mail Service

Rules 57 through 60, 39 CFR 3001.57–60, govern Postal Service requests for an expedited recommended decision on changes in Express Mail rates and fees. These rules, which became effective in 1989, were adopted in response to a Postal Service petition requesting the Commission to initiate a rulemaking to implement special rules designed to consider changes in Express Mail rates prompted by changes in market conditions. *See* PRC Order No. 836, Docket No. RM88–2, August 10, 1989. The rules provide, consistent with due process, for expedited consideration of proposed changes in Express Mail rates in response to competitive changes in the expedited delivery market for the purpose of minimizing the loss of Express Mail's contribution to institutional costs recommended in the most recent omnibus rate case. Rule 57(a). Among other things, the rules address the data to be filed in support of the Postal Service's request and provide for an expedited procedural schedule under which the Commission is to consider the Postal Service's request within 90 days of its filing. *See*, e.g., rules 58–60.

These rules have been reissued twice. *See* PRC Order No. 1042, Docket No. RM95–1, February 17, 1995, and PRC Order No. 1322, Docket No. RM2001–3, September 24, 2001. The Postal Service has never invoked these rules.

Any person advocating that these rules be reissued is requested to provide support showing that retention is in the public interest.

II. Limited Classification Changes

The remaining four sets of rules are a product of a separate rulemaking proceeding, initiated pursuant to a petition filed by the Postal Service in April 1995, to amend the Commission's rules to accommodate certain limited rate and classification matters. Following the receipt of comments by interested parties on the Postal Service's petition, the Commission issued a notice of proposed rulemaking in which it proposed specific amendments to its rules of practice designed to expedite consideration of certain limited classification-related changes requested by the Postal Service. *See* PRC Order No. 1084, Docket No. RM95–4, October 13, 1995. Thereafter, the Commission adopted rules designed to facilitate expedited review of Postal Service requests concerning minor classification changes, market tests, and provisional service changes of limited duration. The Commission also adopted a rule permitting the Postal Service to request use of a multi-year test period for new services. PRC Order No. 1110, Docket No. RM95–4, May 7, 1996. Each of the foregoing rules has been reissued once. *See* PRC Order No. 1322, *supra.*

A. Minor Classification Cases

Rules 69 through 69c, to be renumbered as rule 69, provide for expedited review of Postal Service requests for a recommended decision of minor mail classification changes. A

[1] The Rules of Practice and Procedure may be accessed on the Commission's Web site, *http://www.prc.gov*, by clicking first on ''Contents'' and then on ''Commission Rules'' which are found under the heading ''Table of Contents.'' A copy of the proposed revised rules is attached.

change is considered minor if it: involves no change in an existing rate or fee, would impose no new eligibility requirements on a subclass or rate category, and would not significantly affect the institutional cost contribution of the affected subclass or rate category. Rule 69(b)(1)–(3).[2] These rules describe the information to be filed in support of a request and the procedures for expediting proceedings. Rules 69(c)–(e). In qualifying proceedings, the Commission will issue a recommended decision in not more than 120 days after the filing of the request. Rule 69(f).

The Postal Service has employed these rules four times.[3] These include:

1. Docket No. MC2003–1, in which the Postal Service proposed to permit certain types of nonrectangular shapes, Customized Market Mail (CMM), to be eligible for mailing in the basic nonletter rate categories of Standard Mail Regular and Nonprofit subclasses. The Commission adopted a Stipulation and Agreement as the basis of its opinion approving CMM as a new Standard Mail category. PRC Op. MC2003–1, June 6, 2003.

2. Docket No. MC2006–2, in which the Postal Service proposed to extend the expiration date of a provisional service allowing bulk mailers to attach Repositionable Notes to nonparcel-shaped First-Class Mail, Standard Mail, and Periodicals. The Commission approved the proposed extension of the expiration date. PRC Op. MC2006–2, March 20, 2006.

3. Docket No. MC2006–5, in which the Postal Service proposed to revise the definition of a nominal subscription rate by increasing the amount by which an annual subscription price may be discounted from 50 to 70 percent. The Commission recommended the change, adopting an unopposed stipulation and agreement as the basis of its decision. PRC Op. MC2006–5, August 30, 2006.

B. Market Tests of Proposed Mail Classification Changes

Subpart I, rules 161 through 166, governs requests by the Postal Service to permit market testing in support of a permanent classification change. These rules require the Postal Service to file concurrently its request for a permanent classification change and its request for its proposed market test, and set forth the information to be filed regarding the market test, e.g., the services to be provided, the proposed rate or fee, and the objectives of the test. Rule 162. The rules also provide a timetable for expediting the proceedings and a rule for issuing a decision within 90 days. Rules 163 and 164. Absent good cause, market tests are limited to 1-year durations. Rule 161.

The Postal Service has invoked these rules twice. In Docket No. MC98–1, Mailing Online Service, the Postal Service sought to conduct a market test of a proposed mailing online service prior to its introduction as an experimental mail classification. The Commission approved the proposed market test. PRC Op. MC98–1, October 7, 1998.[4]

In Docket No. MC2004–5, the Postal Service proposed to conduct a market test to determine whether to permit bulk mailers of nonparcel-shaped mail to attach a Repositionable Note to the outside of each mailpiece. The Commission found that the proposal was not properly filed under the Commission's market test rules, but that it did qualify for consideration under the Commission's rules governing provisional service changes. *See* PRC Order No. 1413, July 21, 2004, at 4–5. The Commission approved the provisional service change. PRC. Op. MC2004–5, December 10, 2004.

C. Provisional Service Changes of Limited Duration

Subpart J, rules 171 through 176, applies to requests for the establishment of a provisional service to supplement, but not alter, existing mail classifications and rates for a limited and fixed duration which, except in extraordinary circumstances and for good cause shown, may not exceed two years.[5] The requirements of Subpart J generally parallel those for market tests, e.g., identifying the information to be provided, the procedures to be followed, and the timetable for issuing a decision. Rules 172–74.

The Postal Service has employed these rules once. In Docket No. MC97–5, the Postal Service requested a provisional classification and fee schedule for a packaging service under which mailers would bring items to selected post offices for packing prior to mailing as parcels. The Commission recommended the provisional service, albeit with modifications. PRC Op. MC97–5, March 31, 1998.[6]

As noted previously, the Commission also processed the Postal Service's request in Docket No. MC2004–5 as a provisional service change.

D. Multi-Year Test Periods

Subpart K, rules 181 and 182, applies to requests to implement a new postal service which the Postal Service believes will not recover all costs associated with the new service in its first full fiscal year of operation. The Commission may adopt test periods of up to five fiscal years for the purposes of determining breakeven of a proposed new service. Rule 181. The Postal Service must justify its request through testimony and other documentary support. Rule 182.

The Postal Service has never invoked these rules.

III. Proposed Revisions

Each of the five sets of rules was initiated at the Postal Service's request. They provide the Service with procedural options to facilitate expedited consideration of certain proposals.

The Commission proposes to reissue the four more recent sets of rules, i.e., minor classifications, market tests, provisional service changes, and multi-year test periods, with two amendments. These rules address discrete matters and provide the Postal Service with procedural options not otherwise available. The flexibility inherent in these rules and considerations of administrative efficiency support reissuing them. Each of these rules, with one exception, has been used at least once. The exception, the multi-year test period, continues to have value as a mechanism for considering potential new services.

The 5-year sunset provision was initially adopted in Docket No. RM88–2, concerning market response Express Mail rate requests, because of the experimental nature of the rules and uncertainties about the process. *See* Notice, Docket No. RM88–2, March 14, 1989, at 1; PRC Order No. 836, August 10, 1989, at 3. Moreover, that the rules involved a competitive product supported imposing a sunset provision to ensure the rules would be re-evaluated (or lapse) in the future. In contrast, with respect to the more recent

[2] Unless otherwise noted, all citations are to the proposed rules.

[3] An additional Request would have been filed under the rules governing minor classification changes, but the rules had lapsed. *See* Request of the United States Postal Service for a Recommended Decision on Extension of the Experimental Ride-Along Classification for Periodicals, Docket No. MC2001–3, September 28, 2001, at 1, n.1.

[4] The Postal Service withdrew its proposal to conduct an expanded Mailing Online experiment after encountering technical difficulties in its market test. Subsequently, in November 1999, the Postal Service filed Docket No. MC2000–2 to implement a nationwide Mailing Online experiment.

[5] If a Postal Service request to establish the provisional service as a permanent mail classification is pending before the Commission, this period may be extended for an additional year. *See* Rule 171(a).

[6] The Governors did not act on this recommended decision.

rules, the continuing need for a sunset provision is not apparent. Those rules are not designed exclusively to address rate requests involving competitive markets. Accordingly, the Commission proposes to eliminate the sunset provision in each of the four more recent sets of rules.

Additionally, the Commission proposes to modify the relevant rules to allow a uniform, shorter period, at least 15 days, for intervention in such proceedings. Under the current rules, interventions are due 26 or 28 days after the filing of the Postal Service's request.[7] These provisions were implemented prior to the Commission's adoption of electronic filing requirements. Although the proposal may result in a modest reduction from the current time allotted, it should present no hardship to any prospective intervenor given the ready online availability of the Postal Service's request and Commission's order noticing the filing. Furthermore, the process of intervening in Commission proceedings has been simplified by the requirement that, absent a waiver, notices of intervention be filed electronically. *See* rule 9(a).

The Commission is not proposing to reissue rules 57–60, but rather is considering whether to allow them to lapse. These rules have never been invoked in the 17 years since they were implemented. This history suggests that the rules may no longer serve the purpose for which they were intended and that they may have no continuing utility. Absent an affirmative showing, there may be no compelling reason to reissue these rules.

Request for comments. By this notice and order, the Commission affords interested persons an opportunity to comment on the Commission's proposal, including the advisability of reissuing these rules in whole or in part. Initial comments are due October 13, 2006; reply comments, if any, are due October 20, 2006.

Representation of the general public. In conformance with 39 U.S.C. 3624(a), the Commission designates Shelley S. Dreifuss, director of the Commission's Office of the Consumer Advocate, to represent the interests of the general public in this proceeding. Pursuant to this designation, Ms. Dreifuss will direct the activities of Commission personnel assigned to assist her and, upon request, will supply their names for the record. Neither Ms. Dreifuss nor any of the assigned personnel will participate in or provide advice on any Commission decision in this proceeding.

Ordering Paragraphs

It is ordered:

1. Interested persons may submit comments on the foregoing proposal, including the advisability of reissuing the rules, by no later than October 13, 2006. Reply comments may also be filed and are due no later than October 20, 2006.

2. Shelley S. Dreifuss, director of the Office of the Consumer Advocate, is designated to represent the interests of the general public in this docket.

3. The Secretary shall cause this notice and order to be published in the **Federal Register**.

By the Commission.

Steven W. Williams,

Secretary.

List of Subjects in 39 CFR Part 3001

Administrative practice and procedure, Postal Service.

For the reasons discussed above, the Commission proposes to amend 39 CFR part 3001 as follows:

1. The authority citation for part 3001 continues to read as follows:

Authority: 39 U.S.C. 404(b); 3603; 3622–24; 3661, 3662, 3663.

2. Revise § 3001.69 to read as follows:

Subpart C—Rules Applicable to Requests for Establishing or Changing the Mail Classification Schedule

§ 3001.69 Expedited minor classification cases.

(a) *Applicability.* This section applies when the Postal Service requests a recommended decision pursuant to section 3623 and seeks expedited review on the ground that the requested change in mail classification is minor in character. The requirements and procedures specified in this section apply exclusively to Commission consideration of requested mail classification changes which the Postal Service denominates as, and the Commission finds to be, minor in character.

(b) *Considerations.* A requested classification change may be considered minor in character if it:

(1) Would not involve a change in any existing rate or fee;

(2) Would not impose any restriction in addition to pre-existing conditions of eligibility for the entry of mail in an existing subclass or category of service or for an existing rate element or worksharing discount; and

(3) Would not significantly increase or decrease the estimated institutional cost contribution of the affected subclass or category of service.

(c) *Filing of formal request and prepared direct evidence.* Whenever the Postal Service determines to file a request under this section, it shall file a request for a change in mail classification pursuant to section 3623 that comports with the requirements of this section and of Subpart C of the rules of practice. Each such formal request shall include the following information:

(1) A description of the proposed classification change or changes, including proposed changes in the text of the Domestic Mail Classification Schedule and any pertinent rate schedules;

(2) A thorough explanation of the grounds on which the Postal Service submits that the requested change in mail classification is minor in character; and

(3) An estimate, prepared in the greatest level of detail practicable, of the overall impact of the requested change in mail classification on postal costs and revenues, mail users and competitors of the Postal Service.

(d) *Data and information filing requirements.* Formal requests generally require the submission of the data and information specified in § 3001.64.

(1) If the Postal Service believes that data required to be filed under § 3001.64 are unavailable, it shall explain their unavailability as required by § 3001.64(a)(2)(i), (ii), and (iv).

(2) If the Postal Service believes that data or other information required to be filed under § 3001.64 should not be required in light of the minor character of the requested change in mail classification, it shall move for a waiver of that requirement. The motion shall state with particularity the reasons why the character of the request and its circumstances justify a waiver of the requirement.

(3) A satisfactory explanation of the unavailability of information required under § 3001.64 or of why it should not be required to support a particular request will constitute grounds for excluding from the proceeding a contention that the absence of the information should form a basis for rejection of the request, unless the party desiring to make such a contention:

(i) Demonstrates that, considering all the facts and circumstances of the case, it was clearly unreasonable for the Postal Service to propose the change in question without having first secured the information and submitted it in accordance with § 3001.64; or

(ii) Demonstrates other compelling and exceptional circumstances requiring

[7] *See* current rules 69b(e), 163(b), and 173(b); *see also* proposed rules 69(e)(4), 163(e), and 173(e).

that the absence of the information in question be treated as bearing on the merits of the proposal.

(e) *Expedited procedural schedule.* The Commission will treat requests under this section as subject to the maximum expedition consistent with procedural fairness.

(1) Persons who are interested in participating in proceedings initiated under this section may intervene pursuant to Subpart A of the rules of practice. Parties may withdraw from a proceeding by filing a notice with the Secretary of the Commission.

(2) When the Postal Service files a request under this section, it shall comply with the Filing Online procedures of §§ 3001.9 through 3001.12.

(3) When the Postal Service files a request under this section, it shall on that same day file a notice that briefly describes its proposal. This notice shall indicate on its first page that it is a notice of a request for a minor change in mail classification to be considered under this section.

(4) Within 5 days after receipt of a Postal Service request invoking § 3001.69, the Commission shall issue a notice of proceeding and provide for intervention by interested persons pursuant to Subpart A of the rules of practice. The notice of proceeding shall state that the Postal Service has denominated the mail classification change as a minor change, and has requested expedited consideration pursuant to § 3001.69. The notice shall further state the grounds on which the Postal Service submits that the requested change in mail classification is minor in character and shall afford all interested persons a minimum of 15 days after filing of the Postal Service's request within which to intervene, submit responses to the Postal Service's request for consideration of its proposed mail classification change under § 3001.69, and request a hearing.

(5) Within 28 days after publication of the notice of proceeding pursuant to paragraph (e)(4) of this section, the Commission shall decide whether to consider the request under this section and shall issue an order incorporating that ruling. The Commission shall order a request to be considered under this section if it finds:

(i) The requested classification change is minor in character; and

(ii) The effects of the requested change are likely to be appropriately limited in scope and overall impact.

(6) If the Commission determines that a Postal Service request is appropriate for consideration under this section, those respondents who request a hearing shall be directed to state with specificity within 14 days after publication of that determination the issues of material fact that require a hearing for resolution. Respondents shall also identify the fact or facts set forth in the Postal Service's filing that the party disputes, and when possible, what the party believes to be the fact or facts and the evidence it intends to provide in support of its position.

(7) The Commission will hold hearings on a Postal Service request considered under this section when it determines that there are genuine issues of material fact to be resolved and that a hearing is needed to resolve those issues. Hearings on a Postal Service request will commence within 21 days after issuance of the Commission determination pursuant to paragraph (e)(5) of this section. Testimony responsive to the Postal Service's request will be due 14 days after the conclusion of hearings on the Postal Service request.

(8) If the Commission determines that a request of the Postal Service is not appropriate for consideration under this section, the request will be considered in accordance with appropriate provisions of the Commission's rules.

(f) *Time limits.* The schedule involving a request under this section will allow for issuance of a recommended decision:

(1) Not more than 90 days after the filing of a Postal Service request if no hearing is held; and

(2) Not more than 120 days after the filing of a request if a hearing is scheduled.

§ 3001.69a [Removed]

3. Remove § 3001.69a.

§ 3001.69b [Removed]

4. Remove § 3001.69b.

§ 3001.69c [Removed]

5. Remove § 3001.69c.

§ 3001.161 [Amended]

6. In § 3001.161, remove paragraph (b) and remove the designation for paragraph (a).

7. In § 3001.163, revise paragraphs (b) and (e) to read as follows:

§ 3001.163 Procedures—expedition of public notice and procedural schedule.

* * * * *

(b) Persons who are interested in participating in proceedings to consider Postal Service requests to conduct a market test may intervene pursuant to Subpart A of the rules of practice. Parties may withdraw from a particular case by filing a notice with the Secretary of the Commission.

* * * * *

(e) Within 5 days after receipt of a Postal Service request under the provisions of this subpart, the Commission shall issue a notice of proceeding and provide interested persons a minimum of 15 days after filing of the Postal Service request within which to intervene. In the event that a party wishes to dispute a genuine issue of material fact to be resolved in the consideration of the Postal Service's request that party shall file with the Commission a request for a hearing within the time allowed in the notice of proceeding. The request for a hearing shall state with specificity the fact or facts set forth in the Postal Service's filing that the party disputes, and when possible, what the party believes to be the fact or facts and the evidence it intends to provide in support of its position. The Commission will hold hearings on a Postal Service request made pursuant to this subpart when it determines that there is a genuine issue of material fact to be resolved, and that a hearing is needed to resolve that issue.

§ 3001.171 [Amended]

8. In § 3001.171, remove paragraph (b) and remove the designation for paragraph (a).

9. In § 3001.173, revise paragraphs (b) and (e) to read as follows:

§ 3001.173 Procedures—expedition of public notice and procedural schedule.

* * * * *

(b) Persons who are interested in participating in a proceeding to consider Postal Service requests to establish a provisional service may intervene pursuant to Subpart A of the rules of practice. Parties may withdraw from a proceeding by filing a notice with the Secretary of the Commission.

* * * * *

(e) Within 5 days after receipt of a Postal Service request under the provisions of this subpart, the Commission shall issue a notice of proceeding and provide interested persons a minimum of 15 days after filing of the Postal Service request within which to intervene. In the event that a party wishes to dispute a genuine issue of material fact to be resolved in the consideration of the Postal Service's request, that party shall file with the Commission a request for a hearing within the time allowed in the notice of proceeding. The request for a hearing shall state with specificity the fact or facts set forth in the Postal Service's filing that the party disputes, and when possible, what the party believes to be

the fact or facts and the evidence it intends to provide in support of its position. The Commission will hold hearings on a Postal Service request made pursuant to this subpart when it determines that there is a genuine issue of material fact to be resolved, and that a hearing is needed to resolve that issue.

10. Revise § 3001.174 to read as follows:

§ 3001.174 Rule for decision.

The Commission will issue a decision on the Postal Service's proposed provisional service in accordance with the policies of the Postal Reorganization Act, but will not recommend modification of any feature of the proposed service which the Postal Service has identified in accordance with § 3001.172(a)(3). The purpose of this subpart is to allow for consideration of proposed provisional services within 90 days, consistent with the procedural due process rights of interested persons.

§ 3001.181 [Amended]

11. In § 3001.181, remove paragraph (b) and remove the designation for paragraph (a).

[FR Doc. 06–7870 Filed 9–20–06; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[EPA–HQ–OAR–2004–0488; FRL–8221–5]

RIN 2060–AM54

Protection of Stratospheric Ozone: Listing of Substitutes in the Motor Vehicle Air Conditioning Sector Under the Significant New Alternatives Policy (SNAP) Program

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: Under mandate from the Clean Air Act to review and approve alternatives to ozone-depleting substances, the Environmental Protection Agency (EPA) proposes to expand and amend the list of acceptable substitutes for ozone-depleting substances (ODS) through the Significant New Alternatives Policy (SNAP) program. Substitutes addressed in this proposal are for the motor vehicle air conditioning (MVAC) end-use within the refrigeration and air-conditioning sector. The proposed substitutes are non ozone-depleting gases and consequently do not contribute to stratospheric ozone depletion.

DATES: Comments must be received on or before October 23, 2006. Any person interested in requesting a public hearing, must submit such request on or before October 6, 2006. If a public hearing is requested, a separate notice will be published announcing the date and time of the public hearing and the comment period will be extended until 30 days after the public hearing to allow rebuttal and supplementary information regarding any material presented at the public hearing. Inquires regarding a public hearing should be directed to the contact person listed below.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2004–0488, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the online instructions for submitting comments.
- E-mail: *a-and-r-Docket@epa.gov*.
- Fax: (202) 566–1741.
- Mail: Environmental Protection Agency, EPA Docket Center (EPA/DC), Mailcode 6102T, Attention Docket ID No. EPA–HQ–OAR–2004–0488, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.
- Hand Delivery: Public Reading Room, Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC.

Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2004–0488. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For further information about this proposed rule, contact Karen Thundiyil by telephone at (202) 343–9464, or by e-mail at *thundiyil.karen@epa.gov*. Notices and rulemakings under the SNAP program are available on EPA's Stratospheric Ozone Web site at *http://www.epa.gov/ozone/snap/regs*. For copies of the full list of SNAP decisions in all industrial sectors, contact the EPA Stratospheric Protection Hotline at (800) 296–1996. You also can find a complete chronology of SNAP decisions and the appropriate **Federal Register** citations at EPA's Stratospheric Ozone Web site at *http://www.epa.gov/ozone/snap/chron.html*.

SUPPLEMENTARY INFORMATION: This proposed action, if finalized, would provide motor vehicle manufacturers and their suppliers an additional refrigerant option for motor vehicle air conditioning systems. This proposed action would also modify the current acceptability of an approved substitute to include use conditions. The two refrigerants discussed in this proposed action are non ozone-depleting substances. Car manufacturers, component manufacturers and the MVAC service industry have all been actively engaged in the development of this rulemaking and are developing prototype systems with the use

conditions defined in this proposed rulemaking.

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I. Section 612 Regulatory Background

Section 612 of the Clean Air Act (CAA) authorizes EPA to develop a program for evaluating alternatives to ozone-depleting substances. EPA refers to this program as the Significant New Alternatives Policy (SNAP) program. The major provisions of section 612 are:

A. Rulemaking

Section 612(c) requires EPA to promulgate rules making it unlawful to replace any class I (e.g., chlorofluorocarbon, halon, carbon tetrachloride, methyl chloroform, methyl bromide, and hydrobromofluorocarbon) or class II (e.g., hydrochlorofluorocarbon) substance with any substitute that the Administrator determines may present adverse effects to human health or the environment where the Administrator has identified an alternative that (1) reduces the overall risk to human health and the environment, and (2) is currently or potentially available.

B. Listing of Unacceptable/Acceptable Substitutes

Section 612(c) also requires EPA to publish a list of the substitutes unacceptable for specific uses and to publish a corresponding list of acceptable alternatives for specific uses.

C. Petition Process

Section 612(d) grants the right to any person to petition EPA to add a substance to, or delete a substance from the lists published in accordance with section 612(c). The Agency has 90 days to grant or deny a petition. Where the Agency grants the petition, EPA must publish the revised lists within an additional six months.

D. 90-day Notification

Section 612(e) directs EPA to require any person who produces a chemical substitute for a class I substance to notify the Agency not less than 90 days before new or existing chemicals are introduced into interstate commerce for significant new uses as substitutes for a class I substance. The producer must also provide the Agency with the producer's unpublished health and safety studies on such substitutes.

E. Outreach

Section 612(b)(1) states that the Administrator shall seek to maximize the use of federal research facilities and resources to assist users of class I and II substances in identifying and developing alternatives to the use of such substances in key commercial applications.

F. Clearinghouse

Section 612(b)(4) requires the Agency to set up a public clearinghouse of alternative chemicals, product substitutes, and alternative manufacturing processes that are available for products and manufacturing processes which use class I and II substances.

On March 18, 1994, EPA published the original rulemaking (59 FR 13044) which described the process for administering the SNAP program and issued EPA's first acceptability lists for substitutes in the major industrial use sectors. These sectors include: Refrigeration and air conditioning; foam blowing; solvents cleaning; fire suppression and explosion protection; sterilants; aerosols; adhesives, coatings and inks; and tobacco expansion. These sectors compose the principal industrial sectors that historically consumed the largest volumes of ozone-depleting substances.

For the purposes of SNAP, the Agency defines a ''substitute'' as any chemical, product substitute, or alternative manufacturing process, whether existing or new, intended for use as a replacement for a class I or class II substance. Anyone who produces a substitute must provide the Agency with health and safety studies on the substitute at least 90 days before introducing it into interstate commerce for significant new use as an alternative. This requirement applies to substitute manufacturers, but may include importers, formulators, or end-users, when they are responsible for introducing a substitute into commerce.

You can find a complete chronology of SNAP decisions and the appropriate **Federal Register** citations at EPA's Stratospheric Ozone Web site at *http://www.epa.gov/ozone/snap/chron.html*. This information is also available from the Air Docket (see Addresses section above for contact information).

II. Summary of Acceptability Determinations

EPA proposes to find HFC–152a and CO_2, with use conditions acceptable refrigerant substitutes as replacements for CFC–12 in motor vehicle air conditioning (MVAC) systems. This determination applies to MVAC systems in newly manufactured vehicles. This acceptability determination does not apply to MVAC systems that were retrofitted to use HFC–134a and might be again retrofitted to either HFC–152a or CO_2; nor to MVAC systems that initially were manufactured to use HFC–134a and that might be retrofitted to use HFC–152a and CO_2. The HFC–152a and CO_2 acceptability determinations are based on the results of risk screens and national safety standards.

In the original SNAP rulemaking,[1] CO_2 was found acceptable in new motor vehicle air conditioning systems, but EPA did not at that time base acceptability on use conditions now required by this rule. For various reasons, CO_2 MVAC technology development took longer than anticipated and currently, no car manufacturer has put CO_2 MVAC systems in production vehicles for general consumer use. However, manufacturers are developing prototype air conditioning (A/C) systems that use CO_2 and HFC–152a for motor vehicles sold in some foreign and domestic markets. This rule would facilitate and allow commercial deployment of the new refrigerants, but leaves refrigerant choice to the market. Since the original SNAP rulemaking, the risks of CO_2 in a MVAC system without risk mitigation

[1] 59 FR 13044; March 18, 1994.

strategies have been explored and examined. Now, informed with a new risk screen, the SNAP program has determined that the risks of CO_2 will be comparable to the risks of HFC–134a only if use conditions are implemented.

In making the acceptability determinations, EPA assessed the impact of both HFC–152a and CO_2 systems on human health and the environment; the focus was on the risks of exposure to potentially hazardous levels of refrigerant for both vehicle occupants and vehicle service technicians and how those risks compare to those associated with use of HFC–134a in MVACs.[2] EPA identified scenarios where there was potential for a leak into the passenger compartment and potential for technicians to be exposed during servicing. EPA's review found that a foreseeable worst case scenario leak into the passenger compartment from either HFC–152a or CO_2 air conditioning systems might lead to passenger exposures above risk levels associated with HFC–134a systems. However, safety devices could be added or engineered into new systems so that potentially hazardous concentrations could be avoided, making the risk comparable to that associated with HFC–134a systems. Therefore, EPA is listing HFC–152a and CO_2 as acceptable with the use condition that engineering devices or mitigation strategies be employed so that in the event of a leak, the resulting concentrations of refrigerant in the free space and vehicle occupant breathing zone within the interior car compartment are maintained at safe levels. Air conditioning systems with two or more evaporators will generally have larger refrigerant charges and therefore will require more elaborate safety mitigation devices and/or strategies. Other organizations and industry groups that have assessed risks associated with HFC–152a and/or CO_2 MVAC systems have also concluded that risk mitigation strategies in some form are necessary.[3] [4]

EPA's analysis also found that the probability of potentially dangerous exposures is higher for service technicians than for passengers, but within the level of risk that technicians currently accept as part of their job. EPA recommends that service technicians receive additional training so they are knowledgeable about the different hazards associated with working on HFC–152a and CO_2 systems when compared to HFC–134a systems. Consistent with Society of Automotive Engineer's Standard J639, prominent labeling of A/C systems with warning of ''High Pressure CO_2'' and ''Flammable Refrigerant'' is required. In addition, the SNAP regulations require unique fittings for the two A/C refrigerants which will prevent accidents associated with adding refrigerant to the wrong type of A/C system.

The following sections present a more detailed discussion of the EPA's acceptability decisions for HFC–152a and CO_2 MVAC systems. The listing decisions are summarized in Appendix B. The statements in the ''Comments'' column of the table in Appendix B provide additional information that is not legally binding under section 612 of the CAA. However, these statements may include information about binding requirements under other programs. Nevertheless, EPA strongly encourages users to use these substitutes in a manner consistent with the recommendations in the ''Comments'' section. In many instances, the comments simply refer to standard workplace safety practices that have already been identified in existing industry standards. Thus, many of these recommendations, if adopted, would not require significant changes in existing operating practices for the affected industry. Such recommendations should not be considered comprehensive with respect to legal obligations that may pertain to the use of the substitute.

III. SNAP Criteria for Evaluating Alternatives

When making acceptability decisions, EPA has considered toxicity, flammability, the potential for occupational and general population exposure, and environmental effects including ozone depletion potential, atmospheric lifetime, impacts on local air quality, and ecosystem effects of the alternatives. EPA evaluated the criteria set forth at 40 CFR 82.180(a)(7) in determining whether HFC–152a and CO_2 are acceptable refrigerant substitutes for CFC–12 in the motor vehicle air conditioning sector. The Agency has determined that the Clean Air Act does not authorize EPA to regulate for global climate change purposes (Fabricant, 2003). EPA has not yet concluded how this determination would affect its consideration of the global warming potential of substitutes under the SNAP program. Regardless, for the substitutes considered here, the global warming potential (GWP) of the alternatives was not a determinative factor in EPA's acceptable subject to use conditions determination. The GWP for these substitutes is well below that of previously approved substitutes in this sector.

The data described below indicates that use of HFC–152a and CO_2 with risk mitigation technologies does not pose greater risks compared to other substitutes approved in the MVAC sector.[5] The review focused on the potential for hazardous exposures to the refrigerants for vehicle occupants and for service technicians.

EPA and the U.S. Army (Research Development and Engineering Command) collaborated on analyzing the probability that HFC–152a or CO_2 leaks into the passenger compartment would expose occupants to refrigerant concentration levels that could lead to driver performance decrements, adverse effects on passengers, or flammable concentrations of refrigerant. The flow of refrigerant into the passenger compartment was modeled using three-dimensional computational fluid dynamics (CFD) to predict localized refrigerant concentrations over time that would result from a leak.[6] A typical six passenger sedan [7] was modeled under a broad range of MVAC system operating modes (e.g., air conditioning on or off, fan on low or high, 100% recirculated air or 100% outside air), including worst case scenarios that would result in the maximum possible leak rate. The analysis assessed the potential frequency of vehicle occupant and technician exposure to elevated levels of CO_2 and HFC–152a using ''fault tree analysis'' (FTA) which EPA has previously used to assess frequency and potential consequences of HFC–134a refrigerant releases (Jetter et al., 2001). The analysis quantified the potential for occupant exposure as a result of a range of leak scenarios and usage modes where no risk mitigation systems were engineered into the A/C systems, as well as scenarios that included engineering technology to reduce exposures. The probability of exposure during servicing was assessed for trained technicians and for untrained ''do-it-yourselfers'' (DIYers) in a variety of work situations.

In this rulemaking, CO_2 and HFC–152a risks are considered in relation to the risks associated with the predominant ozone-depleting substance (ODS) refrigerant substitute in MVACs, HFC–134a. HFC–134a is a non-flammable, low toxicity refrigerant. The

[2] The predominant air conditioning refrigerant in newly manufactured motor vehicles is HFC–134a. In listing HFC–134a as an acceptable substitute, EPA found that exposure in motor vehicles would fall far below a threshold of concern (EPA, 1994).

[3] RISA, 2002.

[4] Rebinger, 2005.

[5] The predominant substitute in the MVAC sector is HFC–134a.

[6] The U.S. Army CFD model was previously developed for risk assessment of other chemicals.

[7] Modeling assumed 6 adult passengers in the car.

EPA's SNAP program does not require that new substitutes be found risk-free to be found acceptable. In reviewing the acceptability of proposed substitutes, EPA considers how each substitute can be used within a specific application and the resulting risks and uncertainties surrounding potential health and environmental effects. The EPA does not want to intercede in the market's choice of available substitutes, unless a proposed substitute is clearly more harmful to human health and the environment than other alternatives.

CO_2 and HFC–152a MVAC systems are not yet commercially available. In the absence of empirical data, EPA selected upper bound values for the fault tree probability inputs that would tend to lead to higher estimates of equipment failure or leak rates (*i.e.*, worst case scenarios), and therefore higher probabilities of passenger exposures than might typically be encountered, such as using a car with a high ratio of refrigerant charge size to passenger compartment volume.

IV. Carbon Dioxide MVAC Systems

A. Occupant Exposure

Numerous studies indicate that a spectrum of health effects are associated with increasing CO_2 exposures. These health effects range from symptomatic effects to death (EPA, 2005). Individuals exposed to CO_2 concentrations as low as 4–5% over a few minutes reported headache, uncomfortable breathing and dizziness (Schulte, 1964; Schneider and Truesdale, 1922; Patterson *et al.*, 1955). Significant performance degradation (*e.g.*, reaction time) was noted in pilots exposed to 5% CO_2 (Wamsley *et al.*, 1975, cited in Wong, 1992). Individuals exposed to 6% CO_2 for periods as short as two minutes had hearing and visual disturbances (Gellhorn, 1936), and significant reasoning and performance decrements have been observed in healthy young adults after exposures of 5 minutes to 7.5% CO_2 (Sayers, 1987). Concentrations of 10% CO_2 and higher can cause loss of consciousness, seizures, or even death (Hunter, 1975; Lambertsen, 1971; OSHA, 1989).

Elevated CO_2 concentrations can result from human respiration in a sealed space, such as a car, without the introduction of fresh air. For example, after 60 minutes in a sub-compact car with four adult passengers and the A/C system in recirculation mode, the total CO_2 concentration is estimated to be approximately 2.4% (EPA, 2005). In designing their systems and necessary mitigation devices, original equipment manufacturers (OEMs) should account for potentially elevated background CO_2 concentrations that can result without a discharge of CO_2 into the passenger compartment.

1. Upper Limit for Vehicle Occupant Exposure

In proposing the upper CO_2 limit for vehicle occupant exposure, EPA relied on guidance from National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention. Based on adverse effects associated with overexposure to CO_2 ranging from rapid breathing and heart palpitations, headache, sweating, shortness of breath and dizziness, to convulsions and death, NIOSH has adopted a Recommended Exposure Limit (REL) for short-term CO_2 exposure of 3% averaged over 15 minutes. NIOSH's REL for short-term CO_2 exposure is the same as the American Conference of Governmental Industrial Hygienists (ACGIH) short-term exposure limit (STEL) for CO_2.

EPA focused on short-term passenger exposures for three reasons. First, occupants experiencing decreased cooling of the A/C system as a result of refrigerant leaks may also respond by opening windows or increasing fan speed. The introduction of outside air by a vehicle occupant would mix with discharged CO_2 and dilute a potentially hazardous concentration. The second reason is that average trip duration is about 30 minutes.[8] The third reason is that vehicle occupants who start to experience abnormal breathing or other physiological effects of CO_2 exposure will likely react by increasing the fan speed or opening windows to increase their comfort level by reducing the sense of stuffiness. EPA proposes that direct loop refrigerant systems that have the potential for release of refrigerant into the occupant compartment or the A/C air distribution system, must have safety mitigation necessary to prevent concentrations higher than the CO_2 STEL (3% averaged over 15 minutes). EPA seeks comment on this use condition and also whether a maximum CO_2 ceiling in the breathing zone should be applied in addition to the 3% free space limit averaged over 15 minutes. A breathing zone ceiling may provide additional assurance regarding vehicle driver alertness. Public comments suggesting a breathing zone ceiling should specify the suggested level, justified by literature from scientific, safety standard, and other sources published worldwide.

[8] Atkinson, 2002.

2. Potential Occupant Exposure With No Safety Mitigation

Computational fluid dynamics (CFD) modeling demonstrated where peak concentrations of refrigerant could appear in the passenger compartment as a result of different leak events, and whether those peaks are likely to be above the CO_2 STEL. U.S. Army modeling conducted as part of the EPA risk analysis indicated that CO_2 leaks in a stationary or slowly moving vehicle in full recirculation mode, without mitigation devices or other safety features could result in peak concentrations of about 10% and levels above 6% for roughly an hour which are well above the CO_2 STEL.

3. Occupant Exposure With Risk Mitigation

The analyses indicate that direct expansion CO_2 systems without additional safety features could result in vehicle occupant exposures above the CO_2 STEL. However, based on the U.S. Army CFD modeling, properly engineered safety systems added to CO_2 systems can reduce the chance of occupant exposure to levels above the CO_2 STEL, thus making the risks of CO_2 comparable to HFC–134a. EPA is interested in comment on the adequacy of available mitigation systems for CO_2 in minimizing risks to passengers.

One possible strategy to limit refrigerant leakage into occupied passenger space is to detect the leak and activate a device referred to as a ''squib valve'' to vent the CO_2 to a location outside of the passenger compartment, such as a wheel well or tail pipe. The CFD modeling estimated peak concentrations in the passenger compartment when a squib valve is used to evacuate the refrigerant charge. The U.S. Army CFD modeling conducted to date indicates that when the squib valve is activated within 10 seconds after a leak event is detected, the maximum concentration remains well below the CO_2 STEL. The Agency is interested in comment on whether a squib valve activation faster than 10 seconds would be needed, or whether any squib valve technology is sufficient to protect against possible adverse effects associated with very brief (e.g., 5 second) potentially elevated exposures (e.g., 5–10% CO_2), and the likelihood that occupants would encounter such high exposures.

Another way to reduce CO_2 exposure would be to increase the amount of outside air that is introduced to the car. CFD modeling revealed that when the A/C system uses 100% outside air, as opposed to recirculated air, CO_2 levels

remained below the CO_2 STEL after a foreseeable worst case scenario leak.[9]

Other potential risk mitigation strategies that reduce the likelihood of exceeding the CO_2 STEL in the free space of the passenger compartment include:

- Eliminating the possibility of passenger exposure by separating the refrigerant from the passenger compartment with secondary loop systems.
- Evaporator isolation valves whose default position is closed. Such valves would allow only a fraction of the total charge to be released into the passenger compartment in the event of a leak.
- Close-coupled or hermetically sealed systems that would both reduce charge size and decrease the possibility of a leak event.
- Automatic increases in the air exchange in the passenger compartment upon detection of leaks.
- Automatic venting of refrigerant outside the passenger compartment in the air exchange of the passenger compartment upon detection of leaks.

The Agency is interested in comment on whether these risk mitigation strategies are technically feasible, considering fuel efficiency and overall system performance criteria.

B. Service Technician Exposure

Risks to service personnel from CO_2 systems can result from the high pressure of the systems. Carbon dioxide A/C systems are high-pressure systems that require service personnel to take safety precautions and measures. Injury could occur as a result of the potentially high force of an unexpected failure of system components or from gas escaping during parts disassembly.

Risks to service personnel from CO_2 systems can also come about from overexposure to CO_2 in an unexpected system release. Because CO_2 is heavier than air, the gas will sink and could cause high concentrations in low lying areas such as service pits. Service technicians should be aware of the potential for CO_2 build-up in these areas and protect against exposure to high concentrations. The Occupational Safety and Health Administration (OSHA) Permissible Exposure Limit (PEL) for CO_2 is 5,000 parts per million (ppm) (or 0.5%) over an eight hour time weighted average.

EPA analysis revealed that the risk of potentially hazardous exposure to CO_2 as a result of working on MVAC systems is within the level of risk service technicians currently accept as part of their job. Technicians handle high pressure gases such as CO_2 on a daily basis. However, it is recommended that service technicians become knowledgeable about the hazards associated with CO_2 systems and that additional training be provided.

''Do-it-yourself'' repairers (DIYers) working with CO_2 systems face the risks of working with high pressure, including potentially high force from an unexpected leak from the system or a CO_2 tank. Consistent with Society of Automotive Engineers (SAE) J639 Standard, CO_2 systems must be labeled with a nameplate or tag indicating the air conditioning system is under high pressure and should only be serviced by qualified personnel. These labels combined with unique fittings for CO_2 systems are expected to help mitigate potential for risk or injury to DIYers.

C. Environmental Information

Carbon dioxide has an ozone depletion potential (ODP) of zero. The original ozone depleting substance in MVACs, CFC–12, has an ODP of 1.[10] The predominant MVAC substitute, HFC–134a has an ODP of zero.[11] Carbon dioxide, CFC–12, and HFC–134a are all excluded from the definition of volatile organic compound (VOC) under CAA regulations (see 40 CFR 51.100(s)) addressing the development of State implementation plans (SIPs) to attain and maintain the national ambient air quality standards.

D. Acceptability Determination

EPA proposes to list CO_2 acceptable with the use condition that MVAC systems are designed so that occupant exposure to concentrations above the CO_2 STEL of 3% averaged over 15 minutes are avoided, even in the event of a leak. We request comment on whether a maximum ceiling CO_2 level should be applied in the driver and passenger breathing zone and the scientific basis for such a limit. The addition of the squib valve/directed release system is one possible strategy for mitigating risk for CO_2 systems. Other mitigation strategies may also prove equally or more effective.

Prominent labeling of CO_2 MVAC systems with a warning such as ''CAUTION SYSTEM CONTAINS HIGH PRESSURE CARBON DIOXIDE (CO_2)—TO BE SERVICED ONLY BY QUALIFIED PERSONNEL'' is required. Consistent with Society of Automotive Engineers (SAE) J639 Standard, this label should be mounted in the engine compartment on a component that is not normally replaced and where it can be easily seen. This label must include CO_2 identification information and indicate that CO_2 is potentially toxic.

Original equipment manufacturers (OEMs) are required to keep records of the tests they perform to ensure that MVAC systems are safe and are designed with sufficient safety mitigation devices to ensure that occupants are not exposed to levels above the CO_2 STEL under foreseeable circumstances. Presently, no standard test procedure exists to determine that concentrations of concern are not exceeded. EPA is working with SAE to develop these test standards and expects them to be in place by the time that CO_2 MVAC systems are deployed in U.S. vehicles. Other use conditions are already established in Appendix D to subpart G of 40 CFR part 82 that are applicable to all substitute refrigerants in MVAC systems (*e.g.*, unique fittings and labels).

V. HFC–152a MVAC Systems

A. Toxicity and Flammability

The American Industrial Hygienists Association (AIHA) Workplace Environmental Exposure Limit (WEEL) (8 hour time weighted average) for HFC–152a is 1000 ppm (0.1% v/v), the highest occupational exposure limit allowed under standard industrial hygiene practices for any industrial chemical. The toxicity profile of HFC–152a is comparable to CFC–12 and its most prevalent substitute, HFC–134a. The lowest observed adverse effect level for HFC–152a toxicity (15%) is above the level of flammability concern, discussed below, so protecting against flammable concentrations protects against toxic conditions as well.

A wide range of concentrations has been reported for HFC–152a flammability where the gas poses a risk of ignition and fire (3.7%–20% by volume in air) (Wilson, 2002). Different test conditions, impurities and the measurement approach can all contribute to the range of flammable concentrations of HFC–152a. The lower flammability limit (LFL) for HFC–152a has been tested by many laboratories using different testing protocols with results ranging from 3.7% to 4.2%. EPA selected the lowest reported LFL to assess the potential for passenger exposure and predict localized pockets of refrigerant concentrations within the passenger compartment. This selection increases confidence that the substitute

[9] Although this would effectively mitigate safety hazards there would likely be a large fuel efficiency penalty if this strategy were used since the system would not use recirculated air at all.

[10] World Meteorological Organization (WMO) Science Assessment of Ozone Depletion, 2002.

[11] WMO Science Assessment of Ozone Depletion, 2002.

is regulated in a manner that is protective of the general population.

Protecting against flammable concentrations of HFC–152a also protects against toxic conditions because the lowest observed adverse effect level (LOAEL) of HFC–152a is far above the level of flammability concern.

1. Upper Limit of Occupant Exposure

The lowest reported LFL for HFC–152a is 3.7%, which EPA considers to pose a fire hazard to occupants and technicians. To assess the potential for passenger exposure and predict localized pockets of greater refrigerant concentrations in specific locations within the passenger compartment, EPA used 3.7% as the upper limit of occupant exposure.

The upper limit of occupant exposure to HFC–152a protects against the possibility of flammability. It is important to note that when burned or exposed to high heat, HFC–152a like all fluorocarbons including CFC–12 and HFC–134a, forms acid byproducts including hydrofluoric acid (HF)—a severe respiratory irritant.[12] OSHA has set a Permissible Exposure Limit (PEL) 8-hour occupational exposure limits for HF at 3 ppm which is the upper allowable limit for worker exposure. Passenger exposure to HF could only occur as a result of a large leak in the presence of an ignition source. EPA's approach in the risk screen and in setting use conditions is to prevent any fire risk associated with HFC–152a use in MVAC systems, which would also prevent any potential passenger exposure to HF.

2. Potential Occupant Exposure With No Safety Mitigation

U.S. Army computational fluid dynamics (CFD) modeling simulated various leakage scenarios into the passenger compartment and the potential for occupant exposures. As an initial screening tool, simplified modeling was conducted by assuming uniform mixing of passenger compartment air. This type of modeling does not account for the pockets of flammable refrigerant that can occur. The results indicate that concentrations of HFC–152a that are roughly one-half the lower flammable limit (2%) would be reached in all recirculation modes (at various fan speeds and A/C on and off) for a stationary vehicle. More complex modeling showed that localized concentrations exceeding the LFL would occur with minimal mitigation (see below). Therefore, this substitute would pose increased risk compared to HFC–134a in the absence of sufficient mitigation technology.

3. Occupant Exposure With Safety Mitigation

U.S. Army CFD modeling included in the risk analysis indicates that occupant exposures could be reduced if risk mitigation technology was incorporated that reduced the amount of HFC–152a that entered the passenger compartment in the event of a leak.

A 10-second squib valve activation time in a HFC–152a system resulted in estimated localized concentrations greater than 3.7% v/v in close proximity to the vent for a total of 14 seconds. In comparison, a HFC–152a system with no squib valve resulted in estimated localized concentrations greater than 3.7% v/v in close proximity to the vent for 35 seconds. Given the very small areas and time frames of potential exposures involved, EPA believes that 10 seconds is an appropriate upper bound for the valve activation time, unless the system design can also ensure a lower release rate. EPA is interested in comments on whether a squib valve activation faster than 10 seconds is necessary, or whether any squib valve technology is sufficient to prevent potentially hazardous concentrations (*i.e.*, greater than 3.7% for 15 seconds).

We also assessed the introduction of outside air through the A/C system to investigate whether this would be useful in hazard mitigation. CFD modeling showed that potentially flammable concentrations would exist for 5 minutes with the introduction of 50% outside air, and for 3 minutes with 100% outside air using the simplified modeling. While the introduction of outside air alone does not yield acceptable outcomes, introducing some outside air at all times in addition to another mitigation strategy may be a viable option.

Other potential risk mitigation strategies that reduce the likelihood of exceeding the HFC–152a LFL of 3.7% for more than 15 seconds may include:

- Eliminating the possibility of HFC–152a in the passenger compartment by placing the refrigerant only in the engine compartment with secondary loop systems.
- Evaporator isolation valves whose default position is closed. Such valves would allow only a fraction of the total charge to be released into the passenger compartment in the event of a leak.
- Close-coupled or hermetically sealed systems that would both serve to reduce charge size and decrease the possibility of a leak event.
- Automatic increases in the air exchange in the passenger compartment upon detection of leaks.
- Automatic venting of HFC–152a outside the passenger compartment in the air exchange of the passenger compartment upon detection of leaks.

The Agency is interested in comment on whether these risk mitigation strategies are technically feasible, considering fuel efficiency and overall system performance criteria.

B. Service Technician Exposure

Fault Tree Analysis (FTA) found that the risk of potentially hazardous exposure to HFC–152a is higher for service technicians than for occupants driving in vehicles with no safety mitigation technology. The AIHA occupational exposure limit for HFC–152a is 1000 ppm (0.1% v/v averaged over 8-hours). The risk of exposure while servicing vehicles depends not only on the number of vehicles a given service technician or shop handles, but also on service technician experience and training. With proper mitigation and training, the frequency of these exposures can be reduced dramatically. Further, EPA believes, based on input from service technicians, the flammability potential of HFC–152a is within the level of risk technicians currently accept as part of their job. Technicians handle flammables comparable to HFC–152a on a daily basis. It is recommended however, that additional training be provided to service technicians so that they are knowledgable about the different hazards associated with working on HFC–152a systems compared to CFC–12 or HFC–134a systems. EPA is currently working with A/C service and technical associations to anticipate new systems and to modify training, as needed.

''Do-it-yourself'' repairers (DIYers) working with HFC–152a systems face the risks of working with a slightly flammable substance. Consistent with Society of Automotive Engineers (SAE) J639 Standard, HFC–152a systems should be labeled with a nameplate or tag indicating the air conditioning system is under high pressure and should only be serviced by qualified personnel. These labels combined with unique fittings for HFC–152a systems are expected to help mitigate potential for risk or injury to DIYers.

[12] These decomposition products have a sharp, acrid odor even at concentrations of only a few parts per million.

C. Environmental Information

HFC–152a has an ODP of zero.[13] The original ozone depleting substance in MVACs, CFC–12, has an ODP of 1. The predominant MVAC substitute, HFC–134a has an ODP of zero.[14] HFC–152a, CFC–12, and HFC–134a all are excluded from the definition of VOC under CAA regulations (see 40 CFR 51.100(s)) addressing the development of State implementation plans (SIPs) to attain and maintain the national ambient air quality standards

D. Acceptability Determination

Within the refrigeration and air-conditioning sector, EPA proposes to find HFC–152a acceptable with the use condition that MVAC systems are designed so that foreseeable leaks into the passenger compartment do not result in HFC–152a concentrations at or above the lowest LFL of 3.7% for more than 15 seconds. EPA seeks comment on whether 15 seconds is sufficiently protective. The addition of the squib valve/directed release system is one effective strategy for mitigating risk for HFC–152a systems. Other mitigation strategies may also prove effective.

Prominent labeling of HFC–152a A/C systems is required with warning such as ''CAUTION SYSTEM CONTAINS POTENTIALLY FLAMMABLE HFC–152a REFRIGERANT—TO BE SERVICED ONLY BY QUALIFIED PERSONNEL''. Consistent with SAE J639 Standard, this label should be mounted in the engine compartment on a component that is not normally replaced and where it can be easily seen. This label should include refrigerant identification information and indicate the refrigerant is potentially flammable. HFC–152a systems operate at pressures similar to those of HFC–134a systems, with which technicians are familiar; therefore EPA has determined that additional labeling to address high pressure is unnecessary.

Original equipment manufacturers (OEMs) are required to keep records of the tests they perform to ensure that MVAC systems are safe and are designed with sufficient safety mitigation devices to ensure that occupants are not exposed to levels of HFC–152a at or above 3.7% for more than 15 seconds. Presently, no standard test procedure exists to determine that concentrations of concern are not exceeded, but EPA is working together with stakeholders and standards organizations to develop these test standards. The Agency expects these standards to be in place by the time that HFC–152a MVAC systems are deployed in U.S. vehicles. Other use conditions already established in Appendix D to Subpart G of 40 CFR Part 82 are applicable to all substitute refrigerants in MVAC systems (*e.g.* unique fittings and labels).

VI. Other Use Conditions Applicable to Motor Vehicle Air Conditioning Systems

On October 16, 1996, (61 FR 54029), EPA promulgated a final rule that prospectively applied certain conditions on the use of any refrigerant used as a substitute for CFC–12 in motor vehicle air conditioning systems (Appendix D of Subpart G of 40 CFR part 82). That rule provided that EPA would list new refrigerant substitutes in future notices of acceptability and all such refrigerants would be subject to the use conditions stated in that rule. Therefore, the use of both CO_2 and HFC–152a in motor vehicle air conditioning systems must follow the standard conditions imposed on refrigerant substitutes previously listed by SNAP, including:

- Use of unique fittings—identified by SAE standard J639 and subject to EPA approval;
- Application of a detailed label identifying the refrigerant in use and if it is potentially flammable or toxic [15]; and
- Installation of a high-pressure compressor cutoff switch on systems equipped with pressure relief devices.

Because HFC–152a and CO_2 retrofits of CFC–12 or HFC–134a are prohibited by EPA, this document does not consider the additional SNAP requirements for MVAC substitutes approved for use in retrofits.

VII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order (EO) 12866 (58 FR 51735, October 4, 1993), this action is a ''significant regulatory action.'' It raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under EO 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. 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.

This proposed rule is an Agency determination. It contains no new requirements for reporting. The only new recordkeeping requirement involves customary business practice. The Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations in subpart G of 40 CFR part 82 under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control numbers 2060–0226 (EPA ICR No. 1596.05). This Information Collection Request (ICR) included five types of respondent reporting and record keeping activities pursuant to SNAP regulations: submission of a SNAP petition, filing a SNAP/TSCA Addendum, notification for test marketing activity, record keeping for substitutes acceptable subject to use restrictions, and record-keeping for small volume uses. This proposed rule requires minimal record-keeping of studies done to ensure that MVAC systems using either HFC–152a or CO_2 meet the requirements set forth in this rule. Because it is customary business practice that automotive systems manufacturers and automobile manufacturing companies conduct and keep on file failure mode and Effect Analysis (FMEA) on any potentially hazardous part or system, we believe this requirement will not impose an additional paperwork burden.

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.

[13] WMO Science Assessment of Ozone Depletion, 2002.

[14] WMO Science Assessment of Ozone Depletion, 2002.

[15] This proposal specifies the language to be used for this label to warn technicians of the risks associated with HFC–152a and CO^2.

Copies of the SNAP ICR document(s) may be obtained from Susan Auby, by mail at the Office of Environmental Information, Office of Information Collection, Collection Strategies Division; U.S. Environmental Protection Agency (2822T); 1200 Pennsylvania Ave., NW., Washington, DC 20460, by e-mail at *auby.susan@epa.gov*, or by calling (202) 566–1672.

C. Regulatory Flexibility Act (RFA)

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of this rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this proposed rule on small entities, we certify that this action will not have a significant economic impact on a substantial number of small entities. The requirements of this proposed rule impact car manufacturers and car air conditioning system manufacturers only. These businesses do not qualify as small entities. The change in CO_2 acceptability to include use conditions and the imposition of use conditions for HFC–152a does not impact the small businesses. The change does not impact car manufacturers because production-quality CO_2 and HFC–152a MVAC systems are not manufactured yet. Consequently, no change in business practice is required by this proposed rule and will not impose any requirements on small entities.

We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements. EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. This proposed rule does not affect State, local, or tribal governments. The enforceable requirements of this proposed rule related to integrating risk mitigation devices and documenting the safety of substitute refrigerant MVAC systems affect only a small number of manufacturers of car air conditioning systems and car manufacturers. This proposal provides additional technical options allowing greater flexibility for industry in designing consumer products. The impact of this rule on the private sector will be less than $100 million per year. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA. EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. This regulation applies directly to facilities that use these substances and not to governmental entities. The change in acceptability of CO_2 does not impact the private sector because manufacturers are not producing systems under the current acceptability regulation. This proposed rule does not mandate a switch to these substitutes; consequently, there is no direct economic impact on entities from this rulemaking.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.''

This proposal does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This regulation applies directly to facilities that use these substances and not to governmental entities. Thus, Executive Order 13132 does not apply to this rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, 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.''

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This proposed rule does not significantly or uniquely affect the communities of Indian tribal governments, because this regulation applies directly to facilities that use these substances and not to governmental entities. Thus, Executive Order 13175 does not apply to this proposed rule.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. There are no experimental or anecdotal data to indicate that children are more sensitive than adults to the adverse effects of increased CO_2 environments.[16] The exposure limits and acceptability listings in this proposed rule apply to car occupants, and in particular car drivers and service technicians. These are areas where we expect adults are more likely to be present than children, and thus, the agents do not put children at risk disproportionately.

The public is invited to submit or identify peer-reviewed studies and data, of which the agency may not be aware, that assesses the potential effects of these alternatives on children.

[16] Risk Analysis for Alternative Refrigerant in Motor Vehicle Air Conditioning (EPA, 2005).

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This proposed rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This action would impact manufacturing and repair of alternative MVAC systems. Preliminary information indicates that these new systems may be more energy efficient than currently available systems in some climates. Therefore, we conclude that this rule is not likely to have any adverse effects on energy supply, distribution or use.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law No. 104–113, Section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This proposed rule regulates the safety and deployment of new substitutes for MVAC systems. EPA is referencing the Society of Automotive Engineers (SAE) standard J639, which is currently being revised to include requirements for safety and reliability for HFC–152a and CO_2 systems.

VIII. References

The documents below are referenced in the preamble. All documents are located in the Air Docket at the address listed in section I.B.1 at the beginning of this document. Unless specified otherwise, all documents are available in Docket ID No. EPA–HQ–OAR–2004–0488 at *www.regulations.gov.*

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List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: September 14, 2006.

Stephen L. Johnson,

Administrator.

For the reasons set out in the preamble, 40 CFR part 82 is proposed to be amended as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601, 7671–7671q.

Subpart G—Significant New Alternatives Policy Program

2. The first table in Subpart G to Appendix B of part 82 is amended by adding 2 new entries to the end of the table to read as follows:

Appendix B to Subpart G of Part 82—Substitutes Subject to Use Restrictions and Unacceptable Substitutes

REFRIGERANTS—ACCEPTABLE SUBJECT TO USE CONDITIONS

Application	Substitute	Decision	Conditions	Comments
*	*	*	* *	* *
CFC–12 Automobile Motor Vehicle Air Conditioning (New equipment only).	Carbon Dioxide (CO_2) as a substitute for CFC–12.	Acceptable subject to use conditions.	Engineering strategies and/or devices shall be incorporated into the system such that foreseeable leaks into the free space[1] of the passenger compartment do not result in concentrations greater than the CO_2 short-term exposure limit (STEL) of 3% v/v for 15 minutes. Manufacturers must adhere to all the safety requirements listed in the Society of Automotive Engineers (SAE) Standard J639, including unique fittings and a high pressure system warning label.	Additional training for service technicians recommended. Manufacturers should conduct and keep on file Failure Mode and Effect Analysis (FEMA) on the MVAC as stated in SAE J1739. In designing safety mitigation strategies and/or devices, manufacturers should factor in background CO_2 concentrations potentially contributed from normal respiration by the maximum number of vehicle occupants.
CFC–12 Automobile Motor Vehicle Air Conditioning (New equipment only).	HFC–152a as a substitute for CFC–12.	Acceptable subject to use conditions.	Engineering strategies and/or devices shall be incorporated into the system such that foreseeable leaks into the passenger compartment do not result in HFC–152a concentrations of 3.7% v/v or above in any part of the free space[2] inside the passenger compartment for more than 15 seconds. Manufacturers must adhere to all the safety requirements listed in the Society of Automotive Engineers (SAE) Standard J639, including unique fittings and a flammable refrigerant warning label.	Additional training for service technicians recommended. Manufacturers should conduct and keep on file Failure Mode and Effect Analysis (FMEA) on the MVAC as stated in SAE J1739.

[1] Free space is defined as the space inside the passenger compartment excluding the space enclosed by the ducting in the HVAC module.
[2] Free space is defined as the space inside the passenger compartment excluding the space enclosed by the ducting in the HVAC module.

[FR Doc. 06–7967 Filed 9–20–06; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 27, and 90

[WT Docket Nos. 06–169, 96–86; FCC 06–133]

Revisions to Upper 700 MHz Guard Band Licenses; Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks comment on possible changes to its rules governing existing and prospective Upper 700 MHz Guard Bands licensees as well as possible revision to its Upper 700 MHz band plan in order to promote the most efficient and effective use of the spectrum. Specifically, the Commission requests comment on whether to extend the Commission's Secondary Markets spectrum leasing policies to the Guard Bands, whether to increase band manager flexibility for incumbents and prospective licensees; whether to eliminate the prohibition on deploying cellular architectures in the Guard

Bands; and whether to change the current Adjacent Channel Power (ACP) limits in the Guard Bands. Further, the Commission seeks comment on whether reclaimed spectrum (42 Guard Bands licenses that were returned from Nextel) should be re-licensed as commercial spectrum, or reallocated for critical infrastructure industries or public safety entities. Finally, the Commission seeks comment on proposals to modify the existing Upper 700 MHz band plan with respect to the Guard Bands, or to preserve the existing band plan.

DATES: Comments are due on or before October 23, 2006 and reply comments are due on or before November 6, 2006.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., TW–A325, Washington, DC 20554. See **SUPPLEMENTARY INFORMATION** for filing instructions.

FOR FURTHER INFORMATION CONTACT: Paul Moon of the Mobility Division, Wireless Telecommunications Bureau, at (202) 418–1793, e-mail at *Paul.Moon@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking*, FCC 06–133, in WT Docket Nos. 06–169 and 96–86, adopted on September 6, 2006, and released on September 8, 2006. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the FCC's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 488–5300, facsimile (202) 488–5563, or via e-mail at *FCC@BCPIWEB.COM*. The full text may also be downloaded at *http://www.fcc.gov*. Alternative formats are available to persons with disabilities (braille, large print, electronic files and audio format) by e-mailing *fcc504@fcc.gov*, or calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis of the Notice of Proposed Rulemaking

1. Several factors suggest that the Commission should re-examine its spectrum management policies regarding the 700 MHz Guard Bands. In the *800 MHz Report and Order* in WT Docket No. 02–55, the Commission reclaimed 700 MHz Guard Bands B Block licenses surrendered by Nextel Communications, Inc., as part of the Commission's 800 MHz re-banding process aimed at improving public safety communications. *See* Improving Public Safety Communications in the 800 MHz Band, WT Docket No. 02–55, *Report and Order*, 19 FCC Rcd 14969 (2004). Although the Commission reclaimed the Nextel licenses in that Order, it deferred the resolution of how best to use the surrendered 700 MHz spectrum. Further, the Commission's required annual Guard Band Manager reports, as well as comments from existing licensees, indicate that the 700 MHz Guard Bands spectrum is under-utilized. Finally, Congress recently created greater certainty regarding the availability of unencumbered 700 MHz spectrum for wireless commercial and public safety licensees—including the Guard Bands—by establishing a ''hard date'' of February 17, 2009, by which time incumbent analog broadcasters must vacate the spectrum. *See* Deficit Reduction Act of 2005, Public Law 109–171, 120 Stat. 4 (2006) (''DTV Act''). As set forth in detail below, the Commission seeks comment on proposed uses of the reclaimed spectrum, as well as possible revisions to service rules and band plan that would enable the highest and best use of this service.

2. The Commission seeks comment on proposed revisions to service and technical rules that could promote greater operational, technical and regulatory flexibility for the 700 MHz Guard Bands service generally. The *NPRM* seeks comment on whether the Commission should continue to apply the band manager rules for purposes of any re-auction of the former Nextel spectrum, or whether it would be more appropriate to eliminate ''band manager only'' eligibility restrictions and extend the Commission's current Secondary Markets spectrum leasing policies to this spectrum. The Commission requests comment on whether it should consider making both regulatory options available to bidders in the event the reclaimed Nextel spectrum is re-auctioned. For that matter, the Commission asks commenters to address whether it remains necessary in the public interest to permit only band managers to be licensed in the 700 MHz Guard Bands, which requires leasing to third parties to guarantee spectrum access through negotiated spectrum use agreements, while prohibiting the band manager from offering service or using the spectrum for its internal purposes. The Commission also seeks comment on an alternative approach involving relaxation of certain band manager restrictions (*e.g.*, leasing to affiliates) while retaining the overall concept. Further, the *NPRM* seeks comment on whether the Commission should modify its rules pertaining to incumbent 700 MHz Guard Bands licensees in the event the Commission determines that the band manager concept should not be applied to any re-licensing of the Nextel returned spectrum.

3. In addition to seeking public comment regarding eligibility and use restrictions, the Commission also requests comment on whether it is appropriate to remove or modify certain technical rules that were originally put in place to minimize interference to public safety operations. For example, the *NPRM* seeks comment on whether the restriction on cellular architecture in the Guard Bands should be maintained, eliminated or more clearly defined. The *NPRM* requests comment on a proposal that advocates the removal of the Commission's cellular architecture prohibition in favor of a power flux density (PFD) limit used in conjunction with improved receiver technology. Alternatively, the Commission also seeks comment on whether it should reduce the 1 kilowatt maximum Effective Radiated Power (ERP) limit for those 700 MHz Guard Band base stations implemented in a cellular architecture, either applied independently or in conjunction with a PFD limit as a means of mitigating interference to public safety operations. Further, in order to determine the possible impact of removing or modifying the cellular architecture ban on all affected parties (Guard Bands licensees as well as public safety entities), the Commission seeks comment on the feasibility of completing the required coordination with public safety operations of the numerous sites involved in a cellular architecture.

4. The *NPRM* also requests comment on whether the Commission should reconsider the existing out-of-band emission (OOBE) limits used for the 700 MHz Guard Bands. Specifically, the Commission seeks comment on whether it should replace its current use of Adjacent Channel Power (ACP) limits with the OOBE limits that apply to the Upper 700 MHz C and D Blocks. *See* 47 CFR 27.53(c)(1) and (2). ACP limits differ from OOBE limits in that they require several different power attenuation levels at specific points displaced from the center frequency of a channel. OOBE limits, on the other hand, require that out-of-band signal power be attenuated to ensure that the maximum out-of-band signal power maintains an established, constant relation to the transmitter power. The Commission also seeks comment on the emission limits necessary to protect public safety operations in the event

broadband operations are permitted in the public safety block, pursuant to a separate open proceeding. See Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010, *Eighth Notice of Proposed Rulemaking,* WT Docket Nos. 96–86 and 05–157, 21 FCC Rcd 3668 (2006). Further, in the event that the Commission maintains the current ACP limits and does not apply OOBE limits to the Guard Bands, the *NPRM* asks whether the Commission's rules should be modified to account for operations wider than 150 kilohertz, and requests that commenters propose attenuation values for band widths greater than 150 kilohertz that will maintain adequate protection for public safety operations.

5. Apart from the proposed revisions to service and technical rules, the *NPRM* also requests comment on whether the Commission should re-examine the current 700 MHz Guard Bands spectrum plan. The Commission requests comment on a proposal submitted by Motorola, Inc. and the United Telecommunications Council (Motorola/UTC). The Motorola/UTC plan proposes that the Commission reallocate one megahertz of the Guard Bands B Block for critical infrastructure interoperability and retain the remainder of the B Block as a guard band. The Commission also seeks comment on alternative proposals filed by existing Guard Band Managers, including Access Spectrum, L.L.C., Pegasus Guard Band, L.L.C., Columbia Capital Equity Partners III, L.P. and PTPMS II Communications, L.L.C. These proposals ask the Commission to reallocate the 700 MHz Guard Bands, as well as the adjacent 700 MHz public safety spectrum, in order to accommodate broadband operations by both Guard Bands licensees and public safety entities. Because each of the proposals would require the Commission to reclaim the B Block spectrum, the *NPRM* requests comment on how best to clear the block of existing licensees in the event that the Commission concludes that it is in the public interest to reconfigure the band plan. The *NPRM* tentatively concludes, however, that it would not be appropriate to adopt any proposal that entails a shift in the narrowband channels within the public safety band unless two issues—the costs of reprogramming existing public safety radios, and international border coordination—are resolved expeditiously. The *NPRM* also tentatively concludes that any decision to shift the existing Upper 700 MHz band plan in a way that affects ''recovered analog spectrum'' within the DTV transition would need to be made in time to allow the Commission to conduct the auction of recovered spectrum in accordance with the relevant statutory requirements.

Procedural Matters

Initial Regulatory Flexibility Analysis

6. As required by section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the proposals considered in this document. The text of the IRFA is set forth below. Written public comments are requested on this IRFA. Comments must be filed in accordance with the same filing deadlines for comments on this *NPRM*, and they should have a separate and distinct heading designating them as responses to the IRFA. The Commission will send a copy of the *NPRM*, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act.

Ex Parte Rules—Permit-but-Disclose Proceeding

7. This is a ''permit-but-disclose'' notice and comment rulemaking proceeding in accordance with the Commission's *ex parte* rules. *See* 47 CFR 1.1200, and 1.1206. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented is generally required. *See* 47 CFR 1.1206(b)(2). Other rules pertaining to oral and written presentations are set forth in § 1.1206(b) of the Commission's rules as well.

Comment Dates

8. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, and 1.419, interested parties may file comments in response to this *NPRM* no later than on or before 30 days after **Federal Register** publication. Reply comments to these comments may be filed no later than on or before 45 days after **Federal Register** publication. All pleadings are to reference WT Docket Nos. 06–169 and 96–86. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. Parties are strongly encouraged to file electronically. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

9. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html.* Parties should transmit one copy of their comments to the dockets in the caption of this rulemaking. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable dockets or rulemaking number. Parties may also submit an electronic comment via Internet e-mail. To get filing instructions for e-mail comments, commenters should send and e-mail to *ecfs@fcc.gov* and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply.

10. Parties choosing to file by paper must file an original and four copies of each filing in WT Docket Nos. 06–169 and 96–86. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. The Commission's mail contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

11. Comments submitted on diskette should be on a 3.5-inch diskette formatted in an IBM-compatible format using Word for Windows or compatible software. The diskette should be clearly labeled with the commenter's name, proceedings (including the docket numbers, in this case WTB Docket Nos. 06–169 and 96–86), type of pleading

(comments or reply comments), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase: ''Disk Copy—Not an Original.'' Each diskette should contain only one party's pleadings, preferably in a single electronic file.

12. All parties must file one copy of each pleading electronically or by paper to each of the following: (1) The Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 488–5300, facsimile (202) 488–5563, or via e-mail at *FCC@BCPIWEB.COM.*

13. Comments and reply comments and any other filed documents in this matter may be obtained from Best Copy and Printing, Inc., in person at 445 12th Street, SW., Room CY–B402, Washington, DC 20554, via telephone at (202) 488–5300, via facsimile at (202) 488–5563, or via e-mail at *FCC@BCPIWEB.COM.* The pleadings will be also available for public inspection and copying during regular business hours in the FCC Reference Information Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554, and through the Commission's Electronic Filing System (ECFS) accessible on the Commission's Web site, *http://www.fcc.gov.*

14. Commenters who file information that they believe is proprietary may request confidential treatment pursuant to § 0.459 of the Commission's rules. Commenters should file both their original comments for which they request confidentiality and redacted comments, along with their request for confidential treatment. Commenters should not file proprietary information electronically. *See* Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission, *Report and Order,* 13 FCC Rcd 24816 (1998), *Order on Reconsideration,* 14 FCC Rcd 20128 (1999). Even if the Commission grants confidential treatment, information that does not fall within a specific exemption pursuant to the Freedom of Information Act (FOIA) must be publicly disclosed pursuant to an appropriate request. *See* 47 CFR 0.461; 5 U.S.C. 552. We note that the Commission may grant requests for confidential treatment either conditionally or unconditionally. As such, we note that the Commission has the discretion to release information on public interest grounds that does fall within the scope of a FOIA exemption.

15. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Further Information

16. The World Wide Web addresses/URLs that the Commission gives here were correct at the time this document was prepared but may change over time. They are included herein in addition to the conventional citations as a convenience to readers. The Commission is unable to update these URLs after adoption of this *NPRM,* and readers may find some URLs to be out of date as time progresses. The Commission also advises readers that the only definitive text of any FCC document is the one that is published in the FCC Record. In any case of discrepancy between the electronic documents cited here and the FCC Record, the version in the FCC Record is definitive.

Initial Paperwork Reduction Act of 1995 Analysis

17. This *NPRM* contains proposed new and/or modified information collections. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the proposed and/or modified information collections contained in this *NPRM,* as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments should address: (a) Whether the proposed and/or modified collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

18. Written comments by the public on the proposed and/or modified information collections are due October 23, 3006. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before November 6, 2006. In addition to filing comments with the Secretary, a copy of any comments on the proposed and/or modified information collections contained herein should be submitted to Judith B. Herman, Federal Communications Commission, Room 1–B441, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *Judith-B.Herman@fcc.gov*, and to Allison E. Zaleski, OMB Desk Officer, 10236 NEOB, 725 17th Street, NW., Washington, DC 20503, or via the Internet to *Allison_E._Zaleski@omb.eop.gov.*

Initial Regulatory Flexibility Analysis

19. As required by the Regulatory Flexibility Act (RFA), 5 U.S.C. 603, the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) regarding the possible significant economic impact of the policies and rules proposed in this *NPRM* on a substantial number of small entities. Written public comments are requested regarding this IRFA. Comments must be identified as responses to this IRFA and must be filed by the deadlines for comments identified in the *NPRM.* The Commission will send a copy of this *NPRM,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. See 5 U.S.C. 603(a). In addition, this *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

Need for, and Objectives of, the Proposed Rules

20. In the *800 MHz Report and Order* in WT Docket No. 02–55, the Commission reclaimed 700 MHz Guard Bands B Block licenses surrendered by Nextel Communications, Inc., as part of the Commission's 800 MHz re-banding process aimed at improving public safety communications. *See* Improving Public Safety Communications in the 800 MHz Band, WT Docket No. 02–55, *Report and Order,* 19 FCC Rcd 14969 (2004). Although the Commission reclaimed the Nextel licenses in that Order, it deferred the resolution of how best to use the surrendered 700 MHz spectrum. Further, the Commission's required annual Guard Band Manager reports as well as comments from existing licensees indicate that the 700 MHz Guard Bands spectrum is under-utilized. Also, Congress recently created greater certainty regarding the availability of unencumbered 700 MHz spectrum for wireless commercial and public safety licensees—including the Guard Bands—by establishing a ''hard date'' of February 17, 2009, by which time incumbent analog broadcasters

must vacate the spectrum. *See* Deficit Reduction Act of 2005, Public Law 109–171, 120 Stat. 4 (2006) (''DTV Act''). These factors suggest that the Commission should re-examine its spectrum management policies regarding the 700 MHz Guard Bands. As set forth in detail below, the Commission seeks comment on proposed uses of the reclaimed spectrum, as well as possible revisions to service rules and band plan that would enable the highest and best use of this service.

21. *Band Manager Status.* The Commission seeks comment on proposed revisions to service and technical rules that could promote greater operational, technical and regulatory flexibility for the 700 MHz Guard Bands service generally. For example, the *NPRM* seeks comment on the relative merits of the Secondary Markets leasing and band manager leasing mechanisms. The *NPRM* seeks comment on whether the Commission should continue to apply the band manager rules for purposes of any re-auction of the former Nextel spectrum, or whether it would be more appropriate to eliminate ''band manager only'' eligibility restrictions and extend the Commission's current Secondary Markets spectrum leasing policies to this spectrum. The Commission requests comment on whether it should consider making both regulatory options available to bidders in the event the reclaimed Nextel spectrum is re-auctioned.

22. The Commission also asks commenters to address whether it remains necessary in the public interest to permit only band managers to be licensed in the 700 MHz Guard Bands, which requires leasing to third parties to guarantee spectrum access through negotiated spectrum use agreements, while prohibiting the band manager from offering service or using the spectrum for its internal purposes. The Commission also seeks comment on an alternative approach involving relaxation of certain band manager restrictions while retaining the overall concept. For example, the *NPRM* asks whether the Commission should remove or lessen the restriction on leasing to affiliates. Further, the *NPRM* seeks comment on whether the Commission should modify its rules pertaining to incumbent 700 MHz Guard Bands licensees in the event the Commission determines that the band manager concept should not be applied to any re-licensing of the Nextel returned spectrum.

23. *Cellular System Architecture.* In addition to seeking public comment regarding eligibility and use restrictions, the Commission also requests comment on whether it is appropriate to remove or modify certain technical rules that were originally put in place to minimize interference to public safety operations. For example, the *NPRM* seeks comment on whether the restriction on cellular architecture in the Guard Bands should be maintained, eliminated or more clearly defined. The Commission seeks comment on whether its ban on the use of cellular architecture in the 700 MHz Guard Bands should be removed or revised in ways that will provide all Guard Bands licensees, including small businesses, with greater operational flexibility yet ensure adequate interference protection to public safety operations. The *NPRM* requests comment on a proposal that advocates the removal of the Commission's cellular architecture prohibition in favor of a power flux density (PFD) limit used in conjunction with improved receiver technology. The *NPRM* asks whether, in the event that the Commission eliminates the cellular architecture restriction, the Commission should implement a PFD limit as a means to mitigate interference to public safety operations. Alternatively, the Commission also seeks comment on whether it should reduce the 1 kilowatt maximum Effective Radiated Power (ERP) limit for those 700 MHz Guard Band base stations implemented in a cellular architecture, either applied independently or in conjunction with a PFD limit as a means of mitigating interference to public safety operations. Further, in order to determine the possible impact of removing or modifying the cellular architecture ban on all affected parties (Guard Bands licensees as well as public safety entities), the Commission seeks comment on the feasibility of completing the required coordination with public safety operations of the numerous sites involved in a cellular architecture.

24. *Emission Limits.* The *NPRM* also requests comment on whether the Commission should reconsider the existing out-of-band emission (OOBE) limits used for the 700 MHz Guard Bands. Specifically, the Commission seeks comment on whether it should replace its current use of Adjacent Channel Power (ACP) limits with the OOBE limits that apply to the Upper 700 MHz C and D Blocks. The Commission also asks commenters to provide comment on the emission limits necessary to protect public safety operations in the event broadband operations are permitted in the public safety block. *See* Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010, *Eighth Notice of Proposed Rulemaking,* WT Docket Nos. 96–86 and 05–157, 21 FCC Rcd 3668 (2006). Further, in the event that the Commission maintains the current ACP limits and does not apply OOBE limits to the Guard Bands, the *NPRM* asks whether the Commission's rules should be modified to account for operations wider than 150 kilohertz, and requests that commenters propose attenuation values for band widths greater than 150 kilohertz that will maintain adequate protection for public safety operations.

25. *Band Plan Proposals.* The *NPRM* requests comment on whether the Commission should re-examine the current 700 MHz Guard Bands spectrum plan. The Commission requests comment on a proposal submitted by Motorola, Inc. and the United Telecommunications Council (Motorola/UTC). The Motorola/UTC proposal states that the nation's critical infrastructure industries (CII) require wireless communications that are reliable, ubiquitous in coverage, and interoperable with public safety entities during emergencies, particularly where CII entities are among first responders to a disaster or emergency. The Motorola/UTC plan proposes that the Commission reallocate one megahertz of the Guard Bands B Block for critical infrastructure interoperability and retain the remainder of the B Block as a guard band. The Commission also seeks comment on alternative proposals alternative proposals filed by existing Guard Band Managers, including Access Spectrum, L.L.C., Pegasus Guard Band, L.L.C., Columbia Capital Equity Partners III, L.P. and PTPMS II Communications, L.L.C. The proposals ask the Commission to reallocate the 700 MHz Guard Bands and public safety spectrum in order to accommodate broadband operations by Guard Bands licensees as well as public safety entities. Because each of the proposals would require the Commission to reclaim the B Block spectrum, the *NPRM* requests comment on how best to clear the block of existing licensees in the event that the Commission concludes that it is in the public interest to reconfigure the band plan. The *NPRM* tentatively concludes, however, that it would not be appropriate to adopt any proposal that entails a shift in the narrowband channels within the public safety band unless two issues—the costs of reprogramming existing public safety

radios, and international border coordination—are resolved expeditiously. The *NPRM* also tentatively concludes that any decision to shift the existing Upper 700 MHz band plan in a way that affects ''recovered analog spectrum'' within the DTV transition would need to be made in time to allow the Commission to conduct the auction of recovered spectrum in accordance with the relevant statutory requirements.

Legal Basis

26. The proposed actions are authorized under sections 1, 2, 4(i), 5(c), 7, 10, 201, 202, 208, 214, 301, 302, 303, 307, 308, 309, 310, 311, 314, 316, 319, 324, 332, 333, 336 and 337 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 155(c), 157, 160, 201, 202, 208, 214, 301, 302, 303, 307, 308, 309, 310, 311, 314, 316, 319, 324, 332, 333, 336 and 337.

Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

27. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. 5 U.S.C. 603(b)(3). The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' 5 U.S.C. 601(6). In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. 5 U.S.C. 601(3) (incorporating by reference the definition of ''small-business concern'' in the Small Business Act, 15 U.S.C. 632). A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (''SBA'').

28. *700 MHz Guard Band Licensees.* The term ''small business'' in the context of Cellular and Other Wireless Telecommunications Companies is defined as companies employing no more than 1,500 persons. An auction of 52 Major Economic Area (MEA) licenses commenced on September 6, 2000, and closed on September 21, 2000. Of the 104 licenses auctioned, 96 licenses were sold to nine bidders. Five of the bidders were small businesses that won a total of 26 licenses. A second auction of 700 MHz Guard Band licenses commenced on February 13, 2001, and closed on February 21, 2001. All eight of the licenses auctioned were sold to three bidders. One of these bidders was a small business that won a total of two licenses.

29. *Governmental Entities.* The term ''small governmental jurisdiction'' is defined as ''governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' 5 U.S.C. 601(5). As of 1997, there were approximately 87,453 governmental jurisdictions in the United States. This number includes 39,044 county governments, municipalities, and townships, of which 37,546 (approximately 96.2%) have populations of fewer than 50,000, and of which 1,498 have populations of 50,000 or more. Thus, we estimate the number of small governmental jurisdictions overall to be 84,098 or fewer.

30. *Public Safety Radio Licensees.* As a general matter, Public Safety Radio licensees include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services. *See* subparts A and B of part 90 of the Commission's rules, 47 CFR 90.1–90.22. The SBA rules contain a definition for cellular and other wireless telecommunications companies which encompass business entities engaged in wireless communications employing no more than 1,500 persons. *See* 13 CFR 121.201. According to Census Bureau data for 2002, in this category there was a total of 8,863 firms that operated for the entire year. Of this total, 401 firms had 100 or more employees, and the remainder had fewer than 100 employees. With respect to local governments, in particular, since many governmental entities as well as private businesses comprise the licensees for these services, we include under public safety services the number of government entities affected.

31. *Wireless Communications Equipment Manufacturers.* The SBA has established a small business size standard for radio and television broadcasting and wireless communications equipment manufacturing. Under the standard, firms are considered small if they have 750 or fewer employees. *See* 13 CFR 121.201. Census Bureau data for 1997 indicates that, for that year, there were a total of 1,215 establishments in this category. Of those, there were 1,150 that had employment under 500, and an additional 37 that had employment of 500 to 999. The Commission estimates that the majority of wireless communications equipment manufacturers are small businesses. We note, however, that the major providers of 700 MHz equipment, Motorola and M/A-COM Private Radio Systems, Inc., are not considered small businesses.

Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

32. This *NPRM* seeks comment on possible revisions to the 700 MHz Guard Bands service rules that may modify reporting, recordkeeping and other compliance requirements. The Commission requests comment on proposals to apply its Secondary Markets leasing regime to reclaimed 700 MHz Guard Bands spectrum as well as to existing licensees. Application of Secondary Markets leasing to the 700 MHz Guard Bands would require a modification of current reporting and recordkeeping requirements. Further, as noted, the *NPRM* seeks comment on whether to eliminate its prohibition on cellular architecture in the 700 MHz Guard Bands. In light of the numerous sites that are involved in a cellular architecture, this proposal could lead to more intensive coordination with public safety operations if the ban is lifted.

Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

33. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. *See* 5 U.S.C. 603(c).

34. Generally, the Commission's primary objective in issuing the *NPRM* is to determine the most efficient and effective use of the reclaimed Nextel spectrum and the 700 MHz Guard Bands. The Commission invites comment on ways in which the Commission can achieve its goal of encouraging operational, technical and regulatory flexibility for all licensees, including small entities, while at the same time imposing minimal burdens on small entities. The Commission seeks comment on the effect the various proposals described in the *NPRM* will have on small entities, whether existing or prospective Guard Bands licensees, or public safety entities. To assist the Commission in its analysis, commenters are asked to provide information

regarding which entities would be affected by possible revisions to 700 MHz Guard Band service and technical rules as well as to the 700 MHz Guard Bands spectrum band plan as described in this *NPRM*. In particular, the Commission seeks estimates of how many small entities might be affected and whether the proposals under consideration would be overly burdensome to small entities. The following summarizes significant alternatives considered in the *NPRM*.

35. *Band Manager Status.* Under the current rules, the Guard Band Manager must lease to third parties to guarantee spectrum access through negotiated spectrum use agreements, while the Guard Band Manager cannot itself offer service or use the spectrum for its internal purposes. Additionally, the Guard Band Manager cannot lease its spectrum to more than 49.9 percent of its affiliates in the licensed geographic area. These restrictions were created to promote the leasing of spectrum to third parties, many of whom would be small entities that lack the capacity or need to acquire an entire service area. The *NPRM* seeks comment on the relative merits of the Secondary Markets leasing and band manager leasing policies. Noting that certain Guard Bands licensees argue that the current band manager rules have resulted in the inefficient use of the spectrum, the *NPRM* asks whether the Commission should retain the existing Guard Band Manager rules or whether the Commission should apply a different regulatory structure, such as the Secondary Market rules, to the Guard Bands spectrum generally. Alternatively, the *NPRM* asks whether the Commission should continue to apply the band manager rules for purposes of any re-auction of the former Nextel spectrum, or even if existing rules are retained for existing licensees. The *NPRM* also asks whether it should permit existing or new licensees to choose among several regulatory options for managing the Guard Bands.

36. The *NPRM* also seeks comment on an alternative approach involving the relaxation of certain band manager eligibility restrictions, while retaining the overall existing band manager concept. For example, the *NPRM* ask whether the Commission should remove or lessen the restriction that band managers may not lease more than 49.9 percent of their spectrum in a geographic area to affiliates. Alternatively, the Commission asks whether it should change its rules to permit a band manager to use its licensed spectrum in some capacity exclusively for internal purposes.

37. *Cellular System Architecture.* The *NPRM* seeks comment on whether the restriction on cellular architecture in the Guard Bands should be removed or modified in order to facilitate the use of broadband technology by all Guard Bands licensees, including those qualifying as small businesses. The Commission seeks comment on a proposal to lift the cellular architecture prohibition and replace it with a power flux density (PFD) limit as an alternative means to ensure adequate interference protection to public safety operations. The *NPRM* also seeks comment on another option, applied either independently or in conjunction with a PFD limit, to reduce the 1 kilowatt maximum ERP limit for Guard Bands base stations implemented in a cellular architecture. Noting that reducing ERP limits could minimize the area of interference surrounding each base station, thereby reducing the overall potential for interference to adjacent channel public safety mobiles/portables, the Commission seeks comment as to what base station ERP limit applied to a Guard Bands system based on a cellular architecture would adequately protect public safety systems.

38. *Emission Limits.* The *NPRM* also requests comment on whether the Commission should reconsider the existing OOBE limits used for the 700 MHz Guard Bands. The Commission originally applied the current ACP limits to the Guard Bands because it found that the immediate proximity of the Guard Bands to the public safety block justifies an application of the same emission limit for the Guard Bands as applies for emissions from within the public safety block. In the *NPRM*, the Commission seeks comment on the proposal to replace its current use of ACP limits with OOBE limits. The Commission also seeks comment on the emission limits necessary to protect public safety operations in the event broadband operations are permitted in the public safety block. Alternatively, to the extent that the Commission determines that the use of ACP limits does not sufficiently guard public safety entities against unwanted OOBE, the *NPRM* asks whether the Commission's rules should be modified to account for operations wider than 150 kilohertz, and requests that commenters provide attenuation values for bandwidths greater than 150 kilohertz that will maintain adequate protection for public safety operations. Finally, the *NPRM* also considers the relative merits of maintaining the status quo.

39. *Band Plan Proposals.* The *NPRM* requests comment on whether the Commission should re-examine the current 700 MHz Guard Bands spectrum plan, and asks commenters to consider several alternative band plan proposals. First, Motorola/UTC requests that the Commission reallocate the licenses surrendered by Nextel from the Guard Bands B Block as narrowband channels for critical infrastructure industries in support of interoperability with public safety entities. Motorola/UTC argue that one megahertz of the B Block contiguous with the public safety block could carry narrowband channels dedicated to providing critical infrastructure entities with the ability to communicate with state and local agencies. The *NPRM* seeks comment on the potential benefit of creating a separate class of interoperability channels, and whether the proposal should be applied only to the former Nextel spectrum or to all Guard Bands licenses.

40. The *NPRM* also seeks comment on a proposal requesting that the Commission rededicate the relinquished Nextel spectrum for exclusive public safety use. The *NPRM* seeks comment on whether there have been any technical or marketplace developments that may alleviate concerns that re-designating the spectrum for public safety applications may result in increased interference to public safety.

41. Alternatively, the Commission also seeks comment on various proposals from existing Guard Band Managers to revise the Upper 700 MHz band plan. A consortium consisting of almost all existing Guard Band Managers filed a White Paper proposing three alternative Upper 700 MHz band plans with the goal of facilitating broadband communications inside the Guard Bands. Subsequently, a new consortium, which includes most of the White Paper proponents, filed the Optimization Plan, advocating another, more comprehensive band plan proposal that implicates the Guard Bands as well as the Upper 700 MHz public safety block.

42. The Optimization Plan proposes, in part, that three megahertz from the existing B Block should be allocated to the public safety block as additional spectrum for broadband communications, and that the remaining Guard Bands spectrum should be consolidated into a new A Block. The *NPRM* seeks comment on whether the public interest (including the interests of small entities) would be served by adoption of the band plan proposed in the Optimization Plan, and asks for comment on a number of ''transition'' issues, including timing and cost considerations associated with a band plan shift, how existing B Block licenses

could be reclaimed by the Commission, as well as how a reconfigured and enlarged A Block should be licensed, in the event the Commission adopts the Optimization Plan.

43. Further, because the Optimization Plan does not specifically disclaim or supercede the preceding White Paper band plan proposals, the Commission seeks comment on the White Paper proposals as well. As in the case of the Optimization Plan, the White Paper's three proposals entail some shift in the position of the commercial spectrum blocks in the Upper 700 MHz Band. The White Paper's three band plan proposals would increase the existing allocation of one megahertz for the A Block up to one-and-a-half or two megahertz. In order to facilitate broadband within an enlarged A Block, the White Paper proposals involve either eliminating the B Block while adding bandwidth to the A Block and the public safety block, or reducing the B Block while adding bandwidth to the A Block. The *NPRM* seeks comment on whether the Commission should adopt any of the various White Paper proposals and also requests comment on the same transition issues raised by consideration of the Optimization Plan. The *NPRM* seeks comment on similar transition issues, including cost, timing and equitable compensation considerations, for each of the other alternative proposals as well.

Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

44. None.

Ordering Clauses

45. Pursuant to sections 1, 2, 4(i), 5(c), 7, 10, 201, 202, 208, 214, 301, 302, 303, 307, 308, 309, 310, 311, 314, 316, 319, 324, 332, 333, 336 and 337 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 155(c), 157, 160, 201, 202, 208, 214, 301, 302, 303, 307, 308, 309, 310, 311, 314, 316, 319, 324, 332, 333, 336 and 337, this *Notice of Proposed Rulemaking* is hereby adopted.

46. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, and 1.419, interested parties may file comments on this Notice of Proposed Rulemaking on or before 30 days after publication in the **Federal Register**, and reply comments on or before 45 days after publication in the **Federal Register**.

47. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *Notice of Proposed Rulemaking,* including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 1

Administrative practice and procedure, Communications common carriers.

47 CFR Part 27

Communications equipment, Radio.

47 CFR Part 90

Radio, Reporting and recordkeeping requirements.

Federal Communication Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 06–7912 Filed 9–20–06; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 172

[Docket No. PHMSA–06–25885 (HM–232F)]

RIN 2137–AE22

Hazardous Material: Revision of Requirements for Security Plans

AGENCY: Pipeline and Hazardous Materials Safety Administration, DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM) and announcement of public meeting.

SUMMARY: PHMSA is considering revisions to the list of hazardous materials that require development and implementation of a security plan to address security risks during transportation in commerce. This effort is being coordinated with other Department of Transportation modal administrations (Federal Aviation Administration, Federal Motor Carrier Safety Administration, and Federal Railroad Administration) and the Transportation Security Administration of the Department of Homeland Security. The revisions would address outstanding petitions requesting that certain materials be excepted from the security plan requirements. PHMSA will hold a public meeting on November 30, 2006 to obtain stakeholder comments on security plan requirements. This ANPRM and the public meeting provide an opportunity for the public to comment on this issue and make recommendations on the applicability of the security plan requirements.

DATES: *Public meeting:* The meeting will be held on November 30, 2006. The meeting will begin at 9 a.m.

Written comments: Comments must be received by December 20, 2006.

ADDRESSES: *Public meeting:* The meeting will be held at the U.S. Department of Transportation, Nassif Building, Room 2230, 400 Seventh Street, SW., Washington, DC 20590–0001. Requests for special accommodations should be addressed to the Pipeline and Hazardous Material Safety Administration, PHH–10, 400 Seventh Street, SW., Washington, DC 20590–0001; telephone (202) 366–8553. *Written comments:* You may submit comments identified by the docket number (PHMSA–06–25885) by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- Web site: *http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- FAX: 1–202–493–2251.
- Mail: Docket Management System, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, PL–402, Washington, DC 20590–0001.
- Hand Delivery: PL–402 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the agency name and docket number or Regulation Identification Number (RIN) for this notice. Internet users may access comments received by DOT at *http://dms.dot.gov.* Note that comments received may be posted without change to *http://dms.dot.gov* including any personal information provided.

While all comments should be sent to DOT's Docket Management System (DMS), comments or those portions of comments PHMSA determines to include trade secrets, confidential commercial information, or sensitive security information (SSI) will not be placed in the public docket and will be handled separately. If you believe your comments contain trade secrets, confidential commercial information, or SSI, those comments or the relevant portions of those comments should be appropriately marked so that DOT may make a determination. PHMSA procedures in 49 CFR part 105 establish a mechanism by which commenters may request confidentiality.

In accordance with 49 CFR 105.30, you may ask PHMSA to keep

information confidential using the following procedures: (1) Mark ''confidential'' on each page of the original document you would like to keep confidential; (2) send DMS both the original document and a second copy of the original document with the confidential information redacted; and (3) explain why the information is confidential (as a trade secret, confidential commercial information, or SSI). In your explanation, you should provide enough information to enable PHMSA to determine whether the information provided is protected by law and must be handled separately.

In addition, for comments or portions of comments that you believe contain SSI as defined in 49 CFR 15.7, you should comply with Federal regulations governing the handling of SSI. See 49 CFR 1520.9 and 49 CFR 15.9, Restrictions on the disclosure of sensitive security information. Those regulations restrict the disclosure of SSI to those with a need to know and set forth specific requirements for marking, packaging, and disposing of documents containing SSI. Note when mailing in or using a special delivery service to send comments containing SSI, comments should be wrapped in a manner to prevent the information from being read. PHMSA may perform concurrent reviews on requests for designations as SSI.

After reviewing your request for confidentiality and the information provided, PHMSA will determine whether the information should be treated as confidential under applicable laws and regulations. PHMSA will notify you of the decision to grant or deny confidential treatment. If PHMSA denies your request, you will be provided an opportunity to request reconsideration before the information is publicly disclosed. PHMSA will reconsider its decision to deny confidentiality based on your response.

To further guard against disclosure of SSI, PHMSA will review all submissions, whether or not they are identified as confidential, prior to their posting on the public docket. PHMSA will notify you if we determine that information in your submission should not be disclosed to the public. If you have any questions concerning the procedures for determining confidentiality or security sensitivity, you may call one of the individuals listed below.

FOR FURTHER INFORMATION CONTACT:

Susan Gorsky or Ben Supko, Office of Hazardous Materials Standards, (202) 366–8553, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background

A. Current DOT Security Requirements

On March 25, 2003, the Research and Special Programs Administration (RSPA), the predecessor agency to the Pipeline and Hazardous Materials Safety Administration (PHMSA) published a final rule (Docket HM–232; 57 FR 14510) amending the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180) to establish requirements to enhance the security of hazardous materials transported in commerce. The final rule required shippers and carriers of certain hazardous materials to develop and implement security plans. The security plan requirements in subpart I of part 172 of the HMR apply to persons who offer for transportation or transport:

(1) A highway-route controlled quantity of a Class 7 (radioactive) material;

(2) More than 25 kg (55 lbs.) of a Division 1.1, 1.2, or 1.3 (explosive) material;

(3) More than 1 L (1.06 qt.) per package of a material poisonous by inhalation in Hazard Zone A;

(4) A shipment in a bulk packaging with a capacity equal to or greater than 13,248 L (3,500 gallons) for liquids or gases or greater than 13.24 cubic meters (468 cubic feet) for solids;

(5) A shipment in other than a bulk packaging of 2,268 kg (5,000 lbs.) gross weight or more of one class of hazardous materials for which placarding is required;

(6) A select agent or toxin regulated by the Centers for Disease Control and Prevention under 42 CFR part 73 and, by April 1, 2007, a select agent or toxin regulated by the U.S. Department of Agriculture under 9 CFR part 121; or

(7) A shipment that requires placarding under subpart F of part 172 of the HMR.

The security plan must include an assessment of possible transportation security risks and appropriate measures to address the assessed risks. Specific measures implemented as part of the plan may vary with the level of threat at a particular time. At a minimum, the security plan must address personnel security, unauthorized access, and en route security. For personnel security, the plan must include measures to confirm information provided by job applicants for positions involving access to and handling of the hazardous materials covered by the plan. For unauthorized access, the plan must include measures to address the risk of unauthorized persons gaining access to materials or transport conveyances being prepared for transportation. For en route security, the plan must include measures to address security risks during transportation, including the security of shipments stored temporarily en route to their destinations.

As indicated above, the HMR set forth general requirements for a security plan's components rather than a prescriptive list of specific items that must be included. The HMR set a performance standard providing offerors and carriers with the flexibility necessary to develop security plans addressing their individual circumstances and operational environments. Accordingly, each security plan will differ because it will be based on an offeror's or a carrier's individualized assessment of the security risks associated with the specific hazardous materials it ships or transports and its unique circumstances and operational environment.

In developing the HM–232 final rule, we assessed the security risks associated with the transportation of different classes and quantities of hazardous materials. We concluded that the most significant security risks involve the transportation of certain radioactive materials; certain explosives; materials that are poisonous by inhalation, certain infectious and toxic substances; and bulk shipments of materials such as flammable and compressed gases, flammable liquids, flammable solids, and corrosives. Based on this security risk assessment, the HM–232 final rule currently in effect requires persons who offer for transportation or transport a hazardous material in an amount that requires placarding or select agents to develop and implement security plans. Using the placarding thresholds to trigger enhanced security requirements covers the materials that present the most significant security threats in transportation and provides a relatively straightforward way to distinguish materials that may present a significant security threat from materials that do not. It also provides regulatory consistency, thereby minimizing confusion and facilitating compliance by the regulated community. We note as well that the current security plan requirements provide shippers and carriers with the flexibility to develop and implement a security plan that is appropriate to the individual circumstances, the types and quantities of hazardous materials shipped or transported and the modes of transportation utilized. A shipper or

carrier must assess the security risks for the types and quantities of hazardous materials to be transported and implement appropriate measures to address those risks. The risk assessment could well conclude that, for materials such as paint or flavoring extracts, the transportation security risk is not significant and extensive security measures are not warranted.

The Federal Motor Carrier Safety Administration (FMCSA), in 49 CFR part 385, prohibits a motor carrier from transporting certain hazardous materials unless the motor carrier holds a safety permit. A safety permit is required for the following hazardous materials in the quantities indicated:

(1) A highway-route controlled quantity of a Class 7 (radioactive) material;

(2) More than 25 kg (55 lbs.) of a Division 1.2, 1.2, or 1.3 (explosive) material;

(3) More than 1 L (1.08 qt.) per package of a material poisonous by inhalation in Hazard Zone A;

(4) A bulk packaging (capacity greater than 450 L (119 gallons)) of a material poisonous by inhalation in Hazard Zone B;

(5) A packaging with a capacity equal to or greater than 13,248 L (3,500 gallons) of a material poisonous by inhalation in Hazard Zone C or D; or

(6) A shipment of compressed or refrigerated liquefied methane or liquefied natural gas, or other liquefied gas with a methane content of at least 85 percent, in a bulk packaging having a capacity equal to or greater than 13,248 L (3,500 gallons).

B. International Transportation Security Standards

The United Nations Model Regulations on the Transport of Dangerous Goods (UN Recommendations) identify high consequence dangerous goods for which enhanced security measures are recommended. The recommended security measures include security plans and are similar to the requirements in subpart I of part 172 of the HMR. The UN Recommendations define high consequence dangerous goods as materials with the ''potential for mis-use in a terrorist incident and which may, as a result, produce serious consequences such as mass casualties or mass destruction.'' The UN Recommendations list the following materials as high consequence dangerous goods:

(1) Division 1.1 explosives;

(2) Division 1.2 explosives;

(3) Division 1.3 compatibility group C explosives;

(4) Division 1.5 explosives;

(5) Bulk shipments of Division 2.1 flammable gases;

(6) Division 2.3 toxic gases (excluding aerosols);

(7) Bulk shipments of Class 3 flammable liquids in PG I or II;

(8) Class 3 and Division 4.1 desensitized explosives;

(9) Bulk shipments of Division 4.2 PG I materials;

(10) Bulk shipments of Division 4.3 PG I materials;

(11) Bulk shipments of Division 5.1 PG I oxidizing liquids;

(12) Bulk shipments of Division 5.1 perchlorates, ammonium nitrate and ammonium nitrate fertilizers;

(13) Division 6.1 PG I toxic materials;

(14) Division 6.2 infectious substances of Category A (UN2814 and 2900);

(15) Class 7 radioactive materials in quantities greater than 3000 A_1 (special form) or 3000 A_2, as applicable, in Type B(U) or Type B(M) or Type (C) packages; and

(16) Bulk shipments of Class 8 PG I materials.

For purposes of the security provisions, the UN defines ''in bulk'' to mean quantities greater than 3,000 kg (6,614 lbs.) or 3,000 liters (660 gallons) in portable tanks or bulk containers.

II. Purpose of This ANPRM

PHMSA has received two petitions for rulemaking requesting a review and reevaluation of the current HMR security plan requirements. The Council on Safe Transportation of Hazardous Articles (COSTHA) petitioned PHMSA (P–1447) to reevaluate the security requirements in subpart I of part 172 of the HMR to ''enhance international harmonization and to better utilize available resources in enhancing hazardous materials transportation security.'' COSTHA notes that the list of hazardous materials in the HMR that are subject to the security plan requirements differs from the list of high consequence dangerous goods in the UN Recommendations. COSTHA cites several examples of hazardous materials (e.g., automobile batteries, inks, paint, flavoring extracts) that, based on hazard class and quantity, require placarding under the HMR, and, therefore, are subject to the security plan requirements. COSTHA suggests it is highly unlikely a terrorist would use these materials to cause loss of lives, destruction of property, or damage to the environment. The petition requests that PHMSA adopt the same criteria as the UN Recommendations for materials that are subject to the security plan requirements, or, as an alternative, eliminate the security plan requirement for quantities of hazardous materials for which placarding under the provisions of subpart F of part 172 is required.

Similarly, the American Trucking Associations (ATA) petitioned PHMSA (P–1466) to create a new subset of hazardous materials that are ''security sensitive hazardous materials.'' The ATA supports the materials and quantities that are subject to the FMCSA Hazardous Materials Safety Permit requirements as the starting point for determining security sensitive hazardous materials. In addition to those materials, ATA suggests that PHMSA add the following materials from the UN high consequence dangerous goods list: (1) Bulk shipments of Division 2.1; (2) bulk shipments of Class 3, PG I and II; (3) Class 3 and Division 4.1 desensitized explosives (quantity to be determined); (4) bulk shipments of Division 4.2, PG I; (5) bulk shipments of Division 4.3, PG I; (6) bulk shipments of Division 5.1, PG I; (7) bulk shipments Division 5.1 perchlorates, ammonium nitrate and ammonium nitrate fertilizers; (8) Division 6.2 infectious substances of Category A (quantity to be determined); (9) any quantity of select agents; and (10) bulk shipments of Class 8, PG I. The ATA uses quantities greater than 3,500 gallons or 5,000 pounds to define ''bulk'' for purposes of security planning.

We agree with COSTHA and ATA that the list of materials for which a security plan is required should be re-assessed. The philosophy underlying PHMSA's earlier approach to security plans was that the security plans represented a baseline requirement. We considered the company preparing the security plan to be in the best position to assess security risks based on its operational circumstances. If security risks were determined to be insignificant, this would be reflected in a simple security plan with minimal content. Increased coverage would be required when security risks are more substantial. The security plan requirements went into effect September 25, 2003; both the industry and the government have had three years of experience evaluating security risks associated with specific hazardous materials and transportation environments and identifying appropriate measures to address those risks. Accordingly, we are initiating this rulemaking, in coordination with other DOT modal administrations (Federal Aviation Administration (FAA), Federal Railroad Administration (FRA), and FMCSA) and the Transportation Security Administration (TSA) of the Department of Homeland Security (DHS), to consider modifications to the

list of hazardous materials for which security plans are required. We ask commenters to address the following questions:

(1) What is the best basic approach to security plans? Is the current approach correct or should security plans be required only for hazardous materials in threshold quantities that are known to pose significant security risks?

(2) Are there ways to lessen the burdens of security plan requirements on companies with minimal security risks?

(3) Should baseline security requirements or guidelines be established when security plans are not required?

(4) What factors should be considered in determining whether security risks of a specific hazardous material or class of hazardous materials are significant enough to require preparation of a security plan?

(5) What role should Packing Groups play in determining the need for security plans?

(6) How should the quantities of hazardous materials transported be considered when determining whether a security plan is required?

(7) Does easy availability of a hazardous material in specific quantities outside of transportation play a role in determining whether a security plan should be required?

(8) Should uniform security plan requirements apply across all modes of transportation or should the triggering criteria (hazardous class and quantity) be mode-specific?

(9) What factors should be considered when determining whether specific hazardous materials, classes or quantities thereof, should be excepted from security plan requirements?

(10) How should the determination of transportation security risk account for specific hazardous materials or classes of materials that by themselves do not pose a security risk, but that could present a security risk in combination with other materials?

(11) What compliance or enforcement issues should be considered as we re-assess current security plan requirements?

(12) Should company size or geographic location (e.g., specific region of the country or urban or rural) play a role in determining whether a security plan is required?

(13) Does the Government need to provide more information on the specific security concerns that cause the need for preparation of a security plan for certain hazardous materials to assist in security plan preparation?

(14) Should the Government maintain an evolving list of hazardous materials for which security plans are required based on changing threats and scenarios?

There are a number of additional issues that PHMSA will consider in assessing the list of hazardous materials for which a security plan is required. These include the analyses required under the following statutes and executive orders in the event we determine that rulemaking is appropriate:

Executive Order 12866: Regulatory Planning and Review. E.O. 12866 requires agencies to regulate in the ''most cost-effective manner,'' to make a ''reasoned determination that the benefits of the intended regulation justify its costs,'' and to develop regulations that ''impose the least burden on society.'' We therefore request comments, including specific data if possible, concerning the costs and benefits that may be associated with revisions to the list of hazardous materials for which security plans are required. A rule that is considered significant under E.O. 12866 must be reviewed and cleared by the Office of Management and Budget before it can be issued.

Executive Order 13132: Federalism. E.O. 13132 requires agencies to assure meaningful and timely input by state and local officials in the development of regulatory policies that may 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. We invite state and local governments with an interest in this rulemaking to comment on the effect that revisions to the list of materials for which security plans are required may have on state or local safety or security programs.

Executive Order 13175: Consultation and Coordination with Indian Tribal Governments. E.O. 13175 requires agencies to assure meaningful and timely input from Indian tribal government representatives in the development of rules that ''significantly or uniquely affect'' Indian communities and that impose ''substantial and direct compliance costs'' on such communities. We invite Indian tribal governments to provide comments as to the effect that revisions to the list of materials for which security plans are required may have on Indian communities.

Regulatory Flexibility Act. Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*), we must consider whether a proposed rule would have a significant economic impact on a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations under 50,000. If you believe that revisions to the list of materials for which security plans are required could have a significant economic impact on small entities, please provide information on such impacts.

III. Announcement of Public Meeting

PHMSA is conducting a public meeting to discuss the security plan requirements and receive comments and recommendations concerning the list of hazardous materials that trigger the requirement for a security plan. Other DOT modal administrations and DHS are participating in the meeting. See **ADDRESSES** and **DATES** for meeting details.

All interested persons are encouraged to participate. Prior notification to PHMSA is not required. Due to the heightened security measures, participants are encouraged to arrive early to allow time for security checks necessary to gain access to the building.

IV. Regulatory Notices—Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget. This rulemaking is not considered significant under the Regulatory policies and procedures of the Department of Transportation (44 FR 11034).

Issued in Washington, DC, on September 18, 2006 under authority delegated in 49 CFR part 106.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 06–7930 Filed 9–20–06; 8:45 am]

BILLING CODE 4910–60–P

Notices

Federal Register

Vol. 71, No. 183

Thursday, September 21, 2006

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collections Being Reviewed by the U.S. Agency for International Development; Comments Requested

SUMMARY: U.S. Agency for International Development (USAID) is making efforts to reduce the paperwork burden. USAID invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act for 1995. Comments are requested concerning: (a) Whether the proposed or continuing collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Submit comments on or before November 20, 2006.

FOR FURTHER INFORMATION CONTACT: Beverly Johnson, Bureau for Management, Office of Administrative Services, Information and Records Division, U.S. Agency for International Development, Room 2.07–106, RRB, Washington, DC 20523, (202) 712–1365 or via e-mail *bjohnson@usaid.gov*.

SUPPLEMENTARY INFORMATION:

OMB No: OMB 0412–0012.

Form No.: AID 282.

Title: Supplier's Certificate Agreement with the U.S. Agency for International Development Invoice-and-Contract Abstract.

Type of Review: Renewal of Information Collection.

Purpose: The U.S. Agency for International Development (USAID) finances goods and related services under its Commodity Import Program which are contracted for by public and private entities in the countries receiving the USAID Assistance. Since USAID is not a party to these contracts, USAID needs some means to collect information directly from the suppliers of the goods and related services and to enable USAID to take an appropriate action against them in the event they do not comply with the applicable regulations. USAID does this by securing from the suppliers, as a condition for the disbursement of funds a certificate and agreement with USAID which contains appropriate representations by the suppliers.

Annual Reporting Burden:

Respondents: 800.

Total annual responses: 2,400.

Total annual hours requested: 1,200.

Dated: September 14, 2006.

Joanne Paskar,

Chief, Information and Records Division, Office of Administrative Services, Bureau for Management.

[FR Doc. 06–7942 Filed 9–20–06; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket Number FV–06–318]

United States Standards for Grades of Pineapples

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS), prior to undertaking research and other work associated with revising official grade standards, is soliciting comments on the possible revisions of the United States Standards for Grades of Pineapples. AMS has been reviewing the Fresh Fruit and Vegetable grade standards for usefulness in serving the industry. As a result, AMS has identified the United States Standards for Grades of Pineapples for possible revision.

AMS is proposing to revise the tolerances by replacing Table I *Shipping Point* and Table II *En Route or at Destination* with numerical tolerances. These tables utilize acceptance numbers of fruit with maximum numbers of defective permitted. These changes would simplify the inspection process and bring the pineapple standard in line with other standards which use numerical tolerances for defects. AMS is seeking comments regarding these proposed changes that may be necessary to better serve the industry.

DATES: Comments must be received by November 20, 2006.

ADDRESSES: Interested persons are invited to submit written comments to the Standardization Section, Fresh Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., Room 1661 South Building, Stop 0240, Washington, DC 20250–0240; Fax (202) 720–8871, e-mail *FPB.DocketClerk@usda.gov*. Comments should make reference to the dates and page number of this issue of the **Federal Register** and will be made available for public inspection in the above office during regular business hours. The United States Standards for Grades of Pineapples are available either at the above address or by accessing the AMS, Fresh Products Branch Web site at: *http://www.ams.usda.gov/standards/stanfrfv.htm*.

FOR FURTHER INFORMATION CONTACT: Cheri L. Emery, at the above address or call (202) 720–2185; e-mail *Cheri.Emery@usda.gov*.

SUPPLEMENTARY INFORMATION: Section 203(c) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627), as amended, directs and authorizes the Secretary of Agriculture ''To develop and improve standards of quality, condition, quantity, grade and packaging and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices.'' AMS is committed to carrying out this authority in a manner that facilitates the marketing of agricultural commodities. AMS makes copies of official standards available upon request. The United States Standards for Grades of Fruits and Vegetables not connected with Federal Marketing Orders or U.S. Import Requirements no longer appear in the Code of Federal Regulations, but are

maintained by USDA, AMS, Fruit and Vegetable Programs.

AMS is considering revisions to the voluntary United States Standards for Grades of Pineapples using procedures that appear in Part 36, Title 7 of the Code of Federal Regulations (7 CFR part 36). These standards were last revised on July 5, 1990.

Background

AMS has been reviewing the Fresh Fruit and Vegetable grade standards for usefulness in serving the industry. AMS has identified the United States Standards for Grades of Pineapples for possible revision. Prior to undertaking detailed work to develop the proposed revisions to the standards, AMS is soliciting comments on the proposed revisions, to the United States Standards for Grades of Pineapples that may be necessary to better serve the industry.

AMS is proposing to revise the tolerances by replacing Table I Shipping Point and Table II En Route or at Destination with numerical tolerances. These tables utilize acceptance numbers of fruit with maximum numbers of defective permitted. These changes would simplify the inspection process and bring the pineapple standard in line with other standards which use numerical tolerances for defects.

This notice provides for a 60-day comment period for interested parties to comment on the proposed changes to the United States Standards for Grades of Pineapples. Should AMS conclude that revisions are needed, it will develop a proposed revised standard that will be published in the **Federal Register** with a request for comments in accordance with 7 CFR part 36.

Authority: 7 U.S.C. 1621–1627.

Dated: September 14, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 06–7820 Filed 9–20–06; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Ravalli County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Ravalli County Resource Advisory Committee will be meeting to assign monitors on 2006 projects and hold a short public forum (question and answer session). The meeting is being held pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393). The meeting is open to the public.

DATES: The meeting will be held on September 26, 2006, 6:30 p.m.

ADDRESSES: The meeting will be held at the Bitterroot National Forest, Supervisor Office, 1801 N. First, Hamilton, Montana. Send written comments to Daniel G. Ritter, District Ranger, Stevensville Ranger District, 88 Main Street, Stevensville, MT 59870, by facsimile (406) 777–7423, or electronically to *dritter@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Daniel G. Ritter, Stevensville District Ranger and Designated Federal Officer, Phone: (406) 777–5461.

Dated: September 15, 2006.

David T. Bull,

Forest Supervisor.

[FR Doc. 06–7878 Filed 9–20–06; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Lincoln County Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) the Kootenai National Forest's Lincoln County Resource Advisory Committee will meet on Monday September 25, 2006 at 6 p.m. at the Forest Supervisor's Office in Libby, Montana for a business meeting. The meeting is open to the public.

DATES: September 25, 2006.

ADDRESSES: Forest Supervisor's Office, 1101 US Hwy 2 West, Libby, Montana

FOR FURTHER INFORMATION CONTACT: Barbara Edgmon, Committee Coordinator, Kootenai National Forest at (406) 283–7764, or e-mail *bedgmon@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda topics include selection of alternate project proposals, and receiving public comment. If the meeting date or location is changed, notice will be posted in the local newspapers, including the Daily Interlake based in Kalispell, Montana.

Dated: September 15, 2006.

Paul Bradford,

Forest Supervisor.

[FR Doc. 06–7879 Filed 9–20–06; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Action Affecting Export Privileges; Ghashim Group, Inc. and Mazen Ghashim and Related Person MNC Group International, Inc.; In the Matter of: Mazen Ghashim, 3334 Walnut Bend Lane, Houston, TX 77042, Respondent; Order Relating to Mazen Ghashim and Related Person MNC Group International, Inc. d.b.a. Wear form d.b.a. Sports Zone d.b.a. Soccer Zone

The Bureau of Industry and Security, U.S. Department of Commerce (''BIS'') has notified Mazen Ghashim (''Ghashim''), of its intention to initiate an administrative proceeding against him pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 CFR Parts 730–774 (2006)) (the ''Regulations''),[1] and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401–2420 (2000)) (the ''Act''),[2] through the issuance of a proposed charging letter to Ghashim that alleged that Ghashim committed 99 violations of the Regulations. Specifically, the charges are:

Charge—15 CFR 764.2(d)—Conspiracy To Export Items From the United State to Syria Without the Required License

Beginning in or about February 2003 and continuing through in or about June 2004, Ghashim conspired and acted in concert with others known and unknown, to violate the Regulations and to bring acts constituting violations of the Regulations. The purpose of the conspiracy was to export computers from the United States to Syria directly and by transshipment through the United Arab Emirates (''U.A.E.''). The computers were items subject to the Regulations and classified under Export Control Classification

[1] The charged violations occurred during 2003 and 2004. The Regulations governing the violations at issue are found in the 2003 and 2004 versions of the Code of Federal Regulations (15 CFR Parts 740–774 (2003–2004)). The 2006 Regulations established the procedures that apply to this matter.

[2] 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 successive Presidential Notices, the most recent being that of August 3, 2006 (71 FR 44,551 (Aug. 7, 2006)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000)) (''UEEOA''). The Act and the Regulations are available on the Government Printing Office Web site at: *http://www.access.gpo.gov/bis/.*

Number (''ECCN'') 4A003 ECCN 4A994. As set forth in Section 742.9 of the Regulations, a Department of Commerce export license was required before the computers could be exported to Syria. To accomplish the conspiracy, the conspirators, including Ghashim, participated in a scheme to have Ghashim purchase the computers from U.S. distributors and manufacturers and to have Ghashim export of the items to Syria directly or by transshipment through the U.A.E. without a Department of Commerce export licenses. In so doing, Ghashim committed one violation of Section 764.2(d) of the Regulations.

Charges 2–15—15 CFR 764,2(a)—Engaging in Prohibited Conduct by Exporting Computers to Syria Without the Required License

On 14 occasions, between on or about February 26, 2003 and on or about December 13, 2003, Ghashim engaged in conduct prohibited by the Regulations by exporting over 300 computers subject to the Regulations and classified under ECCN 4A994 and one computer subject to the Regulations and classified under ECCN 4A003 to Syria without the Department of Commerce licenses required by Section 742.9 of the Regulations. In so doing, Ghashim committed 14 violations of Section 764.2(a) of the Regulations.

Charges 16–26—15 CFR 764.2(a)—Engaging in Prohibited Conduct by Exporting Computers to Syria Through the United Arab Emirates Without the Required License

On 11 occasions, between on or about January 7 2004 and May 21, 2004, Ghashim engaged in conduct prohibited by the Regulations by exporting over 400 computers subject to the Regulations and classified under ECCN 4A994 to Syria without the Department of Commerce license required by Section 742.9 of the Regulations. Specifically, Ghashim transshipped these computers to Syria through a shipping consolidator and forwarder in the U.A.E. In so doing, Ghashim committed 11 violations of Section 764.2(a) of the Regulations.

Charges 27–37—15 CFR 764.2(e)—Acting With Knowledge of a Violation

On 11 occasions, between on or about January 7, 2004 and May 21, 2004, in connection with the transactions described in Charges 16–26, above, Ghashim sold, transferred or forwarded computers to Syria by transshipment through the U.A.E. with knowledge that violations of the Regulations were occurring. Ghashim had knowledge that violations were occurring because Ghashim had been advised by the U.S. Government and his computer suppliers that licenses were required to export or transship these items to Syria, and Ghashim had license applications pending with BIS for exports to Syria of similarly controlled items. In selling, transferring or forwarding these computers with knowledge that violations were occurring, Ghashim committed 11 violations of Section 764.2(e) of the Regulations.

Charges 38–39—15 CFR 764.2(c)—Attempting To Violate the Regulations by Exporting Computers to Syria Through the United Arab Emirates Without the Required License

On two occasions, on or about June 16, 2004 and on or about June 22, 2004, Ghashim attempted to violate the Regulations by attempting to export over 10 computers subject to the Regulations and classified under ECCN 4A994 to Syria without the Department of Commerce license required by Section 742.9 of the Regulations. Specifically, Ghashim attempted to export these computers to Syria by transshipment through a shipping consolidator and forwarder in the U.A.E. In so doing, Ghashim committed two violations of Section 764.2(a) of the Regulations.

Charges 40–41—15 CFR 764.2(e)—Acting With Knowledge of a Violation

On two occasions, on or about June 16, 2004 and on or about June 22, 2004, in connection with the transactions described in Charges 38–39, above Ghashim ordered, bought, stored, sold, transferred or transported computers with knowledge that violations of the Regulations were about to occur or were intended to occur in connection with the items. Specifically, Ghashim ordered, bought, stored, sold, transferred or transported the items, which Ghashim planned to export to Syria through the U.A.E. without a Department of Commerce license. Ghashim had knowledge that violations were about to occur or were intended to occur because he had been advised by the U.S. Government and his suppliers that licenses were required to export or transship these items to Syria, and he had license applications pending with BIS for exports to Syria of similarly controlled items. In so doing, Ghashim committed two violations of Section 764.2(e) of the Regulations.

Charges 42–66—15 CFR 764.2(g)—Misrepresentation of Facts Through False Statements on Shipper's Export Declarations

On 25 occasions between on or about February 26, 2003 and on or about May 21, 2004, in connection with the transactions described in Charges 2–26, above, Ghashim indirectly made false statements to the U.S. Government in connection with the submission of export control documents. Specifically, Ghashim, through his freight forwarder, field Shipper's Export Declarations (''SEDs'') with the U.S. Government stating that the items that were the subject of the SEDs qualified for exports as ''NLR,''meaning that no license was required for their export. Those representations were false, as licenses were required for the computers included in the shipments. SEDs are export control documents, as defined in Part 772 of the Regulations. In filing, through his freight forwarded, SEDs with the U.S. Government that contained false statements of fact, Ghashim committed 25 violations of Section 764.2(g) of the Regulations.

Charges 67–77—15 CFR 764.2(e)—Acting With Knowledge of a False Statement Being Made to the U.S. Government

On 11 occasions, between on or about January 7, 2004 and on or about May 21, 2004, in connection with the 11 transactions described in Charges 56–66, above, Ghashim sold, transferred or forwarded computers subject to the Regulations that were to be exported from the United States with knowledge that violations of the Regulations would occur in connection with the export of the computers. Specifically, Ghashim knew that he indirectly had filed false SEDs with the U.S. Government in connection with his sale, transfer, or forwarding of the computers. Ghashim knew that the items required export licenses because he had been advised by the U.S. Government and his computer suppliers that licenses were required to export or transship these items to Syria, and he had license applications pending with BIS for exports to Syria of similarly controlled items. Nevertheless, Ghashim informed his freight forwarder that the computers did not require export licenses and that the SEDS should indicate that no license was required. In so doing, Ghashim committed 11 violations of Section 764.2(e) of the Regulations.

Charges 78–88—15 CFR 764.2(g)—Misrepresentation of Facts Through False Statements on Shipper's Export Declarations

On 11 occasions between on or about January 7, 2004 and on or about May 21, 2004, in connection with the transactions described in Charges 16–26, above, Ghashim indirectly made false statements to the U.S. Government in connection with the submission of export control documents. Specifically, Ghashim, through his freight forwarder, filed SEDs with the U.S. Government stating that the U.A.E. was the country of ultimate destination of the computers that were the subject of the SEDs. These representations were false, as the country of ultimate destination of the items being exported was Syria. SEDs are export control documents, as defined in Part 772 of the Regulations. In filing, through his freight forwarder, SEDs with the U.S. Government that contained false statements of fact, Ghashim committed 11 violations of Section 764.2(g) of the Regulations.

Charges 89–99—15 CFR 764.2(e)—Acting With Knowledge of a False Statement Being Made to the U.S. Government

On 11 occasions, between on or about January 7, 2004 and on or about May 21, 2004, in connection with the 11 transactions described in Charges 78–88, above, Ghashim sold, transferred or forwarded computers subject to the Regulations that were to be exported from the United States with knowledge that violations of the Regulations would occur in connection with the export of the computers. Specifically, Ghashim knew that he indirectly had filed false SEDs with the U.S. Government in connection with his sale, transfer or forwarding of the computers. Ghashim knew that the country of ultimate destination of the items was Syria, but he informed his freight forwarder that the country of ultimate destination was

the U.A.E. In so doing, Ghashim committed 11 violations of Section 764.2(e) the Regulations.

Whereas, BIS and Ghashim have entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and

Whereas, I have approved of the terms of such Settlement Agreement; *it is therefore ordered:*

First, that a civil penalty of $1,089,000 is assessed against Ghashim. Ghashim shall pay $22,000 to the Department of Commerce as follows: $2,200 not later than October 15, 2006; $2,200 not later than November 15, 2006; $2,200 not later than December 15, 2006; $2,200 not later than January 15, 2007; $2,200 not later than February 15, 2007; $2,200 not later than March 15, 2007; $2,200 not later than April 15, 2007; $2,200 not later than May 15, 2007; $2,200 not later than June 15, 2007; and $2,200 not later than July 15, 2007. Payment shall be made in the manner specified in the attached instructions. Payment of the remaining $1,067,000 shall be suspended for a period of five years from the date of entry of this Order and thereafter shall be waived, provided that during the period of suspension, Ghashim has committed no violation of the Act, or any regulation, order, or license issued thereunder and has made the payment of $22,000, described above, in a timely manner.

Second, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. 3701–3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, Ghashim will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

Third, that the timely payment of the civil penalty set forth above is hereby made a condition to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to Ghashim. Accordingly, if Ghashim should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Ghashim's export privileges under the Regulations for a period of one year from the date of entry of this Order.

Fourth, that for a period of twenty years from the date of entry of this Order, Mazen Ghashim, 3334 Walnut Bend Lane, Houston, Texas 77042, and, when acting for or on behalf of Ghashim, his representatives, agents, assigns, or employees, including MNC Group International, Inc. doing business as Wearform, doing business as Sports Zone, doing business as Soccer Zone, 3334 Walnut Bend Lane, Houston, Texas, which is a person related to Ghashim by ownership, control, position of responsibility, and other affiliation (''Related Person'') (collectively, ''Denied Person'') may not participate, directly or indirectly, in any way in any transaction involving any commodity, software, or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, 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 Regulations, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

Fifth, 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 Regulations;

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 Regulations that has been or will be exported from the United States, 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 Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations 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 Regulations 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 Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Sixth, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to Ghashim by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of the Order.

Seventh, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

Eighth, that the proposed charging letter, the Settlement Agreement, and this Order shall be made available to the public.

Ninth, that this Order shall be served on the Denied Person, the Related Person, and on BIS, and shall be published in the **Federal Register**.

This Order, which constitutes the final agency action in this matter, is effective immediately.

Entered this 12th day of September, 2006.

Darryl W. Jackson,

Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 06–7877 Filed 9–20–06: 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Action Affecting Export Privileges; Ghashim Group, Inc. and Mazen Ghashim and Related Person MNC Group International, Inc.; In the Matter of Ghashim Group, Inc., d.b.a. KZ Results, 8746 Westpark Drive, Houston, TX 77063, Respondent Order Relating to Ghashim Group, Inc. D.B.A. KZ Results

The Bureau of Industry and Security, U.S. Department of Commerce (''BIS'') has notified Ghashim Group, Inc., doing business as KZ Results (''KZ Results''),

of its intention to initiate and administrative proceeding against KZ Results pursuant to Section 7663.3 of the Export Administration Regulations (currently codified at 15 CFR parts 730–774 (2006)) (the ''Regulations''),[1] and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401–2420 (2000)) (the ''Act''),[2] through the issuance of a proposed charging letter to KZ Results that alleged that KZ Results committed 99 violations of the Regulations. Specifically, the charges are:

Charge 1—15 CFR 764.2(d)—Conspiracy To Export Items From the United States to Syria Without the Required License

Beginning in or about February 2003 and continuing through in or about June 2004, KZ Results conspired and acted in concert with others, known and unknown, to violate the Regulations and to bring about acts constituting violations of the Regulations. The purpose of the conspiracy was to export computers from the United States to Syria directly and by transshipment through the United Arab Emirates (''U.A.E.''). The computers were items subject to the Regulations and classified under Export Control Classification Number (''ECCN'') 4A003 and ECCN 4A994. As set forth in Section 742.9 of the Regulations, a Department of Commerce export license was required before the computers could be exported to Syria. To accomplish the conspiracy, the conspirators, including KZ Results, participated in a scheme to have KZ Results purchase the computers from U.S. distributors and manufacturers, and to have KZ Results export the items to Syria directly or by transshipment through the U.A.E. without a Department of Commerce export license. In so doing, KZ Results committed one violation of Section 764.2(d) of the Regulations.

Charges 2–15—15 CFR 764.2(a)—Engaging in Prohibited Conduct by Exporting Computers to Syria Without the Required License

On 14 occasions, between on or about February 26, 2003 and on or about December 13, 2003, KZ Results engaged in conduct prohibited by the Regulations by exporting over 300 computers subject to the Regulations and classified under ECCN 4A994, and one computer subject to the Regulations and classified under ECCN 4A003 to Syria without the Department of Commerce licenses required by Section 742.9 of the Regulations. In so doing, KZ Results committed 14 violations of Section 764.2(a) of the Regulations.

Charges 16–26—15 CFR 764.2(a)—Engaging in Prohibited Conduct by Exporting Computers to Syria Through the United Arab Emirates Without the Required License

On 11 occasions, between on or about January 7, 2004 and May 21, 2004, KZ Results engaged in conduct prohibited by the Regulations by exporting over 400 computers subject to the Regulations and classified under ECCN 4A994 to Syria without the Department of Commerce license required by Section 742.9 of the Regulations. Specifically, KZ Results transshipped these computers to Syria through a shipping consolidator and forwarder in the U.A.E. In so doing, KZ Results committed 11 violations of Section 764.2(a) of the Regulations.

Charges 27–37—15 CFR 764.2(e)—Acting With Knowledge of a Violation

On 11 occasions, between on or about January 7, 2004 and May 21, 2004, in connection with the transactions described in Charges 16–26, above, KZ Results sold, transferred or forwarded computers to Syria by transshipment through the U.A.E. with knowledge that violations of the Regulations were occurring. KZ Results had knowledge that violations were occurring because KZ Results had been advised by the U.S. Government and KZ Results' suppliers that licenses were required to export or transship these items to Syria, and KZ Results had license applications pending with BIS for exports to Syria of similarly controlled items. In selling, transferring or forwarding these computers with knowledge that violations were occurring, KZ Results committed 11 violations of Section 764.2(e) of the Regulations.

Charges 38–39—15 CFR 764.2(c)—Attempting To Violate the Regulations by Exporting Computers to Syria Through the United Arab Emirates Without the Required License

On two occasions, on or about June 16, 2004 and on or about June 22, 2004, KZ Results attempted to violate the Regulations by attempting to export over 10 computers subject to the Regulations and classified under ECCN 4A994 to Syria without the Department of Commerce licenses required by Section 742.9 of the Regulations.Specifically, KZ Results attempted to export these computers to Syria by transshipment through a shipping consolidator and forwarder in the U.A.E. In so doing, KZ Results committed two violations of Section 7642.2(a) of the Regulations.

Charges 40–41—15 CFR 764.2(e)—Acting With Knowledge of a Violation

On two occasions, on or about June 16, 2004 and on or about June 22, 2004, in connection with the transactions described in Charges 38–39, above, KZ Results ordered, bought, stored, sold, transferred or transported computers with knowledge that violations of the Regulations were about to occur or were intended to occur in connection with the items. Specifically, KZ Results ordered, bought, stored, sold, transferred or transported the items, which KZ Results planned to export to Syria through the U.A.E. without a Department of Commerce license. KZ Results had knowledge that violations were about to occur or were intended to occur because KZ Results had been advised by the U.S. Government and KZ Results' computer suppliers that licenses were required to export or transship these items to Syria, and KZ Results had license applications pending with BIS for exports to Syria of similarly controlled items. In so doing, KZ Results committed two violations of Section 764.2(e) of the Regulations.

Charges 42–66—15 CFR 764.2(g)—Misrepresentation of Facts Through False Statement on Shipper's Export Declarations

On 25 occasions between on or about February 26, 203 and on or about May 21, 2004, in connection with the transactions described in Charges 27–26, above, KZ Results indirectly made false statements to the U.S. Government in connection with the submission of export control documents. Specifically, KZ Results, through its freight forwarder, filed Shipper's Export Declarations (''SEDs'') with the U.S. Government stating that the items that were the subject of the SEDs qualified

[1] The charged violations occurred during 2003 and 2004. The Regulations governing the violations at issue are found in the 2003 and 2004 versions of the Code of Federal Regulations (15 CFR parts 730–774 (2003–2004)). The 2006 Regulations establish the procedures that apply to this matter.

[2] 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 successive Presidential Notices, the most recent being that of August 3, 2006 (71 FR 44,551 (Aug. 7, 2006)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000)) (''IEEPA''). The Act and the Regulations are available on the Government Printing Office Web site at: *http://www.access.gpo.gov/bis/.*

for export as ''NLR,'' meaning that no license was required for their export. These representations were false, as licenses were required for the computers included in the shipments. SEDs are export control documents, as defined in part 772 of the Regulations. In filing, through its freight forwarder, SEDs with the U.S. Government that contained false statements of fact, KZ Results committed 25 violations of Section 764.2(g) of the Regulations.

Charges 67–77—15 CFR 764.2(e)—Acting With Knowledge of a False Statement Being Made to the U.S. Government

On 11 occasions, between on or about January 7, 2004 and on or about May 21, 2004, in connection with the 11 transactions described in Charges 56–66, above, KZ Results sold, transferred or forwarded computers subject to the Regulations that were to be exported from the United States with knowledge that violations of the Regulations would occur in connection with the export of the computers. Specifically, KZ Results knew that it indirectly had filed a false SED with the U.S. Government in connection with its sale, transfer, or forwarding of the computers. KZ Results knew that the items required export licenses because KZ Results had been advised by the U.S. Government and KZ Results' computer suppliers that licenses were required to export or transship these items to Syria, and KZ Results had license applications pending with BIS for exports to Syria of similarly controlled items. Nevertheless, KZ Results informed its freight forwarder that the computers did not require export licenses and that the SEDs should indicate that no license was required. In so doing, KZ Results committed 11 violations of Section 764.2(e) of the Regulations.

Charges 78–88—15 CFR 764.2(g)—Misrepresentation of Facts Through False Statement on Shipper's Export Declaration

On 11 occasions between on or about January 7, 2004 and on or about May 21, 2004, in connection with the transactions described in Charges 16–26, above, KZ Results indirectly made false statements to the U.S. Government in connection with the submission of export control documents. Specifically, KZ Results, through its freight forwarder, filed SEDs with the U.S. Government stating that the U.A.B. was the country of ultimate destination of the computers that were the subject of the SEDs. These representations were false, as the country of ultimate destination of the computers being exported was Syria. SEDs are export control documents, as defined in part 772 of the Regulations. In filing, through its freight forwarder, SEDs with the U.S. Government that contained false statements of fact, KZ Results committed 11 violations of Section 764.2(g) of the Regulations.

Charges 89–99—15 CFR 764.2(e)—Acting With Knowledge of a False Statement Being Made to the U.S. Government

On 11 occasions, between on or about January 7, 2004 and on or about May 21, 2004, in connection with the 11 transactions described in Charges 78–88, above, KZ Results sold, transferred or forwarded computers subject to the Regulations that were to be exported from the United States with knowledge that violations of the Regulations would occur in connection with the export of the computers. Specifically, KZ Results knew that it indirectly had filed a false SED with the U.S. Government in connection with its sale, transfer, or forwarding of the computers. KZ Results knew that the country of ultimate destination of the computers was Syria, but it informed its freight forwarder that the country of ultimate destination was the U.A.E. In so doing, KZ Results committed 11 violations of Section 764.2(e) of the Regulations.

Whereas, BIS and KZ Results have entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and

Whereas,, I have approved of the terms of such Settlement Agreement; *It is Therefore Ordered*

First, that a civil penalty of $1,089,000 is assessed against KZ Results. KZ Results shall pay $22,000 to the Department of Commerce as follows: $22,000 to the Department of Commerce as follows: $2,200 not later than October 15, 2006; $2,200 not later than November 15, 2006; $2,200 not later than December 15, 2006; $2,200 not later than January 15, 2007; $2,200 not later than February 15,2007; $2,200 not later than March 15, 2007; $2,200 not later than April 15, 2007; $2,200 not later than May 15, 2007; $2,200 not later than June 15, 2007; and $2,200 not later than July 15, 2007. Payment shall be made in the manner specified in the attached instructions. Payment of the remaining $1,067,000 shall be suspended for a period of five years from the date of entry of this Order and thereafter shall be waived, provided that during the period of suspension, KZ Results has committed no violation of the Act, or any regulation, order, or license issued thereunder and has made the payment of $22,000, described above, in a timely manner.

Second, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. 3701–372OE (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, KZ Results will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

Third that the timely payment of the civil penalty set forth above is hereby made a condition to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to KZ Results. Accordingly, if KZ Results should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of KZ Results' export privileges under the Regulations for a period of one year from the date of entry of this Order.

Fourth, for a period of twenty years from the date of entry of this Order, Ghashim Group, Inc. d.b.a. KZ Results, 8746 Westpark Drive, Houston, Texas 77063 (''KZ Results''), its successors or assigns, and when acting for or on behalf of KZ Results, its representatives, agents, officers or employees (''Denied Person'') may not participate, directly or indirectly, in any way in any transaction involving any commodity, software, or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, 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 Regulations, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

Fifth, 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 Regulations;

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 Regulations that has been or will be exported from the United States, 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 Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations 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 Regulations 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 Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Sixth, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to KZ Results by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject of the provisions of this Order.

Seventh, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

Eighth, that the proposed charging letter, the Settlement Agreement, and this Order shall be made available to the public.

Ninth, that this Order shall be served on the Denied Person and on BIS, and shall be published in the **Federal Register**.

This Order, which constitutes the final agency action in this matter, is effective immediately.

Entered this 12th day of September, 2006.

Darryl W. Jackson,

Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 06–7876 Filed 9–20–06; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Announcement of Performance Review Board Members

AGENCY: Bureau of Industry and Security, Department of Commerce.

ACTION: Notice.

SUMMARY: 5 CFR 430.310 requires agencies to publish notice of Performance Review Board appointees in the **Federal Register** before their service begins. This notice announces the names of the members of the Bureau of Industry and Security's Performance Review Board.

FOR FURTHER INFORMATION CONTACT: Gay Shrum, Director of Administration, Bureau of Industry and Security, at (202) 482–1058, Room 6622, Washington, DC 20230.

SUPPLEMENTARY INFORMATION: The purpose of the Performance Review Board is to review and make recommendations to the appointing authority on performance management issues such as appraisals, bonuses, pay level increases, and Presidential Rank Awards for members of the Senior Executive Service.

The Acting Under Secretary for Industry and Security, Mark Foulon, has named the following executives to be appointed to the Bureau of Industry and Security Performance Review Board:

1. Matthew Borman, Deputy Under Secretary for Export Administration (new).

2. Wendy Wysong, Deputy Under Secretary for Export Enforcement (new).

3. Dawn Leaf, Chief Information Officer (new).

4. Gay Shrum , Director of Administration (new).

5. John Phalen, Director, Office of Management and Organization, Department of Commerce (Outside Reviewer new).

Dated: September 15, 2006.

Mark Foulon,

Acting Under Secretary for Industry and Security.

[FR Doc. 06–7934 Filed 9–20–06; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE.

International Trade Administration

A–588–835

Oil Country Tubular Goods from Japan: Final Results and Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce

SUMMARY: On June 22, 2006, the Department of Commerce (the Department) published in the **Federal Register** the notice of intent to rescind the administrative review of the antidumping duty order on Oil Country Tubular Goods (OCTG) from Japan. This review covers four manufactures/exporters: JFE Steel Corporation (JFE), Nippon Steel Corporation (Nippon), NKK Tubes (NKK) and Sumitomo Metal Industries, Ltd. (SMI). The period of review (POR) covers sales of subject merchandise to the United States during the period August 1, 2004 throughJuly 31, 2005.

We provided interested parties with an opportunity to comment on the notice of intent to rescind this administrative review. However, we received no comments from interested parties. Consequently, no changes have been made to the preliminary results of the review.

EFFECTIVE DATE: September 21, 2006.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley or Jun Jack Zhao, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3148 or (202) 482–1396, respectively.

SUPPLEMENTARY INFORMATION: On June 22, 2006, the Department published in the **Federal Register** a notice of intent to rescind the antidumping duty administrative review of the antidumping duty order on OCTG from Japan. *See Oil Country Tubular Goods from Japan: Notice of Intent to Rescind Antidumping Duty Administrative Review*, 71 FR 35865 (June 22, 2006) (Preliminary Results). No interested parties filed case briefs in response to the Department's invitation to comment on the Preliminary Results.

Scope of the Order

The merchandise covered by this order consists of oil country tubular goods, hollow steel products of circular cross-section, including oil well casing, tubing, and drill pipe, of iron (other

than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute (API) or non–API specifications, whether finished or unfinished (including green tubes and limited service OCTG products). This scope does not cover casing, tubing, or drill pipe containing 10.5 percent or more of chromium. The products subject to this order are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.21.30.00, 7304.21.60.30, 7304.21.60.45, 7304.21.60.60, 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.30.10, 7304.29.30.20, 7304.29.30.30, 7304.29.30.40, 7304.29.30.50, 7304.29.30.60, 7304.29.30.80, 7304.29.40.10, 7304.29.40.20, 7304.29.40.30, 7304.29.40.40, 7304.29.40.50, 7304.29.40.60, 7304.29.40.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.60.15, 7304.29.60.30, 7304.29.60.45, 7304.29.60.60, 7304.29.60.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

Final Results of Review

As stated in the *Preliminary Results*, the Department determined that JFE and NKK had no shipments of subject merchandise, and that Nippon and SMI had no reviewable sales of subject merchandise during the POR. Although our review of data from U.S. Customs and Border Protection (CBP) showed that there were entries during the POR of merchandise produced by Nippon and SMI, based on information and documentation submitted by Nippon and SMI, we determined that those entries were either made by unaffiliated resellers without the knowledge of either Nippon or SMI, or were sample merchandise. As such, they are not subject to the administrative review of Nippon and SMI. *See* memorandum from Jun Jack Zhao to Barbara E. Tillman through Dana Mermelstein, *Analysis Memorandum regarding the Administrative Review of the Antidumping Duty Order on Oil Country Tubular Goods from Japan (A–588–835)*, dated June 15, 2006. We did not receive comments from any of the interested parties on the *Preliminary Results*. Accordingly, we do not have any reason to reconsider our preliminary decision. Therefore, consistent with the Department's preliminary results of this review, and in accordance with 19 CFR § 351.213(d)(3), we are rescinding the review with respect to all four companies.

Duty Assessment

The Department will determine, and CBP shall assess, antidumping duties on all appropriate entries, pursuant to 19 CFR § 351.212(b). We will direct CBP to liquidate any entries of subject merchandise manufactured by JFE, Nippon, NKK, SMI, and entered or withdrawn from warehouse for consumption during the POR, at the ''all others'' rate, 44.20 percent, in accordance with the Department's clarification of its assessment regulation, as the sale of any such entries were made by intermediary companies (e.g., resellers) not covered in this review, a prior review, or the less than fair value (LTFV) investigation. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954(May 6, 2003). The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of these final results of review.

Cash Deposit Requirements

The following cash deposit rates will be effective with respect to all shipments of OCTG from Japan entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results, as provided for by section 751(a)(1) of the Act: (1) for all four companies, JFE, NKK, Nippon and SMI, the cash deposit rate will remain unchanged and will be the company–specific rate established for the most recent period; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will be the company–specific rate established for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the subject merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered by this review, a prior review, or the LTFV investigation, the cash deposit rate shall be the ''all others'' rate established in the LTFV investigation, which is 44.20 percent. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Oil Country Tubular Goods from Japan*, 60 FR 155 (August 11, 1995). These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under19 CFR § 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR § 351.305. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is herebyrequested. Failure to comply with the regulations and terms of an APO is a violation that is subject to sanction.

This administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: September 13, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. 06–7797 Filed 9–20–06; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF COMMERCE

International Trade Administration

University of Alabama, et al., Notice of Consolidated Decision on Applications for Duty–Free Entry of Electron Microscopes

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between

8:30 a.m. and 5 p.m. in Room 2104, U.S. Department of Commerce, Statutory Import Programs Staff, Room 2104, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 06–018. Applicant: University of Alabama. Tuscaloosa, AL 35487. Instrument: Electron Microscope, Model Technai G2 F20 S–TWIN. Manufacturer: FEI Company, The Netherlands. Intended Use: See notice at 71 FR 42631.

Docket Number: 06–019. Applicant: University of Pittsburgh, Pittsburgh, PA 15261. Instrument: Electron Microscope, Model JEM–2100F. Manufacturer: JEOL Ltd., Japan. See notice at 71 FR 42631.

Docket Number: 06–020. Applicant: Middle Tennessee State University, Murfreesboro, TN 37132. Instrument: Electron Microscope, Model H–7650 TEM. Manufacturer: Hitachi High Technologies, Japan. Intended Use: See notice at 71 FR 42631.

Docket Number: 06–021. Applicant: The University of Texas, Dallas, TX 75390–9056. Instrument: Electron Microscope, Model Technai G2 Spirit BioTwin. Manufacturer: FEI Company, Czech Republic. Intended Use: See notice at 71 FR 42631.

Docket Number: 06–022. Applicant: Battelle Memorial Institute, Pacific Northwest Division, Richland, WA 99352. Instrument: Electron Microscope, Model Technai G2 Sprint TWIN. Manufacturer: FEI Company, Czech Republic. Intended Use: See notice at 71 FR 42631.

Docket Number: 06–023. Applicant: University of California, Lawrence Berkeley Lab for the US Department of Energy, Berkeley, CA 94720. Instrument: Electron Microscope, Model JEM–2100. Manufacturer: JEOL, Ltd., Japan. Intended Use: See notice at 71 FR 42631.

Docket Number: 06–024. Applicant: The University of Alabama, Tuscaloosa, AL 35487–0344. Instrument: Electron Microscope, Model H–7650–II TEM. Manufacturer: Hitachi High–Technologies Corp, Japan. Intended Use: See notice at 71 FR 42631.

Docket Number: 06–025. Applicant: The Ohio State University, Campus Microscopy and Imaging Facility, Columbus, OH 43210. Instrument: Electron Microscope, Model Technai G2 Spirit BioTwin. Manufacturer: FEI Company, Czech Republic. Intended Use: See notice at 71 FR 42631.

Docket Number: 06–026. Applicant: The New York Structural Biology Center, New York, NY 10027. Instrument: Electron Microscope, Model JEM–3200FSC. Manufacturer: JEOL Ltd., Japan. Intended Use: See notice at 71 FR 42631.

Docket Number: 06–027. Applicant: The University of Akron, Akron, OH 44325. Instrument: Electron Microscope, Model JEM–1230. Manufacturer: Joel Ltd., Japan. Intended Use: See notice at 71 FR 42631.

Docket Number: 06–028. Applicant: Clarion Health Partners, Indianapolis, IN 46204. Instrument: Electron Microscope, Model Technai G2 Spirit BioTwin. Manufacturer: FEI Company, Czech Republic. Intended Use: See notice at 71 FR 42632.

Docket Number: 06–029. Applicant: U.S. Department of Commerce, National Institute of Standards and Technology, MD 20899. Instrument: Aberration–Corrected Monochromated Electron Microscope, Model ACEM: Technai G3 TF30CSP. Manufacturer: FEI Company, The Netherlands . Intended Use: See notice at 71 FR 42632.

Docket Number: 06–030. Applicant: Florida State University, Department of Biological Science, Tallahassee, FL 32306 Instrument: Electron Microscope, Model Nova 400 NanoSEM. Manufacturer: FEI Company, Czech Republic. Intended Use: See notice at 71 FR 42632.

Docket Number: 06–031. Applicant: Jackson State University, Jackson, MI 18540. Instrument: Electron Microscope, Model JEM–1011 Manufacturer: JEOL Ltd., Japan. Intended Use: See notice at 71 FR 42632.

Docket Number: 06–032. Applicant: Smithsonian Institution, National Museum of Natural History, Washington DC 20560–0019. Instrument: Electron Microscope, Model Nova 600 NanoSEM. Manufacturer: FEI Company, Czech Republic. Intended Use: See notice at 71 FR 42632.

Docket Number: 06–033. Applicant: University of North Florida, Jacksonville FL 32224. Instrument: Electron Microscope, Model Quantum 200 ESEM. Manufacturer: FEI Company, Czech Republic. Intended Use: See notice at 71 FR 42632.

Docket Number: 06–034. Applicant: NYS Institute for Basic Research, Staten Island, NY 10314. Instrument: Electron Microscope, Model H–7500. Manufacturer: Hitachi High–Technologies Corporation, Japan. Intended Use: See notice at 71 FR 42632.

Docket Number: 06–035. Applicant: Carnegie Mellon University, Pittsburgh, Pa 15213. Instrument: Electron Microscope, Model Nova 600 NanoLab Dual Beam. Manufacturer: FEI Company, The Netherlands. Intended Use: See notice at 71 FR 42632.

Docket Number: 06–036. Applicant: Texas Tech University, Health Sciences Center, Lubbock, TX 79430. Instrument: Electron Microscope, Model H–7650–II TEM. Manufacturer: Hitachi High–Technologies Corporation, Japan . Intended Use: See notice at 71 FR 42632.

Docket Number: 06–038. Applicant: The Ohio State University, Campus Microscopy and Imaging Facility, Columbus, OH 43210. Instrument: Electron Microscope, Model Technai G2 Spirit BioTwin. Manufacturer: FEI Company, Czech Republic. Intended Use: See notice at 71 FR 42633.

Docket Number: 06–039. Applicant: University of Louisville, Speed School Of Engineering, Louisville, KY 40292. Instrument: Electron Microscope, Model Technai G2 F–20 X–TWIN. Manufacturer: FEI Company, The Netherlands. Intended Use: See notice at 71 FR 42633.

Docket Number: 06–040. Applicant: UC Irvine Medical Center, Orange, CA, 92868. Instrument: Electron Microscope, Model Technai G2 Spirit. Manufacturer: FEI Company, Czech Republic. Intended Use: See notice at 71 FR 42633.

Docket Number: 06–042. Applicant: The University of Illinois at Urbana–Champaign, Champaign, IL 61820. Instrument: Electron Microscope, Model JEM–220FS with STEM & Monochrometer. Manufacturer: JEOL Ltd., Japan. Intended Use: See notice at 71 FR 42633.

Docket Number: 06–043. Applicant: SUNY Upstate Medical University, Syracuse, NY 13210. Instrument: Electron Microscope, Model JEM–2100. Manufacturer: JEOL Ltd., Japan. Intended Use: See notice at 42633.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered. Reasons: Each foreign instrument is an electron microscope and is intended for research or scientific educational uses requiring an electron microscope. We know of no electron microscope, or any other instrument suited to these purposes, which was being manufactured in the United States at the time of order of each instrument.

Gerald A. Zerdy,

Program ManagerStatutory Import Programs Staff.

[FR Doc. 06–7935 Filed 9–20–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091406A]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Receipt of an application for a scientific research permit; request for comments.

SUMMARY: Notice is hereby given that NMFS has received an application for a scientific research permit from the Santa Clara Valley Water District (SCVWD) in Santa Clara County, CA (1121). This document serves to notify the public of the availability of the permit application for review and comment.

DATES: Written comments on the permit application must be received no later than 5 p.m. Pacific Standard Time on October 23, 2006.

ADDRESSES: Comments submitted by e-mail must be sent to the following address: *FRNpermits.SR@noaa.gov*. The application and related documents are available for review by appointment, for Permit 1121: Protected Resources Division, NMFS, 777 Sonoma Avenue, Room 315, Santa Rosa, CA 95404 (ph: 707–575–6097, fax: 707–578–3435, e-mail: *Jeffrey.Jahn@noaa.gov*).

FOR FURTHER INFORMATION CONTACT: Jeffrey Jahn at phone number 707–575–6097, or e-mail: *Jeffrey.Jahn@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA), is based on a finding that such permits: (1) are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222–226).

Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in This Notice

This notice is relevant to federally threatened Central California Coast steelhead (*Oncorhynchus mykiss*).

Application Received

SCVWD requests a 5–year permit (1121) for take of adult and juvenile Central California Coast steelhead to conduct toxicological monitoring studies in three watersheds in Santa Clara County, California: (1) the Guadalupe River watershed below Alameden, Calero, Guadalupe, Lexington, and Vasona Reservoir, (2) the Coyote Creek watershed below Coyote and Anderson reservoirs, and (3) in the Stevens Creek watershed below Stevens Creek Reservoir. SCVWD requests authorization for an estimated annual non-lethal take 75 juvenile Central California Coast steelhead, with no more than 3 percent unintentional mortality to result from capture (by electrofishing), handling, and release of fish.

SCVWD also requests take of adult Central California Coast steelhead to conduct fish migration studies in the Guadalupe River and Coyote Creek watersheds in Santa Clara County, California. SCVWD requests authorization for an estimated annual non-lethal take of 10 adult Central California Coast steelhead, with no more than 3 percent unintentional mortality to result from capture (by funnel weir-trap), handling, and release of fish.

In addition, SCVWD requests take of adult and juvenile Central California Coast steelhead to conduct fish community assemblage studies in Coyote Creek in Santa Clara County, California. SCVWD request authorization for an estimated annual non-lethal take of 30 adult Central California Coast steelhead and 1,000 juvenile Central California Coast steelhead, with no more than 3 percent unintentional mortality to result from capture (by electrofishing), handling, and release of fish.

Dated: September 18, 2006.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 06–7941 Filed 9–20–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Department of the Air Force

Announcement of IS–GPS–800 Interface Control Working Group (ICWG) Meeting

AGENCY: Department of the Air Force, DoD.

ACTION: Meeting notice.

SUMMARY: This notice informs the public that the Global Positioning Systems Wing (GPSW) (formerly the GPS Joint Program Office) will be hosting a technical working group meeting to discuss the new L1C signal as specified in Draft IS–GPS–800, Navstar GPS Space Segment/Navigation User L1C Interfaces. The discussion will include addressing those comments submitted from the ICWG review of the Draft IS–GPS–800.

For those who would like to attend and participate in this ICWG meeting, you are requested to register to attend the meeting by 22 September 2006. Please send the registration to *IG2@arinc.com* and provide your name, organization, telephone number, address, and country of citizenship. For those who would like to present material related to the L1C signal or IS–GPS–800 at the meeting, please submit your agenda item and required length of presentation time to *IG2@arinc.com* by 22 September 2006. The actual presentation material must also submit by 22 September 2006. More information, including a preliminary agenda, will be posted on the GPSW Public ICWG Web site: *http://gps.losangeles.af.mil/engineering/icwg/*.

DATES: Tuesday, 26 September 2006: 8:30 a.m.–5 p.m. at Fort Worth Convention Center, Room 203B, Fort Worth, Texas 76102 U.S.A.

FOR FURTHER INFORMATION CONTACT: Captain Sean Lenahan at *Lawrence.Lenahan@losangeles.af.mil* or at 1–310–653–3172.

Bao-Anh Trinh,

Air Force Federal Register Liaison Officer.

[FR Doc. 06–7880 Filed 9–20–06; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Secretary of the Navy's Advisory Subcommittee on Naval History

AGENCY: Department of the Navy, DoD.

ACTION: Notice of open meeting.

SUMMARY: The Secretary of the Navy's Advisory Subcommittee on Naval History, a subcommittee of the Department of Defense Historical Advisory Committee, will meet to review naval historical activities since the last meeting of the Advisory Subcommittee on Naval History, which was conducted on September 29 and September 30, 2005, and to make comments and recommendations on these activities to the Secretary of the Navy. The meetings will be open to the public.

DATES: The meetings will be held on Thursday, September 21, 2006, from 8 a.m. to 4 p.m. and Friday, September 22, 2006, from 8 a.m. to 4 p.m.

ADDRESSES: The meetings will be held at the Navy Museum of the Naval Historical Center, 805 Kidder Breese Street, SE.; Building 76, Washington Navy Yard, DC 20374–5060.

FOR FURTHER INFORMATION CONTACT: Rear Admiral Paul E. Tobin, USN (Ret.), Director of Naval History, 805 Kidder Breese Street, SE.; Bldg. 57, Washington Navy Yard, DC 20374–5060, telephone 202-433–2210.

SUPPLEMENTARY INFORMATION: This notice of open meeting is provided in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2). The purpose of these meetings is to review naval historical activities since the last meeting of the Advisory Subcommittee on Naval History and to make comments and recommendations on these activities to the Secretary of the Navy.

Dated: September 7, 2006.

M.A. Harvison,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 06–7932 Filed 9–20–06; 8:45 am]

BILLING CODE 3810–FF–M

DEPARTMENT OF DEFENSE

Department of the Navy

[USN–2006–0053]

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to amend systems of records.

SUMMARY: The Department of the Navy is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on October 23, 2006 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations (DNS–36), 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: September 15, 2006.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N01640–1

SYSTEM NAME:

Individual Correctional Records (June 16, 2003, 68 FR 35655).

CHANGES:

SYSTEM IDENTIFIER:

Change ''N01640–1'' to read ''NM01640–1''

* * * * *

SYSTEM LOCATION:

Delete entry and replace with ''United States Navy Brigs and United States Marine Corps Correctional Facilities.

Official mailing addresses are published in the Standard Navy Distribution List (SNDL) that is available at *http://doni.daps.dla.mil/sndl.aspx* and/or may be obtained from the Director, Personal Readiness and Community Support (N153), Navy Personnel Command, 5720 Integrity Drive, Millington, TN 38055–6000.''

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

In the next to last sentence add ''and sex offender acknowledgement/notification letters.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

After ''10 U.S.C. 951'' add ''10 U.S.C. 5013, Secretary of the Navy.''

* * * * *

RETENTION AND DISPOSAL:

Delete first paragraph and replace with ''Two years after a prisoner is released or transferred from a brig or expiration of parole, prisoner paper records are transferred to the appropriate Federal Records Center. Automated records are maintained indefinitely.''

Add a new fifth paragraph to read ''Victim/Witness Records are destroyed after two years.''

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Policy Officials: Director, Personal Readiness and Community Support (N153), 5720 Integrity Drive, Millington, TN 38055–6000 and Commandant of the Marine Corps (Code PSL), Headquarters, U.S. Marine Corps, 2 Navy Annex, Washington, DC 20380–0001.

RECORD HOLDERS:

United States Naval Brigs and United States Marine Corps Brigs. Official mailing addresses are published in the Standard Navy Distribution List (SNDL) that is available at *http://doni.daps.dla.mil/sndl.aspx* or may be obtained from the Director, Personal Readiness and Community Support (N153), 5720 Integrity Drive, Millington, TN 38055–6000.''

NOTIFICATION PROCEDURE:

Delete first paragraph and replace with ''Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the United States Naval Brig or United States Marine Corps Brig where incarcerated. Official mailing addresses are published in the Standard Navy Distribution List (SNDL) that is available at *http://doni.daps.dla.mil/sndl.aspx* or may be obtained from the Director, Personal Readiness and Community Support (N153), 5720 Integrity Drive, Millington, TN 38055–6000.''

RECORD ACCESS PROCEDURES:

Delete first paragraph and replace with ''Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the United States Naval Brig or United States Marine Corps Brig where incarcerated. Official mailing addresses are published in the Standard Navy Distribution List (SNDL) that is available at *http://doni.daps.dla.mil/sndl.aspx* or may be obtained from the Director, Personal Readiness and Community Support (N153), 5720 Integrity Drive, Millington, TN 38055–6000.''

* * * * *

NM01640–1

SYSTEM NAME:

Individual Correctional Records.

SYSTEM LOCATION:

United States Navy Brigs and United States Marine Corps Correctional Facilities.

Official mailing addresses are published in the Standard Navy Distribution List (SNDL) that is available at *http://doni.daps.dla.mil/sndl.aspx* and/or may be obtained from the Director, Personal Readiness and Community Support (N153), Navy Personnel Command, 5720 Integrity Drive, Millington, TN 38055–6000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military members confined in a naval facility as a result of or pending trial by courts-martial; military members sentenced to three days bread and water or diminished rations; and military members awarded correctional custody to be served in a correctional custody unit.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents related to the administration of individual prisoners in the Department of the Navy confinement and correctional custody facilities—courts martial orders; release orders; confinement orders; medical examiners' reports; requests and receipts for health and comfort supplies; reports and recommendations relative to disciplinary actions; clothing and equipment records; mail and visiting lists and records; personal history records; individual prisoner utilization records; requests for interview; initial interview; spot reports; prisoner identification records; parolee agreements; inspection record of prisoner in segregation; personal funds records; valuables and property record; daily report of prisoners received and released; admission classification summary; social history; clemency recommendations and actions; parole recommendations and actions; restoration recommendations and actions; psychiatric, psychological, and sociological reports; certificate of parole; certificate of release from parole; requests to transfer prisoners; records showing name, grade, Social Security Number, sex, education, sentence, offense(s), sentence computation, organization, ethnic group, discharge awarded, length of unauthorized absence, number and type of prior punishments, length of service, and type release; reports showing legal status, offense charged, and length of time confined; and sex offender acknowledgement/notification letters. Names, addresses, and telephone numbers of victims/witnesses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 951; 10 U.S.C. 5013, Secretary of the Navy; 42 U.S.C. 10601 et seq., Victim's Rights and Restitution Act of 1990 as implemented by DoD Instruction 1030.2, Victim and Witness Assistance Procedures; and E.O. 9397 (SSN).

PURPOSE(S):

To determine initial custody classification; to determine when custody grade change is appropriate; to gauge member's adjustment to confinement or correctional custody; to identify areas of particular concern to prisoners and personnel in correctional custody; to determine work assignment; to determine educational needs; serves as the basis for correctional treatment; serves as a basis for recommendations for clemency, restoration, and parole; and to notify victims/witnesses of crime of release related activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To Federal, state, and local law enforcement and investigative agencies for investigation and possible criminal prosecution, civil court actions or regulatory order.

To state and local authorities for purposes of providing (1) notification that individuals, who have been convicted of a specified sex offense or an offense against a victim who is a minor, will be residing in the state upon release from military confinement and (2) information about the individual for inclusion in a state operated sex offender registry.

To confinement/correctional system agencies for use in the administration of correctional programs to include custody classification; employment, training and educational assignments; treatment programs; clemency, restoration to duty, and parole actions; verifications concerning military offenders or military criminal records, employment records and social histories.

To victims and witnesses of crime for the purpose of notifying them of date of parole or clemency hearing and other release related activities.

The DoD 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and computerized database.

RETRIEVABILITY:

Name and Social Security Number.

SAFEGUARDS:

Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained. Computer database is password protected.

RETENTION AND DISPOSAL:

Two years after a prisoner is released or transferred from a brig or expiration of parole, prisoner paper records are transferred to the appropriate Federal Records Center. Automated records are maintained indefinitely.

Federal Records Center Atlanta, 1557 St. Joseph Avenue, East Point, GA 30344 has records from ashore brigs under the area coordination of the Commander, U.S. Atlantic Fleet; Commander, U.S. Naval Forces Europe; Commander, Naval Education and Training, afloat brig on Atlantic Fleet ships, and Naval Consolidated Brig, Charleston.

Federal Records Center Los Angeles, 2400 Avila Road, P.O. Box 6719, Laguna Niegel, CA 92607–6719 has records for ashore brigs under the area consideration of the Commander, U.S. Pacific Fleet; afloat brigs on Pacific Fleet ships; and Naval Consolidated Brig, Miramar.

Records of prisoners accompany their transfer to other facilities.

Victim/Witness Records are destroyed after two years.

SYSTEM MANAGER(S) AND ADDRESS:

POLICY OFFICIALS:

Director, Personal Readiness and Community Support (N153), 5720 Integrity Drive, Millington, TN 38055–6000 and Commandant of the Marine Corps (Code PSL), Headquarters, U.S. Marine Corps, 2 Navy Annex, Washington, DC 20380–0001.

RECORD HOLDERS:

United States Naval Brigs and United States Marine Corps Brigs. Official mailing addresses are published in the Standard Navy Distribution List (SNDL) that is available at *http://doni.daps.dla.mil/sndl.aspx* or may be obtained from the Director, Personal

Readiness and Community Support (N153), 5720 Integrity Drive, Millington, TN 38055–6000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the United States Naval Brig or United States Marine Corps Brig where incarcerated. Official mailing addresses are published in the Standard Navy Distribution List (SNDL) that is available at *http://doni.daps.dla.mil/sndl.aspx* or may be obtained from the Director, Personal Readiness and Community Support (N153), 5720 Integrity Drive, Millington, TN 38055–6000.

Requests should include full name and Social Security Number and must be signed by the requesting individual.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the United States Naval Brig or United States Marine Corps Brig where incarcerated. Official mailing addresses are published in the Standard Navy Distribution List (SNDL) that is available at *http://doni.daps.dla.mil/sndl.aspx* or may be obtained from the Director, Personal Readiness and Community Support (N153), 5720 Integrity Drive, Millington, TN 38055–6000.

Requests should include full name and Social Security Number and must be signed by the requesting individual.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Military personnel records; military financial and medical records; military and civilian investigative and law enforcement agencies; courts-martial proceedings; records of non-judicial administrative proceedings; United States military commanders; staff members and cadre supply information relative to service member's conduct or duty performance; and other individuals or organizations which may supply information relevant to the purpose for which this system was designed.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principle function any activity pertaining to the enforcement of criminal laws.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 701, subpart G. For additional information contact the system manager.

[FR Doc. 06–7893 Filed 9–20–06; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[USN–2006–0052]

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to amend systems of records.

SUMMARY: The Department of the Navy is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on October 23, 2006 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations (DNS–36), 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: September 15, 2006.

C. R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N01080–2

SYSTEM NAME:

Officer Master File Automated System (February 22, 1993, 58 FR 10705).

CHANGES:

* * * * *

SYSTEM NAME:

Delete ''System'' and replace with ''Systems''.

SYSTEM LOCATION:

Delete entry and replace with ''Defense Enterprise Computing Center (DECC), 5450 Carlisle Pike, Mechanicsburg, PA 17050–0975.''

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete ''5 U.S.C. 301, Departmental Regulations'' and replace with ''10 U.S.C. 5013, Secretary of the Navy.''

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Commander, Navy Personnel Command (PERS–34), 5720 Integrity Drive, Millington, TN 38055–3400.''

NOTIFICATION PROCEDURE:

Delete first paragraph and replace with ''Active duty officers/officer candidates seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commander, Navy Personnel Command (PERS–34), 5720 Integrity Drive, Millington, TN 38055–3400.''

RECORD ACCESS PROCEDURES:

Delete first paragraph and replace with ''Active duty officers/officer candidates seeking access to records about themselves contained in this system of records should address written inquiries to the Commander, Navy Personnel Command (PERS–34), 5720 Integrity Drive, Millington, TN 38055–3400.''

Delete second paragraph and replace with ''Naval reserve and retired officers seeking access to records about themselves contained in this system of records shall address written inquiries to the Commanding Officer, Naval Reserve Personnel Center (ATTN: Privacy Act Coordinator), New Orleans, LA 70149–7800.''

* * * * *

N01080–2

SYSTEM NAME:

Officer Master File Automated Systems.

SYSTEM LOCATION:

Defense Enterprise Computing Center (DECC), 5450 Carlisle Pike, Mechanicsburg, PA 17050–0975.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All naval officers: commissioned, warrant, active, inactive; officer candidates, and Naval Reserve Officer Training Corps personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains data concerning officer assignment, planning, accounting, promotions, career development, procurement, education, training, retirement, performance, security, personal data, qualifications, programming, and Reserve Officer drill data, activity Personnel Diaries, personnel accounting documents, Reserve Unit Drill Reports and other personnel transaction documents necessary to maintain file accuracy and currency; and all computer file extracts, microform and printed reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5013, Secretary of the Navy and E.O. 9397 (SSN).

PURPOSE(S):

To assist officials and employees of the Navy in their official duties related to the management, supervision, and administration of both active duty and retired naval officers, and in the operation of personnel affairs and functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of system of record notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated records are stored on magnetic tapes, disks, and drums. Printed reports and other paper documents supporting the system are stored in authorized personnel areas only.

RETRIEVABILITY:

Name and Social Security Number.

SAFEGUARDS:

Within the computer center, controls have been established to disseminate computer output over the counter only to authorized users. Specific procedures are also in force for the disposal of computer output. Output material in the sensitive category, *i.e.*, inadvertent or unauthorized disclosure that would result in harm, embarrassment, inconvenience or unfairness to the individual, will be shredded. Computer files are kept in a secure, continuously manned area and are accessible only to authorized computer operators, programmers, enlisted management, placement, and distributing personnel who are directed to respond to valid, official request for data. These accesses are controlled and monitored by the security system.

RETENTION AND DISPOSAL:

Automated records are retained for periods that range from one month to permanent, and are too numerous to list in this notice. For more specific information, contact the system manager.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Navy Personnel Command (PERS–34), 5720 Integrity Drive, Millington, TN 38055–3400.

NOTIFICATION PROCEDURE:

Active duty officers/officer candidates seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commander, Navy Personnel Command (PERS–34), 5720 Integrity Drive, Millington, TN 38055–3400.

Naval reserve and retired officers seeking to determine whether this system of records contains information about themselves shall address written inquiries to the Commanding Officer, Naval Reserve Personnel Center (ATTN: Privacy Act Coordinator), New Orleans, LA 70149–7800.

Written request should contain full name, Social Security Number, rank, status, and signature of requester.

RECORD ACCESS PROCEDURES:

Active duty officers/officer candidates seeking access to records about themselves contained in this system of records should address written inquiries to the Commander, Navy Personnel Command (PERS–34), 5720 Integrity Drive, Millington, TN 38055–3400.

Naval reserve and retired officers seeking access to records about themselves contained in this system of records shall address written inquiries to the Commanding Officer, Naval Reserve Personnel Center (ATTN: Privacy Act Coordinator), New Orleans, LA 70149–7800.

Written request should contain full name, Social Security Number, rank, status, and signature of requester.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Official records of professional qualifications and educational institutions.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 06–7894 Filed 9–20–06; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[USN–2006–0051]

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to amend systems of records.

SUMMARY: The Department of the Navy is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on October 23, 2006 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations (DNS–36), 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: September 15, 2006.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N01080–1

SYSTEM NAME:

Enlisted Master File Automated System (September 9, 1996, 61 FR 47483).

CHANGES:

* * * * *

SYSTEM NAME:

Change ''System'' to read ''Systems''.

SYSTEM LOCATION:

Delete entry and replace with ''Defense Enterprise Computing Center (DECC), 5450 Carlisle Pike, Mechanicsburg, PA 17050–0975.''

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete ''5 U.S.C. 301, Departmental Regulations'' and replace with ''10 U.S.C. 5013, Secretary of the Navy.''

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Commander, Navy Personnel Command (PERS–31), 5720 Integrity Drive, Millington, TN 38055–3120.''

NOTIFICATION PROCEDURE:

Delete first paragraph and replace with ''Active duty enlisted personnel seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commander, Navy Personnel Command (PERS–31), 5720 Integrity Drive, Millington, TN 38055–3120.''

RECORD ACCESS PROCEDURES:

Delete first paragraph and replace with ''Active duty enlisted personnel seeking access to records about themselves contained in this system of records should address written inquiries to the Commander, Navy Personnel Command (PERS–34, 5720 Integrity Drive, Millington, TN 38055–3120.''

Delete second paragraph and replace with ''Inactive duty and reserve personnel seeking access to records about themselves contained in this system of records shall address written inquiries to the Commanding Officer, Naval Reserve Personnel Center (ATTN: Privacy Act Coordinator), New Orleans, LA 70149–7800.''

* * * * *

N01080–1

SYSTEM NAME:

Enlisted Master File Automated Systems.

SYSTEM LOCATION:

Defense Enterprise Computing Center (DECC), 5450 Carlisle Pike, Mechanicsburg, PA 17050–0975.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Navy enlisted personnel: active and inactive.

CATEGORIES OF RECORDS IN THE SYSTEM:

System contains information related to enlisted assignment, planning, programming, accounting, promotions, career development, procurement, education, training, retirement, performance, security, personal data, qualifications, programming, and enlisted reserve drill data. The system also contains Activity Personnel Diaries, personnel accounting documents, Reserve Unit Drill reports, and other personnel transaction documents necessary to maintain file accuracy and currency; and, all computer extracts, microform, and printed reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5013, Secretary of the Navy, and E.O. 9397 (SSN).

PURPOSE(S):

To assist in the administration, management, and supervision of Navy enlisted personnel and the operation of personnel affairs and functions.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of system of record notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated records are stored on magnetic tapes, disks, and drums. Printed reports and other related documents supporting the system are stored in authorized areas only.

RETRIEVABILITY:

Name and Social Security Number.

SAFEGUARDS:

Within the computer center, controls have been established to disseminate computer output over the counter only to authorized users. Specific procedures are also in force for the disposal of computer output. Output material in the sensitive category, i.e., inadvertent or unauthorized disclosure that may result in harm, embarrassment, inconvenience or unfairness to the individual, will be shredded. Computer files are kept in a secure, continuously manned area and are accessible only to authorized computer operators, programmers, enlisted management, placement, and distributing personnel who are directed to respond to valid official requests for data. These accesses are controlled and monitored by the security system.

RETENTION AND DISPOSAL:

Permanent. Annually transferred to the National Archives under Group 24, Records of the Bureau of Naval Personnel.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Navy Personnel Command (PERS–31), 5720 Integrity Drive, Millington, TN 38055–3120.

NOTIFICATION PROCEDURE:

Active duty enlisted personnel seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commander, Navy Personnel Command (PERS–31), 5720 Integrity Drive, Millington, TN 38055–3120.

Inactive duty and reserve personnel seeking to determine whether this system of records contains information about themselves shall address written inquiries to the Commanding Officer, Naval Reserve Personnel Center (ATTN:

Privacy Act Coordinator), New Orleans, LA 70149–7800.

Written request should contain full name, Social Security Number, rank, status, and signature of requester.

RECORD ACCESS PROCEDURES:

Active duty enlisted personnel seeking access to records about themselves contained in this system of records should address written inquiries to the Commander, Navy Personnel Command (PERS–34), 5720 Integrity Drive, Millington, TN 38055–3120.

Inactive duty and reserve personnel seeking access to records about

themselves contained in this system of records shall address written inquiries to the Commanding Officer, Naval Reserve Personnel Center (ATTN: Privacy Act Coordinator), New Orleans, LA 70149–7800.

Written request should contain full name, Social Security Number, rank, status, and signature of requester.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Official records, correspondence, and educational institutions.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 06–7895 Filed 9–20–06; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Secretary of Education requests comments on the Student Aid Report (SAR) that the Secretary proposes to use for the 2007–2008 award year. The SAR is used to notify Free Application for Federal Student Aid (FAFSA) applicants of their eligibility to receive federal student aid under the student financial assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended, and to provide an opportunity for applicants to correct or update the information they provided on their FAFSA.

DATES: Interested persons are invited to submit comments on or before November 20, 2006.

ADDRESSES: Comments may be submitted electronically through e-mail to *SAR_Comments@ed.gov*. In addition, interested persons can access this document on the Internet:

(1) Go to IFAP at *http://ifap.ed.gov*.

(2) Scroll down to ''Current Publications''.

(3) Click on ''SAR/ISIR Reference Materials''.

(4) Click on ''By 2007–2008 Award Year''.

(5) Click on ''Draft 2007–2008 Student Aid Report (SAR) and SAR Acknowledgement Mockups''.

Please note that the free Adobe Acrobat Reader software, version 4.0 or greater, is necessary to view this file. This software can be downloaded for free from Adobe's Web site: *http://www.adobe.com*.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Secretary is publishing this request for comment under the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* Under that Act, ED must obtain the review and approval of the Office of Management and Budget (OMB) before it may use a form to collect information. However, under procedure for obtaining approval from OMB, ED must first obtain public comment of the proposed form, and to obtain that comment, ED must publish this notice in the **Federal Register**.

In addition to comments requested above, to accommodate the requirements of the Paperwork Reduction Act, the Secretary is interested in receiving comments with regard to the following matters: (1) Is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: September 15, 2006.

Angela C. Arrington,

IC Clearance Official,

Regulatory Information Management Services, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Revision.

Title: Student Aid Report (SAR).

Frequency: Annually.

Affected Public: Individuals and families.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 26,322,270.

Burden Hours: 5,522,892.

Abstract: The SAR is used to notify Free Application for Federal Student Aid (FAFSA) applicants of their eligibility to receive federal student aid under the student financial assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended, and to provide an opportunity for applicants to correct or update the information they provided on their FAFSA.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3182. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 06–7902 Filed 9–20–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 23, 2006.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Rachel Potter, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public

participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: September 15, 2006.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Special Education and Rehabilitative Services

Type of Review: New.

Title: Report of Dispute Resolution Under Part C of the Individuals with Disabilities Education Act: Complaints, Mediations, and Due Process Hearings.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 56.

Burden Hours: 3,360.

Abstract: This package provides instructions and a form necessary for States to report dispute resolution data, including the data required under section 618 of IDEA 2004 (number of due process complaints filed under section 615 and the number of hearings conducted, and the number of mediations held and the number of settlement agreements reached through such mediations). These data will be used for monitoring activities, for planning purposes, for Congressional reporting requirements, and for dissemination to individuals and groups.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2820. When you access the information collection, click on ''Download Attachments '' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 06–7903 Filed 9–20–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 23, 2006.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Rachel Potter, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: September 15, 2006.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Special Education and Rehabilitative Services

Type of Review: Revision.

Title: Report of Infants and Toddlers Receiving Early Intervention Services and of Program Settings Where Services are Provided in Accordance with Part C, and Report on Infants and Toddlers Exiting Part C.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 56.

Burden Hours: 6,569.

Abstract: This package provides instructions and forms necessary for States to report, by race and ethnicity, the number of infants and toddlers with disabilities who: (a) Are served under IDEA, Part C; (b) are served in different program settings; and (c) exit Part C because of program completion and for other reasons. Data are obtained from state and local service agencies and are used to assess and monitor the implementation of IDEA and for Congressional reporting.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2818. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal

Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 06–7904 Filed 9–20–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 23, 2006.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Rachel Potter, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: September 15, 2006.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Postsecondary Education

Type of Review: Reinstatement.

Title: Application for Grants Under the Developing Hispanic-Serving Institutions Program.

Frequency: Annually.

Affected Public: Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 100.

Burden Hours: 8,000.

Abstract: This information is required of institutions of higher education designated eligible to apply for grants as Hispanic-Serving Institutions under Title V, Part A of the Higher Education Act of 1965, as amended. This information will be used in the evaluation process to determine whether proposed activities are consistent with legislated activities and to determine the dollar share of the Congressional appropriation to be awarded to successful applicants.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1890–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 3178. When you access the information collection, click on ''Download Attachments '' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 06–7905 Filed 9–20–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Savannah River Site

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting and Retreat.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Savannah River Site. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, October 11, 2006, 3 p.m.–5 p.m.; Thursday, October 12, 2006, 8:30 a.m.–5 p.m.; Friday, October 13, 2006, 8:30 a.m.–12 p.m.

ADDRESSES: Charleston Riverview Hotel, 170 Lockwood Boulevard, Charleston, SC 29403.

FOR FURTHER INFORMATION CONTACT: Gerri Flemming, Closure Project Office, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, SC 29802; Phone: (803) 952–7886.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

Wednesday, October 11, 2006.

3 p.m. Administrative Committee—Membership Candidate Selection.

5 p.m. Adjourn.

Thursday, October 12, 2006.

8:30 a.m. Welcome and Logistics for Education Retreat.

9 a.m. Basics of Radiation.

11 a.m. Nuclear Materials 101.

12 p.m. Lunch Break.

1 p.m. Nuclear Materials 101.

2 p.m. Waste 101.

3:45 p.m. Hazard, Risk and Safety at Savannah River Site.

5 p.m. Adjourn.

Friday, October 13, 2006.

8:30 a.m. Overview of Cleanup Decisionmaking.

10:15 a.m. Regulatory Requirement Structure Overview.

12 p.m. Adjourn.

A final agenda will be available at the retreat Thursday, October 12, 2006.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should

contact Gerri Flemming's office at the address or telephone listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the U.S. Department of Energy's Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Minutes will also be available by writing to Gerri Flemming, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, SC 29802, or by calling her at (803) 952–7886.

Issued at Washington, DC, on September 18, 2006.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 06–7899 Filed 9–20–06; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge Reservation. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, October 11, 2006 6 p.m.

ADDRESSES: DOE Information Center, 475 Oak Ridge Turnpike, Oak Ridge, Tennessee.

FOR FURTHER INFORMATION CONTACT: Pat Halsey, Federal Coordinator, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831. Phone (865) 576–4025; Fax (865) 576–5333 or e-mail: *halseypj@oro.doe.gov* or check the Web site at *www.oakridge.doe.gov/em/ssab.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: ''The Cowboys Wore White Hats,'' a presentation on early waste management practices on the Oak Ridge Reservation

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to the agenda item should contact Pat Halsey at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: Minutes of this meeting will be available for public review and copying at the Department of Energy's Information Center at 475 Oak Ridge Turnpike, Oak Ridge, TN between 8 a.m. and 5 p.m., Monday through Friday, or by writing to Pat Halsey, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831, or by calling her at (865) 576–4025.

Issued at Washington, DC, on September 18, 2006.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 06–7900 Filed 9–20–06; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting; Notice

September 14, 2006.

The following notice of meeting is published pursuant to section 3(a) of the government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: September 21, 2006, 10 a.m.

PLACE: Room 2C, 888 First Street, NE., Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note: Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Magalie R. Salas, Secretary; Telephone (202) 502–8400. For a recorded listing item stricken from or added to the meeting, call (202) 502–8627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Public Reference Room.

908TH MEETING—REGULAR MEETING; SEPTEMBER 21, 2006—10 A.M.

Item No.	Docket No.	Company
	Administrative Agenda	
A–1	AD02–1–000	Agency Administrative Matters.
A–2	AD02–7–000	Customer Matters, Reliability, Security and Market Operations.
A–3	AD06–3–000	Energy Market Update.
	Electric	
E–1	ER06–615–000, ER02–1656–027, ER02–1656–029, ER02–1656–030, ER02–1656–031.	California Independent System Operator, Corporation.

908TH MEETING—REGULAR MEETING; SEPTEMBER 21, 2006—10 A.M.—Continued

Item No.	Docket No.	Company
E–2	EC06–129–000	Capital Research and Management Company, AMCAP Fund, Inc., American Balanced Fund, Inc., American High-Income Trust, American Mutual Fund, Inc., Capital Income Builder, Inc., Capital World Bond Fund, Inc., Capital World Growth and Income Fund, Inc., EuroPacific Growth Fund, Fundamental Investors, Inc., New Perspective Fund, Inc., New World Fund, Inc., SMALLCAP World Fund, Inc., The Bond Fund of America, Inc., The Growth Fund of America, Inc., The Income Fund of America, Inc., The Investment Company of America, The New Economy Fund, Washington Mutual Investors Fund, Inc., American Funds Insurance Series Endowments, Capital International Global Discovery, Capital International Global Equity, Capital International Funds—European Equity Investors, Capital International Funds—U.S. Equity Investors.
E–3	EC06–123–000	ITC Holdings Corp., International Transmission Company, Michigan Transco Holdings, Limited Partnership, Michigan Electric Transmission Company, LLC., Trans-Elect NTD Path 15, LLC.
E–4	ER06–18–000, ER08–18–001, ER06–18–002, ER06–18–003.	Midwest Independent Transmission System Operator, Inc.
E–5	ER03–765–001	Calpine Oneta Power, L.P.
E–6	ER04–961–006, ER04–961–007	Midwest Independent Transmission System Operator, Inc.
E–7	ER06–451–001	Southwest Power Pool, Inc.
E–8	ER91–569–032, ER91–569–033, ER91–569–034, ER91–569–035, ER01–666–007, ER01–666–008, ER01–1675–005, ER01–1675–006, ER01–1804–006, ER01–1804–007, ER02–862–007, ER02–862–008, EL04–123–000, EL04–123–006, EL05–105–000, EL05–105–004.	Entergy Services, Inc.
E–9	Omitted.	
E–10	ER05–1065–001	Entergy Services, Inc.
E–11	TX06–1–000	Louisiana Energy and Power Authority.
E–12	ER03–583–000, ER03–583–001, ER03–583–002, ER03–583–004.	Entergy Services, Inc. and EWO Marketing, L.P.
	ER03–681–000, ER03–681–001, ER03–681–003.	Entergy Services, Inc. and Entergy Power, Inc.
	ER03–682–000, ER03–682–001, ER03–682–002, ER03–682–004.	Entergy Services, Inc. and Entergy Power, Inc.
	ER03–744–000, ER03–744–001, ER03–744–002.	Entergy Services, Inc. and Entergy Louisiana, Inc.
E–13	EC06–140–000, EL06–86–000	Edison Electric Institute on Behalf of the Jurisdictional Signatories to the Spare Transformer Sharing Agreement.
E–14	ER06–1112–000	Midwest Independent Transmission System Operator, Inc.
E–15	ER04–157–004	Bangor Hydro-Electric Company, Central Maine Power Company, NSTAR Electric & Gas Corporation, New England Power Company, Northeast Utilities Service Company, The United Illuminating Company and Vermont Electric Power Company.
	ER04–714–001	Florida Power & Light Company—New England Division.
E–16	EF06–2011–000	United States Department of Energy—Bonneville Power Administration.
E–17	EC06–133–000	Calpine Fox LLC,Fox Energy Company LLC.
E–18	ER06–1094–005	Baconton Power LLC.
	ER06–1094–006	SOWEGA Power LLC.
E–19	ER06–1094–008	Unitil Companies.
E–20	ER05–6–044, ER05–6–054, ER05–6–055	Midwest Independent Transmission System Operator, Inc.
	EL04–135–046, EL04–135–056, EL04–135–057.	Midwest Independent Transmission System Operator, Inc. and PJM Interconnection, L.L.C.
	EL02–111–064 , EL02–111–074 , EL02–111–075.	Midwest Independent Transmission System Operator, Inc. and PJM Interconnection, L.L.C.
	EL03–212–060 , EL03–212–070, EL03–212–071.	Ameren Services Company.
E–21	ER02–1656–024	California Independent System Operator Corporation.
E–22	ER02–136–007 , ER02–136–008	Allegheny Power.
E–23	ER01–2214–007	Entergy Services, Inc.
E–24	PH06–48–000	Legg Mason, Inc.
E–25	Omitted.	
E–26	Omitted.	
E–27	OA06–5–000	Alcoa Power Generating, Inc. (Long Sault Division).
E–28	EL05–50–002	Jersey Central Power & Light Company v. Atlantic City Electric Company, Delmarva Power & Light Company, PECO Energy Company and Public Service Electric and Gas Company.
E–29	RM05–5–002	Standards for Business Practices and Communication Protocols for Public Utilities.
E–30	EL05–52–001	Entergy Services, Inc.
E–31	Omitted.	
E–32	Omitted.	

908TH MEETING—REGULAR MEETING; SEPTEMBER 21, 2006—10 A.M.—Continued

Item No.	Docket No.	Company
E–33	ER05–1065–002	Entergy Services, Inc.
	Miscellaneous	
M–1	RM06–23–000	Critical Energy Infrastructure Information.
M–2	RM06–24–000	Critical Energy Infrastructure Information.
	Gas	
G–1	RP01–503–004 ,RP01–503–002,RP01–503–003.	Natural Gas Pipeline Company of America.
G–2	RP06–391–000	USGen New England, Inc.
G–3	Omitted.	
	Hydro	
H–1	PL06–5–000	Settlements in Hydroelectric Licensing Proceedings under Part I of the Federal Power Act.
	Certificates	
C–1	CP06–64–000 ,CP06–64–001	Central New York Oil & Gas Company, LLC.
C–2	CP06–354–000	Rockies Express Pipeline LLC.
C–3	Omitted.	
C–4	CP05–361–000	Freeport LNG Development, L.P.

Magalie R. Salas,

Secretary.

A free Webcast of this event is available through *http://www.ferc.gov.* Anyone with Internet access who desires to view this event can do so by navigating to *www.ferc.gov's* Calendar of Events and locating this event in the Calendar. The event will contain a link to its Webcast. The Capitol Connection provides technical support for the free Webcasts. It also offers access to this event via television in the DC area and via phone bridge for a fee. If you have any questions, visit *http://www.CapitolConnection.org* or contact Danelle Perkowski or David Reininger at 703–993–3100.

Immediately following the conclusion of the Commission Meeting, a press briefing will be held in the Commission Meeting Room. Members of the public may view this briefing in the designated overflow room. This statement is intended to notify the public that the press briefings that follow Commission meetings may now be viewed remotely at Commission headquarters, but will not be telecast through the Capitol Connection service.

[FR Doc. 06–8061 Filed 9–19–06; 12:20 pm]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2004–0205; FRL–8096–3]

Globally Harmonized System of Classification and Labelling of Chemicals (GHS); Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The goals of this meeting are to discuss and clarify the scope and potential application of the Globally Harmonized System of Classification and Labelling of Chemicals (GHS) to pesticide products that are registered under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA); to examine key issues raised in public comments on the Office of Pesticide Programs' (OPP's) GHS White Paper; to gain a better understanding of stakeholder concerns and explore ways to address them; and to assess potential paths forward to maximize benefits and minimize the costs. This notice announces the location and times for the meeting and sets forth the tentative agenda topics.

DATES: The meeting will be held on October 18, 2006 from 9 a.m. to 5 p.m. and 8:30 a.m. to 12:30 p.m. on October 19, 2006.

To request accommodation of a disability, please contact the person listed under **FOR FURTHER INFORMATON CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

ADDRESSES: The meeting will be held in 4th-floor conference room #4830 at Two Potomac Yard (north building), 2733 S. Crystal Drive, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Janelle Christian, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-3003; fax number: 703–308–1850; e-mail address: *christian.janelle@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. It may be of particular interest to those who register pesticide products in the United States and those involved in chemical hazard safety and communication, occupational safety and health, pesticide safety education, and aquatic hazards communication. Potentially affected commercial entities may include, but are not limited to:

- Pesticide producers (NAICS 32532).
- Producers of antimicrobial pesticides (NAICS 32561).
- Producers of antifoulant pesticides (NAICS 32551).
- Producers of wood preservatives (NAICS 32519).

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2004–0205. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One

Potomac Yard (South Building), 2777 S. Crystal Drive Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. Tentative Agenda

Tentatively, the following items are on the agenda:

1. Overview of GHS.
2. NAFTA Perspectives.
3. Goals of Harmonization: EPA and Stakeholder Perspectives.
4. Building Block and Sample Label Presentation.
5. Key Issues and Concerns Raised in Comments.
6. Options for Implementation Mechanisms.
7. Key State Issues.
8. Education, Training and Outreach.

III. How Can I Request to Participate in this Meeting?

You may submit a request to participate in this meeting to the person listed under **FOR FURTHER INFORMATION CONTACT**. Do not submit any information in your request that is considered CBI. Requests to participate in the meeting, identified by docket ID number EPA–HQ–OPP–2004–0205, must be received on or before October 5, 2006.

List of Subjects

Environmental protection, global harmonization, labeling, occupational safety and health, pesticides and pests, reporting and recordkeeping requirements.

Dated: September 18, 2006.

Jay S. Ellenberger,

Acting Director, Field External Affairs Division, Office of Pesticide Programs.

[FR Doc. 06–8057 Filed 9–20–06; 8:45 am]

BILLING CODE 6560–50–S

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Equal Employment Opportunity Commission

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 71 FR 54282, Thursday, September 14, 2006.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Thursday, September 21, 2006, 10 a.m. (Eastern Time).

CHANGE IN THE MEETING: The meeting has been cancelled.

CONTACT PERSON FOR MORE INFORMATION: Stephen Llewellyn, Acting Executive Officer on (202) 663–4070.

Dated: September 19, 2006.

Stephen Llewellyn,

Acting Executive Officer, Executive Secretariat.

[FR Doc. 06–8118 Filed 9–19–06; 3:26 pm]

BILLING CODE 6570–01–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

September 8, 2006.

SUMMARY: The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number.

DATES: Emergency revision of a currently approved collection effective on September 8, 2006.

FOR FURTHER INFORMATION CONTACT: Nicole R. On'gele, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554, (202) 418–2991 or via the Internet at *nicole.ongele@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0798.

OMB Approval Date: September 8, 2006.

Expiration Date: 2/28/07.

Title: FCC Application for Wireless Telecommunications Bureau Radio Service Authorization.

Form No.: FCC Form 601.

Estimated Annual Burdens: 250,920 responses; 219,505 hours, and $50,144,000.

Needs and Uses: The Commission has received emergency OMB approval to implement a modified information collection in connection with FCC Form 601 (OMB Control No. 3060–0798), pursuant to a Commission order that became effective on June 5, 2006. The information collection associated with the FCC Form 601, specifically Schedule B, is being modified in order to ensure that the Commission will receive from winning bidders claiming special designated entity benefits all information necessary to permit the Commission to review the qualifications of that winning bidder to receive such benefits. While the FCC Form 601, Schedule B, already requires the submission of most of the information that the Commission requires to conduct this review, the modified information collection will ensure that the Commission receives additional information as mandated by a recent Commission order revising the rules applicable to entities seeking designated entity benefits. Until the electronic version of the form (specifically, the Schedule B) can be updated in the Commission's Universal Licensing System (ULS), applicants will be requested to provide this same information in an attachment to the existing version of Form 601, filed electronically. The Commission uses the information provided by applicants on FCC Form 601 to update its database and to determine if the applicant is legally, technically and financially qualified to provide licensed services and to make proper use of the frequency spectrum. The information collected pursuant to this modified information collection will be used to ensure that only legitimate designated entities, as defined by the Commission's rules, reap the benefits of the Commission's designated entity program.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 06–7901 Filed 9–20–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL HOUSING FINANCE BOARD

[No. 2006–N–05]

Examination Rating System for the Federal Home Loan Banks and the Office of Finance

AGENCY: Federal Housing Finance Board.

ACTION: Notice with request for comments.

SUMMARY: The Federal Housing Finance Board (Finance Board) is requesting comments on a proposed examination rating system to be known as the Federal Home Loan Bank Rating System (Rating System).

DATES: The Finance Board will accept comments in writing on or before October 23, 2006.

Comments: Submit comments to the Finance Board only once, using any one of the following methods:

E-mail: *comments@fhfb.gov*.

Fax: 202–408–2580.

Mail/Hand Delivery: Federal Housing Finance Board, 1625 Eye Street, NW., Washington, DC 20006, Attention: Public Comments.

Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by e-mail to the Finance Board at *comments@fhfb.gov* to ensure timely receipt by the agency. Include the following information in the subject line of your submission: Federal Housing Finance Board. Notice: Examination Rating System for the Federal Home Loan Banks and the Office of Finance. Docket Number 2006–N–05.

We will post all public comments we receive without change, including any personal information you provide, such as your name and address, on the Finance Board Web site at *http://www.fhfb.gov/Default.aspx?Page=93&Top=93*.

FOR FURTHER INFORMATION CONTACT: Anthony Cornyn, Associate Director, Supervision and Examination, Office of Supervision, *cornyna@fhfb.gov* or 202–408–2522, or Kari Walter, Associate Director, Supervisory and Regulatory Policy, Office of Supervision, *walterk@fhfb.gov* or 202–408–2829. You can send regular mail to the Federal Housing Finance Board, 1625 Eye Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Home Loan Bank Act (12 U.S.C. 1421 *et seq.*) provides that the primary duty of the Finance Board is to ensure that the Federal Home Loan Banks (Banks) operate in a financially safe and sound manner. To the extent consistent with the safety and soundness charge, the other statutory duties of the Finance Board are to: (1) Supervise the Banks; (2) ensure that the Banks carry out their housing finance mission; and (3) ensure that the Banks remain adequately capitalized and able to raise funds in the capital markets. *See* 12 U.S.C. 1422a(a)(3).

The Banks are privately capitalized, government-sponsored enterprises that provide wholesale credit to members and housing associates for use in mortgage lending and related activities. The Banks have a statutory mandate to promote housing and community investment finance. *See* 12 U.S.C. 1430(g), (i), and (j); 1430b. The Banks provide long-term, flexible financing to more than 8,100 member financial institutions around the country.

In addition to supervising the Banks, the Finance Board has regulatory authority and supervisory oversight responsibility for the Office of Finance (OF), which is a joint office of the Banks that issues consolidated obligations in the public capital markets on behalf of the Banks. *See* 12 U.S.C. 1422b(b)(2); 12 CFR part 985. The Banks fund themselves principally by issuing consolidated obligations, which are the joint and several obligations of all 12 Banks' and consist of bonds (original maturity of 1 year or longer) and discount notes (original maturity of less than 1 year). Although consolidated obligations are not guaranteed or insured by the federal government, the Banks' status as government sponsored enterprises enables them to raise funds at rates slightly above comparable obligations issued by the Department of the Treasury.

To carry out its mission of ensuring that the Banks and the OF are safe and sound so the Banks can serve as a reliable source of liquidity and funding for the nation's housing finance and community investment needs, the Finance Board has one major program area: supervision of the Banks. *See* 12 U.S.C. 1440 (requiring the Finance Board to perform annual examinations of the Banks). Staff monitors the performance, condition, and risk profile of each Bank through on-site examinations and other supervisory activities. Examinations are the cornerstone of the Finance Board's safety and soundness supervisory program. In order to execute an effective risk-based supervisory program that promptly identifies and addresses current and emerging risks to the Banks, the Office of Supervision plans to implement the risk rating system discussed below for use beginning in calendar year 2007.

II. The Proposed Federal Home Loan Bank Rating System

The Finance Board is requesting comments on a proposed examination rating system to be known as the Federal Home Loan Bank Rating System. The proposed Rating System is attached as an Exhibit to this Notice.

In 2005, the Office of Supervision began to provide an overall conclusion—Satisfactory, Fair, Marginal, or Unsatisfactory—as part of its Report of Examination. The proposed Rating System, which is the next step in communicating exam results to the Banks, is a risk-focused system under which each Bank and the OF would be assigned a composite rating based on an evaluation of various aspects of their operations. The composite rating of each Bank would be based on an evaluation and rating of 5 key components: Corporate governance, market risk, credit risk, operational risk, and financial condition and performance. The composite rating of the OF would be based primarily on an evaluation of 2 components: corporate governance and operational risk.

Under the Rating System, we would take administration of a Bank's affordable housing and community investment activities into account in assigning component ratings for corporate governance and operational risk. Given the importance of affordable housing and community investment activities to the mission of the Bank System, the Office of Supervision may consider the need for a separate rating system or a separate ratings component to evaluate and rate the affordable housing and community investment programs of each Bank after gaining experience with the proposed Rating System.

The Rating System is intended to serve 2 purposes. First, it is designed to reflect in a comprehensive, systematic, and consistent fashion the overall condition and performance of an institution, taking into consideration all significant financial, operational, and compliance factors addressed in the Finance Board's examination. Second, the Rating System is meant to further enhance communication and transparency between the Office of Supervision and each Bank and the OF regarding the results of the examination process. The ratings for individual Banks and the OF would not be made public or released to other Banks, but would be supplied to the individual Banks and the OF on a confidential basis as part of the examination and supervisory process.

Under the Rating System, each of the 5 components would be assigned a numeric rating from ''1'' to ''4.'' A ''1'' rating indicates the lowest degree of supervisory concern, while a ''4'' rating indicates the highest degree of supervisory concern. The composite rating of each Bank and the OF also would be rated on a scale of ''1'' to ''4'' based on the ratings of the underlying components. The composite rating would be based on the component ratings but it would not be a simple arithmetic average of the component ratings. Instead, the relative importance of each component would be determined on a case-by-case basis within the parameters established by this rating framework. As proposed, an examiner would take a Bank's performance in administering its affordable housing and community investment activities into consideration in assigning a composite rating to the

Bank. More specifically, a Bank's performance in administrating it affordable housing and community investment activities would be given special consideration in the corporate governance and operational risk components of the Rating System.

The Rating System would become operative when issued by the Office of Supervision, which is anticipated to occur before year end 2006 for implementation in 2007.

III. Request for Comments

The Finance Board requests comment on all aspects of the proposed Rating System. In addition, the Finance Board invites specific comments on the following questions:

1. Does the proposed Rating System capture the essential components of an institution's performance and condition that are relevant to assigning a composite rating to a Bank and the OF? If not, what additional or different components should be considered?

2. Do the factors to be considered under each of the 5 components (corporate governance, market risk, credit risk, operational risk, and financial condition and performance) address the factors that should be considered in assessing each of the components? If not, what additional or different factors should be considered?

Dated: September 13, 2006.

By the Federal Housing Finance Board.

John P. Kennedy,

General Counsel.

BILLING CODE 6725–01–P

THE FEDERAL HOME LOAN BANK RATING SYSTEM (Proposed)

I. Introduction and Overview

The Federal Home Loan Bank Rating System (FHLBRS) is a risk-focused rating system under which each Federal Home Loan Bank (Bank) and the Office of Finance (OF) is assigned a composite rating based on an evaluation of various aspects of its operations. Specifically, the composite rating of each Bank is based on an evaluation and rating of five key components: corporate governance, market risk, credit risk, operational risk, and financial condition and performance. The composite rating of the OF is based primarily on an evaluation of two components: corporate governance and operational risk.

Under the rating system, each Bank and the OF is assigned a composite rating from "1" to "4." A "1" rating indicates the lowest degree of supervisory concern, while a "4" rating indicates the highest degree of supervisory concern. The composite rating of each institution is based on the ratings of the underlying components, which are also rated on a scale of "1" to "4." The composite rating assigned to an institution is not an arithmetic average of the component ratings. Instead, the relative importance of each component is determined case-by-case within the parameters established by this rating system.

The ratings assigned under the FHLBRS are to be viewed within the context of the risk profiles of the Federal Home Loan Banks. For example, the rating system employs three risk categories "Low Risk," "Moderate Risk," and "High Risk" to designate the level of risk exposure of a Bank's market risk, credit risk, and operational risk. These risk levels are intended to measure risk within the context of the Federal Home Loan Banks. They are not intended to measure risk relative to risk levels of other financial institutions. In this regard, the ratings assigned under the FHLBRS should not be viewed as comparable to the ratings used by any other rating system or rating agency.

The board of directors and senior management of each Bank and the OF ultimately are responsible for operating their institution in a safe and sound manner. For this reason, the corporate governance component is given special consideration when assigning a composite rating. Similarly, the administration of a Bank's affordable housing and community investment activities is of critical importance in carrying out a Bank's housing finance mission, and it is taken into account in assigning component ratings for corporate governance and operational risk.

II. Composite Ratings

Composite ratings are based on a careful evaluation of an institution's corporate governance, market, credit, and operational risk, and its overall financial condition and performance. An institution will be assigned a composite rating of "1" to "4" as described below.

Composite 1 – An institution that is rated "1" is considered to be operating in a safe and sound manner in every respect. It exhibits no material deficiencies in corporate governance, risk management, or financial condition, performance, and prospects. It is in substantial compliance with laws, regulations, and supervisory guidance.

Composite 2 – An institution that is rated "2" is considered to be operating in a satisfactory or acceptable manner. It may exhibit some moderate deficiencies in corporate governance, risk management, or financial condition and performance. The institution's board of directors and senior management have demonstrated the ability and willingness to address deficiencies in a timely manner. It is in substantial compliance with laws, regulations, and supervisory guidance. ***The general policy is that examiners will monitor the correction of identified deficiencies or weaknesses through the normal supervisory process.***

Composite 3 – An institution that is rated "3" raises supervisory concern due to deficiencies in its corporate governance, risk management, or its financial condition or performance. Taken alone or in combination, these deficiencies are moderate to severe. The organization may be in substantial noncompliance with laws, regulations, or supervisory guidance. The institution's board of directors or management do not demonstrate the ability or willingness to address deficiencies. A composite "3" rated institution requires more than normal supervision. ***The general policy is that supervisory action will be taken to address identified deficiencies or weaknesses.***

Composite 4 – An institution that is rated "4" is operating in an unacceptable manner. It may exhibit serious deficiencies in corporate governance, risk management, or financial condition and performance. It may be in substantial noncompliance with laws, regulations, or supervisory guidance. It requires close supervisory attention. Institutions in this group are considered to be operating in an unsafe or unsound condition or with unsafe and unsound practices. ***The general policy is that a formal enforcement action will be taken to address identified deficiencies or weaknesses.***

III. Component Ratings

The composite rating is derived from the five component ratings that are described below. Each of the component rating descriptions provides a list of the principal evaluative factors that relate to that component. The listing of evaluative factors for each component rating is not exhaustive and is not in order of importance.

Corporate Governance

Corporate governance is given prominence in the FHLBRS. Good corporate governance requires the board of directors and senior management to take an active role in formulating strategy; setting goals and objectives; adopting sound risk management policies and practices; conforming to laws, regulations, and supervisory guidance; and ensuring compliance with high standards of ethics and professional conduct.

Although the board of directors is not actively involved in day-to-day operations, it must provide clear guidance to management regarding acceptable risk exposures and ensure that management has developed and implemented appropriate policies, procedures, and practices. The board, in conjunction with senior management, is expected to set risk and return objectives that are consistent with the institution's strategy and mission.

Senior management is responsible for developing and implementing policies, procedures, and practices that translate the board's goals, objectives, and risk limits into prudent operating standards.

An institution's corporate governance is rated based upon, but not limited to, an assessment of the following factors:

Board of Directors and Senior Management

- Whether the board is actively engaged in carrying out its duties and responsibilities, including monitoring senior management performance, providing strategic direction, establishing risk parameters, and governing the institution's affordable housing and community investment activities.
- The effectiveness of the board of directors.
- The quality, expertise, and effectiveness of management.
- Whether the board and senior management have established an operating structure that facilitates a sound risk management program.
- Management depth and the adequacy of management succession plans.
- The quality of strategic planning and the ability of management to integrate strategy with risk and return objectives.
- The overall "tone at the top," including the quality of the risk management culture and the existence of high ethical standards.
- The institution's responsiveness to supervisory criticism.

Risk Management and Controls

- The quality of risk management oversight and the soundness of risk management policies, practices, and procedures.
- The accuracy, timeliness, and effectiveness of management information and risk monitoring systems.

- The quality of internal controls and the effectiveness of the internal audit and control unit(s) in identifying and communicating internal control deficiencies to management and the board.

Compliance

- Compliance with laws, regulations, supervisory guidance, and Bank policies.
- The responsiveness of the board and management to internal audit and independent auditors.
- The responsiveness of the board and management to supervisory authorities.

Assessing the Quality of Corporate Governance

The quality of corporate governance will be rated in accordance with the definitions outlined below. It is not necessary to exhibit every characteristic to be accorded a specific rating.

1. A rating of "**1**" indicates that the quality of corporate governance is strong and there are no supervisory concerns. The board and senior management are actively engaged in carrying out their duties and responsibilities, and possess and demonstrate the experience and expertise to manage the institution effectively. Strategic and operational plans have been developed with full participation by the board and serve as effective guides to management. Such plans fully incorporate the institution's affordable housing and community investment activities. Management succession is well-developed and comprehensive.

   The board and management effectively promote compliance with laws, regulations, supervisory guidance, and internal policies. Risk management policies and procedures are comprehensive and highly effective. Risk monitoring, internal control, and management information systems are comprehensive and sound. Management information reports provided to the board and senior management are timely, accurate, and comprehensive.

   Risk limits are prudent and address all significant risk exposures. The board and senior management review compliance with risk limits. Limit breaches are identified, evaluated, and corrected in a timely manner.

   Audit programs are effective. Mission-critical functions are supported by appropriate technological and human resources and contain no material control weaknesses. Any risk management and control deficiencies are minor and supervisory recommendations are addressed in a timely manner. Affordable housing and community investment activities are well-administered and exhibit no significant governance deficiencies.

2. A rating of **"2"** indicates that the quality of corporate governance is satisfactory. Risk exposures are identified and controlled in a manner that does not require more than normal supervisory attention. The board and senior management are generally effective in carrying out their duties. Strategic and operational plans have been developed with the involvement of members of the board. Such plans incorporate the institution's affordable housing and community investment activities. Management succession planning is adequately developed and comprehensive.

   The board and management promote compliance with laws, regulations, supervisory guidance, and internal policies, although some minor compliance exceptions may be noted. Risk management policies and procedures are adequate and generally effective. Risk management, internal control, and management information systems are adequate. Management information reports provided to the board and senior management are timely, accurate, and informative but some deficiencies may exist.

   Risk limits are prudent. In general, limit breaches are identified, evaluated, and corrected in a timely manner.

   Audit programs are effective but may exhibit minor weaknesses. With few exceptions, mission-critical functions are fully automated and contain few control weaknesses. Risk management and control deficiencies and supervisory recommendations are generally addressed in a timely manner. Affordable housing and community investment activities are well-administered and exhibit only minor governance deficiencies.

3. A rating of **"3"** indicates that the quality of corporate governance is of supervisory concern. Risk management deficiencies are a cause for more than normal supervisory attention. The board of directors and management are not fully engaged in carrying out their duties and responsibilities and have not demonstrated the experience or expertise to manage the institution effectively. Strategic and operational plans may have been developed with little participation by the board (other than plan approval), and may be deficient in some material respect. Management succession planning is only partially developed and is not fully comprehensive.

   The board and management are not fully effective in promoting compliance with laws, regulations, supervisory guidance, and internal policies. Risk management policies and procedures contain some deficiencies. Risk management, internal control, or management information systems are deficient in some material respect. Management information reports provided to the board and senior management are untimely, inaccurate, or misleading.

   Risk limits may be imprudent. Breaches to limits are not always reported, reviewed, or properly addressed.

   Audit programs exhibit weaknesses or deficiencies. Mission-critical functions of the institution are ineffective and exhibit weaknesses. Risk management and internal control deficiencies or supervisory recommendations are not being addressed in a timely manner

and could adversely affect the institution's safety and soundness. Governance of affordable housing activities is deficient in some material respect.

4. A rating of **"4"** indicates that the quality of governance is unacceptable. Risk management practices warrant a high degree of supervisory attention. The board and senior management are not carrying out their duties and responsibilities or may not possess the experience or expertise to manage the institution effectively. Strategic and operational plans may have been developed without the participation of the board and may be deficient in some material respect. Management succession planning is inadequate.

   The board and management are ineffective in promoting compliance with laws, regulations, supervisory guidance, and internal policies. Risk management policies and procedures may contain serious deficiencies. Risk management, internal control, and management information systems may contain serious deficiencies. Management information reports provided to the board and senior management are frequently untimely, inaccurate, misleading, or less that fully informative.

   Risk limits have not been established or are not reported, reviewed, and evaluated by board and senior management committees.

   Audit programs exhibit serious weaknesses or deficiencies. Mission-critical functions of the institution rely on manual processes and exhibit significant weaknesses. Material risk management and internal control deficiencies or supervisory recommendations are not addressed in a timely manner. Unless immediate corrective action is taken, deficiencies could seriously affect the institution's safety and soundness. Governance of affordable housing and community investment activities is seriously deficient in one or more material respects.

Market Risk

Market risk is the degree to which changes in interest rates and other market risk factors can adversely affect an institution's economic capital (market value of equity) or earnings. The market risk component of the FHLBRS reflects both the level of an institution's market risk exposure and the quality of its market risk management. For Banks, the primary component of market risk is interest rate risk – the risk to the market value of equity and earnings as a result of changes in interest rates.

The market risk rating of an institution is based upon, but not limited to, an assessment of the following factors:

Level of Market Risk Exposure

- The sensitivity of the institution's earnings and market value of equity to changes in interest rates and other market risk factors.
- The sensitivity of the institution's earnings and market value of equity to changes in interest rates and other market risk factors in relation to its retained earnings and capital.

Quality of Market Risk Management

- The quality of board and senior management oversight of market risk.
- The effectiveness of risk management policies, procedures, and internal controls.
- The effectiveness of risk measurement, monitoring, and reporting systems.
- The effectiveness of the institution's hedging activities.

Assessing the Level of Market Risk Exposure

Based on the factors outlined above, examiners will assess the level of market risk of an institution, within the context of a government sponsored enterprise, as **Low**, **Moderate,** or **High** as defined below:

Low Risk – The sensitivity of the institution's market value of equity to changes in interest rates and other market risk factors is low in relation to its level of market value of equity; and the sensitivity of the institution's earnings to changes in interest rates and other market risk factors is low in relation to its retained earnings and capital. Exposure to repricing risk, basis risk, and yield curve risk is minimal. Options positions are clearly identified and well-managed.

Moderate Risk – The sensitivity of the institution's market value of equity to changes in interest rates and other market risk factors is moderate in relation to its level of market value of equity; and the sensitivity of the institution's earnings to changes in interest rates and other market risk factors is moderate in relation to retained earnings and capital. Repricing risk, basis risk, yield curve risk, and options risk are maintained at manageable levels.

High Risk – The sensitivity of the institution's market value of equity to changes in interest rates and other market risk factors is substantial in relation to its level of market value of equity; or the sensitivity of the institution's earnings to changes in interest rates and other market risk factors is substantial in relation to retained earnings and capital. Exposure may reflect substantial repricing risk, basis risk, or yield curve risk.

Assessing the Quality of Market Risk Management

Based on the factors outlined above examiners will assess the quality of market risk management as **Strong**, **Adequate,** or **Weak** generally as defined below. It is not necessary to exhibit every characteristic to be accorded a specific rating.

Strong – Market risk limits are comprehensive and prudent in relation to the risk to earnings and the market value of equity under a variety of plausible scenarios. Management and the board of directors have a strong understanding of the market risk exposures and their implications for the institution's earnings and capital. The risk management process is effective. Measurement tools and methods enhance decision

making by providing meaningful and timely information under a variety of plausible scenarios. Few, if any, risk management deficiencies exist. Management information at various levels of the organization is timely, accurate, and complete. Staff responsible for monitoring risk limits and measuring exposures is effective and independent from staff executing risk taking decisions. Risk limits are rarely breached and breaches are addressed promptly.

Adequate – Market risk limits are prudent in relation to the risk to earnings and market value of equity under a variety of plausible scenarios. Management and the board of directors have a good understanding of the key market risk exposures of the institution. The market risk management process is adequate. Measurement tools and methods may have minor deficiencies. Management information at various levels in the organization is, for the most part, timely, accurate, and complete. Staff responsible for monitoring risk limits and measuring exposures is generally effective and is independent from staff executing risk-taking decisions. Risk limits are occasionally breached but limit breaches are not serious.

Weak – Market risk limits are not prudent in relation to the risks to earnings and the market value of equity. Management and the board of directors do not understand, or have chosen to ignore, key aspects of the institution's market risk. Management does not anticipate or take timely and appropriate actions in response to market conditions. Knowledge of market risk may be concentrated in too few individuals in the organization. The market risk management process is deficient in light of the size and complexity of the institution's exposures. Management information at various levels in the organization exhibits significant deficiencies. Staff responsible for monitoring risk limits and measuring exposures is ineffective or is not independent from staff executing risk-taking decisions. Risk limits are not adhered to or limit breaches are not addressed promptly.

Market Risk Ratings

An institution's market risk rating is based upon an assessment of both the level of its market risk exposure and the quality of its market risk management. The following matrix will be used to combine these two factors to derive a market risk component rating.

	LEVEL OF MARKET RISK		
QUALITY OF MARKET RISK MANAGEMENT	LOW RISK	MODERATE RISK	HIGH RISK
Strong	1	1-2	2-3
Adequate	1-2	2-3	3-4
Weak	2-3	3-4	4

1. A rating of **"1"** indicates the level of market risk exposure is low and the quality of market risk management is strong. A "1" rating may be accorded in other situations where the combination of market risk and the quality of market risk management is of minimal supervisory concern. The level of earnings, capital, and retained earnings provide substantial support for the degree of market risk of the institution. Market risk is not increasing at an unacceptable or unmanageable pace.

2. A rating of **"2"** indicates the level of market risk exposure and the quality of risk management is satisfactory or acceptable. A "2" rating may be accorded in other situations where the market risk exposure of the institution is offset by strong market risk management or when the level of market risk exposure is not excessive in relation to the quality of market risk management. The level of earnings, capital, and retained earnings provide adequate support for the market risk of the institution. Market risk is not increasing at an unacceptable or unmanageable pace.

3. A rating of **"3"** indicates the level of market risk exposure is of supervisory concern and is not mitigated by the quality of market risk management. Risk management practices may need to be improved or risk exposures may need to be reduced. The level of earnings, capital, and retained earnings may be marginal in relation to market risk exposures.

4. A rating of **"4"** indicates the combination of the level of market risk exposure and the quality of market risk management is unacceptable. A rating of "4" may be accorded in other situations where the market risk of the institution is a significant supervisory concern. Market risk management practices must be significantly improved, or market risk exposure must be significantly reduced, or both. The level of earnings, capital, and retained earnings do not adequately support market risk exposures.

Credit Risk

The credit risk rating reflects the level and direction of credit risk exposures and the quality of credit risk management. Investments, acquired member assets, derivatives, off-balance sheet items, and other assets are primary sources of credit risk. The credit risk rating of an institution is based upon, but not limited to, an assessment of the following factors:

Level of Credit Risk Exposure

- The level and trend of nonperforming and nonaccrual assets.
- The overall quality and diversification of the advance, investment and acquired member assets portfolios.
- The volume and nature of credit documentation exceptions.

Quality of Credit Risk Management

- The quality of credit review performed by the board of directors and senior management.
- The quality and effectiveness of credit risk management policies and procedures.
- The quality and effectiveness of credit underwriting policies and procedures.
- The quality, timeliness, and effectiveness of collateral valuation and testing procedures.
- The quality of the methodologies for evaluating and maintaining reserves for credit losses.
- The quality of the institution's credit risk self-assessment and internal risk rating processes.
- The quality of credit information systems.

Assessing the Level of Credit Risk Exposure

Based on the factors outlined above, examiners will assess the level of credit risk of an institution, within the context of a government sponsored enterprise, as **Low**, **Moderate,** or **High** as defined below. It is not necessary to exhibit every characteristic to be accorded a specific rating.

Low Risk – Exposure to loss of earnings or capital is minimal. Credit exposures reflect conservative underwriting policies and practices. Exceptions or overrides to sound underwriting standards pose minimal risk. Portfolio diversification is sound and risk of loss from concentrations is minimal. Portfolio growth presents no concerns. The volume of troubled credits is low relative to capital and can be resolved in the normal course of business.

Moderate Risk – Exposure to loss of earnings or capital does not materially affect financial condition. Credit exposures reflect acceptable underwriting policies and practices. Exceptions or overrides to sound underwriting standards may exist, but do not pose significant risk. Exposure does not reflect significant concentrations. The volume of troubled credits does not pose undue risk relative to capital.

High Risk – Exposure to loss of earnings or capital is material. Credit exposures reflect aggressive underwriting policies and practices. A large volume of substantive exceptions or overrides to sound underwriting standards exists. Exposure reflects significant concentrations. Portfolio growth, including products or sectors within the portfolio, is aggressive. The volume of troubled credits may be large relative to capital.

Assessing the Quality of Credit Risk Management

Based on the factors outlined above examiners will assess the quality of credit risk management as **Strong**, **Adequate,** or **Weak** generally as defined below:

Strong – The credit policy function comprehensively defines risk tolerances, concentrations, responsibilities, and accountabilities. All credit policies are communicated effectively throughout the organization. The credit culture, including compensation, strikes an appropriate balance between marketing and credit considerations. The credit granting process is extensively defined, well understood, and adhered to consistently. Credit analysis is thorough and timely. Credit risk measurement and monitoring systems are comprehensive and allow management to implement appropriate actions in response to changes in asset quality and market conditions.

Information processes are appropriate for the volume and complexity of activity and any weaknesses are minor, with little potential for any adverse impact to earnings or capital. Credit administration is effective. Management identifies and actively manages portfolio risk. The loss reserve methodology is well-defined, objective, and clearly supports adequacy of current reserve levels. Credit personnel possess extensive technical and managerial expertise. Internal controls are comprehensive and effective. The stature, quality, and independence of the credit risk review function are appropriate and highly effective.

Adequate – The credit policy function satisfactorily defines risk tolerances, concentrations, responsibilities, and accountabilities. In general, credit policies are communicated effectively throughout the organization. Credit analysis is adequate. Credit risk measurement and monitoring systems are satisfactory.

Credit information processes are adequate for the volume and complexity of activity. Credit reports may contain minor weaknesses. Weaknesses in information processes are not so significant that they lead to poor credit decisions. The internal credit-grading system accurately stratifies portfolio quality. Credit administration is adequate. Management identifies and monitors portfolio risk. Credit risk diversification is adequate. The loss reserve methodology is satisfactory and the loss reserve is sufficient to cover inherent losses. Credit personnel possess requisite technical and managerial expertise. Key internal controls are effective. The stature, quality, and independence of the credit risk review function are appropriate and effective.

Weak – The credit policy function may not effectively define risk tolerances, concentrations, responsibilities, and/or accountabilities. Credit policies are not effectively communicated. The credit culture, including compensation, overemphasizes marketing relative to credit considerations. The credit granting process is not well-defined or not well understood. Credit analysis is insufficient relative to the risk. Credit risk measurement and monitoring systems may not permit management to implement timely and appropriate actions in response to changes in asset quality or market conditions.

Credit information processes are inappropriate for the volume and complexity of activity. Credit reports are inaccurate, untimely, or incomplete. Weaknesses in information processes can lead management to poor credit decisions. The internal credit-grading system does not accurately stratify the portfolio's quality. Credit administration is

ineffective. Management is unable to identify and monitor portfolio risk. Credit risk diversification is inadequate. The loss reserve methodology is flawed or the loss reserve is insufficient to cover inherent credit losses. Credit personnel lack requisite technical and managerial expertise. Key internal controls may be absent or ineffective. The stature, quality, or independence of the credit risk review function is inappropriate or ineffective.

Credit Risk Ratings

An institution's credit risk rating is based upon an assessment of both the level of credit risk exposure and the quality of its credit risk management. The following matrix will be used to combine these two factors to derive a credit risk component rating.

	LEVEL OF CREDIT RISK		
QUALITY OF CREDIT RISK MANAGEMENT	LOW RISK	MODERATE RISK	HIGH RISK
Strong	1	1-2	2-3
Adequate	1-2	2-3	3-4
Weak	2-3	3-4	4

1. A rating of **"1"** indicates the level of credit risk exposure is low and the quality of credit risk management is strong. A "1" rating may be accorded in other situations where the combination of credit risk and credit risk management is of minimal supervisory concern. The level of earnings, capital, and retained earnings provide substantial support for the degree of credit risk of the institution. Credit risk is not increasing at an unacceptable or unmanageable pace.

2. A rating of **"2"** indicates the level of credit risk exposure and the quality of risk management is satisfactory or acceptable. A "2" rating may be accorded in other situations where the credit risk exposure of the institution is offset by strong credit risk management or when the level of credit risk exposure is not excessive in relation to the quality of credit risk management. The level of earnings, capital, and retained earnings provide adequate support for the credit risk of the institution. Credit risk is not increasing at an unacceptable or unmanageable pace.

3. A rating of **"3"** indicates the level of credit risk exposure is of supervisory concern and is not mitigated by the quality of credit risk management. Risk management practices may need to be improved or risk exposures may need to be reduced. The level of earnings, capital, and retained earnings may be marginal in relation to credit risk exposures.

4. A rating of **"4"** indicates the combination of the level of credit risk exposure and the quality of credit risk management is unacceptable. A rating of "4" may be accorded in other situations where the credit risk of the institution is a significant supervisory concern. Credit risk management practices must be significantly improved, or credit

risk exposure must be significantly reduced, or both. The level of earnings, capital, and retained earnings do not adequately support credit risk exposures.

Operational Risk

Operational risk is the risk of possible losses resulting from inadequate or failed internal processes, people, and systems or from external events. Operational risk includes possible losses from internal or external fraud, improper employment practices, inadequate workplace safety, improper business and accounting practices, fiduciary breaches, misrepresentations, unauthorized trading activities, damage to physical assets, business disruption and system failures, and execution, delivery, and process management failures. The assessment of operational risk includes evaluating reputation risks. The operational risk component rating of the FHLBRS reflects both the level of an institution's operational risk exposure and the quality of its operational risk management.

The operational risk of an institution is rated based upon, but not limited to, an assessment of the following factors:

Level of Operational Risk Exposure

- The level and frequency of losses resulting from inadequate or failed internal processes or systems, fraud or human error, or from external events.
- The severity and frequency of accounting, financial, and regulatory reporting errors.
- Whether the institution's operational risk losses are increasing, decreasing, or stable.
- The degree to which processes are automated to minimize error.
- The level of operational risk arising from the administration of the institution's principal lines of business and its affordable housing and community investment activities.

Quality of Operational Risk Management

- Whether appropriate policies, procedures, and systems are in place to measure, manage, and control operational risk.
- Whether operational risks are being effectively measured, monitored, and controlled.
- The quality of policies and procedures in place to ensure secure, efficient, and effective information and data processing.
- The quality of contingency and business continuity planning.
- The quality of the institution's operational risk reports.
- The effectiveness of processes for identifying and controlling risk to business activities.
- The quality of the institution's operational risk self-assessment including whether key operational risks in all products, activities, processes, and systems have been clearly identified.
- The quality of operational risk management in the administration of the institution's affordable housing and community investment activities.

Assessing the Level of Operational Risk Exposure

Based on the factors outlined above, examiners will assess the level of operational risk of an institution, within the context of a government sponsored enterprise, as **Low**, **Moderate**, or **High** generally as defined below:

Low Risk – The institution has no history or only a limited history of operational losses. The number or magnitude of loss events is low. Operational control weaknesses (*e.g.,* violations of law, regulations, or Bank policy) are identified in a timely manner, usually by management, and typically are detected during the phase of developing or refining a process. Control systems are well documented and an adequate audit trail exists for testing of controls. The internal audit department, outside auditors/consultants, and/or examiners do not routinely identify substantive operational risks that are not adequately controlled. The internal audit function at a minimum is considered acceptable. The risk to earnings and capital is low.

Moderate Risk – The institution has had operational losses but the number or magnitude of losses is not considered substantial. Operational control weaknesses are sometimes not identified in a timely manner and management may not typically identify the control weaknesses. Control systems may be inadequately documented. There may be some issues with regard to adequate testing of controls. The internal audit department may sometimes identify substantive operational risks that are not adequately controlled. The internal audit function, at a minimum, is considered acceptable. The risk to earnings and capital is low, but there is increased concern that a material loss event could occur due to operational risk.

High Risk – The institution has experienced significant operational losses or material control deficiencies. The number or magnitude of loss events may be high. Operational control weaknesses are often not identified in a timely manner and management rarely may identify the control weaknesses. Control systems may not be adequately documented. There are concerns regarding adequate testing of controls. The internal audit department may often identify substantive operational risks that are not adequately controlled or timely addressed. The internal audit function may not be adequate. The risk to earnings and capital may be low to moderate, but there is significant concern that a material loss event could occur due to operational risk.

Assessing the Quality of Operational Risk Management

Based on the factors outlined above, examiners will assess the quality of operational risk management as **Strong**, **Adequate,** or **Weak** as defined below. It is not necessary to exhibit every characteristic to be accorded a specific rating.

Strong – Operational risk controls are comprehensive and highly effective. Systems are automated and managed to minimize errors. Management has considered unusual events and abnormal control failures in developing the internal control framework. There is a strong understanding of operational risks within and across various functions or

departments. The risk management process is effective and proactive. Management routinely works to identify possible control weaknesses and implement controls. Management periodically tests key controls. Internal audit rarely finds deficiencies in operational controls. Information security systems allow for the identification of control breaches; adequately protect mission-critical data; and may use industry best practices in doing so. Internal audit is effective.

Adequate – Operational risk controls are adequate and generally effective. There is a good understanding of operational risks within and across various functions or departments. The risk management process is adequate. Some control weaknesses may occasionally be identified. Information security systems monitor control breaches and adequately protect mission-critical data. Internal audit is at least adequate.

Weak – Operational risk controls are inadequate or ineffective. Responsible officials do not appear to have a good understanding of the operational risks that impact their areas. The risk management process is ineffective. Management may rely too heavily on internal audit to identify control weaknesses and to implement controls. Management rarely tests key controls. Material control weaknesses may exist. Information security systems may be deficient and may not notify management of control breakdowns or protect mission-critical data. Internal audit may be inadequate.

Operational Risk Ratings

An institution's operational risk rating is a combination of the level of its operational risk exposure and the quality of its operational risk management. The following matrix will be used to combine these two factors to derive an operational risk rating.

	LEVEL OF OPERATIONAL RISK		
QUALITY OF OPERATIONAL RISK MANAGEMENT	LOW RISK	MODERATE RISK	HIGH RISK
Strong	1	1-2	2-3
Adequate	1-2	2-3	3-4
Weak	2-3	3-4	4

1. A rating of **"1"** indicates the level of operational risk exposure is low and the quality of operational risk management is strong. A "1" rating may be accorded in other situations where the combination of operational risk and operational risk management is of minimal supervisory concern. The level of earnings, capital, and retained earnings provide substantial support for the degree of operational risk of the institution. Operational risk is not increasing at an unacceptable or unmanageable pace.

2. A rating of **"2"** indicates the level of operational risk exposure and the quality of risk management are satisfactory or acceptable. A "2" rating may be accorded in other situations where the operational risk exposure of the institution is offset by strong operational risk management or when the level of operational risk exposure is not excessive in relation to the quality of operational risk management. The level of earnings, capital, and retained earnings provide adequate support for the operational risk of the institution. Operational risk is not increasing at an unacceptable or unmanageable pace.

3. A rating of **"3"** is accorded when the level of operational risk exposure is a supervisory concern and is not mitigated by the quality of operational risk management. Risk management practices may need to be improved or risk exposures may need to be reduced given the quality of risk management. The level of earnings, capital, or retained earnings may be marginal in relation to operational risk exposures.

4. A rating of **"4"** indicates the combination of the level of operational risk exposure and the quality of operational risk management is unacceptable. A rating of "4" may be accorded in other situations where the operational risk of the institution is a significant supervisory concern. Operational risk management practices must be significantly improved, or operational risk exposure must be significantly reduced, or both. The level of earnings, capital, and retained earnings do not adequately support operational risk exposures.

Condition and Performance

An institution's condition and performance rating is based upon an assessment of key financial condition and performance factors that are not directly addressed under the market, credit, and operational risk components of the rating system. Because an institution's financial condition and performance is inextricably linked to its market, credit, and operational risk exposures, there is necessarily some overlap between an institution's condition and performance rating and its ratings for market, credit, and operational risk. An institution's condition and performance should be assessed relative to both its historic condition and performance and that of other Banks. An assessment of a Bank's earnings and profitability takes into account the cooperative ownership structure of the Banks and the interplay in a cooperative between product pricing and dividends. The financial condition and performance of an institution is rated based upon, but not limited to, an assessment of the following factors:

Earnings and Profitability

- The level, trend, and stability of earnings.
- Risk-adjusted returns on assets and equity.
- Net interest margins and spreads.
- The quality of earnings.

Operating Efficiency

- Non-interest operating expenses in relation to average assets.
- The extent to which the institution is taking advantage of technological advances.

Capital and Retained Earnings

- The risk-based capital and leverage ratios.
- The relative stability of capital.
- The level of retained earnings in relation to the institution's earnings stability and future prospects.

Liquidity

- The level of liquidity instruments relative to risk exposures.
- Compliance with regulatory liquidity requirements.

Assessing Financial Condition and Performance Rating

The financial condition and performance of an institution will be rated generally in accordance with the definitions outlined below. It is not necessary to exhibit every characteristic to be accorded a specific rating.

1. A rating of **"1"** indicates that financial condition and performance of the institution is strong. Current earnings and future earnings prospects are more than sufficient to support operations and maintain the Bank's capital, retained earnings, and dividend paying capacity. Trends of most key measures are positive.

2. A rating of **"2"** indicates that financial condition and performance of the institution is satisfactory or acceptable. Current earnings and future earnings prospects are sufficient to support operations and maintain adequate capital, retained earnings, and reasonable dividends.

3. A rating of **"3"** indicates that financial condition and performance of the institution is of supervisory concern. Earnings may not fully support operations and provide for the necessary buildup of retained earnings.. Liquidity may be in violation of regulatory requirements.

4. A rating of "**4**" indicates that financial condition and performance of the institution is unacceptable. Earnings are insufficient to support operations and maintain appropriate capital and retained earnings. Institutions rated "4" may be characterized by erratic fluctuations in net income or net interest spread, the development of significant negative trends, nominal or unsustainable earnings, intermittent losses, or a substantial drop in earnings from previous years. Liquidity may be inadequate. Trends in key measures are negative.

[FR Doc. 06–7848 Filed 9–20–06; 8:45 am]

BILLING CODE 6725–01–C

FEDERAL LABOR RELATIONS AUTHORITY

Membership of the Federal Labor Relations Authority's Senior Executive Service Performance Review Board

AGENCY: Federal Labor Relations Authority.

ACTION: Notice.

SUMMARY: Notice is hereby given of the members of the Performance Review Board.

DATES: September 21, 2006.

FOR FURTHER INFORMATION CONTACT: Jill M. Crumpacker, Executive Director, Federal Labor Relations Authority (FLRA); 1400 K Street, NW., Washington, DC 20424–0001; (202) 218–7945.

SUPPLEMENTARY INFORMATION: Section 4314(c) of Title 5, U.S.C. (as amended by the Civil Service Reform Act of 1978) requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more Performance Review Boards (PRB). Section 4314 (c)(4) requires that notice of appointment of the PRB be published in the **Federal Register**.

As required by 5 CFR 430.310, Chairman Dale Cabaniss has appointed the following executives to serve on the 2006–2007 PRB for the FLRA, beginning September 2006 through September 2007:

Frank Battle, Deputy Director of Administration, National Labor Relations Board; Jill Crumpacker, Executive Director, Federal Labor Relations Authority; Russell G. Harris, Deputy Administrator, Wage and Hour Division, U.S. Department of Labor; Kent Baum, Chief Human Capital Officer, U.S. Patent and Trademark Office; Steve Nelson, Director, Office of Policy and Evaluation, Merit Systems Protection Board.

Authority: 5 U.S.C. 4134(c)(4).

Dated: September 15, 2006.

Jill M. Crumpacker,

Executive Director.

[FR Doc. 06–7938 Filed 9–20–06; 8:45 am]

BILLING CODE 6727–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: OS–0990–NEW]

60-Day Notice

AGENCY: Office of the Secretary.

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New collection.

Title of Information Collection: Evaluation of Office on Women's Health Publications.

Form/OMB No.: 0990–NEW.

Use: To improve future publications and to demonstrate accountability of efforts, the Office of Women's Health (OWH) will evaluate four health communications materials. Discussion groups and web-based or paper- based surveys will be used from randomly selected participants and returned response cards.

Frequency: 1.

Affected Public: Individuals or households.

Annual Number of Respondents: 1648.

Total Annual Responses: 1648.

Average Burden per Response: 1 hour.

Total Annual Hours: 472.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, e-mail your request, including your address, phone number, OMB number, and OS document identifier, to *Sherette.funncoleman@hhs.gov*, or call the Reports Clearance Office on (202) 690–6162. Written comments and recommendations for the proposed information collections must be received with 60 days, and directed to the OS Paperwork Clearance Officer at the following address: Department of Health and Human Services, Office of the Secretary, Assistant Secretary for Research and Technology, Office of Resource Management, Attention: Sherrette Funn-Coleman (0990–NEW), Room 537–H, 200 Independence Avenue, SW., Washington DC 20201.

Dated: September 12, 2006.

Alice Bettencourt,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. 06–7835 Filed 9–20–06; 8:45 am]

BILLING CODE 4150–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: OS–0990–new]

60-Day Notice

AGENCY: Office of the Secretary, Office on Women's Health.

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New Collection.

Title of Information Collection: The Heart Truth Professional Materials Program Evaluation.

Form/OMB No.: 0990-New

Use: The Heart Truth Campaign was launched by the National Heart, Lung, and Blood Institute (NHLBI) in September 2002 to increase women's awareness of heart disease. *The Heart Truth* joins together leaders in women's

health—along with corporate and media partners—to create a national movement aimed at delivering an urgent wake-up call to women about heart disease.

As part of The Heart Truth campaign, Office on Women's Health funded programs to develop and disseminate educational materials for health care professionals. This information collection ascertains whether health care professionals exposed to the program materials have incorporated what they learned into their professional practice.

Frequency: 1.

Affected Public: Individuals or Households.

Annual Number of Respondents: 400.

Total Annual Responses: 400.

Average Burden per Response: 0.1 hours.

Total Annual Hours: 40 hours.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, e-mail your request, including your address, phone number, OMB number, and OS document identifier, to *Sherette.funncoleman@hhs.gov*, or call the Reports Clearance Office on (202) 690–6162. Written comments and recommendations for the proposed information collections must be received within 60 days, and directed to the OS Paperwork Clearance Officer at the following address: Department of Health and Human Services, Office of the Secretary, Assistant Secretary for Research and Technology, Office of Resource Management, *Attention:* Sherrette Funn-Coleman (0990–NEW), Room 537–H, 200 Independence Avenue, SW., Washington, DC 20201.

Dated: September 12, 2006.

Alice Bettencourt,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. 06–7836 Filed 9–20–06; 8:45 am]

BILLING CODE 4150–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Advisory Council.

Date: October 17, 2006.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Stephen Mockrin, PhD, Director, Division of Extramural Research Activities, National Heart, Lung, and Blood Institute, National Institutes of Health, Bethesda, MD 20892, (301) 435–0466, *mockins@nhlbi.nih.gov.*

Information is also available on the Institute's/Center's home page: *http://www.nhlbi.nih.gov/meetings/index.htm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 13, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–7916 Filed 9–20–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NHLBI.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Heart, Lung, and Blood Institute, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NHLBI.

Date: October 16, 2006.

Time: 9 a.m. to 4 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Robert S. Balaban, PhD, Scientific Director, Division of Intramural Research, National Institutes of Health, NHLBI, Building 10, 4th Floor, Room 1581, 10 Center Drive, Bethesda, MD 20892, 301/496–2116.

Information is also available on the Institute's/Center's home page: *http://www.nhlbi.nih.gov/meetings/index.htm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 13, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–7917 Filed 9–20–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel; Multidisciplinary Clinical Research Centers.

Date: October 18–19, 2006.

Time: 6:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Michael L. Bloom, PhD, Scientific Review Administrator, EP Review Branch, NIH–NIAMS Institute, One Democracy Plaza, Room 820, MSC 4872, 6701 Democracy Blvd, Bethesda, MD 20892–4872, 301–594–4953, *Michael_Bloom@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: September 13, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–7915 Filed 9–20–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Translational Research.

Date: October 12, 2006.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Park Hotel, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Michele L. Barnard, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8898, *barnardm@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Folic Acid for Vascular Outcome Reduction in Transplantation.

Date: October 23, 2006.

Time: 4 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Maria E. Davila-Bloom, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 758, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7637, *davila-bloomm@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Kidney Disease Ancillary Studies.

Date: October 31, 2006.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Atul Sahai, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 908, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–2242, *sahaia@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Disease and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: September 13, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–7918 Filed 9–20–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Pharmaceutical and Chemical Resources for AIDS Drug Development.

Date: October 2–3, 2006.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Darren D. Sledjeski PhD, Scientific Review Administrator, NIAID, DEA, Scientific Review Program, Room 3253, 6700B Rockledge Drive, MSC–7616, Bethesda, MD 20892–7616, (301) 451–2638.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Center for AIDS Research.

Date: October 5–6, 2006.

Time: 8 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Clarion Hotel, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Eleazar Cohen, PhD, Scientific Review Administrator, Division of Extramural Activities, NIH/NIAID/DHHS, 6700B Rockledge Drive, Room 3129, Bethesda, MD 20892, (301) 435–3564, *ec17w@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS).

Dated: September 13, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–7919 Filed 9–20–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group, Clinical and Treatment Subcommittee.

Date: October 12–13, 2006.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Katrina L. Foster, PhD, Scientific Review Administrator, National Inst. on Alcohol Abuse & Alcoholism, National Institutes of Heath, 5635 Fishers Lane, Rm. 3042, Rockville, MD 20852. 301–443–4032. *katrina@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: September 12, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–7920 Filed 9–20–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a 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 commerical property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Allergy, Immunology, and Transplantation Research Committee.

Date: October 10, 2006.

Time 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Quirijn Vos, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892. (301) 451–2666. *qvoc@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 13, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–7921 Filed 9–20–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Microbiology, Infectious Diseases and AIDS Initial Review Group, Microbiology and Infectious Diseases Research Committee.

Date: October 18–19, 2006.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Crowne Plaza Washington Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Annie Walker-Abbey, PhD., Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, RM. 3126, Bethesda, MD 20892–7616. (301) 451–2671. *aabbey@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 13, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–7922 Filed 9–20–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Treatment; Amendment of Meeting Notice

Pursuant to Public Law 92–463, notice is hereby given of a change in the date of the Center for Substance Abuse Treatment (CSAT) National Advisory Council meeting, which was scheduled to be held on September 20–21, 2006. Public notice was published in the **Federal Register** on September 6, 2006, Volume 71, Number 173, Page 52811, announcing that the CSAT National Advisory Council would be convening on September 20 and September 21, 2006, at 1 Choke Cherry Road, Sugar Loaf and Seneca Conference Rooms, Rockville, Maryland. This notice cancels the September 21 meeting date. The September 20 meeting will be held as previously announced in the **Federal Register** from 9 a.m.–5 p.m. For additional information, contact Cynthia Graham, M.S., Executive Secretary, SAMHSA/CSAT National Advisory Council, 1 Choke Cherry Road, Room 5–1036, Rockville, MD 20857, Telephone: (240) 276–1692, FAX: (240) 276–1690, and e-mail: *cynthia.graham@samhsa.hhs.gov*.

Dated: September 15, 2006.

Toian Vaughn,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 06–8048 Filed 9–20–06; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Office of Grants and Training, Citizens Corps; Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: DHS, Office of Grants and Training, Citizens Corps.

ACTION: Notice and request for comments.

SUMMARY: Department of Homeland Security (DHS), has submitted the

following information collection to the Office of Management and Budget (OMB) for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission describes the nature of the information collection, the categories of respondents, the estimated burden (i.e., the time, effort and resources used by respondents to respond) and cost, and includes the actual data collection instruments DHS will use.

Title: Citizens Corps Affiliated Programs and Organizations Applications.

OMB Number: 1660–0066.

Abstract: This information collection will enable Citizens Corps to operate effective and efficiently to regularize and coordinate activities between Citizens Corps and those groups active in its mission areas.

Affected Public: Not-for-Profit Institutions.

Number of Respondents: 8 per year.

Estimated Time per Respondent: 4 hours.

Estimated Total Annual Burden Hours: 32 hours.

Frequency of Response: On occasion.

Comments: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management Budget, Attention: Nathan Lesser, Desk Officer, Department of Homeland Security/ Citizens Corps and sent via electronic mail to *oira_submission@eop.gov* or faxed to (202) 395–6974. Comments must be submitted on or before October 23, 2006.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Chief, Records Management, DHS, Office of Community Preparedness, Karen Marsh, 810 7th Street, NW., Washington, DC 20531, *Karen.Marsh@dhs.gov*, phone number (202) 577–9820 and fax number (202) 786–9619.

Dated: September 18, 2006.

Charlie Church,

Chief Information Officer, Information and Technology Division, Preparedness Directorate, Department of Homeland Security.

[FR Doc. 06–7911 Filed 9–20–06; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

General Program Test Extended: Quota Preprocessing

AGENCY: Customs and Border Protection; Department of Homeland Security.

ACTION: General notice.

SUMMARY: With this notice, the Bureau of Customs and Border Protection (CBP) announces that the duration of the quota preprocessing program test, which provides for the electronic processing of certain quota-class apparel merchandise prior to arrival of the importing carrier, is extended until December 31, 2008. The quota preprocessing program test is currently being conducted at all CBP ports and was set to expire on December 31, 2006. The duration of the test is being extended so that CBP can continue to evaluate the program's effectiveness. Public comments concerning any aspect of the program test as well as applications to participate in the test are requested.

DATES: The program test is extended to run until December 31, 2008. Applications to participate in the test and comments concerning the test will continue to be accepted throughout the testing period.

ADDRESSES: Written comments regarding this notice or any aspect of the program test should be addressed to Christine Kegley, Quota Enforcement and Administration, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Room 5.3-D, Washington, DC 20229, or may be sent via e-mail to *HQ.Quota@dhs.gov*. An application to participate in the program test must be sent to the CBP port(s) (Attention: Program Coordinator for Quota Preprocessing) where the applicant intends to submit quota entries for preprocessing. Information on CBP port addresses may be obtained from the CBP Web site at *http://www.cbp.gov* (Office Locations).

FOR FURTHER INFORMATION CONTACT: Christine Kegley, Quota Enforcement and Administration, 202–344–2319.

SUPPLEMENTARY INFORMATION:

Background

On July 24, 1998, the Bureau of Customs and Border Protection (CBP) published a general notice in the **Federal Register** (63 FR 39929) announcing the limited testing of a new operational procedure regarding the electronic processing of quota-class apparel merchandise. The test, authorized under § 101.9(a), CBP Regulations (19 CFR 101.9(a)), was commenced on September 15, 1998, at two ports. Quota preprocessing permits certain quota entries (merchandise classifiable in chapter 61 or 62 of the Harmonized Tariff Schedule of the United States (HTSUS)) to be filed, reviewed for admissibility, and to have their quota priority and status determined by CBP prior to arrival of the carrier, similar to the method of preliminary review by which non-quota entries are currently processed. The purpose of quota preprocessing is to reduce CBP processing time for qualified quota entries and to expedite the release of the subject merchandise to the importer. To this end, participants in the quota preprocessing test have been allowed to submit quota entries to CBP up to 5 days prior to vessel arrival or after the wheels are up on air shipments. The July 24, 1998, **Federal Register** notice described the new procedure, specified the eligibility and application requirements for participation in the program test, and noted the acts of misconduct for which a participant in the test could be suspended and disqualified from continued participation in the program. The test was scheduled to continue for a six-month period that expired on March 14, 1999.

On March 25, 1999, January 6, 2000, and November 30, 2000, CBP published general notices in the **Federal Register** (64 FR 14499, 65 FR 806, and 65 FR 71356, respectively) that extended the program test through December 31, 2002. These extensions of the test procedure were undertaken so that CBP could further evaluate the effectiveness of the program and determine whether the program test should be expanded to other ports. By a notice published in the **Federal Register** (66 FR 66018) on December 21, 2001, the test was expanded to a selected number of additional ports in order to enable CBP to continue to study the program's effectiveness and determine whether the program should be established nationwide on a permanent basis.

The expansion of the test to the additional 15 ports was determined by the volume of quota lines of apparel merchandise entered at these ports. By a notice published in the **Federal Register** (67 FR 57271) on September 9, 2002, CBP expanded the test to all CBP ports effective as of October 9, 2002, and extended the duration of the program test until December 31, 2004. CBP further extended the duration of the test until December 31, 2006, by a notice published in the **Federal Register** (70 FR 1732) on January 10, 2005.

The duration of the test is now being further extended so that CBP can continue to evaluate the program's effectiveness. Prospective applicants may consult the July 24,1998 and December 21, 2001, **Federal Register** notices for a more detailed discussion of the quota preprocessing program and the September 9, 2002, **Federal Register** notice for eligibility criteria. All requirements and aspects of the quota preprocessing test, as set forth in these notices, continue to apply.

Dated: September 18, 2006.

Jayson P. Ahern,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 06–7882 Filed 9–20–06; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[USCIS No. 2391–06; DHS Docket No. USCIS–2006–0026]

RIN 1615–ZA37

Expanding Pilot Program Affecting the Filing Procedures for Certain Form I–485 Applicants Residing Within the Jurisdiction of the Dallas, El Paso, or Oklahoma City Offices

AGENCY: U.S. Citizenship and Immigration Services, DHS.

ACTION: Notice.

SUMMARY: This Notice expands a pilot program being conducted by U.S. Citizenship and Immigration Services that changes the procedures for certain aliens filing Form I–485, ''Application to Register Permanent Residence or Adjust Status,'' based on a family relationship, the diversity visa lottery, or qualification for most special immigrant categories. Under the expanded pilot program, affected aliens residing within the jurisdiction of the Dallas District Office, El Paso District Office, or Oklahoma City Sub-Office will be required to file Form I–485 and any necessary documentation and fees in person at the appropriate local office, rather than by mail, after self-scheduling an appointment using Internet-based InfoPass. This pilot program tests an alternative to current filing and processing procedures with the goal of achieving a 90-day processing time for affected Forms I–485.

DATES: As applied to the Dallas District Office, this Notice is effective October 23, 2006 and will terminate on September 21, 2007. As applied to the El Paso District Office and Oklahoma City Sub-Office, this Notice is effective November 20, 2006 and will terminate on September 21, 2007.

FOR FURTHER INFORMATION CONTACT: Kristie Krebs, Adjudications Officer, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue, NW., Suite 1000, Washington, DC 20526, Telephone (202) 272–1001.

SUPPLEMENTARY INFORMATION:

I. Background

A. General Filing Requirements

To apply for lawful permanent resident (LPR) status, aliens residing within the United States must file Form I–485, ''Application to Register Permanent Residence or Adjust Status,'' along with any required documentation establishing eligibility, at a U.S. Citizenship and Immigration Services (USCIS) Service Center or USCIS' Chicago Lockbox Facility. Currently, applicants must file Form I–485 by mail. The filing location is specified in the instructions to Form I–485 and on the USCIS Web site, *http://www.uscis.gov,* and depends on the immigrant classification on which the Form I–485 is based and the alien's residence. For example, an alien whose Form I–485 is based on his or her marriage to a U.S. citizen and who resides in the State of Colorado must file Form I–485, with a concurrently filed Form I–130, ''Petition for Alien Relative,'' or evidence that such Form I–130 has already been approved (typically in the form of a Form I–797, ''Notice of Action,'' issued by USCIS), supporting documentation, and required fees to USCIS' Chicago Lockbox Facility. *See* Direct Mail Instructions for Form I–485.

After mailing-in the Form I–485 application package, the applicant will receive an appointment notice from USCIS to appear at one of USCIS' Application Support Centers (ASCs) for biometrics capture, which involves electronically taking the applicant's photograph, fingerprints, and signature. USCIS uses this information to conduct background checks and produce a secure, biometric Permanent Resident Card (Form I–551) in the event of application approval. For those immigrant categories requiring a personal interview, the applicant (and petitioner, if applicable) also will receive an appointment notice to appear at the local USCIS office for a personal interview. *See, e.g.*, 8 CFR 245.6 (interviews are required for adjustment applicants but may be waived for children under the age of 14, when the applicant is clearly ineligible for adjustment of status, or when deemed unnecessary by USCIS). Once adjudication is completed, USCIS will mail the applicant a written decision. 8 CFR 103.2(b)(19).

B. Dallas Pilot Program

USCIS is continually striving to improve the efficiency of the processing of Forms I–485 to reduce processing times and prevent backlogs. By statute, USCIS has the authority to ''implement innovative pilot initiatives'' to eliminate current and prevent future backlogs in the processing of immigration benefits. *See* 6 U.S.C. 271(a)(5). Based on this statutory authority, USCIS launched a pilot program in May 2004 to test an alternative to current filing procedures for certain Form I–485 applicants to achieve a 90-day processing time. *See http://uscis.gov/graphics/fieldoffices/dallas/Pilot_overview.htm.* The pilot program, called the ''Dallas Office Rapid Adjudication'' pilot program, has been limited to the Dallas District Office and is a voluntary pilot program. *Id.*

1. Pilot Program Eligibility Requirements

To be eligible to participate in the pilot program, the applicant must be filing Form I–485 based upon:

(1) A family relationship (*e.g.*, spouse, parent, child, sibling) demonstrated by an approved or concurrently filed Form I–130 with an ''immediately-available'' immigrant visa as explained in the instructions to Form I–130 (see 8 CFR 204.1(a)(1));

(2) The diversity visa lottery (see Immigration and Nationality Act (INA) sec. 203(c); 8 U.S.C. 1153(c); 8 CFR 245.1(a));

(3) Qualification as a battered or abused spouse or child (see 8 CFR 204.2(c)) demonstrated by an approved Form I–360, ''Petition for Amerasian, Widow(er), or Special Immigrant;'' or

(4) Qualification as a Special Immigrant, as set forth at section 101(a)(27) of the INA, 8 U.S.C. 1101(a)(27), demonstrated by an approved or concurrently filed Form I–360, excluding special immigrants who are religious workers.

2. Pilot Program Filing Procedures

Prior to the Dallas pilot program, an applicant falling within one of these categories would have had to file his or her Form I–485 package by mailing it to the Chicago Lockbox Facility in accordance with the Direct Mail Instructions for Form I–485. Instead, under the filing requirements of the Dallas pilot program, eligible applicants now may file their Form I–485, together with any petition being concurrently

filed (i.e., Form I–130 or Form I–360) or proof of petition approval, supporting documentation, and applicable filing and biometric capture fees, in person at the Dallas District Office. To file in-person, eligible applicants first must schedule an appointment electronically using ''InfoPass.'' InfoPass is a USCIS Internet-based system for scheduling appointments found on USCIS' Web site at *http://infopass.uscis.gov/.* It may be accessed from any computer with Internet access. For those applicants who do not have Internet access, USCIS offers InfoPass at kiosks located at its local offices.

If the application package is complete at the time of filing, a USCIS officer will conduct any required interview on that same day. Participants thereafter will receive an appointment notice for biometrics capture at a local ASC. Once all required background checks are completed and any derogatory information is resolved, a USCIS officer will complete adjudication of the Form I–485 and any concurrently filed petitions. If the application package is not complete, the USCIS officer will not accept the application package.

While USCIS believes that the Dallas pilot program has been successful, USCIS has determined that the pilot program should undergo some changes so that USCIS can better gauge the effectiveness of the alternative filing and processing procedures that form the basis of the pilot program. USCIS is issuing this Notice to announce these changes to the pilot program.

II. Changes to the Pilot Program

USCIS is changing the Dallas pilot program by: (1) Adding two additional USCIS offices that will conduct the pilot program; (2) making the filing procedures mandatory for those individuals who meet the current eligibility requirements for pilot program participation and reside within the jurisdictions conducting the pilot program; and (3) modifying the processing procedures for incomplete application packages presented at InfoPass appointments. These changes are discussed below. This Notice does not change the eligibility requirements or filing procedures established by the Dallas pilot program discussed above.

Because USCIS is increasing the number of participating USCIS offices, USCIS is naming the pilot program, ''District Office Rapid Adjudication'' (DORA). USCIS has referred to the Dallas pilot program as ''DORA,'' an acronym for ''Dallas Office Rapid Adjudication.'' USCIS is using the same acronym to refer to the expanded pilot program, ''District Office Rapid Adjudication.'' At the end of an initial 180-day period, USCIS will evaluate the results of the DORA pilot program and determine whether it should be extended past the termination date specified in this Notice, September 21, 2007.

A. Pilot Program Locations

This Notice is increasing the number of locations that will conduct the pilot program from one USCIS office to the following three USCIS offices:

- Dallas District Office (current);
- El Paso District Office (new); and
- Oklahoma City Sub-Office (new).

Therefore, only eligible applicants who currently reside within the jurisdiction of the Dallas District Office, El Paso District Office, or the Oklahoma City Sub-Office are subject to the requirements of the pilot program. *See* 8 CFR 245.2(a)(1) (stating that aliens must apply to the director having jurisdiction over his or her place of residence, unless otherwise provided for in the regulations or instructions to the application form).

B. Mandatory Participation

Under this Notice, USCIS is requiring all Form I–485 applicants who meet the pilot program's eligibility requirements and who reside within the jurisdiction of one of the three USCIS offices conducting the pilot program to follow the pilot program's filing procedures during the period that the pilot program is in effect.

Currently, because the pilot program is voluntary, and eligible Form I–485 applicants may choose to file their application package by mail in accordance with normal filing procedures rather than participate in the pilot program, USCIS cannot fairly judge the effectiveness of the pilot program or the associated costs of the program. Full participation by eligible applicants will allow for a valid evaluation of the pilot program and comparison of the pilot program with the current Direct Mail process used in all other offices. *See* 69 FR 67751 (Nov. 19, 2004) (Direct Mail process for Forms I–485, I–765, and I–131).

Once the pilot program terminates, applicants must return to following the Direct Mail process for filing their Form I–485 application packages as specified in the instructions to the Form I–485.

The filing procedures under the DORA pilot program will be specified in the addendum that accompanies the Form I–485 when the Form I–485 is distributed by the Forms Center. It also will be available with the electronic version of the Form I–485 for applicants who obtain a copy of the form from the USCIS Web site. This addendum has been revised in conjunction with this Notice. USCIS also will provide additional guidance for individuals residing within the jurisdictions of the Dallas, El Paso, or Oklahoma City offices who are affected by this Notice via its Web site at *http://www.uscis.gov.* In addition, USCIS will change the Web pages for the Dallas, El Paso, and Oklahoma City offices, accessible from *http://www.uscis.gov,* to reflect the filing procedures under the DORA pilot program.

This Notice does not affect Form I–485 applicants who do not reside within the jurisdictions conducting the pilot program. Such applicants must continue to file their Form I–485 application packages in accordance with current filing instructions for Form I–485. This Notice also does not affect existing filing procedures for applicants in the districts that are conducting the pilot program, but who are seeking employment-based LPR status. The eligibility and filing requirements for all applications and petitions, including Form I–485, Form I–130, and Form 360, are available on the USCIS Web site at *http://www.uscis.gov.*

C. Processing Procedures

1. Incomplete Application Packages

USCIS is changing the procedures followed by USCIS officers in the processing of Forms I–485 application packages that are incomplete. Under this Notice, if the applicant attempts to file an application package that is not complete at his or her InfoPass appointment, the USCIS officer may propose to the applicant that the officer intends to reject the package based on missing information or evidence identified by the officer in writing. Nevertheless, the USCIS officer will accept the application package for filing if the applicant insists on submitting the application package despite the noted deficiencies and risk of denial.

2. Pilot Program Applicants Seeking Employment Authorization or Advance Parole

USCIS notes that, at the time of the InfoPass appointment, a participating pilot program office may, in its discretion, accept a Form I–765, ''Application for Employment Authorization,'' and a Form I–131, ''Application for Travel Document,'' along with the appropriate fees and supporting documentation, with the Form I–485 package. If either Form I–765 or Form I–131 is not complete, or the applicant chooses to submit the forms at a later date, the applicant must

file the forms, accompanied by the appropriate filing fees, with the USCIS office specified in the instructions to those forms. Currently, such applications must be mailed to the Chicago Lockbox Facility. This Notice does not alter the filing and processing procedures for such applications.

III. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104–13, 109 Stat. 163 (1995), all Departments are required to submit to the Office of Management and Budget (OMB), for review and approval, any reporting or recordkeeping requirements. USCIS acknowledges that this Notice will increase the burden for those applicants in the Dallas, El Paso, and Oklahoma City offices, by requiring that they first schedule an appointment electronically before submitting the completed Form I–485 in person at the appropriate office.

Since travel and interview time are already included in the instructions to the Form I–485, the only additional burden on the public will be scheduling an appointment electronically prior to submitting the application in person at the appropriate office. It is estimated that approximately 60% (5,517) of the affected applicants have a computer with direct access to the internet. For those applicants with direct computer access to the Internet, it is estimated that it will take approximately 10 minutes to schedule an appointment with USCIS. For the other 40% (3,677) of the applicants who will need direct Internet access through friends, private businesses, local schools, libraries, or USCIS kiosks, it is estimated it will take approximately one hour to schedule an appointment.

Accordingly, USCIS will adjust the burden hours associated with filing the Form I–485 using the OMB's electronic system (ROCIS) to reflect the increase in the burden hours on the public.

Dated: September 15, 2006.

Emilio T. Gonzalez,

Director, U.S. Citizenship and Immigration Services.

[FR Doc. 06–7791 Filed 9–20–06; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5037–N–65]

Notice of Submission of Proposed Information Collection to OMB; Emergency Comment Request; Section 32 and Section 5(h) Homeownership Program Evaluation Interview Guides

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of proposed information collection.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for emergency review and approval, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* October 5, 2006.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within ten (10) days from the date of this Notice. Comments should refer to the proposal by name and should be sent to: HUD Desk Officer, Office of Management and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Departmental Reports Management Officer, QDAM Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Lillian_Deitzer@hud.gov*, telephone (202) 708–2374. This is not a toll-free number. Copies of documentation submitted to OMB may be obtained from Ms. Deitzer.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the U.S. Department of Housing and Urban Development (HUD) has submitted to OMB, for emergency processing, a proposed information collection requirement as described below. This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice Also Lists the Following Information

Title of Proposal: Section 32 and Section 5(h) Homeownership Program Evaluation Interview Guides.

Description of Information Collection: Increasing low-income homeownership opportunities is an important part of HUD's mission. Empirical research on program characteristics and outcomes will provide an understanding of what factors drive program success and the impact of public policy. The Office of Public and Indian Housing (PIH) seeks a full evaluation of its Section 32 and Section 5(h) Public Housing Homeownership programs. The effectiveness of these programs has direct bearing on the Department's performance of it mission to increase homeownership opportunities. To date, there has been no broad assessment of the various Section 32 and Section 5(h) program models or program activities. Case studies and interviews will be conducted among Public Housing Authority Executives and program administrators. Where appropriate, interviews will be conducted with community partners. Currently there is no database with information on program models or program activities. These evaluation activities are consistent with the directives of the Office of Management and Budget's Program Assessment Ranking system and the mandate of the Government Performance and Results Act of 1993 (GPRA).

OMB Control Number: 2577—(Pending).

Agency Form Numbers: None.

Members of Affected Public: State, Local or Tribal Government, Individuals or households.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of responses, and hours of response: The estimated number of respondents is 590 per year. The estimated number of hours needed per respondent is 1.13 hours. The total public burden is estimated to be 520 hours per year.

Status: New Collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: September 14, 2006.

Lillian Deitzer,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 06–7810 Filed 9–20–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5041–N–32]

Notice of Proposed Information Collection: Comment Request; Eligibility of a Nonprofit Corporation/ Housing Consultant Certification

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* November 20, 2006.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Lillian Deitzer, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8003, Washington, DC 20410 or *Lillian_L_Deitzer@hud.gov.*

FOR FURTHER INFORMATION CONTACT: Joe Malloy, Acting Director, Office of Multifamily Housing Development, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–1142 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Eligibility of a Nonprofit Corporation/Housing Consultant Certification.

OMB Control Number, if applicable: 2502–0057.

Description of the need for the information and proposed use: The Department wants to prevent incidences in which nonprofit transactions are actually controlled by a profit-motivated entity rather than a nonprofit sponsor/ mortgagor. The Department is required to make a determination that the nonprofit sponsor/mortgagor is acting on its own behalf and is not, either knowingly or unwittingly under the influence, control, or direction of any outside party seeking to derive a profit or gain from the proposed project. Additionally, the Department must determine if Housing Consultants hired by the sponsor/mortgagor are acting independently. The Department must also determine if the proposed services are sufficient to permit development, completion, and successful operation of the project, and if the proposed fees charged by the Housing Consultant are reasonable.

Agency form numbers, if applicable: HUD–3433, HUD–3434, HUD–3435, and HUD–92531.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated total number of annual hours needed to prepare the information collection is 103; the number of respondents is 270 generating 320 annual responses; the frequency of response is on occasion; and the estimated time needed to prepare the response varies from 15 to 45 minutes.

Status of the proposed information collection: This is an extension of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: September 14, 2006.

Frank L. Davis,

General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

[FR Doc. 06–7813 Filed 9–20–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5041–N–33]

Notice of Proposed Information Collection: Comment Request; New Approach to the Anti-Drug Program

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* November 20, 2006.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Lillian Deitzer, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8003, Washington, DC 20410 or *Lillian_L_Deitzer@hud.gov*.

FOR FURTHER INFORMATION CONTACT: Willie Spearmon, Director, Office of Housing Assistance and Grants Administration, U.S. Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–3000 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the

accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: New Approach to the Anti-Drug Program.

OMB Control Number, if applicable: 2502–0520.

Description of the need for the information and proposed use: The New Approach to the Anti-Drug Program (formerly known as the Safe Neighborhood Action Grant Program) was authorized through yearly appropriations. Owners are eligible to apply for grants to fund security, and crime elimination activity in federally assisted low-income housing projects. Funding for this program has not been appropriated since Fiscal Year 2001, but quarterly and semi-annual progress reports are still required for all active grants.

Agency form numbers, if applicable: HUD–50080–SNGP, SF–269A.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents is 40 generating approximately 280 annual responses; the frequency of responses is quarterly and semi-annually; the estimated time needed to prepare the response averages 30 minutes; and the estimated total number of burden hours needed to prepare the information collection is 100.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: September 14, 2006.

Frank L. Davis,

General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

[FR Doc. 06–7814 Filed 9–20–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5041–N–34]

Notice of Proposed Information Collection: Comment Request; Housing Counseling Training Program

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* November 20, 2006.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Lillian Deitzer, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8001, Washington, DC 20410 or *Lillian_Deitzer@hud.gov*.

FOR FURTHER INFORMATION CONTACT: Miriam Torres, Office of Single Family Program Support Division, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–0317, x2628 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Housing Counseling Training Program.

OMB Control Number, if applicable: 2502–NEW.

Description of the need for the information and proposed use: Nonprofit organizations will submit information to HUD through Grants.gov to apply for funding to develop and implement an ongoing training program for housing counselors. HUD will use the information to evaluate applicants competitively and then select one or more organizations to receive funding to develop and implement the ongoing training program. The proposed collection will allow HUD to evaluate and select the most qualified applicant(s). Post-award collection, such as quarterly reports, will allow HUD to evaluate grantee performance.

Agency form numbers, if applicable: SF–424, SF–424Supp, SF–424CB, SF–LLL, SF–2880, HUD–96010, HUD–2994.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated total number of hours needed to prepare the information collection is 79; the number of respondents is 1 generating approximately 15 annual responses; the frequency of response is on occasion or quarterly; and the estimated time needed to prepare the response varies from 6 minutes to 40 hours.

Status of the proposed information collection: This is new information collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: September 14, 2006.

Frank L. Davis,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 06–7815 Filed 9–20–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5043–N–09]

Notice of Proposed Information Collection for Public Comment: Notice of Funding Availability for the Alaska Native/Native Hawaiian Institutions Assisting Communities (AN/NHIAC) Program

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comment Due Date:* November 20, 2006.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW., Room 8226, Washington, DC 20410–6000.

FOR FURTHER INFORMATION CONTACT: Susan Brunson, 202–708–3061, ext. 3852 (this is not a toll-free number), for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department of Housing and Urban Development will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology (*e.g.*, permitting electronic submission of responses).

This Notice also lists the following information:

Title of Proposal: Notice of Funding Availability for the Alaska Native/Native Hawaiian Institutions Assisting Communities (AN/NHIAC) Program.

OMB Control Number: 2528–0206.

Description of the Need for the Information and Proposed Use: The information is being collected to select applicants for award in this statutorily created competitive grant program and to monitor performance of grantees to ensure they meet statutory and program goals and requirements.

Agency Form Numbers: SF–424, SF–424 Supplement, SF–LLL, HUD–424–CB, HUD–2730, HUD–2880, HUD–2993, HUD–2994–A, HUD–96011, and HUD–96010.

Members of the Affected Public: Alaska Native Institutions (ANI) and Native Hawaiian Institutions (NHI) of Higher Education that meet the statutory definition established in Title III, Part A, Section 317 of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1998 (Pub. L. 105–244; enacted October 7, 1998).

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: Information pursuant to grant award will be submitted once a year. The following chart details the respondent burden on an annual and semi-annual basis:

	Number of respondents	Total annual responses	Hours per response	Total hours
Applicants	20	20	40	800
Quarterly Reports	10	40	6	240
Final Reports	10	10	8	80
Recordkeeping	10	10	5	50
Total			59	1170

Status of the proposed information collection: Pending OMB approval.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: September 14, 2006.

Darlene F. Williams, Assistant Secretary for Policy Development and Research.

[FR Doc. 06–7816 Filed 9–20–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5038–N–03]

Notice of Proposed Information Collection: Comment Request, Continuum of Care Homeless Assistance Grant Application

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* November 20, 2006.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Shelia Jones, Reports Liaison Officer, Department of Housing Urban and Development, 451 Seventh Street, SW., Room 7232, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, Acting Deputy Assistant Secretary for Special Needs, (202) 708–4300 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (55 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the affected agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Continuum of Care Homeless Assistance Grant Application.

OMB Control Number, if applicable: 2506–0112.

Description of the need for the information and proposed use: Information is to be used in the rating, ranking, and selection of proposals submitted to HUD by state and local governments, public housing authorities, and nonprofit organizations for awarded funds under the Continuum of Care Homeless Assistance programs.

Agency form numbers: HUD–40090–1, HUD–40090–2, HUD–40090–4, SF–424, HUD–SF–424 SUPP, HUD–2880, HUD–96010, HUD–27300, HUD–2991, HUD–2993, HUD–2994.

Members of affected public: Eligible applicants interested in applying for the Continuum of Care Homeless Assistance funds.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Number of Respondents: 12,770.

Frequency of Response: 1.

Hours of response: 202,251 hours.

Total combined burden hours: 202,251 hours.

Status of the proposed information collection: Reinstatement of previously approved collection number will expire March 31, 2009.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: September 15, 2006.

Pamela H. Patenaude,

Assistant Secretary for Community Planning and Development.

[FR Doc. 06–7948 Filed 9–20–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4665–N–33]

Conference Call Meeting of the Manufactured Housing Consensus Committee

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice of upcoming meeting via conference call.

SUMMARY: This notice sets forth the schedule and proposed agenda of the upcoming meeting of the Manufactured Housing Consensus Committee (the Committee) to be held via telephone conference. The meeting is open to the general public, which may participate by following the instructions below.

DATES: The conference call meeting will be held on Wednesday, October 4, 2006, from 11 a.m. to 2 p.m. (EDT).

ADDRESSES: Information concerning the conference call can be obtained from the Department of Housing and Urban Development (HUD), Office of Manufactured Housing Programs. Interested parties can link onto HUD's Web site for Manufactured Housing for instructions concerning how to participate, and for contact information for the conference call, in the section marked ''Business'' ''Manufactured Housing Consensus Committee Information''. The link can be found at: *http://www.hud.gov/offices/hsg/sfh/mhs/mhshome.cfm.* Alternately, interested parties may contact Elsie Draughn of the Office of Manufactured Housing at (202) 708–6423 (this is not a toll-free number) for conference call information.

FOR FURTHER INFORMATION CONTACT: William W. Matchneer III, Associate Deputy Assistant Secretary, Office of Regulatory Affairs and Manufactured Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–6409 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Notice of this meeting is provided in accordance with Sections 10(a) and (b) of the Federal Advisory Committee Act (5 U.S.C. App. 2) and 41 CFR 102–3.150. The Manufactured Housing Consensus Committee was established under Section 604(a)(3) of the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended, 42 U.S.C. 5403(a)(3). The Committee is charged with providing recommendations to the Secretary to adopt, revise, and interpret manufactured home construction and safety standards and procedural and enforcement regulations, and with developing and recommending proposed model installation standards to the Secretary.

The purpose of the conference call meeting is to permit the Committee, at its request, to review, and to take action on further recommendations to the Secretary regarding proposed changes to Title 24, Code of Federal Regulations, Part 3280 (Manufactured Home Construction and Safety Standards (the Standards)). It is necessary to have this meeting on this date.

Tentative Agenda

A. Roll Call.

B. Welcome and Opening remarks.

C. Full Committee meeting to take actions on proposed changes to 24 CFR part 3280 (the Standards).

D. Adjournment.

Dated: September 15, 2006.

Brian D. Montgomery,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 06–7947 Filed 9–20–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; Initiation of a 5-Year Review of Curtis' Pearlymussel and Indiana Bat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of review.

SUMMARY: The U.S. Fish and Wildlife Service (Service, we), announces a 5-year review of Curtis' pearlymussel (*Epioblasma florentina curtisii*) and Indiana bat (*Myotis sodalis*) under the Endangered Species Act, as amended (Act). We request any new information on these species that may have a bearing on their classification as endangered. Based on the results of this review, we will make a finding on whether these species are properly classified under the Act.

DATES: Information must be received no later than December 20, 2006.

ADDRESSES: Submit information to the appropriate U.S. Fish and Wildlife Service Ecological Services Field Supervisor at the following:

1. *Curtis' pearlymussel:* 101 Park DeVille Drive, Suite A, Columbia, Missouri 65203–0057, or e-mail to: *fw3curtispearlymussel5year@fws.gov.*

2. *Indiana bat:* 620 S. Walker Street, Bloomington, Indiana 47403–2121, or e-mail to: *fw3indianabat5year@fws.gov.*

See **SUPPLEMENTARY INFORMATION** for electronic file formats and other information.

FOR FURTHER INFORMATION CONTACT:

1. *Curtis' pearlymussel:* Mr. Andy Roberts, Columbia Ecological Services Field Office (see **ADDRESSES**); telephone (573) 234–2132, extension 110; facsimile (573) 234–234–2181.

2. *Indiana bat:* Ms. Lori Pruitt, Bloomington Ecological Services Field Office (see **ADDRESSES**); telephone (812) 334–4261, extension 211; facsimile (812) 334–4273.

Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at (800) 877–8337 for TTY assistance.

SUPPLEMENTARY INFORMATION: We announce a 5-year review of Curtis' pearlymussel and Indiana bat under section 4(c)(2)(A) of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*). We request any new information and appropriate data since their original listing or most recent status review which documents the need to delist or reclassify these species.

A 5-year review is a periodic process conducted to ensure that the classification of a listed species is appropriate. It is based on the best scientific and commercial data available at the time of the review. Based on the results of these 5-year reviews, we will make a finding of whether these species are properly classified under section 4(c)(2)(B) of the Act.

Under the Act, the Service maintains the list of endangered and threatened wildlife and plant species (List) at 50 CFR 17.11 and 17.12. Amendments to the List through final rules are published in the **Federal Register**. The List of wildlife and plants is available on our Internet site at *http://www.fws.gov/endangered/wildlife/html#species*. Section 4(c)(2)(A) of the Act requires that we conduct a review of listed species at least once every 5 years. Section 4(c)(2)(B) requires that we determine (1) Whether a species no longer meets the definition of threatened or endangered and should be removed from the List (delisted); (2) whether a species more properly meets the definition of threatened and should be reclassified from endangered to threatened; or (3) whether a species more properly meets the definition of endangered and should be reclassified from threatened to endangered. Using the best scientific and commercial data available, a species will be considered for delisting if the data substantiate that the species is neither endangered nor threatened for one or more of the following reasons: (1) The species is considered extinct; (2) the species is considered to be recovered; and/or (3) the original data available when the species was listed, or the interpretation of such data, were in error. Any change in Federal classification requires a separate rulemaking process.

Definitions

The following definitions (according to the Act) are provided to assist those persons who contemplate submitting new information regarding the status of the species identified in the table below:

''Species'' includes any species or subspecies of fish or wildlife or plant, and any distinct population segment of any species or subspecies of a vertebrate, that is capable of interbreeding when mature.

''Endangered species'' means any species that is in danger of extinction throughout all or a significant portion of its range.

''Threatened species'' means any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

The regulations in 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species currently under active review. This announces our active review of Curtis' pearlymussel and Indiana bat.

SPECIES SUMMARY

Common name	Scientific name	Status	Listed entity	When listed
Curtis' pearlymussel	*Epioblasma florentina curtisii*	Endangered	U.S.A. (AR, MO).	June 14, 1976, (41 FR 24062).
Indiana bat	*Myotis sodalis*	Endangered	Eastern and Midwestern U.S.A.	Mar 11, 1967, (32 FR 4001).

Public Solicitation of New Information

To ensure that the 5-year reviews are complete and based on the best scientific and commercial data available, we are soliciting new information from the public, concerned governmental agencies, tribes, the scientific community, industry, environmental entities, and any other interested parties concerning the status of Curtis' pearlymussel and Indiana bat. A 5-year review considers the best scientific and commercial data and all new information that has become available since the listing determination or most recent status review. Categories of requested information include (A) species biology, including but not limited to population trends, distribution, abundance, demographics, and genetics; (B) habitat conditions, including but not limited to amount, distribution, and suitability; (C) conservation measures that have been implemented that benefit the species; (D) threat status and trends; and (E) other new information, data, or corrections, including but not limited to taxonomic or nomenclature changes, identification of erroneous information contained in the List, and improved analytical methods.

Electronic Access and Filing

You must submit electronic information (see **ADDRESSES**) in MS Word, Rich Text format, or Plain Text format, and include ''Curtis' Pearlymussel 5-Year Review Comments'' or ''Indiana Bat 5-Year Review Comments'' in the title line.

Information submitted to the U.S. Fish and Wildlife Service Ecological Services Field Supervisor (see **ADDRESSES**) must be received within sufficient time to allow adequate time to conduct these 5-year reviews (see **DATES**). If you do not respond to this request for information but subsequently possess information on the status of these species, we will accept new information regarding any federally listed species at any time.

Our practice is to make information, including names and home addresses of respondents, available for public review during regular business hours. Respondents may request that we withhold a respondent's identity, as allowable by law. If you wish us to withhold your name or address, you must state this request prominently at the beginning of the information that you are submitting. We will not, however, consider information submitted anonymously. To the extent consistent with applicable law, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Information received in response to this notice will be available for public inspection, by appointment, during normal business hours (see **ADDRESSES**).

Authority: This document is published under the authority of the Endangered

Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: September 7, 2006.

Lynn Lewis,

Deputy Assistant Regional Director, Ecological Services, Region 3.

[FR Doc. 06–7883 Filed 9–20–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Comprehensive Conservation Plan and Environmental Impact Statement for the Julia Butler Hansen Refuge for the Columbian White-Tailed Deer and the Lewis and Clark National Wildlife Refuge

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent and announcement of four public open house meetings.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service, we), will be developing a Comprehensive Conservation Plan (CCP) and Environmental Impact Statement (EIS) for the Julia Butler Hansen Refuge for the Columbian White-tailed Deer and the Lewis and Clark National Wildlife Refuge (Refuges). We also announce four public open house meetings. We furnish this notice in order to advise other agencies and the public of our intentions and obtain public comments, suggestions, and information on the scope of issues to include in the Refuges' CCP/EIS.

DATES: Please provide written comments on the scope of the CCP by November 6, 2006. Four public open house meetings will be held to begin the CCP planning process; see **SUPPLEMENTARY INFORMATION** for dates, times, and locations.

ADDRESSES: Address comments, questions, and requests for further information to: Charlie Stenvall, Project Leader, Willapa National Wildlife Refuge Complex, 3888 SR 101, Illwaco, WA, 98624–9707. Comments may be faxed to (360) 484–3109, or sent via electronic mail to *FW1PlanningComments@fws.gov.* Additional information about the Refuges is available on the Internet at: *http://www.fws.gov/willapa/WillapaNWR/.* Addresses for the public meetings are listed under **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Charlie Stenvall, Project Leader, Willapa National Wildlife Refuge Complex, phone (360) 484–3482.

SUPPLEMENTARY INFORMATION: The Refuges are comprised of several islands located in the lower Columbia River, in Wahkiakum County, Washington, and Clatsop and Columbia Counties, Oregon. The Julia Butler Hansen Refuge was established in 1971 to protect and manage habitat for the endangered Columbian white-tailed deer. The Refuge encompasses more than 6,000 acres of fields, forested tidal swamps, brushy woodlots, marshes, sloughs, and islands along the lower Columbia River, and supports approximately 300 Columbian white-tailed deer. The Lewis and Clark Refuge was established in 1972. The approved Refuge boundary includes 33,500 acres of islands, bars, mud flats, and tidal marshes. The Refuge contains the largest marsh in western Oregon, which provides habitat for wintering and migratory waterfowl, rearing and migratory salmon, and bald eagles.

We furnish this notice in accordance with the National Environmental Policy Act (NEPA) as amended, and its implementing regulations; the National Wildlife Refuge System Administration Act as amended by the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd–668ee) (Act); and Service policies.

The Act requires all lands within the National Wildlife Refuge System to be managed in accordance with an approved CCP. A CCP is a 15-year plan for managing a refuge. Refuge goals and objectives are identified in a CCP, as well as strategies for achieving the purposes for which a refuge was established. During the CCP planning process, we will consider many elements, including wildlife and habitat management and public use opportunities. Public input during the planning process is essential. The CCP for the Julia Butler Hansen and Lewis and Clark Refuges will describe desired conditions for the Refuges, along with how we will implement management strategies over a 15-year time period to achieve those conditions. We will prepare an EIS in accordance with NEPA and its implementing regulations. Until the CCP is completed, the Refuges' management will continue to be guided by their official purposes; Federal legislation regarding management of National Wildlife Refuges; and other legal, regulatory, and policy guidance.

Preliminary Issues, Concerns, and Opportunities

We have identified the following preliminary issues, concerns, and opportunities for the Julia Butler Hansen Refuge, and may address these issues in the CCP. We may identify additional issues during the public comment period. We will consider public comments during development of the goals, management strategies, and alternatives for the draft CCP/EIS.

Wildlife and Habitat Management: What actions should we take to sustain and restore priority species and habitats? Coyotes prey upon Columbian white-tailed deer fawns. Are the methods for coyote removal appropriate to maintain recovery of this endangered deer? How will the Refuge enhance native fish populations? How will the Refuge respond to concerns about West Nile virus and avian influenza virus?

Wilderness Study: Should specific areas of the Refuge, if appropriate and eligible, be designated as wilderness?

Management of Public Access and Use (including Commercial Guiding): What types of recreational opportunities should be provided? Are existing public use opportunities adequate and appropriate?

Education and Outreach: Should existing programs be expanded, to better engage and educate the public about Refuge wildlife and habitat management activities?

We have identified the following preliminary issues, concerns, and opportunities for the Lewis and Clark Refuge, and may address these issues in the CCP. We may identify additional issues during the public comment period. We will consider public comments during development of the goals, management strategies, and alternatives for the draft CCP/EIS.

Dredged materials management: What actions should be taken to improve and maximize wildlife benefits in dredge-spoil areas of the Refuge?

Colonial Nesting Bird Management: How should the Refuge manage and increase colonial nesting bird populations while limiting their impacts on anadromous fish?

Oregon Department of State Lands Management Agreement: Should the Refuge consider developing an agreement with the State to modify management of State lands within the Refuge boundary?

Commercial Guiding: Is commercial guiding for recreational activities compatible with the purposes of the Refuge?

Camping on Refuge Lands: Is camping appropriate and compatible with the Refuge's purposes and is there demand for this activity?

Wilderness Study: Should specific areas of the Refuge, if appropriate and eligible, be designated as Wilderness?

We will evaluate a range of alternatives, and their potential effects on the environment and local

communities, in the EIS. We estimate that the draft CCP/EIS will be available for public review in February 2008. We will announce opportunities for public input throughout the CCP/EIS planning process.

Public comments we receive become part of the official public record. We will handle requests for comments in accordance with the Freedom of Information Act, NEPA, and Service and Department of the Interior policies and procedures.

Public Meetings

We will hold four public open house meetings to facilitate public involvement in the CCP planning process. The meetings are scheduled as follows.

1. October 17, 2006, 6:30 p.m. to 8:30 p.m., Cowlitz Public Utility District (PUD), 961 12th Avenue, Longview, WA 98632.
2. October 19, 2006, 7 p.m. to 9 p.m., Astoria Public Library, Flag Room, 450 10th Street, Astoria, OR 97103.
3. October 23, 2006, 7 p.m. to 9 p.m., River Street Meeting Room, 25 River Street, Cathlamet, WA 98612.
4. October 24, 2006, 6:30 p.m. to 8:30 p.m., Clatskanie City Hall, 95 N. Nehalem, Clatskanie, OR 97016.

Dated: September 13, 2006.

David J. Wesley,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. 06–7881 Filed 9–20–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

[(MT–922–06)–1310–FI–P; NDM 94458]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease NDM 94458

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Per 30 U.S.C. 188(d), Baldwin Exploration Corp. timely filed a petition for reinstatement of oil and gas lease NDM 94458, Mountrail County, North Dakota, together with a request for a rental and royalty reduction allowed under 43 CFR 3108.2–3(f). The lessee paid the required rental at the rate provided in the original lease terms.

No leases were issued that affect these lands. The lessee paid the $500 administration fee for the reinstatement of the lease and $163 cost for publishing this Notice.

The lessee met the requirements for reinstatement of the lease per Sec. 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188). We are proposing to reinstate the lease, effective the date of termination subject to the original terms and conditions of the lease.

FOR FURTHER INFORMATION CONTACT: Karen L. Johnson, Chief, Fluids Adjudication Section, BLM Montana State Office, 5001 Southgate Drive, Billings, Montana 59101–4669, Phone (406) 896–5098/Fax (406) 896–5292.

Dated: September 13, 2006.

Karen L. Johnson,

Chief, Fluids Adjudication Section.

[FR Doc. 06–7833 Filed 9–20–06; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of August 28 through September 1, 2006.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;
2. The country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or
3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issued a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of

section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (*i.e.*, conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W–59,893; Corinth Products Co., Formerly Known as Higgins Lumber Mill, Corinth, ME: August 10, 2005

The following certifications have been issued. The requirements of section 222(a)(2)(B) (shift in production) of the Trade Act have been met.

None

The following certifications have been issued. The requirements of section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

None

The following certifications have been issued. The requirements of section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) of the Trade Act have been met.

None

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of section 222(a)(2)(A) (increased imports) and section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–59,840; Cooper Hand Tools, A Division of Cooper Industries, LTD, Sumter, SC: August 2, 2005.

TA–W–59,841; Argo Technology, Inc., A Subsidiary of ECR International, Berlin, CT: August 3, 2005.

TA–W–59,843; Royal Home Fashions, A Subsidiary of Croscill, Inc. (Plant #4), Henderson, NC: July 16, 2006.

TA–W–59,849; QuicKutz, Inc., Orem, UT: August 3, 2005.

TA–W–59,892; Golden Star, Inc., Atchison, KS: March 16, 2006.

TA–W–59,920; D-Scan, Inc., Tvilum Scanbiark A/S Denmark Division, Including Leased Workers of Debbie's Staffing & Ameristaff, South Boston, VA: August 15, 2005.

TA–W–59,933; Reliable Knitting Works, Milwaukee, WI: August 16, 2005.

TA–W–59,862; Creative Window Fashions, Inc., Fall River, MA: August 8, 2005.

TA–W–59,885; Skyland Tool and Mold, Arden, NC: August 9, 2005.

TA–W–59,886; Apex Apparel Services Co., Samples Department, Kearny, NJ: August 10, 2005.

TA–W–59,901; R and R Manufacturing Co., Inc. (The), Auburn, GA: August 14, 2005.

TA–W–59,908; O.W. Slane Glass Co., Statesville, NC: August 9, 2005.

TA–W–59,948; Dolphin Cove, LLC, Soddy Daisy, TN: August 23, 2005.

The following certifications have been issued. The requirements of section 222(a)(2)(B) (shift in production) and section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–59,776; Managed Business Solutions, Working on Site at Hewlett-Packard, Imaging & Print, Colorado Springs, CO: July 24, 2005.

TA–W–59,780; Elliott Company, A Subsidiary of Ebara Corp., Jeannette, PA: July 25, 2005.

TA–W–59,881; Russell Corporation, Russell Activeware Division, New #1 Mill, Alexander City, AL: August 27, 2006.

TA–W–59,882; Safetran Traffic Systems, Inc., Colorado Springs, CO: August 9, 2005.

TA–W–59,883; MacDonald's Industrial Products, On-Site Leased Workers of Spherion Corp., Spencerville, OH: August 8, 2005.

TA–W–59,883A; MacDonald's Industrial Products, On-Site Leased Workers of Forge Industrial Staffing, Kentwood, MI: August 8, 2005.

TA–W–59,883B; MacDonald's Industrial Products, On-Site Leased Workers of Forge Industrial Staffing, Grand Rapids, MI: August 8, 2005.

TA–W–59,909; McCormick and Co., Inc., CPD—Salinas Plant, Salinas, CA: August 14, 2005.

TA–W–59,919; Jockey International, Inc., Millen, GA: August 16, 2005.

TA–W–59,960; Fibre Metal Products Co., A Subsidiary of North Safety Products, Concordville, PA: August 17, 2005.

The following certifications have been issued. The requirements of section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) and section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–59,938; Lear Corporation, Atlanta, GA: August 22, 2005.

TA–W–59,959; Toombs Apparel, Inc., Lyons, GA: August 22, 2005.

The following certifications have been issued. The requirements of section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) and section 246(a)(3)(A)(ii) of the Trade Act have been met.

None.

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

The Department as determined that criterion (1) of section 246 has not been met. Workers at the firm are 50 years of age or older.

TA–W–59,893; Corinth Products Co., Formerly Known as Higgins Lumber Mill, Corinth, ME.

The Department as determined that criterion (2) of Section 246 has not been met. Workers at the firm possess skills that are easily transferable.

None.

The Department as determined that criterion (3) of Section 246 has not been met. Competition conditions within the workers' industry are not adverse.

None.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Since the workers of the firm are denied eligibility to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.A.) and (a)(2)(B)(II.A.) (employment decline) have not been met.

TA–W–59,918; DJ, Inc., A Subsidiary of NYPRO, Inc., El Paso, TX.

The investigation revealed that criteria (a)(2)(A)(I.B.) (Sales or

production, or both, did not decline) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

None.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–59,659; Jideco of Bardstown, Inc., A Subsidiary of Mitsuba Corp., Bardstown, KY.

TA–W–59,712; American Specialty Cars, Formerly Known As American Sunroof Co., Lansing, MI.

TA–W–59,779; Crestwoods, Inc., Winchester, NH.

TA–W–59,821; Boico Engineering Corp., Sterling Heights, MI.

TA–W–59,833; Baxter Corporation (The), Shelby, NC.

TA–W–59,907; Superior Comb Co., Inc., Leominster, MA.

TA–W–59,796; Universal Structural, Inc., Vancouver, WA.

TA–W–59,912; Interbake Foods, LLC, A Division of George Weston Bakeries USA, Elizabeth, NJ.

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–59,842; Aon Consulting, Inc., Employee Benefits Outsourcing Division, Winston-Salem, NC.

TA–W–59,878; Bank of America, NTO-Wire Transfer Services, Scranton, PA.

TA–W–59,944; U.S. Airways, Inc., U.S. Airways Reservation Administration, Winston-Salem, NC.

TA–W–59,954; Electronic Data Systems Corp., On-Site at Saturn Customer Assistance Center, Spring Hill, TN.

The investigation revealed that criteria of section 222(b)(2) has not been met. The workers' firm (or subdivision) is not a supplier to or a downstream producer for a firm whose workers were certified eligible to apply for TAA.

None.

I hereby certify that the aforementioned determinations were issued from August 28 through September 1, 2006. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: September 8, 2006.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–15629 Filed 9–20–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of September 4 through September 8, 2006.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. The country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issued a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (i.e., conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W–59,884; Rexnord Industries, LLC, Industrial Chain and Conveyor Div., Milwaukee, WI: July 20, 2005.

The following certifications have been issued. The requirements of section 222(a)(2)(B) (shift in production) of the Trade Act have been met.

TA–W–59,962; Elbeco, Inc., City Shirt Company Division, Frackville, PA: August 25, 2005.

TA–W–59,839; JDS Uniphase Corp., Formerly Agility, Spherion Staffing, Allentown, PA: August 1, 2005.

The following certifications have been issued. The requirements of section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) of the Trade Act have been met.

None.

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of section 222(a)(2)(A) (increased imports) and section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–59,934; Florida Tile, Inc., Shannon Plant, Shannon, GA: August 21, 2005.

TA–W–59,963; COBE Cardiovascular, Inc., Div. of Sorin Group, Arvada, CO: August 23, 2005.

TA–W–59,864; YKK (U.S.A.), Inc., Lyndhurst, NJ: August 7, 2005.

TA–W–59,880; Meredith's Home Fashions, Westwood, MA: August 2, 2005.

TA–W–59,911; Milliken and Co., Humphrey Plant, Toccoa, GA: August 3, 2005.

The following certifications have been issued. The requirements of section 222(a)(2)(B) (shift in production) and section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–59,639; Solectron Corp., Design and Engineering, Charlotte, NC: June 7, 2005.

TA–W–59,831; GTI International, Wixom, MI: July 13, 2005.

TA–W–59,844; Kimberly-Clark Corp., Lakeview Plant, Neenah, WI: August 3, 2005.

TA–W–59,956; International Textile Group Inc., Corporate Headquarters, Greensboro, NC: August 16, 2005.

TA–W–59,962; Elbeco, Inc., City Shirt Company Division, Frackville, PA: August 25, 2005.

TA–W–59,978; Umicore USA, Inc., Maxton, NC: August 28, 2005.

The following certifications have been issued. The requirements of section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) and section 246(a)(3)(A)(ii) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) and section 246(a)(3)(A)(ii) of the Trade Act have been met.

None.

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

The Department as determined that criterion (1) of Section 246 has not been met. Workers at the firm are 50 years of age or older.

TA–W–59,839; JDS Uniphase Corp., Formerly Agility, Spherion Staffing, Allentown, PA.

The Department as determined that criterion (2) of Section 246 has not been met. Workers at the firm possess skills that are easily transferable.

TA–W–59,884; Rexnord Industries, LLC, Industrial Chain and Conveyor Div., Milwaukee, WI.

TA–W–59,962; Elbeco, Inc., City Shirt Company Division, Frackville, PA.

The Department as determined that criterion (3) of section 246 has not been met. Competition conditions within the workers' industry are not adverse.

None.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Since the workers of the firm are denied eligibility to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.A.) and (a)(2)(B)(II.A.) (employment decline) have not been met.

None.

The investigation revealed that criteria (a)(2)(A)(I.B.) (Sales or production, or both, did not decline) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

None.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–59,792; Engineered Plastic Products, Inc., Ypsilanti, MI.

TA–W–59,792A; Engineered Plastic Products, Inc., Owosso, MI.

TA–W–59,792B; Engineered Plastic Products, Inc., Lima, OH.

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

None.

The investigation revealed that criteria of section 222(b)(2) has not been met. The workers' firm (or subdivision) is not a supplier to or a downstream producer for a firm whose workers were certified eligible to apply for TAA.

None.

I hereby certify that the aforementioned determinations were issued from September 4 through September 8, 2006.

Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: September 13, 2006.

Linda G. Poole,

Certifying Office, Division of Trade Adjustment Assistance.

[FR Doc. E6–15634 Filed 9–20–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–59,984]

Schmald Tool & Die, Inc.; Burton, MI; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on August 30, 2006, in response to a petition filed by a company official on behalf of workers of Schmald Tool & Die, Inc., Burton, Michigan.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 13th day of September, 2006.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–15635 Filed 9–20–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–58,181; TA–W–58,181A]

Stimson Lumber Company Atlas Division; Coeur D'alene, Idaho; Including an Employee of Stimson Lumber Company Atlas Division; Coeur D'alene, Idaho; Located In Portland, Oregon; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on November 21, 2005, applicable to workers of Stimson Lumber Company, Atlas Division, Coeur d'Alene, Idaho. The notice was published in the **Federal Register** on November 21, 2005 (70 FR 74368).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm.

New information provided by a company official shows that a member of the worker group, Gregory O'Neal, working off-site in Portland, Oregon, was separated from employment when the Coeur d'Alene, Idaho plant closed. Mr. O'Neal provided marketing support services related to the pine and cedar boards produced by Stimson Lumber Company, Atlas Division, Coeur d'Alene, Idaho.

The intent of the Department's certification is to include all workers of Stimson Lumber Company, Atlas Division, Coeur d'Alene, Idaho, who were adversely affected by increased company imports.

Accordingly, the Department is amending this certification to include the employee of Stimson Lumber Company, Atlas Division, Coeur d'Alene, Idaho, working in Portland, Oregon.

The amended notice applicable to TA–W–58,181 is hereby issued as follows:

All workers of Stimson Lumber Company, Atlas Division, Coeur d'Alene, Idaho, including an employee of Stimson Lumber Company, Atlas Division, Coeur d'Alene, Idaho located in Portland, Oregon, who became totally or partially separated from employment on or after October 20, 2004 through November 21, 2007, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under section 246 of the Trade Act of 1974.

Signed in Washington, DC, this 12th day of September 2006.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–15630 Filed 9–20–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–59,968]

TEAMLINDEN; A Division of Fisher and Company; Linden, TN; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on August 29, 2006 in response to a petition filed by a company official on behalf of workers at TEAMLINDEN, a division of Fisher and Company, Linden, Tennessee.

The petitioners have requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–15633 Filed 9–20–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–59,872]

Tri-Matic Screw Products Incorporated; Howell, MI; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on August 9, 2006 in response to a petition filed by a company official on behalf of workers at Tri-Matic Screw Products Incorporated, Howell, Michigan.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 7th day of September 2006.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–15632 Filed 9–20–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–59,533]

Yakima Resources, LLC; Yakima, WA; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated August 17, 2006, the Western Council of Industrial Workers, United Brotherhood of Carpenters and Joiners of America (Union), requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to workers of the subject firm. The Department's determination was issued on August 4, 2006. The Department's Notice of determination was published in the **Federal Register** on August 16, 2006 (71 FR 47253).

The denial was based on the Department's findings that, during the

relevant period, the subject company did not import plywood or shift production of plywood overseas and that the subject company's only customer did not import plywood.

The Union requests that the Department investigate whether the subject company or its customers imported oriented strand board (OSB), a product which is like and directly competitive with plywood.

The Department has carefully reviewed the Union's request for reconsideration and has determined that the Department will conduct further investigation.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 12th day of September 2006.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–15631 Filed 9–20–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Collection of the ETA 205, Preliminary Estimates of Average Employer Contribution Rates; 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 a proposed continuance for a collection of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed extension of the ETA 205, Preliminary Estimates of Average Employer Contribution Rates. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice or by accessing: *http://www.doleta.gov/Performance/guidance/OMBControlNumber.cfm.*

DATES: Written comments must be submitted to the office listed in the addressee section below on or before November 20, 2006.

ADDRESSES: Subri Raman, Office of Workforce Security, Employment and Training Administration, U.S. Department of Labor, Room S–4231, 200 Constitution Avenue, NW., Washington, DC 20210; telephone number (202) 693–3058; fax:(202) 693–3229 (these are not toll-free numbers) or e-mail: *raman.subri@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. *Background:* The ETA 205 reports preliminary information on the taxation efforts in states relative to taxable and total wages and allows for comparison among states. The information is used for projecting unemployment insurance tax revenues for the Federal budget process as well as for actuarial analyses of the Unemployment Trust Fund. The data is published in several forms and is often requested by data users. In addition, this report helps to fulfill two statutory requirements. Section 3302(d)(7) of the Federal Unemployment Tax Act (FUTA) requires the Secretary of Labor to determine and notify ''the Secretary of the Treasury before June 1 of each year, on the basis of a report furnished by such state to the Secretary of Labor before May 1 of such year'' of certain percentages computed according to sections 3302(c)(2)(B) and (C) from the average tax rates for states with outstanding Title XII advances, which are then used to calculate the loss of FUTA offset credit for these states. In addition, the tax schedules are used to assure that states are in compliance with provisions of the Tax Equity and Fiscal Responsibility Act (Pub. L. 97–248), section 281.

II. *Review Focus:* 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 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 clarify 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:*

Type of Review: Extension.

Agency: Employment and Training Administration.

Title: Preliminary Estimates of Average Employer Contribution Rates.

OMB Number: 1205–0228.

Agency Number: ETA.

Affected Public: State Governments.

Cite/Reference/Form/etc: ETA 205.

Total Respondents: 53.

Frequency: Annual.

Total Responses: 53.

Average Time per Response: 15 minutes.

Estimated Total Burden Hours: 14.

Total Burden Cost (capital/startup): $0.00.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: September 12, 2006.

Cheryl Atkinson,

Administrator, Office of Workforce Security.

[FR Doc. 06–7909 Filed 9–20–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

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 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized,

collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed extension of data collection for the ETA Form 9117 (formerly ETA–9023), Trade Adjustment Assistance (TAA) Reserve Funding Request Form (1205–0275, expires 12/31/2006). 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.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before November 20, 2006.

ADDRESSES: Erica R. Cantor, Administrator, Office of National Response, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Ave., NW., Washington, DC 20210. Phone (202) 693–2757 (this is not a toll-free number), fax (202) 693–3584, or e-mail *cantor.erica@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. *Background:* The Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA) programs provide assistance to workers that have been adversely affected by foreign trade. Under the Trade Act of 1974, as amended by the Trade Reform Act of 2002, the statutory training cap is $220 million each year, with additional funding available for job search and relocation allowances and State administration. To be eligible for TAA or ATAA benefits, a group of workers, a company official, a union or other duly authorized representative, or a One Stop Operator or partner must file a petition with the Department of Labor. If the Department determines that the workers meet the statutory criteria, it issues a certification of eligibility for the workers in the group to apply for benefits and services through partnerships between the State Workforce Agencies (SWAs) and the One Stop Career Center system. On average, approximately 120,000 workers are potentially eligible to apply for TAA benefits and services each year. Of those potentially eligible, roughly 40,000 individuals begin receiving TAA-funded benefits and services each year. In addition, 40,000 individuals who began receiving services in previous years continue to receive them.

II. *Review Focus:* 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 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: This is a notice to extend the collection period that is currently approved by OMB (1205–0275 expires December 31, 2006).

The ETA–9117(formerly ETA–9023) has been successfully utilized by the ETA and SWAs since its implementation in July 2004. The Department distributes $165 million of the $220 million appropriation available for TAA training at the beginning of each fiscal year as formula base allocations. The remaining training funds or $55 million is held in reserve by the Department to support States that experience large unanticipated layoffs that cannot be covered by their formula base allocation. The reserve funds are requested using the ETA–9117 (formerly ETA–9023) which provides essential information needed to determine the reasonableness of requests for TAA reserve funding such as the number of individuals currently enrolled in training that require additional funding through the current fiscal year; the number of new enrollees that require funding through the current fiscal year; the number of individuals requesting job search and relocation allowances; accrual expenditures for the most recent available funds; active certifications; and the circumstances necessitating the request for additional funding.

Type of Review: Extension and revision of a currently approved collection.

Agency: Employment and Training Administration.

Title: Trade Adjustment Assistance (TAA) Reserve Funding Request Form. OMB Number: 1205–0275.

Agency Number: ETA–9117 (formerly ETA–9023).

Affected Public: State, local or tribal Government.

Total Respondents: 25.

Estimated Total Burden Hours: 75.

Cite/reference	Total respondents	Frequency	Total responses	Average time per response (hours)	Total requested burden
TAA Reserve Request Form	25	On occasion	25	3	75

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: September 11, 2006.

Erica R. Cantor,

Administrator, Office of National Response.

[FR Doc. 06–7936 Filed 9–20–06; 8:45 am]

BILLING CODE 4510–30–P

MERIT SYSTEMS PROTECTION BOARD

Agency Information Collection Activities; Proposed Collection

AGENCY: Merit Systems Protection Board.

ACTION: Notice.

SUMMARY: The Merit Systems Protection Board (MSPB) intends to request approval of a revised information collection from the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 and 3507). The currently approved information collection is the MSPB Appeal Form, MSPB Form 185 (OMB Control Number 3124–0009). The MSPB intends to make one substantive change to the information collected on the MSPB Appeal Form: Individuals who file appeals with the MSPB will be required to provide the last four digits of their Social Security numbers. In addition, several minor edits have been made to the Appeal Form to make the process

easier to understand. At this time, the MSPB is requesting public comments on the revised MSPB Form 185, which is available for review on the MSPB Web site at *http://mspb.gov/headlinespage.html*. In addition to soliciting comments on the changes to the Appeal Form, we are also soliciting comments on the public reporting burden.

DATES: Comments must be received on or before November 20, 2006.

ADDRESSES: Submit comments to the Office of the Clerk of the Board, Merit Systems Protection Board, 1615 M Street, NW., Washington, DC 20419. Because of possible mail delays, respondents are encouraged to submit comments by e-mail to *mspb@mspb.gov* or by facsimile (fax) transmittal to (202) 653–7130.

FOR FURTHER INFORMATION CONTACT: Office of the Clerk of the Board, 1615 M Street, NW., Washington, DC 20419; telephone (202) 653–7200; facsimile (fax) (202) 653–7130; e-mail to *mspb@mspb.gov*. Persons without Internet access may request a paper copy of the MSPB Appeal Form from the Office of the Clerk.

SUPPLEMENTARY INFORMATION: The current version of the MSPB Appeal Form was approved by OMB, in accordance with the requirements of the Paperwork Reduction Act, in July 2003. At the same time, OMB approved the Board's use of e-Appeal, the MSPB's Web-based system for filing appeals online (*https://e-appeal.mspb.gov*). Once OMB has approved the changes to the paper-based form as described below, the MSPB will incorporate these changes into e-Appeal.

Social Security Numbers

In Part 1 of the revised Appeal Form, each appellant is required to provide the last four digits of his or her Social Security number. The instructions for this item state as follows: ''The Merit Systems Protection Board requires that you provide it with the last four digits of your Social Security number. This information will be used solely for identification purposes in the processing of your appeal. Failure to provide this information may result in the delay or non-processing of your appeal.''

The reason for requiring this information is to ascertain whether an appellant has filed previous appeals with the MSPB that may affect the processing of the new appeal. Because of the similarity of names and the possibility of name changes, and because appellants sometimes use nicknames instead of formal names, it can be difficult to determine whether the person who has filed a new appeal is the same person who filed one or more previous Board appeals. Although requiring the last four digits of the appellant's Social Security number will not result in certainty as to the filer's identity, it will give the MSPB more assurance in this regard.

Section 7(a) of the Privacy Act of 1974 provides that it is unlawful for a federal agency to ''deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number.'' Because federal law provides federal employees the right to file appeals with the MSPB, that right cannot be conditioned on the individual's providing the MSPB with his or her Social Security number. According to a Policy Analyst with the Information Policy and Technology Branch of the OMB, OMB takes the position that the last four digits of an individual's Social Security number do not constitute that individual's Social Security number, and can be made mandatory. The Board will carefully safeguard the last four digits of Social Security numbers provided by appellants in MSPB proceedings. This information will not generally be disclosed to third parties.

Estimated Reporting Burden

In accordance with the requirements of the Paperwork Reduction Act of 1995, the MSPB is soliciting comments on the public reporting burden for this information collection. The public reporting burden for this collection of information is estimated to vary from 20 minutes to 4 hours, with an average of 60 minutes per response, including time for reviewing the form and instructions, searching existing data sources, gathering the data necessary, and completing and reviewing the collection of information.

Specifically, the MSPB invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of MSPB's functions, including whether the information will have practical utility; (2) the accuracy of the MSPB's estimate of burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

ESTIMATED ANNUAL REPORTING BURDEN

5 CFR Parts	Annual number of respondents	Frequency per response	Total annual response	Hours per response	Total hours
1201, 1208, and 1209	7,150	1	7,150	1.0	7,150

Dated: September 15, 2006.

Bentley M. Roberts, Jr.,

Clerk of the Board.

[FR Doc. 06–7831 Filed 9–20–06; 8:45 am]

BILLING CODE 7401–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency proposes to request extension of a currently approved information collection used when former Federal civilian employees and other authorized individuals request information from or copies of documents in Official Personnel Folders or Employee Medical Folders from the National Personnel Records Center (NPRC) of the National Archives and Records Administration (NARA). The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before November 20, 2006 to be assured of consideration.

ADDRESSES: Comments should be sent to: Paperwork Reduction Act Comments (NHP), Room 4400, National Archives and Records Administration, 8601 Adelphi Rd., College Park, MD 20740–6001; or faxed to 301–713–7409; or electronically mailed to *tamee.fechhelm@nara.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–837–1694, or fax number 301–713–7409.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology; and (e) whether small businesses are affected by this collection. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Returned Request Form, Reply to Request Involving Relief Agencies, Walk-In Request for OPM Records or Information.

OMB number: 3095–0037.

Agency form number: NA Forms 13022, 13064, 13068.

Type of review: Regular.

Affected public: Former Federal civilian employees, their authorized representatives, state and local governments, and businesses.

Estimated number of respondents: 32,060.

Estimated time per response: 5 Minutes.

Frequency of response: On occasion, when individuals desire to acquire information from Federal civilian employee personnel or medical records.

Estimated total annual burden hours: 2,671 hours.

Abstract: In accordance with rules issued by the Office of Personnel Management, the National Personnel Records Center (NPRC) of the National Archives and Records Administration (NARA) administers Official Personnel Folders (OPF) and Employee Medical Folders (EMF) of former Federal civilian employees. When former Federal civilian employees and other authorized individuals request information from or copies of documents in OPF or EMF, they must provide in forms or in letters certain information about the employee and the nature of the request. The NA Form 13022, Returned Request Form, is used to request additional information about the former Federal employee. The NA Form 13064, Reply to Request Involving Relief Agencies, is used to request additional information about the former relief agency employee. The NA Form 13068, Walk-In Request for OPM Records or Information, is used by members of the public, with proper authorization, to request a copy of a Personnel or Medical record.

Dated: September 13, 2006.

Martha Morphy,

Assistant Archivist for Information Services.

[FR Doc. 06–7888 Filed 9–20–06; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[DOCKET NO. 030–34092]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment to Byproduct Materials License No. 29–30285–01, for Termination of the License and Unrestricted Release of the SK Bio-Pharmaceutical R&D Center's Facility in Fairfield, NJ

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of Environmental Assessment and Finding of No Significant Impact for License Amendment.

FOR FURTHER INFORMATION CONTACT: Dennis Lawyer, Health Physicist, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region 1, 475 Allendale Road, King of Prussia, Pennsylvania; telephone 610–337–5366; fax number 610–337–5393; or by e-mail: *drl1@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of a license amendment to Byproduct Materials License No. 29–30285–01. This license is held by SK Bio-Pharmaceutical R&D Center (the Licensee), for its SK Bio-Pharmaceutical R&D Center, located at 140A New Dutch Lane in Fairfield, New Jersey (the Facility). Issuance of the amendment would authorize release of ''the Facility'' for unrestricted use. The Licensee requested this action in a letter dated June 29, 2006. The NRC has prepared an Environmental Assessment (EA) in support of this proposed action in accordance with the requirements of Title 10, Code of Federal Regulations (CFR), Part 51 (10 CFR Part 51). Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate with respect to the proposed action. The NRC plans to issue the amendment following the publication of this FONSI and EA in the **Federal Register**.

II. Environmental Assessment

Identification of Proposed Action

The proposed action would approve the Licensee's June 29, 2006, license amendment request, resulting in release of ''the Facility'' for unrestricted use. License No. 29–30285–01 was issued on June 19, 1996, pursuant to 10 CFR Part 30, and has been amended periodically since that time. This license authorized the Licensee to use unsealed byproduct material for purposes of conducting research and development activities on laboratory bench tops and in hoods and animal studies.

The Facility is situated on 15,000 square feet, and consists of general offices and laboratories. The Facility is located in a mixed industrial and commercial area. Within the Facility, use of licensed materials was confined to 1,600 square feet of laboratories.

On May 26, 2006, the Licensee ceased licensed activities and initiated a survey and decontamination of the Facility. Based on the Licensee's historical knowledge of the site and the conditions of the Facility, the Licensee determined that only routine decontamination activities, in accordance with their NRC-approved, operating radiation safety procedures, were required. The Licensee was not required to submit a decommissioning plan to the NRC because worker cleanup activities and procedures are consistent with those approved for routine operations. The Licensee conducted surveys of the Facility and provided information to the NRC to demonstrate that it meets the

criteria in Subpart E of 10 CFR Part 20 for unrestricted release.

Need for the Proposed Action

The Licensee has ceased conducting licensed activities at the Facility, and seeks release of the Facility for unrestricted use.

Environmental Impacts of the Proposed Action

The historical review of licensed activities conducted at the Facility shows that such activities involved use of the following radionuclides with half-lives greater than 120 days: hydrogen-3 and carbon-14. Prior to performing the final status survey, the Licensee conducted decontamination activities, as necessary, in the areas of the Facility affected by these radionuclides.

The Licensee conducted a final status survey during June 2006. This survey covered all areas where unsealed materials were known to be stored or used. The final status survey report was attached to the Licensee's amendment request dated June 29, 2006. The Licensee elected to demonstrate compliance with the radiological criteria for unrestricted release as specified in 10 CFR 20.1402 by using the screening approach described in NUREG–1757, ''Consolidated NMSS Decommissioning Guidance,'' Volume 2. The Licensee used the radionuclide-specific derived concentration guideline levels (DCGLs), developed there by the NRC, which comply with the dose criterion in 10 CFR 20.1402. These DCGLs define the maximum amount of residual radioactivity on building surfaces, equipment, and materials, and in soils, that will satisfy the NRC requirements in Subpart E of 10 CFR Part 20 for unrestricted release. The Licensee's final status survey results were below these DCGLs and are in compliance with the As Low As Reasonably Achievable (ALARA) requirement of 10 CFR 20.1402. The NRC thus finds that the Licensee's final status survey results are acceptable.

Based on its review, the staff has determined that the affected environment and any environmental impacts associated with the proposed action are bounded by the impacts evaluated by the ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities'' (NUREG–1496) Volumes 1–3 (ML042310492, ML042320379, and ML042330385). The staff finds there were no significant environmental impacts from the use of radioactive material at the Facility. The NRC staff reviewed the docket file records and the final status survey report to identify any non-radiological hazards that may have impacted the environment surrounding the Facility. No such hazards or impacts to the environment were identified. The NRC has identified no other radiological or non-radiological activities in the area that could result in cumulative environmental impacts.

The NRC staff finds that the proposed release of the portion of the Facility described above for unrestricted use is in compliance with 10 CFR 20.1402. Based on its review, the staff considered the impact of the residual radioactivity at the Facility and concluded that the proposed action will not have a significant effect on the quality of the human environment.

Environmental Impacts of the Alternatives to the Proposed Action

Due to the largely administrative nature of the proposed action, its environmental impacts are small. Therefore, the only alternative the staff considered is the no-action alternative, under which the staff would leave things as they are by simply denying the amendment request. This no-action alternative is not feasible because it conflicts with 10 CFR 30.36(d), requiring that decommissioning of byproduct material facilities be completed and approved by the NRC after licensed activities cease. The NRC's analysis of the Licensee's final status survey data confirmed that the ''Facility'' meets the requirements of 10 CFR 20.1402 for unrestricted release. Additionally, denying the amendment request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the no-action alternative are therefore similar, and the no-action alternative is accordingly not further considered.

Conclusion

The NRC staff has concluded that the proposed action is consistent with the NRC's unrestricted release criteria specified in 10 CFR 20.1402. Because the proposed action will not significantly impact the quality of the human environment, the NRC staff concludes that the proposed action is the preferred alternative.

Agencies and Persons Consulted

NRC provided a draft of this Environmental Assessment to the State of New Jersey, Department of Environmental Health for review on July 24, 2006. On July 27, 2006, State of New Jersey, Department of Environmental Health responded by letter. The State agreed with the conclusions of the EA, and otherwise had no comments.

The NRC staff has determined that the proposed action is of a procedural nature, and will not affect listed species or critical habitat. Therefore, no further consultation is required under Section 7 of the Endangered Species Act. The NRC staff has also determined that the proposed action is not the type of activity that has the potential to cause effects on historic properties. Therefore, no further consultation is required under Section 106 of the National Historic Preservation Act.

III. Finding of No Significant Impact

The NRC staff has prepared this EA in support of the proposed action. On the basis of this EA, the NRC finds that there are no significant environmental impacts from the proposed action, and that preparation of an environmental impact statement is not warranted. Accordingly, the NRC has determined that a Finding of No Significant Impact is appropriate.

IV. Further Information

Documents related to this action, including the application for license amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The documents related to this action are listed below, along with their ADAMS accession numbers.

1. NUREG–1757, ''Consolidated NMSS Decommissioning Guidance;''
2. Title 10 Code of Federal Regulations, Part 20, Subpart E, ''Radiological Criteria for License Termination;''
3. Title 10, Code of Federal Regulations, Part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions;''
4. NUREG–1496, ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities''
5. SK Bio-Pharmaceutical R&D Center, Amendment Request Letter dated June 29, 2006 [ML061880439];
6. SK Bio-Pharmaceutical R&D Center, Additional Information Regarding License Amendment, Control Number 139082, letter dated July 17, 2006 [ML061990341].

If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.* These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Region 1, 475 Allendale Road, King of Prussia this 12th day of September 2006.

For the Nuclear Regulatory Commission.

James P. Dwyer,

Chief, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region I.

[FR Doc. 06–7898 Filed 9–20–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting of the Subcommittee on Plant License Renewal; Notice of Meeting

The ACRS Subcommittee on Plant License Renewal will hold a meeting on October 3, 2006, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, October 3, 2006—1:30 p.m. until 5 p.m.

The purpose of this meeting is to discuss the License Renewal Application for Oyster Creek and the associated Safety Evaluation Report (SER) with Open Items prepared by the NRR staff. The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, AmerGen Energy Company, and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Cayetano Santos (telephone 301/415–7270) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:30 a.m. and 4:15 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes to the agenda.

Dated: September 15, 2006.

David C. Fischer,

Acting Branch Chief, ACRS/ACNW.

[FR Doc. 06–7890 Filed 9–20–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on October 3, 2006, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Tuesday, October 3, 2006, 10:30 a.m. until the conclusion of business.

The Subcommittee will discuss proposed ACRS activities and related matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Sam Duraiswamy (telephone: 301–415–7364) between 7:30 a.m. and 4 p.m. (ET) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:30 a.m. and 4 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes in the agenda.

Dated: September 14, 2006.

Michael R. Snodderly,

Branch Chief, ACRS/ACNW.

[FR Doc. 06–7889 Filed 9–20–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Notice

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting on October 4–6, 2006, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Tuesday, November 22, 2005 (70 FR 70638).

Wednesday, October 4, 2006, Conference Room T–2B3, Two White Flint North, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–9:30 a.m.: Draft Final Revision 3 to Regulatory Guide 1.7, ''Control of Combustible Gas Concentrations in Containment'' (Open)–The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding draft final revision 3 to Regulatory Guide 1.7, which provides guidance for implementing the risk-informed 10 CFR 50.44, ''Combustible Gas Control for Nuclear Power Reactors.''

9:30 a.m.–11:45 a.m.: Proposed Updates to Regulatory Guides and Standard Review Plan (SRP) Sections in Support of New Reactor Licensing (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding proposed updates to Regulatory Guides and SRP Sections that are being made in support of new reactor licensing, criteria used by the staff in selecting Regulatory Guides and SRP Sections applicable to future plant licensing, and staff's recommendations that the ACRS not review certain Regulatory Guides and SRP Sections along with the reasons therefor.

12:45 p.m.–2:15 p.m.: Master Integrated Plan for New Reactor Licensing Activities (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the development of the Master

Integrated Plan for new reactor licensing activities.

2:30 p.m.–4 p.m.: Draft Report on the Quality Assessment of Selected NRC Research Projects (Open)—The Committee will discuss the draft ACRS report on the quality assessment of the NRC research projects on Containment Capacity Study at the Sandia National Laboratories and on Melt Coolability and Concrete Interaction Study at the Argonne National Laboratory.

4:15 p.m.–4:30 p.m.: Subcommittee Report (Open)—Report by and discussions with the Chairman of the ACRS Subcommittee on Plant License Renewal regarding interim review of the Oyster Creek license renewal application that was discussed at the October 3, 2006 Subcommittee meeting.

4:30 p.m.–6:30 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters considered during this meeting.

Thursday, October 5, 2006, Conference Room T–2B3, Two White Flint North, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10:15 a.m.: Proposed Revision 1 to Regulatory Guide 1.200, ''An Approach for Determining the Technical Adequacy of Probabilistic Risk Assessment Results for Risk-Informed Activities'' (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding proposed Revision 1 to Regulatory Guide 1.200, which incorporates the lessons learned from the trial use of this Guide.

10:30 a.m.–12 Noon: Verification and Validation of Selected Fire Models (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff, Electric Power Research Institute, and National Institute of Standards and Technology regarding the draft final NUREG document, ''Verification and Validation of Selected Fire Models for Nuclear Power Plant Applications.''

1 p.m.–2 p.m.: Preparation for Meeting with the NRC Commissioners (Open)—The Committee will discuss the following topics scheduled for discussion during the ACRS meeting with the NRC Commissioners between 2:30 and 4:30 p.m. on Friday, October 20, 2006:

- PWR Sump Performance.
- Safety Research Program Report.
- Lessons Learned from the Review of Early Site Permit Applications.
- Future Plant Design Activities and Coordination with the NRC staff on the Master Integrated Schedule [including 10 CFR part 52 Rulemaking].

2 p.m.–2:45 p.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee (Open)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future meetings. Also, it will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business, including anticipated workload and member assignments.

2:45 p.m.–3 p.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations to comments and recommendations included in recent ACRS reports and letters.

3:15 p.m.–7 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports.

Friday, October 6, 2006, Conference Room T–2B3, Two White Flint North, Rockville, Maryland

8:30 a.m.–12:30 p.m.: Preparation of ACRS Reports (Open)—The Committee will continue discussion of proposed ACRS reports.

12:30 p.m.–1 p.m.: Miscellaneous (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on September 29, 2005 (70 FR 56936). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Electronic recordings will be permitted only during the open portions of the meeting. Persons desiring to make oral statements should notify the Cognizant ACRS staff named below five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Cognizant ACRS staff prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS staff if such rescheduling would result in major inconvenience.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, as well as the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Mr. Sam Duraiswamy, Cognizant ACRS staff (301–415–7364), between 7:30 a.m. and 4 p.m., (ET). ACRS meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at *pdr@nrc.gov*, or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections.* (ACRS & ACNW Mtg schedules/agendas).

Videoteleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m., (ET), at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the videoteleconferencing link. The availability of videoteleconferencing services is not guaranteed.

Dated: September 15, 2006.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 06–7892 Filed 9–20–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Meetings; Sunshine Act

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATE: Week of October 2, 2006.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

ADDITIONAL MATTERS TO BE CONSIDERED:

Week of October 2, 2006

Thursday, October 5, 2006

12:55 p.m. Affirmation Session (Public Meeting) (Tentative).

a. Entergy Nuclear Operations, Inc., (Pilgrim Nuclear Power Station), Massachusetts Attorney General's Petition for Backfit Order (Tentative).

* * * * *

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Michelle Schroll, (301) 415–1662.

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The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/what-we-do/policy-making/schedule.html.*

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify the NRC's Disability Program Coordinator, Deborah Chan, at (301) 415–7041, TDD: (301) 415–2100, or by e-mail at *DLC@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 301–415–1969. In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: September 18, 2006.

Sandy Joosten,

Office of the Secretary.

[FR Doc. 06–8011 Filed 9–19–06; 9:59 am]

BILLING CODE 7590–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

Summary: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Repayment of Debt.

(2) *Form(s) submitted:* G–421f.

(3) *OMB Number:* 3220–0169.

(4) *Expiration date of current OMB clearance:* November 30, 2006.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 300.

(8) *Total annual responses:* 300.

(9) *Total annual reporting hours:* 25.

(10) *Collection description:* When the RRB determines that an overpayment of benefits under the Railroad Retirement Act or Railroad Unemployment Insurance Act has occurred, it initiates prompt action to notify the claimant of the overpayment and to recover the amount owed. The collection obtains information needed to allow for repayment by the claimant by credit card, in addition to the customary form of payment by check or money order.

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Charles Mierzwa, the agency clearance officer (312–751–3363) or *Charles.Mierzwa@rrb.gov.*

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or *Ronald.Hodapp@rrb.gov* and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Charles Mierzwa,

Clearance Officer.

[FR Doc. 06–7837 Filed 9–13–06; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 27482; 812–13172]

State Farm Mutual Fund Trust, et al.; Notice of Application September 15, 2006.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit them to enter into and materially amend subadvisory agreements without shareholder approval.

APPLICANTS: State Farm Mutual Fund Trust (''Mutual Fund Trust''); State Farm Variable Product Trust (''Variable Product Trust''); and State Farm Investment Management Corp. (the ''Adviser'').

FILING DATES: The application was filed on March 7, 2005, and amended on September 11, 2006.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 10, 2006, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090; Applicants, One State Farm Plaza, A–3, Bloomington, Illinois 61710–0001.

FOR FURTHER INFORMATION CONTACT: John Yoder, Senior Counsel, at (202) 551–6878, or Mary Kay Frech, Branch Chief, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Public Reference Desk, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington DC 20549–0102 (telephone (202) 551–5850).

Applicants' Representations

1. Mutual Fund Trust and Variable Product Trust (together, the ''Companies'') are Delaware business trusts registered under the Act as open-end management investment companies. The Companies offer multiple series (each a ''Fund'' and collectively, the ''Funds''), each with separate investment objectives, policies

and restrictions.[1] Mutual Fund Trust offers its shares to the public. Variable Product Trust offers its shares to four separate accounts sponsored by life insurance affiliates of the Adviser. The Adviser is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act'') and serves as investment adviser to the Funds pursuant to an investment advisory agreement (''Advisory Agreements'') with each Company on behalf of each Fund. The Advisory Agreements have been approved by each Company's board of trustees (''Board''), including a majority of the trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act, of the Companies, the Adviser or the Subadvisers (as defined below) (''Independent Trustees''), as well as by the shareholders of each Fund.[2]

2. Under the terms of the Advisory Agreements, the Adviser provides investment advisory services to each Fund, supervises the investment program for each Fund, and has the authority, subject to Board approval, to enter into investment subadvisory agreements (''Subadvisory Agreements'') with one or more subadvisers (''Subadvisers''). Each Subadviser is registered as an investment adviser under the Advisers Act. The Adviser monitors and evaluates the Subadvisers and recommends to the Board their hiring, retention or termination. Subadvisers recommended to the Board by the Adviser are selected and approved by the Board, including a majority of the Independent Trustees. Each Subadviser has discretionary authority to invest the assets or a portion of the assets of a particular Fund. The Adviser compensates each Subadviser out of the fees paid to the Adviser under the Advisory Agreements.

3. Applicants request an order to permit the Adviser, subject to Board approval, to enter into and materially amend Subadvisory Agreements without obtaining shareholder approval. The requested relief will not extend to any Subadviser that is an affiliated person, as defined in section 2(a)(3) of the Act, of the Companies or of the Adviser, other than by reason of serving as a Subadviser to one or more of the Funds (''Affiliated Subadviser'').

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except under a written contract that has been approved by the vote of a majority of the company's outstanding voting securities. Rule 18f–2 under the Act provides that each series or class of stock in a series company affected by a matter must approve such matter if the Act requires shareholder approval.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or from any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that their requested relief meets this standard for the reasons discussed below.

3. Applicants assert that the shareholders are relying on the Adviser's experience to select one or more Subadvisers best suited to achieve a Fund's investment objectives. Applicants assert that, from the perspective of the investor, the role of the Subadvisers is comparable to that of the individual portfolio managers employed by traditional investment company advisory firms. Applicants state that requiring shareholder approval of each Subadvisory Agreement would impose costs and unnecessary delays on the Funds, and may preclude the Adviser from acting promptly in a manner considered advisable by the Board. Applicants note that the Advisory Agreements and any Subadvisory Agreements with an Affiliated Subadviser will remain subject to section 15(a) of the Act and rule 18f–2 under the Act.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Before a Fund may rely on the order requested in the application, the operation of the Fund in the manner described in the application will be approved by a majority of the Fund's outstanding voting securities, as defined in the Act, or, in the case of a Fund whose public shareholders purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the sole initial shareholder before offering the Fund's shares to the public.

2. The prospectus for each Fund will disclose the existence, substance, and effect of any order granted pursuant to the application. Each Fund will hold itself out to the public as employing the management structure described in the application. The prospectus will prominently disclose that the Adviser has ultimate responsibility (subject to oversight by the Board) to oversee the Subadvisers and recommend their hiring, termination, and replacement.

3. Within 90 days of the hiring of a new Subadviser, shareholders of the affected Fund will be furnished all information about the new Subadviser that would be included in a proxy statement. To meet this obligation, the Fund will provide shareholders within 90 days of the hiring of a new Subadviser with an information statement meeting the requirements of Regulation 14C, Schedule 14C, and Item 22 of Schedule 14A under the Securities Exchange Act of 1934.

4. The Adviser will not enter into a Subadvisory Agreement with any Affiliated Subadviser without that agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Fund.

5. At all times, at least a majority of the Board will be Independent Trustees, and the nomination of new or additional Independent Trustees will be placed within the discretion of the then-existing Independent Trustees.

6. When a Subadviser change is proposed for a Fund with an Affiliated Subadviser, the Board, including a majority of the Independent Trustees, will make a separate finding, reflected in the applicable Board minutes, that such change is in the best interests of the Fund and its shareholders and does not involve a conflict of interest from which the Adviser or the Affiliated Subadviser derives an inappropriate advantage.

7. The Adviser will provide general management services to each Fund, including overall supervisory responsibility for the general management and investment of the Fund's assets, and, subject to review and approval of the Board, will: (a) Set each Fund's overall investment strategies, (b) evaluate, select and

[1] Applicants also request relief with respect to future series of the Companies and any other existing or future registered open-end management investment company or series thereof that: (a) Is advised by the Adviser or a person controlling, controlled by, or under common control with the Adviser (included in the term ''Adviser''); (b) uses the management structure described in the application; and (c) complies with the terms and conditions of the application (included in the term ''Funds''). The only existing registered open-end management investment companies that currently intend to rely on the requested order are named as applicants. If the name of any Fund contains the name of a Subadviser (as defined below), the name of the Adviser will precede the name of the Subadviser.

[2] The term ''shareholder'' includes variable life insurance policy and variable annuity contract owners that are unitholders of any separate account for which a Fund serves as a funding medium.

recommend Subadvisers to manage all or a part of the Fund's assets, (c) when appropriate, allocate and reallocate the Fund's assets among multiple Subadvisers; (d) monitor and evaluate the performance of Subadvisers, and (e) implement procedures reasonably designed to ensure that the Subadvisers comply with each Fund's investment objective, policies and restrictions.

8. No trustee or officer of the Companies, or director or officer of the Adviser, will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by such person), any interest in a Subadviser, except for: (a) Ownership of interests in the Adviser or any entity that controls, is controlled by, or is under common control with the Adviser, or (b) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly traded company that is either a Subadviser or an entity that controls, is controlled by, or is under common control with a Subadviser.

9. The requested order will expire on the effective date of rule 15a–5 under the Act, if adopted.

For the Commission, by the Division of Investment Management, under delegated authority.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 06–7897 Filed 9–20–06; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

Release No. 34–54442; File No. SR–Amex–2006–80]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of Proposed Rule Change To Amend Rule 777 Regarding Depository Eligibility

September 14, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 21, 2006, the American Stock Exchange LLC (''Amex'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by Amex. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change seeks to amend Amex Rule 777 by deleting the references to ''domestic'' and ''foreign'' in paragraph (a) as well as additional requirements imposed by paragraph (b) of the rule in order for a security to be depository eligible. The proposed rule also seeks to add new sections 136 and 137 to the Amex Company Guide to cross-reference Rules 776 and 777.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Amex 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. Amex has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On June 1, 1995, Amex adopted Rule 777 for the purpose of facilitating implementation of Rule 15c6–1 of the Act that established a three-day settlement period for most securities transactions.[4] Rule 777 requires domestic issuers' securities be depository eligible prior to listing and sets forth specific requirements for issuers' depository eligibility.

Currently, before an issue of securities can be listed, Rule 777(a) requires a domestic issuer to represent to Amex that a CUSIP number identifying the securities had been included in the file of eligible issues maintained by a securities depository registered with the Commission as a clearing agency under section 17A of the Act.[5] Amex proposes to delete the exception for foreign issuers in Rule 777(a). Exclusion of foreign issuers is no longer necessary because they have the capacity to comply with Rule 777 and have been doing so voluntarily for years. The proposed rule change is consistent with clarifying changes adopted by NYSE.[6]

Amex also proposes to delete the exception in Rule 777(a) for securities whose terms cannot be reasonably modified to meet the criteria for depository eligibility at all securities depositories. The exception was originally included in Rule 777(a) because various States and countries precluded the book-entry issuance of securities. Following implementation of Rule 777(a), however, States have amended their corporate statutes to allow for book-entry issuance and, as mentioned above, foreign issuers have voluntarily complied with book-entry issuance requirements. As a result, the expectation is no longer needed to accommodate such issuers. Further, in light of the direct registration eligibility requirements recently approved by the Commission[7] that require new and current listings on the Amex to be eligible for a direct registration system operated by a securities depository, Amex is concerned that the exception will confuse issuers.

Rule 777(b) currently sets forth additional requirements that must be met before a security will be deemed ''depository eligible'' within the meaning of Rule 776.[8] The applicability of the requirement set forth in Rule 777(b) to an issuer depended upon whether a new issue is distributed by an underwriting syndicate before or after the date an electronic securities depository system is available for monitoring repurchases of the distributed shares by syndicate members. Prior to the availability of such a system, a managing underwriter may delay the date a security is deemed depository eligible for up to three months after commencement of trading on Amex.

On May 13, 1996, approximately one year after the approval of Rule 777, the Commission approved a rule change filed by The Depository Trust Company

[3] The Commission has modified the text of the summaries prepared by Amex.

[4] Securities Exchange Act Release No. 35798 (June 1, 1995) 60 FR 30909 (June 12, 1995) [File No. SR–Amex–95–17].

[5] 15 U.S.C. 78q–1.

[6] Securities Exchange Act Release No. 45987 (May 28, 2002), 67 FR 38538 (June 4, 2002) (SR–NYSE–2001–30).

[7] Securities Exchange Act Release No. 54290 (August 8, 2006), 71 FR 47262 (August 16, 2006) (SR–Amex–2006–40).

[8] Rule 776 requires Amex members to use the facilities of a security depository for the book-entry settlement of all transactions in depository-eligible securities with another financial intermediary or institutional customer. Securities Exchange Act Release No. 32455 (June 11, 1993), 58 FR 33679 (June 18, 1993) [File Nos. SR–Amex–93–07; SR–BSE–93–08; SR–MSE–93–03; SR–NASD–93–11; SR–NYSE–93–13; SR–PSE–93–04; and SR–PHLX–93–09].

(''DTC'')[9] allowing DTC to implement its Initial Public Offering (''IPO'') Tracking System.[10] The IPO Tracking System enables lead managers and syndicate members of equity underwritings to monitor repurchases of distributed shares in an automated book-entry environment.

Amex proposes deleting Rule 777(b) in its entirety as it is no longer relevant since DTC has implemented its IPO Tracking System, which is monitoring repurchases of distributed shares. The proposed rule change is consistent with clarifying changes adopted by NYSE.[11]

Finally, Amex proposes cross-referencing rules 776 and 777 in Part 1 of the Amex Company Guide to clarify that Rules 776 and 777 are initial and continued listing standards applicable to companies listed on Amex.

Amex believes the proposed rule change is consistent with the requirements of Sections 6(b)(5) and 17A of the Act[12] and the rules and regulations thereunder requiring the rules of Amex be designed to remove impediments to and perfect the mechanism of a free and open market and to perfect a national market system which provides, among other things, for the prompt and accurate clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

Amex 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.

Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding; or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. 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-Amex-2006–80 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Amex–2006–80. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filings also will be available for inspection and copying at the principal office of Amex and on Amex's Web site at *www.amex.com.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Amex–2006–80 and should be submitted on or before October 12, 2006.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[13]

Jill M. Peterson,

Assistant Secretary.

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[9] DTC is a securities depository registered with the Commission under section 17A and 19 of the Act as a clearing agency.

[10] Securities Exchange Act Release No. 37208 (May 13, 1996), 61 FR 25253 (May 20, 1996) [File No. SR–DTC–95–27].

[11] *Supra,* note 5.

[12] 15 U.S.C. 78f(b)(5) and 78q–1.

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54450; File No. SR–Amex–2006–44]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Accelerated Approval of a Proposed Rule Change and Amendments No. 1 and 2 Thereto Relating to the Listing and Trading of the DB Currency Index Value Fund

September 14, 2006.

I. Introduction

On May 2, 2006, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade the DB Currency Index Value Fund under Commentary .07 to Amex Rule 1202. On July 31, 2006, Amex filed Amendment No. 1 to the proposed rule change. On August 18, 2006, Amex filed Amendment No. 2 to the proposed rule change. The proposed rule change, as amended, was published for comment in the **Federal Register** on August 29, 2006 for a 15-day comment period, which ended on September 13, 2006.[3] The Commission received no comments on the proposal. This order grants accelerated approval of the proposed rule change, as amended.

II. Description of the Proposal

The Exchange seeks to list and trade shares (''Shares'') of the DB Currency Index Value Fund (''Trust'' or ''Fund'').[4]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 54351 (August 23, 2006), 71 FR 51245, as corrected by 71 FR 53492 (September 11, 2006).

[4] The Fund will be formed as a Delaware statutory trust pursuant to a Certificate of Trust and a Declaration of Trust and Trust Agreement among Wilmington Trust Company, as trustee, the DB Commodity Services LLC as managing owner, and the holders of the Shares. The Exchange states that the Fund will not be subject to registration and regulation under the Investment Company Act of 1940 (''1940 Act'').

Pursuant to Commentary .07 to Amex Rule 1202, the Exchange may approve the listing and trading of trust issued receipts (''TIRs'') that represent beneficial ownership of shares or securities (''Investment Shares'') of a trust, partnership, commodity pool or other similar entity that holds investments comprising, or otherwise based on, any combination of securities, futures contracts, swaps, forward contracts, options on futures contracts, commodities or portfolios of investments.

The Shares represent beneficial ownership interests in the Fund's net assets, consisting solely of the common units of beneficial interests of DB Currency Index Value Master Fund (the ''Master Fund''). The Master Fund is a statutory trust created under Delaware law whose investment portfolio will consist primarily of futures contracts on the currencies comprising the Deutsche Bank G10 Currency Future Harvest Index™—Excess Return (the ''DBCHI'' or Index'') and securities for margin purposes. Both the Fund and the Master Fund will be commodity pools operated by DB Commodity Services LLC (the ''Managing Owner''). The Managing Owner is registered as a commodity pool operator (the ''CPO'') and commodity trading advisor (the ''CTA'') with the Commodity Futures Trading Commission (''CFTC'') and is a member of the National Futures Association (''NFA'').

For the Master Fund, the Managing Owner will manage the futures contracts with the investment objective of tracking the performance of the Index over time, less the expenses of the operations of the Fund and the Master Fund.[5] The Master Fund will hold a portfolio of both long and short futures contracts with a notional value to equity ratio of approximately two to one (2:1)[6] on the currencies that comprise the Index (the ''Index Currencies'') and will include cash and U.S. Treasury securities for margin purposes and other high credit quality short-term fixed income securities. The Master Fund will not engage in borrowing. In seeking to cause the NAV (as defined herein)[7] of the Fund to track the Index during periods in which the Index is flat or declining, as well as when the Index is rising, the Managing Owner believes that the Index and the Fund will provide the advantages of market diversification and the reduction of country-specific foreign exchange risk (*i.e.*, volatility). The Exchange represented that Amex Rule 1202 accommodates the listing and trading of the Shares and that the Shares will conform to the initial and continued listing criteria under Commentary .07(d) to Amex Rule 1202.

In connection with the proposal, Amex also seeks to amend Commentary .02 to Amex Rule 1200 to conform to Amex's current trading hours to permit the Shares to trade until 4:15 p.m. Eastern Time (''ET'').

Index Description

DBCHI is intended to reflect the return from investing assets in long currency futures positions for certain currencies associated with relatively high yielding interest rates and an equal amount in short currency futures positions for certain currencies associated with relatively low yielding interest rates.[8] The Index is designed to exploit the trend of currencies associated with relatively high interest rates, on average, tending to rise in value relative to currencies associated with relatively low interest rates.

The Index, at any time, is comprised of futures positions on six (6) currencies from The Group Ten (''G10'') countries,[9] each of which is traded on the Chicago Mercantile Exchange (the ''CME''). The sponsor of the Index is Deutsche Bank AG London (''DB London'' or ''Index Sponsor'').

As described below, the Index will be calculated and disseminated every fifteen (15) seconds on the Consolidated Tape (''CT'') and through major market data vendors during the time the Shares are traded on the Exchange. DB London calculates the closing level of the Index on the basis of closing prices on CME for the applicable futures contracts relating to the Index Currencies[10] and applies a set of rules to these values to calculate the closing level of the Index.[11] The CME-traded futures contract of each applicable Index Currency that is closest to expiration is used in the Index calculation. The futures contracts on the Index Currencies are rolled during the period in which the Index is re-weighted (the ''Index Re-Weighting Period'').[12] The new futures contract on an Index Currency that has the next closest expiration date is selected. The calculation of the Index on an excess-return basis is the weighted average return on the change in price of the futures contracts relating to the Index Currencies.

Investment Objective and Strategy

The Exchange states that the investment objective of the Fund is to reflect the performance of the DBCHI, over time, less the expenses of the operation of the Fund and the Master Fund. The Fund will pursue its investment objective by investing substantially all of its assets in the Master Fund. Each Share will correlate with a Master Fund share issued by the Master Fund and held by the Fund.

The Master Fund's portfolio is managed with a view to reflect the performance of the Index over time. The Exchange stated that the Master Fund is not traditionally ''managed,'' which typically involves effecting changes in the composition of a portfolio on the

[5] The Exchange stated that the Wilmington Trust Company is the trustee of the Fund and the Master Fund and has delegated to the Managing Owner the power and authority to manage and operate the day-to-day affairs of both.

[6] Such ratio is generally intended to be comparable to the limits imposed on registered investment companies pursuant to the asset coverage requirements of Section 18(a) of the 1940 Act. Even though the Master Fund is not registered or regulated as an investment company under the 1940 Act, the Exchange represents that it is structured in a manner that is sensitive to the capital structure limitations imposed on registered investment companies by the 1940 Act.

[7] *See infra* note 15 (defining net asset value or ''NAV'').

[8] This is known as the ''Interest Rate Parity'' or ''Covered Interest Arbitrage'' formula.

[9] The G10 currencies are the United States Dollar, the Euro, the Japanese Yen, the Canadian Dollar, the Swiss Franc, the British Pound, the Australian Dollar, the New Zealand Dollar, the Norwegian Krone, and the Swedish Krona (collectively, the ''Eligible Index Currencies'').

[10] The Index Sponsor calculates the level of the Index intraday and at the end of the day. The intraday calculation is based on feeds of real-time data relating to the underlying futures contracts and updates intermittently approximately every 15 seconds. The Index Sponsor uses independent feeds from Reuters to verify all prices. A number of currency market participants independently verify the correctness of the disseminated intraday Index value and closing Index value. Telephone conversation between Sudhir C. Bhattacharyya, Assistant General Counsel, Amex, and Edward Cho, Special Counsel, Division of Market Regulation, Commission, on September 14, 2006.

[11] The notional amounts of each Index Currency included in the Index are based on the Index closing level as of the Index Re-Weighting Period (as defined herein). The Index closing level reflects an arithmetic weighted average of the change in the futures positions on the Index Currencies'' exchange rates against the U.S. Dollar (''USD'') since March 12, 1993. On such date, the closing Index level was $100.

[12] The Index Sponsor reviews and reπweights the Index on a quarterly basis, in accordance with its rules. The futures contracts held by the Fund are, therefore, three (3) months in duration. The Index Re-Weighting Period takes place just prior to the third Wednesday in each of March, June, September, and December months, which are traditional settlement dates in the International Money Market (the ''IMM Dates''). Upon re-weighting, the high yielding Index Currencies are allocated a base weight of 33⅓%, and the low yielding Index Currencies are allocated a base weight of −33⅓%. These new weights are applied during the Index Re-Weighting Period. The futures contracts on the Index Currencies are rolled during the Index Re-Weighting Period, which will occur over the fourth and third business days prior to each of the IMM Dates.

basis of judgments relating to economic, financial, and market considerations. Instead, the Managing Owner seeks to maintain the relationship between the composition and weightings of the CME futures positions in the Index Currencies to the Master Fund's long and short currency futures positions from time to time. The Managing Owner adjusts the portfolio on a quarterly basis to conform to periodic changes in the composition and relative weightings of the Index Currencies and may make certain adjustments or changes to the portfolio more frequently in the case of significant changes in the foreign currency markets due to volatility.

The Fund will pursue its investment objective by investing substantially all of its assets in the Master Fund. To track the Index, the Master Fund generally will establish long futures positions in the three Index Currencies associated with the highest interest rates and short futures positions in the three Index Currencies associated with the lowest interest rates [13] and will adjust its holdings quarterly as the Index is adjusted. However, if the USD is among the Index Currencies, the Master Fund will not establish a long or short futures position (as the case may be) in USD because USD is the Fund's home currency and, as a consequence, the Exchange states that the Master Fund never can enjoy profit or suffer loss from long or short futures positions in USD. When the USD is not associated with the highest or lowest interest rates among the Eligible Index Currencies, the aggregate notional value of the Master Fund's futures contracts at the time they are established will be double the value of the Master Fund's holdings of U.S. Treasury Bills and other high credit quality short-term fixed income securities, (*i.e.*, a ratio of 2:1).[14] If the USD is associated with the highest or lowest interest rates among the Eligible Index Currencies, the aggregate notional value of the Master Fund's futures contracts at the time they are established will be approximately 1.66 times the value of the Master Fund's holdings of U.S. Treasury Bills and other high credit quality short-term fixed income securities (*i.e.*, a ratio of 1.66:1). Holding futures positions with a notional amount in excess of the Master Fund's NAV [15] increases the potential for both trading profits and losses, depending on the performance of the Index. The Master Fund's ability to track the Index will not be affected by the presence or absence of the USD among the Index Currencies. Because the notional value of the Master Fund's futures positions can rise or fall over time, the ratio of long and short futures positions could be higher or lower between quarterly adjustments of the Index Currencies.

Product Description

A. Creation and Redemption of Shares

Issuances of the Shares will be made only in one or more blocks of 200,000 Shares (the ''Basket''). The Fund will issue and redeem the Shares on a continuous basis, by or through participants that have entered into participant agreements (each, an ''Authorized Participant'') [16] with the Managing Owner at the NAV per Share next determined after an order to purchase the Shares in a Basket is received in proper form. Following issuance, the Shares will be traded on the Exchange similar to other equity securities. The Shares will be registered in book entry form through DTC.

Baskets will be issued in exchange for a cash amount equal to the NAV per Share times 200,000 Shares (the ''Basket Amount''). The Basket Amount will be determined on each business day by the Bank of New York, the Fund administrator.[17] Authorized Participants that wish to purchase a Basket must transfer the Basket Amount to the Administrator (the ''Cash Deposit Amount''). Authorized Participants that wish to redeem a Basket will receive cash in exchange for each Basket surrendered in an amount equal to the NAV per Basket (the ''Cash Redemption Amount''). The Commodity Broker will be the custodian for the Master Fund and responsible for safekeeping the Master Fund's assets.[18]

B. Net Asset Value (NAV)

As stated in the proposal, shortly after 4 p.m. ET each business day, the Administrator will determine the NAV for the Fund, utilizing the current settlement value of the futures contracts on the Index Currencies. Also shortly after 4 p.m. ET each business day, the Administrator, Amex, and the Managing Owner will disseminate the NAV for the Shares and the Basket Amount (for orders placed during the day). The NAV and Basket Amount will be communicated by the Administrator to all Authorized Participants via facsimile or electronic mail message and will be available on the Index Sponsor's Internet Web site at *http://index.db.com.* The Amex will also disclose the NAV and Basket Amount on its Internet Web site (*http://www.amex.com*). The Exchange represented that the NAV would be made available to all market participants at the same time.

The NAV for the Fund is total assets of the Master Fund less total liabilities of the Master Fund. The NAV is calculated by including any unrealized profit or loss on futures contracts and any other credit or debit accruing to the Master Fund but unpaid or not received by the Master Fund. The NAV is then used to compute all fees (including the management and administrative fees) that are calculated from the value of Master Fund assets. The Administrator will calculate the NAV per share by dividing the NAV by the number of Shares outstanding.

The Exchange believes that generally the Shares will not trade at a material discount or premium to the NAV of the Shares based on potential arbitrage opportunities. Nevertheless, the value of a Share may be influenced by non-concurrent trading hours between the Amex and the various futures exchanges on which the Index Currencies are traded. As a result, during periods when the Amex is open and the futures exchanges on which the Index Currencies are traded are closed, trading spreads and the resulting premium or discount on the Shares may widen, and, therefore, increase the difference between the price of the Shares and the NAV of the Shares.

[13] The use of long and short positions in the construction of the Index causes the Index to rise as a result of any upward price movement of Index Currencies expected to gain relative to the USD (as a result of the long positions), and likewise, to rise as a result of any downward price movement of Index Currencies expected to lose relative to the USD (as a result of the short positions).

[14] *See supra* note 6.

[15] NAV is the total assets of the Master Fund, *less* total liabilities of the Master Fund, determined on the basis of generally accepted accounting principles. NAV per Master Fund share is the NAV of the Master Fund divided by the number of outstanding Master Fund shares. This will be the same for the Shares of the Fund because of a one-to-one correlation between the Shares and the shares of the Master Fund.

[16] An ''Authorized Participant'' is a person, who at the time of submitting to the trustee an order to create or redeem one or more Baskets, (i) is a registered broker-dealer, (ii) is a Depository Trust Company (''DTC'') participant, and (iii) has in effect a valid participant agreement.

[17] As described in the Notice, the Bank of New York is the administrator for both the Fund and the Master Fund. The Administrator will perform or supervise the performance of services necessary for the operation and administration of the Fund and the Master Fund (other than making investment decisions), including NAV calculations, accounting, and other administrative services.

[18] The Commodity Broker is Deutsche Bank Securities, Inc., an affiliate of the Managing Owner and registered with the CFTC as a futures commission merchant.

C. Dissemination of the Index and Underlying Futures Contracts Information

DB London, as the Index Sponsor, will publish the value of the Index at least once every fifteen (15) seconds throughout each trading day on the CT, Bloomberg, Reuters, and on its Internet Web site at *http://index.db.com.* The Exchange stated that the disseminated value of the Index will not reflect changes to the prices of the Index Currencies between the close of trading of each respective futures contract on the relevant futures exchange, *i.e.*, 3 p.m. ET (close of trading on the CME futures market), and the close of trading on the Amex at 4:15 p.m. ET. The closing Index level will similarly be provided by DB London. In addition, any adjustments or changes to the Index will also be provided by DB London and the Exchange on their respective Internet Web sites.[19]

The daily settlement prices for the foreign currency futures contracts comprising the Index and held by the Master Fund are publicly available on the Internet Web sites of the futures exchanges trading the particular contracts, as well as automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters. In addition, the Exchange will provide a hyperlink on its Internet Web site to the Index Sponsor's Internet Web site. All of the foreign currency futures contracts in which the Master Fund currently expects to invest are traded on the CME, although currency futures contracts on the Eligible Index Currencies also trade on other futures exchanges in the United States and the Master Fund may invest in such contracts.[20]

In addition, various data vendors and news publications publish futures prices and data. The Exchange represented that futures quotes and last sale information for the Index Currencies are widely disseminated through a variety of market data vendors worldwide, including Bloomberg and Reuters. In addition, the Exchange further noted that complete real-time data for such futures is available by subscription from Reuters and Bloomberg. The specific contract specifications for the futures contracts are also available from CME on its Internet Web site, as well as other financial informational sources.

D. Availability of Information Regarding the Shares

The Internet Web sites for the Fund and/or the Exchange, which are publicly accessible at no charge, will contain the following information: (a) Current NAV per Share daily and the prior business day's NAV and the reported closing price; (b) the mid-point of the bid-ask price in relation to the NAV as of the time the NAV is calculated (the ''Bid-Ask Price''); [21] (c) the calculation of the premium or discount of such price against such NAV; (d) data in chart form displaying the frequency of distribution of discounts and premiums of the Bid-Ask Price against the NAV, within appropriate ranges for each of the four (4) previous calendar quarters; (e) the prospectus; and (f) other applicable quantitative information. The Exchange will also make available on its Internet Web site the daily trading volume of the Shares.

E. Foreign Currency Pricing

In its proposal, the Exchange stated that investors may also obtain, on a 24-hour basis, currency pricing information from various financial information service providers. The Exchange stated that current currency spot prices are also generally available with bid/ask spreads from foreign exchange dealers. Complete real-time data for futures and options prices traded on CME and Phlx are also available by subscription from information service providers. CME and Phlx also provide delayed futures and options information on current and past trading sessions and market news free of charge on their respective Web sites. There are a variety of other public Internet Web sites that provide information on currency, such as Bloomberg (*http://www.bloomberg.com/markets/currecies/eurafr_currencies.html*), which regularly reports current foreign currency pricing for a fee. Other service providers include CBS Market Watch (*http://marketwatch.com/tools.stockresearch/globalmarkets*) and Yahoo! Finance (*http://finance.yahoo.com/currency*). Many of these Internet Web sites offer price quotations drawn from other published sources, and as the information is supplied free of charge, it generally is subject to time delays.

F. Dissemination of Indicative Fund Value

As noted above, the Administrator calculates the NAV of the Fund once each trading day and disseminates such NAV to all market participants at the same time. In addition, the Administrator causes to be made available on a daily basis the Cash Deposit Amount to be deposited in connection with the issuance of the Shares in Baskets. Other investors can also request such information directly from the Administrator.

In order to provide updated information relating to the Fund for use by investors, professionals, and persons wishing to create or redeem the Shares, the Exchange will disseminate through the facilities of the CT an updated Indicative Fund Value (the ''Indicative Fund Value''). The Indicative Fund Value will be disseminated on a per Share basis every fifteen (15) seconds during regular Amex trading hours of 9:30 a.m. to 4:15 p.m. ET. The Indicative Fund Value will be calculated based on the cash required for creations and redemptions (*i.e.*, Basket Amount), adjusted to reflect the price changes of the Index Currencies through investments held by the Master Fund, *i.e.*, futures contracts and options on futures and/or forwards.[22]

While the market for futures trading for each of the Index Currencies is open, the Indicative Fund Value can be expected to closely approximate the value per Share of the Basket Amount. The Indicative Fund Value will not reflect price changes to the price of an underlying currency between the close of trading of the futures contract at the relevant futures exchange and the close of trading on the Amex at 4:15 p.m. ET. While the Shares will trade on the Amex from 9:30 a.m. to 4:15 p.m. ET, regular trading hours for each of the Index Currencies on the CME are 8:20 a.m. to 3 p.m. ET. Therefore, the value of a Share may be influenced by non-concurrent trading hours between the Amex and the various futures exchanges on which the futures contracts based on

[19] The Sponsor has in place procedures to prevent the improper sharing of information between different affiliates and departments. Specifically, an information barrier exists between the personnel within DB London that calculate and reconstitute the Index and other personnel associated with the Sponsor, including but not limited to the Managing Owner, sales and trading, external or internal fund managers, and bank personnel who are involved in hedging the bank's exposure to instruments linked to the Index, in order to prevent the improper sharing of information relating to the composition of the Index.

[20] Other futures exchanges may include, for example, the New York Board of Trade and other futures exchanges which have a Comprehensive Surveillance Sharing Agreement (''CSSA'') with Amex or is an Intermarket Surveillance Group (''ISG'') member. Telephone conversation between Jeffrey P. Burns, Associate General Counsel, Amex, and Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission, on September 13, 2006.

[21] The Bid-Ask Price of the Shares is determined using the highest bid and lowest offer as of the time of calculation of the NAV.

[22] On each business day, the Administrator will make available immediately prior to the opening of trading on the Amex via the facilities of the CT the most recent Basket Amount for the creation of a Basket.

the Index Currencies are traded. Accordingly, the Exchange cautioned that Indicative Fund Value on a per Share basis disseminated during Amex trading hours should not be viewed as a real time update of the NAV, which is calculated only once a day.

G. Events Requiring Notice to and/or Approval by the Commission

The Exchange represented that should the Index Sponsor substantially change either the Index component selection or weighting methodology, the Exchange would file a proposed rule change pursuant to Rule 19b–4 under the Act, which must be approved by the Commission for continued trading of the Shares.

The Exchange represented that if a successor or substitute index is used by the Managing Owner, Amex will file with the Commission a proposed rule change pursuant to Rule 19b–4 under the Act to address, among other things, the listing and trading characteristics of the successor index and Amex's surveillance procedures applicable to the successor index, which must be approved by the Commission to continue trading the Shares relating to the successor index.

In the case of a temporary disruption in connection with the trading of the futures contracts comprising the Index, the Index Sponsor may use a currency futures contract on the same Index Currency from a different futures exchange than CME or use the prior day's price for such Index Currency contract. In exceptional cases, the Index Sponsor may employ a ''fair value'' price (*i.e.*, the price for unwinding the position by dealers in the OTC market). However, the Exchange represented that if the use of such alternative pricing methods is more than of a temporary nature, the Exchange will file a proposed rule change with the Commission pursuant to Rule 19b–4 under the Act seeking Commission approval to continue trading the Shares. Unless approved for continued trading, the Exchange would commence delisting proceedings.

The Exchange represented that it would halt trading of the Shares if (a) the value of the Index is no longer calculated or available on at least a fifteen (15) second basis through the facilities of the CT or major market data vendors during the time the Shares trade on Amex,[23] (b) if the Indicative Fund Value, updated at least every fifteen (15) seconds, is no longer calculated or available, or (c) the NAV is no longer disseminated to all market participants at the same time.[24]

Criteria for Initial and Continued Listing

The Fund will be subject to the criteria in Commentary .07(d) of Amex Rule 1202 for initial and continued listing of the Shares. The proposed continued listing criteria provides for the delisting or removal from listing of the Shares under any of the following circumstances:

- Following the initial twelve-month period from the date of commencement of trading of the Shares: (i) If the Fund has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of the Shares for 30 or more consecutive trading days; (ii) if the Fund has fewer than 50,000 Shares issued and outstanding; or (iii) if the market value of all Shares is less than $1,000,000;
- If the value of the underlying Index is no longer calculated or available on at least a 15-second delayed basis through one or more major market data vendors;[25]
- The Indicative Fund Value is no longer made available on at least a 15-second delayed basis through the facilities of the CT;[26]
- The calculation or dissemination of the NAV is disrupted such that the NAV is no longer disseminated to all market participants at the same time;[27]
- Unless approval is received from the Commission to continue to list and trade the Shares after a proposed rule change pursuant to Rule 19b–4 under the Act is properly filed by the Exchange, (i) more than a temporary disruption exists in connection with the pricing of the futures contracts comprising the Index, (ii) a successor or substitute index is used by the Managing Owner in connection with the Shares, (iii) calculation or dissemination of the NAV is more than temporarily disrupted, or (iv) the Index Sponsor substantially changes either the Index component selection methodology or weighting methodology; or
- If such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

The initial purchaser (the ''Initial Purchaser'') will initially purchase and take delivery of 200,000 Shares, which comprises the initial Basket, at a purchase price of $25.00 per Share ($5,000,000 per Basket) pursuant to an Initial Purchaser Agreement. The Initial Purchaser proposes to offer to the public these 200,000 Shares at a per-Share offering price that will vary depending on, among other factors, the trading price of the Shares on the Amex, the NAV per Share, and the supply of and demand for the Shares at the time of the offer. The Exchange submitted that the anticipated minimum number of Shares outstanding at the start of trading would be sufficient to provide adequate market liquidity and to further the Fund's objective to seek to provide a simple and cost effective means of accessing the currency futures markets. The Exchange also represented that, for the initial and continued listing, the Shares must be in compliance with Section 803 of the Amex Company Guide and Rule 10A–3 under the Act.[28]

The Amex original listing fee applicable to the listing of the Fund is $5,000. In addition, the annual listing fee applicable under Section 141 of the Amex Company Guide will be based upon the year-end aggregate number of Shares in all series of the Fund outstanding at the end of each calendar year.

Trading Rules

The Shares are equity securities subject to Amex rules governing the trading of equity securities, including, among others, rules governing priority, parity and precedence of orders, specialist responsibilities and account opening and customer suitability (Amex Rule 411). Initial equity margin requirements of 50% will apply to transactions in the Shares. Shares will trade on the Amex until 4:15 p.m. ET each business day and will trade in a

[23] The Managing Owner represents that it will seek to arrange to have the Index calculated and disseminated on a daily basis through a third party if DB London ceases to calculate and disseminate the Index. If, however, the Managing Owner is unable to arrange for the calculation and dissemination of the Index (or another index which succeeds the Index), the Exchange will undertake to delist the Shares. If the Index is discontinued or suspended, the Managing Owner, in its sole discretion, may substitute the Index with an index substantially similar to the discontinued or suspended Index. Such successor Index may be calculated and/or published by any other third party.

[24] The Exchange further represents that it would immediately contact the Commission to discuss measures that may be appropriate under the circumstances

[25] In the event the Index value is no longer calculated or disseminated by one or more major market data vendors, the Exchange would immediately contact the Commission to discuss measures that may be appropriate under the circumstances.

[26] In the event the Indicative Fund Value is no longer calculated or disseminated through the facilities of the CT, the Exchange would immediately contact the Commission to discuss measures that may be appropriate under the circumstances.

[27] In the event the NAV is no longer calculated or disseminated to all market participants at the same time, the Exchange would immediately contact the Commission to discuss measures that may be appropriate under the circumstances.

[28] *See* 17 CFR 240.10A–3.

minimum price variation of $0.01 pursuant to Amex Rule 127. Trading rules pertaining to odd-lot trading in Amex equities (Amex Rule 205) will also apply.

Amex Rule 154, Commentary .04(c), provides that stop and stop limit orders to buy or sell a security (other than an option, which is covered by Amex Rule 950(f) and Commentary thereto) the price of which is derivatively priced based upon another security or index of securities, may with the prior approval of a Floor Official, be elected by a quotation, as set forth in Commentary .04(c)(i)–(v). The Exchange has designated the Shares as eligible for this treatment.[29]

The Shares will be deemed ''Eligible Securities'', as defined in Amex Rule 230, for purposes of the Intermarket Trading System (''ITS'') plan and therefore will be subject to the trade-through provisions of Amex Rule 236, which require that Amex members avoid initiating trade-throughs for ITS securities.

Specialist transactions of the Shares made in connection with the creation and redemption of Shares will not be subject to the prohibitions of Amex Rule 190.[30] Unless exemptive or no-action relief is available, the Shares will be subject to the short sale rule, Rule 10a-1 and other rules under the Act. If exemptive or no-action relief is provided, the Exchange will issue a notice detailing the terms of the exemption or relief. The Shares will generally be subject to the Exchange's stabilization rule, Amex Rule 170, except that specialists may buy on ''plus ticks'' and sell on ''minus ticks,'' in order to bring the Shares into parity with the underlying currency and/or futures contract price. Commentary .07(f) to Amex Rule 1202 sets forth this limited exception to Amex Rule 170.

The trading of the Shares will be subject to certain conflict of interest provisions set forth in Commentary .07(e) to Amex Rule 1202. Specifically, Commentary .07(e) provides that the prohibitions in Amex Rule 175(c) apply to a specialist in the Shares so that the specialist or affiliated person may not act or function as a market maker in an underlying asset, related futures contract or option, or any other related derivative. An affiliated person of the specialist consistent with Amex Rule 193 may be afforded an exemption to act in a market making capacity, other than as a specialist in the Shares on another market center, in the underlying asset, related futures, or options or any other related derivative. Commentary .07(e) further provides that an approved person of an equity specialist that has established and obtained Exchange approval for procedures restricting the flow of material, non-public market information between itself and the specialist member organization, and any member, officer, or employee associated therewith, may act in a market making capacity, other than as a specialist in the Shares on another market center, in the underlying asset or commodity, related futures or options on futures, or any other related derivatives.

Commentary .07(g)(1) and (2) to Amex Rule 1202 also ensures that specialists handling the Shares provide the Exchange with all the necessary information relating to their trading in physical assets or commodities, related futures contracts and options thereon, or any other derivative. As a general matter, the Exchange has regulatory jurisdiction over its members, member organizations, and approved persons of a member organization. The Exchange also has regulatory jurisdiction over any person or entity controlling a member organization, as well as a subsidiary or affiliate of a member organization that is in the securities business. A subsidiary or affiliate of a member organization that does business only in commodities or futures contracts would not be subject to Exchange jurisdiction, but the Exchange could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations of which such subsidiary or affiliate is a member.[31]

Trading Halts

Prior to the commencement of trading, the Exchange will issue an Information Circular (described below) to members informing them of, among other things, Exchange policies regarding trading halts in the Shares. First, the circular will advise that trading will be halted in the event the market volatility trading halt parameters set forth in Amex Rule 117 have been reached. Second, the circular will advise that, in addition to the parameters set forth in Amex Rule 117, the Exchange will halt trading in the Shares if trading in the underlying related futures contract(s) is halted or suspended. Third, with respect to a halt in trading that is not specified above, the Exchange may also consider other relevant factors and the existence of unusual conditions or circumstances that may be detrimental to the maintenance of a fair and orderly market. The Exchange will halt trading in the Shares if the value of the Index is no longer calculated or available on at least a fifteen (15) second basis through one or more major market data vendors during the time the Shares trade on Amex, or if the Indicative Fund Value per Share updated at least every fifteen (15) seconds is no longer calculated or available the facilities of the CT, or if the NAV is no longer calculated or disseminated for the benefit of all market participants at the same time.[32]

Suitability

The Information Circular (described below) will inform members and member organizations of the characteristics of the Fund and of applicable Exchange rules, as well as of the requirements of Amex Rule 411 (Duty to Know and Approve Customers).

The Exchange noted that pursuant to Amex Rule 411, members and member organizations are required in connection with recommending transactions in the Shares to have a reasonable basis to believe that a customer is suitable for the particular investment given reasonable inquiry concerning the customer's investment objectives, financial situation, needs, and any other information known by such member.

Information Circular

The Amex will distribute an Information Circular to its members in connection with the trading of the Shares. The Circular, will discuss the special characteristics and risks of trading this type of security, such as currency fluctuation risk. Specifically, the Circular, among other things, will discuss what the Shares are, how a Basket is created and redeemed, applicable Amex rules, dissemination information, trading information, and applicable suitability rules. The Circular will also explain that the Fund is subject to various fees and expenses described in the Registration Statement. The Circular will also reference the fact that the CFTC has regulatory jurisdiction over the trading of futures contracts.

The Circular will also notify members and member organizations about the

[29] *See* Securities Exchange Act Release No. 29063 (April 10, 1991), 56 FR 15652 (April 17, 1991) (noting the Exchange's designation of equity derivative securities as eligible for such treatment under Amex Rule 154, Commentary .04(c)).

[30] *See* Commentary .05 to Amex Rule 190.

[31] All applicable provisions of Amex Rule 1202 and Commentaries thereto will govern the trading of the Shares. Telephone conversation between Sudhir C. Bhattacharyya, Assistant General Counsel, Amex, and Edward Cho, Special Counsel, Division of Market Regulation, Commission, on September 14, 2006.

[32] *See supra* notes 25–27 and accompanying text.

procedures for purchases and redemptions of Shares in Baskets that are described in the prospectus, and that Shares are not individually redeemable but are redeemable only in one or more Baskets only through an Authorized Participant. The Circular will advise members of their suitability obligations with respect to recommended transactions to customers in the Shares. The Circular will also discuss any relief, if granted, by the Commission or the staff from any rules under the Act.

Additionally, the Circular will disclose that the NAV for Shares will be calculated shortly after 4 p.m. ET each trading day and that information about the Shares and the Index will be publicly available on the Internet Web site of Amex and the Fund. In the Information Circular, the Exchange will inform members and member organizations, prior to commencement of trading, of the prospectus delivery requirements applicable to the Fund. The Exchange noted that investors purchasing Shares directly from the Fund (in exchange for cash) will receive a prospectus. Amex members purchasing Shares from the Trust for resale to investors will deliver a prospectus to such investors.

Surveillance

The Exchange represented that its surveillance procedures are adequate to properly monitor the trading of the Shares and to deter and detect violations of Amex rules. Specifically, Amex will rely on its existing surveillance procedures governing Index Fund Shares. Amex represents that its surveillance procedures for the Shares will be similar to those used for other TIRs (such as the Currency Trust Shares and the DB Commodity Index Tracking Fund) and exchange-traded funds and will incorporate and rely upon existing Amex surveillance procedures governing options and equities. The Exchange also noted that the CME is a member of the ISG. As a result, the Exchange asserted that market surveillance information is available from the CME, if necessary, due to regulatory concerns that may arise in connection with the CME futures contracts that are used in connection with the Index calculation and held by the Fund. In addition, the Exchange represented that, to the extent the Master Fund invests in foreign currency futures contracts traded on futures exchanges other than CME, the Exchange must have a CSSA with that futures exchange or the futures exchange must be an ISG member.

III. Discussion and Commission's Findings

After careful consideration, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[33] In particular, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of section 6(b)(5) of the Act,[34] which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

A. Surveillance

Information sharing agreements with primary markets are an important part of a self-regulatory organization's ability to monitor for trading abuses in derivative products. The Exchange represents that the CME, where the futures contract for each of the current Index components is traded, is a member of the ISG, and that the Exchange has access to all relevant trading information with respect to those contracts without any further action. In addition, the Exchange represents that, in the event that a successor or substitute index is used by the Managing Owner, Amex will file with the Commission a proposed rule change, which addresses, among other things, applicable surveillance procedures, and unless approved by the Commission, the Exchange will commence delisting of the Shares. The Exchange also represents that, to the extent the Master Fund invests in foreign currency futures contracts traded on futures exchanges other than CME, the Exchange must have a CSSA with that futures exchange or the futures exchange must be an ISG member.

Moreover, Amex Rule 1202 requires Exchange specialists, upon the Exchange's request, to provide Amex with information that the specialist uses in connection with pricing and trading the Shares on the Exchange. In particular, Commentaries .07(g)(1) and (g)(2) to Amex Rule 1202 require that the specialist handling the Shares provide the Exchange with information relating to its trading in the Shares and the accounts of the member organization acting as specialist, member organization, or approved person of such member organization in the Index components, related futures or options on futures, or any other related derivatives.

B. Dissemination of Information

The Commission believes that sufficient venues exist for obtaining reliable information so that investors in the Shares should be able to monitor the underlying Index relative to the Indicative Value of their Shares. There is a considerable amount of information about the Index and its components and related futures contracts and the Shares available through public Web sites and professional subscription services, including Reuters and Bloomberg.

Real time information about the trading of the component currency futures contracts trading on CME related to the Index components and their daily settlement prices of such futures contracts is available from one or more major market data vendors. Delayed information is often available from futures exchanges trading futures contracts on the underlying Index components. The Exchange stated that daily settlement prices for the futures contracts comprising the Index and held by the Master Fund are publicly available on the Internet Web sites of the futures exchanges trading the particular contracts.[35] The Exchange has further represented that the Index Sponsor, DB London, will publish the value of the Index at least every 15 seconds during Amex trading hours to the CT, Bloomberg, Reuters, and the Index Sponsor's Internet Web site, *http://index.db.com*.[36] While the Index is calculated and disseminated by the Index Sponsor, an affiliate of a registered broker-dealer,[37] the Commission notes that a number of independent sources may verify both the intraday and closing Index values and the Index Sponsor uses independent feeds from Reuters to

[33] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[34] 15 U.S.C. 78f(b)(5).

[35] All of the futures contracts in which the Master Fund currently expects to invest are traded on the CME, although currency futures contracts on the Eligible Index Currencies also trade on other futures exchanges in the United States, such as the New York Board of Trade, which is a member of ISG.

[36] The Exchange states that the disseminated value of the Index will not reflect changes to the prices of the Index Currencies between the close of trading of each respective futures contract on the relevant futures exchange, *i.e.*, 3 p.m. ET (close of trading on the CME futures market), and the close of trading on the Amex at 4:15 p.m. ET.

[37] Telephone conversation between Sudhir C. Bhattacharyya, Assistant General Counsel, Amex, and Edward Cho, Special Counsel, Division of Market Regulation, Commission, on September 14, 2006.

verify all CME pricing information used to calculate the Index.

Likewise, information about the Shares will also be widely available. The Indicative Fund Value will be disseminated every 15 seconds during Amex regular trading hours through the facilities of the CT and will be displayed on the Exchange's Internet Web site (*http://www.amex.com*).[38] The Commission believes that dissemination of the Indicative Fund Value based on the cash amount required for a Basket provides additional information that is not otherwise available to the public and is useful to professionals and investors in connection with the Shares trading on the Exchange or the creation or redemption of the Shares.

In addition, the Internet Web sites for the Fund and/or the Exchange will disseminate the NAV, Basket Amount, trading volume of the Shares, and other quantitative information related to the operation of the Fund and trading of the Shares. The Exchange has represented that the NAV and Basket Amount will be disseminated shortly after 4 p.m. ET each business day. The NAV will be made available to all market participants at the same time. The Commission notes that, if the NAV is not disseminated to all market participants at the same time, the Exchange has agreed to halt trading of the Shares.

In sum, the Commission believes that the availability of information about the underlying futures contracts, the Index, and the Shares should facilitate transparency with respect to the proposed Shares.

C. Listing and Trading

The Commission finds that the Exchange's proposed rules and procedures for the listing and trading of the proposed Shares are consistent with the Act. Shares will trade as equity securities subject to Amex rules including, among others, rules governing priority, parity and precedence of orders, specialist responsibilities,[39] and account opening and customer suitability requirements. Finally, the Commission notes that the Information Circular the Exchange will distribute will inform members and member organizations about the terms, characteristics and risks in trading the Shares, including their prospectus delivery obligations.

D. Accelerated Approval of the Proposed Rule Change, as Amended by Amendments No. 1 and 2 Thereto

The Commission finds good cause for approving the proposed rule change, as amended by Amendments No. 1 and 2, prior to the 30th day after the date of publication of the notice of filing thereof in the **Federal Register**. The Exchange has requested the Commission to approve the proposal, as amended, on an accelerated basis, after a 15-day comment period, to enable investors to begin trading the Shares promptly. The Commission notes that the proposed rule change, as amended, was noticed for a 15-day comment period and no comments were received. Therefore, the Commission finds good cause, consistent with section 19(b)(2) of the Act,[40] to approve the proposal, as amended, on an accelerated basis.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act that the proposed rule change (SR–Amex–2006–44), as amended by Amendments No. 1 and 2, is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[41]

J. Lynn Taylor,

Assistant Secretary.

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[38] The Commission notes that the Indicative Fund Value will not reflect price changes of an underlying currency between the close of trading of the relevant futures contract at the futures exchange and the close of trading on the Amex at 4:15 p.m. ET, and should not be viewed as a real-time update of the Fund's NAV.

[39] For example, Commentary .07(e) to Amex Rule 1202 prohibits the specialist in the Shares from being affiliated with a market maker in the Index commodities, related futures or options on futures, or any other related derivatives, unless information barriers are in place that satisfy the requirements of Amex Rule 193. Commentary .07(g)(3) to Amex Rule 1202 also prohibits the specialist in the Shares from using any material nonpublic information received from any person associated with a member, member organization or employee of such person regarding trading by such person or employee in the Index commodities, related futures or options on futures, or any other related derivatives.

[40] 15 U.S.C. 78s(b)(2).

[41] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54443; File No. SR–CBOE–2006–77]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending Pilot Programs for Remote Market-Makers and e-DPMs

September 14, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 11, 2006, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I and II below, which Items have been prepared by the CBOE. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] 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

CBOE proposes to extend the pilots allowing Remote Market-Makers (''RMMs'') and e-DPMs to have up to one affiliated Market-Maker trade in classes assigned to the RMM and e-DPM, respectively. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com*), at the Exchange's Office of the Secretary and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend CBOE Rules 8.4(c)(i) and 8.93(vii) to extend the pilot programs allowing an RMM and e-DPM the option to have up to one separate affiliated Market-Maker physically present in the trading crowds where it operates as an RMM or e-DPM, respectively (such Market-Makers would be required to trade on a separate membership). The pilots would be extended from September 14, 2006 until March 14, 2007.

In July of 2003, the SEC approved the e-DPM program, including the pilot program.[5] The pilot allows e-DPM firms to maintain a physical presence in the trading crowd through an affiliated Market-Maker who would also be able to stream a quote. The pilot, however, limits the number of separate affiliates per trading crowd to one.

In March of 2005, the SEC approved the RMM program, including the pilot program.[6] The pilot allows RMM firms to maintain a physical presence in the trading crowd through an affiliated Market-Maker who would also be able to stream a quote. This pilot also limits the number of separate affiliates per trading crowd to one.

CBOE will be sending the Commission, under separate cover, data relating to: (1) The size of the orders that RMMs and affiliated Market-Makers both trade with remotely; (2) the price and size of the RMM's and the affiliated Market-Maker's respective quotes; (3) the price and size of quotes of other participants in the classes where an RMM and an affiliate are quoting; and (4) a breakdown of how orders are allocated to the RMM, the affiliated Market-Maker, and any other participants.

In addition, CBOE will be sending the Commission, under separate cover, data relating to: (1) The size of the orders that e-DPMs and affiliated Market-Makers both trade with electronically; (2) the price and size of the e-DPM's and the affiliated Market-Maker's respective quotes; (3) the price and size of quotes of other participants in the classes where an e-DPM and an affiliate are quoting; and (4) a breakdown of how orders are allocated to the e-DPM, the affiliated Market-Maker, and any other participants.

The date chosen to extend the pilot programs for RMMs and e-DPMs is the same, which will allow the Commission to evaluate both pilot programs simultaneously.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of section 6(b) of the Act.[7] Specifically, the Exchange believes the proposed rule change is consistent with the requirements of section 6(b)(5)[8] that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither received nor solicited written comments on the proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the Exchange has given the Commission written notice of its intent to file the proposed rule change prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10]

At any time within 60 days of the filing of such 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.

Under Rule 19b–4(f)(6)(iii) of the Act,[11] the 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 that the Commission accelerate the 30-day operative date. The Commission, consistent with the protection of investors and the public interest, has determined to accelerate the 30-day operative date to allow the pilots to continue without interruption.[12]

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–CBOE–2006–77 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2006–77. 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

[5] *See* Securities Exchange Act Release No. 50003 (July 12, 2004), 69 FR 43028 (July 19, 2004) (SR–CBOE–2004–24).

[6] *See* Securities Exchange Act Release No. 51366 (March 14, 2005), 70 FR 13217 (March, 18, 2005) (SR–CBOE–2004–75).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] For purposes only of accelerating the 30-day operative period for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2006–77 and should be submitted on or before October 12, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 06–7843 Filed 9–20–06; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54457; File Nos. SR–FICC–2006–03 and SR–NSCC–2006–03]

Self-Regulatory Organizations; Fixed Income Clearing Corporation and National Securities Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Changes to Institute a Clearing Fund Premium Based Upon a Member's Clearing Fund Requirement to Excess Regulatory Capital Ratio

September 15, 2006.

On February 22, 2006, the Fixed Income Clearing Corporation (''FICC'') and the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule changes SR–FICC–2006–03 and SR–NSCC–2006–03 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on April 24, 2006.[2] Seven comment letters were received.[3] FICC and NSCC amended the proposed rule changes on July 28, 2006, to address certain concerns raised by the commenters and others.

The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposals.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

FICC and NSCC are each seeking to institute a clearing fund premium based on a member's clearing fund requirement to excess regulatory capital ratio.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In their filings with the Commission, FICC and NSCC included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments they received on the proposed rule changes. The text of these statements may be examined at the places specified in Item VI below. FICC and NSCC have prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[4]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

FICC and NSCC are each seeking to institute a clearing fund premium based on a member's clearing fund requirement to excess regulatory capital ratio.

1. FICC Clearing Fund Premium

The degree to which the collateral requirement of a clearing agency member compares to the member's excess regulatory capital is an important indicator of the potential risk that the member presents to a clearing agency. In 2002, the Government Securities Clearing Corporation (''GSCC''), the predecessor to the Government Securities Division (''GSD'') of FICC, received Commission approval to impose a collateral premium on netting members whose clearing fund requirements exceed their excess regulatory capital.[5] Specifically, the GSD implemented a 25 percent collateral premium when a member's ratio of clearing fund requirement to its excess regulatory capital is greater than 1.0. The 25 percent premium is applied to the amount by which the member's clearing fund requirement exceeds the member's excess regulatory capital.

In order to more effectively manage the risk posed by a GSD member whose activity causes it to have a clearing fund requirement that is greater than its excess regulatory capital, FICC now proposes to strengthen the above-mentioned risk management tool by applying a clearing fund premium that is based on a member's ratio of clearing fund requirement to excess regulatory capital in place of the current flat premium of 25 percent.[6] The premium would be determined by multiplying the amount by which a member's clearing fund requirement exceeds its excess regulatory capital by the member's ratio of required clearing fund to excess regulatory capital expressed as a percent. This formula would allow the premium to increase or decrease in proportion to changes in the ratio and should allow for risk management that is measured in proportion to the risk presented. For example, if a member has a clearing fund requirement of $11.4 million and excess net capital of $10 million, its clearing fund requirement would exceed its excess net capital by $1.4 million, its ratio of clearing fund requirement to excess net capital is 1.14 (or 114 percent), and the applicable collateral premium would be 114 percent of $1.4 million or $1,596,000. If the same member had a clearing fund requirement of $20 million, its clearing fund requirement would exceed its excess net capital by $10 million, its ratio of clearing fund requirement to excess net capital would be 2.0 (or 200 percent), and the applicable collateral premium would be 200 percent of $10 million or $20 million.

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 53671 (April 18, 2006), 71 FR 21060.

[3] Jim Nardone, Schonfeld Securities, LLC (''Schonfeld'') (May 5, 2006); Richard Gill, Senior Vice President, and Donald Galante, Senior Vice President, Man Securities Inc. (''Man'') (May 15, 2006); L. Thomas Patterson, Chief Executive Officer, and Kathleen M. Toner, Chief Regulatory Officer, LaBranche & Co. Inc. (''LaBranche'') (May 18, 2006); Peter Chepucavage, International Association of Small Broker-Dealers and Advisers (''IASBDA'') (May 19, 2006); Greggory A. Teeter, Howrey LLC, representing Wilson-Davis & Co., Inc. (''Wilson-Davis''), Alpine Securities Corporation (''Alpine''), and IASBDA (June 1, 2006); Cheryl T. Lambert, Managing Director, Risk Management, The Depository Trust and Clearing Corporation (''DTCC'') (July 28, 2006); and Peter Chepucavage, IASBDA (August 9, 2006).

Schonfeld, Wilson-Davis, Alpine, and LaBranche are members of NSCC. Man is a member of FICC. IASBDA is an organization created for the purpose of protecting the interests of small and midsize broker-dealers and micro-cap issuers.

[4] The Commission has modified the text of the summaries prepared by FICC and NSCC.

[5] Securities Exchange Act Release No. 45647 (March 26, 2002), 67 FR 15438 (April 1, 2002) [File No. SR–GSCC–2001–15]. ''Excess regulatory capital'' for purposes of GSD's collateral premium included excess net capital, excess liquid capital, or excess adjusted capital.

[6] If FICC imposes this premium on a netting member, then it shall be considered included as part of the netting member's ''required fund deposit'' as defined in the GSD's rules.

Currently, FICC's collateral premium applies to members whose excess regulatory capital is measured as excess net capital, excess liquid capital, or excess adjusted net capital. The proposed rule change would also include excess equity capital as regulatory excess capital so that the premium can be applied to bank and trust company netting members whose capital is measured as equity capital.

The proposed rule change would also make an additional change to Rule 4 (Clearing Fund, Watch List and Loss Allocation), Section 3 (Watch List) to remove a provision that allows FICC to require a netting member to adjust its trading activity so that its excess regulatory capital ratio decreases to a satisfactory level. While this provision was appropriate under the fixed 25 percent premium, it would no longer be appropriate under the new ratio-based clearing fund premium because the new premium formula would impose a variable premium based on activity that would require members to either adjust their trading activity or be subject to the higher premium.

2. NSCC Clearing Fund Premium

NSCC is proposing to impose a clearing fund premium on Rule 2 (Members) broker/dealer and bank members whose clearing fund requirement exceeds their regulatory excess capital. NSCC's proposed excess regulatory capital premium would apply to members whose regulatory excess capital is measured as excess net capital or excess equity capital. The excess regulatory capital premium would be triggered when a member's ratio of clearing fund requirement to excess regulatory capital is greater than 1.0 and would be determined using the same formula as that proposed by FICC. The new premium would be added to NSCC's clearing fund formula in Procedure XV (Clearing Fund Formula and Other Matters). [7]

3. FICC and NSCC Clearing Fund Premiums

As a matter of practice, when a FICC or NSCC member's clearing fund requirement to excess regulatory capital ratio is between .50 and 1.0, a warning notification would be issued to put the member on notice that a collateral premium will be required if the ratio reaches an amount greater than 1.0. When a member's ratio exceeds 1.0, it would be notified on the business day that a collateral premium has been calculated and is to be collected.

FICC and NSCC reserve the right to: (i) Apply a lesser collateral premium (including no premium) based on specific circumstances (such as a member being subject to an unexpected haircut or capital charge that does not fundamentally change its risk profile) and (ii) return all or a portion of the premium amount if it believes that the member's risk profile does not require the maintenance of that amount.

FICC and NSCC believe that the proposed rule changes are consistent with the requirements of Section 17A of the Act [8] and the rules and regulations thereunder applicable to FICC and NSCC because they should help FICC and NSCC assure the safeguarding of securities and funds which are in their custody or control or for which they are responsible by allowing FICC and NSCC to more effectively manage risk presented by certain members.

(B) Self-Regulatory Organization's Statement on Burden on Competition

FICC and NSCC do not believe that the proposed rule changes would impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Changes Received From Members, Participants, or Others

Written comments relating to the proposed rule changes have been received and addressed by FICC and NSCC.

III. Comments

The Commission received seven comment letters to the proposed rule changes. Schonfeld, Wilson-Davis, Alpine, LaBranche, Man, and IASBDA wrote letters opposing the proposed rule changes.[9] DTCC submitted a letter responding to those letters.[10]

All of the commenters in opposition to the proposed rule changes argued that the imposition of the clearing fund premium would place a disproportionate burden on smaller broker-dealers because they are generally less capitalized than the larger broker-dealers and are not in a position to meet higher capital requirements that could result from the proposed rule changes. FICC and NSCC responded that the premium calculation is based on a ratio that is applied to all members equally and is meant to reflect the risk a member introduces to the clearing agencies.

All of the commenters opposing the proposed rule changes argued that the proposed rule changes would have an anticompetitive effect and/or place an undue burden on competition in that smaller broker-dealers would be unable to meet the higher clearing fund obligations and would be forced out of business which could result in less competition among broker-dealers. One result of the clearing fund premium would be that small issuers and emerging companies would not have such smaller broker-dealers to assist in capital formation.

FICC and NSCC responded that there are over 6000 broker-dealers registered with the Commission. FICC has 61 broker-dealer members in its GSD and NSCC has approximately 221 full service broker-dealer members. Such figures, according to FICC and NSCC indicate that the competition among broker-dealers is healthy. FICC and NSCC also responded that the proposed rule changes would not be barriers to entry to the brokerage business and that the Act does not provide broker-dealers with a right to be a direct member of a registered clearing agency. FICC and NSCC noted that a firm that is potentially affected by the proposed rule changes could (1) Retain or raise additional capital relative to the business it clears through the clearing agency, (2) limit the business it clears through the clearing agency so that the risk to which the clearing agency and its members is exposed based upon such business is proportionate to the firm's excess net capital, or (3) seek another firm through which to clear its business.

LaBranche and Schonfeld suggested that a general fund similar to the SIPC or FDIC models could be created to mitigate risks in the clearing system. FICC and NSCC responded that the clearing fund, like the SIPC or FDIC models, exists as a means to mutualize the risk that any given member presents as a result of its business should the member fail and the clearing agency be required to close the member out and assume the risk of loss on those operations. FICC and NSCC argued that the commenters seeking a general fund like SIPC or the FDIC model are seeking an entity other than themselves to bear the risk of their businesses by shifting the credit risk from the member to FICC or NSCC and the memberships at large.

Howrey and Man argue that the current risk management tools used by FICC and NSCC are adequate. Man states that the FICC minimum net worth requirement of $50,000,000 and the minimum net excess capital requirement of $10,000,000 have provided adequate protection to FICC as

[7] This premium would not apply to The Canadian Depository for Securities Limited (''CDS'') clearing fund requirement that is computed pursuant to Appendix 1 of NSCC's rules.

[8] 15 U.S.C. 78q–1.

[9] *Supra* note 3.

[10] *Id.*

related to counterparty risk. FICC responded that net worth requirements on their own, as illustrated by the Refco Securities LLC (''Refco'') case, do not protect against counterparty risk, particularly in an environment where trading activity is not linked to capital levels. In addition, FICC noted that the net worth requirement does not address the nature of the business that the member brings to FICC and its members. Howrey points out that NSCC has the ability to collect additional clearing fund deposits pursuant to its rules should it deem it necessary. The lack of explanation or clarification by NSCC on how the current deposit requirement is calculated reveals a pattern of arbitrary amounts being imposed on clearing firms. This arbitrary amount, argued Howrey, would then be added to the arbitrary amount which would be calculated by the proposed rule change. NSCC responded that it concurs that Rule 15 (Financial Responsibility and Operational Capability) could perhaps be used as a basis on which to charge an occasional clearing fund premium to cover the perceived systemic risk sought to be addressed by the proposed rule change. However, FICC and NSCC's management and user representative boards have chosen to address the charge systemically and include the premium as a stated additional charge in an effort to be clear to members about the types of activity and risks they are trying to address.

Man asserted that FICC's ability to grant exceptions based upon subjective judgments in undefined circumstances, however well intentioned, will undermine the confidence in the margin process. Thus, members should know what rules for granting exceptions will be applied. FICC and NSCC responded that such discretion would only be used to reduce or eliminate the premium, not to raise it, and that the situations where such discretion would be used are likely to be very fact and circumstances driven. Thus, it would be contrary to the principle and purpose of discretion to require that NSCC and FICC adopt in advance of the event, detailed criteria, circumstances, and procedures for exercising such discretion. However, as discussed further below, FICC and NSCC amended their proposed rule changes to alleviate this concern and others expressed by the commenters.

IV. FICC and NSCC Amendments

To address certain concerns expressed in the comment letters and by others, FICC and NSCC amended the proposed rule changes as set forth below.

1. FICC

FICC has amended its proposed rule change to exclude from the premium calculation the look back provisions of the GSD clearing fund formula's Receive/Deliver and Repo Volatility components (''Excess Capital Premium Calculation Amount'') [11] with respect to the computation of the clearing fund requirement used in both the numerator of the ratio and in the Excess Capital Differential.[12]

FICC has also amended its proposed rule change to clarify that it may at its discretion: (i) Collect an amount less than the Excess Capital Premium (including no premium) and (ii) return all or a portion of the Excess Capital Premium if it believes that the imposition or maintenance of the Excess Capital Premium is not necessary or appropriate.[13]

In order to allow members time to effect any necessary operational or systems changes, FICC's proposed rule change will become effective on the first Monday following the 29th day after which the Commission issues an order granting approval of the change.

2. NSCC

NSCC amended its proposed rule change to clarify that the Excess Capital Premium will be determined by multiplying: (a) The amount by which a member's base clearing fund requirement (that is the amount determined prior to the imposition of the Excess Capital Premium) exceeds the member's excess regulatory capital by (b) the member's ratio, expressed as a percent. The calculation of the base clearing fund requirement for purposes of determining both the ratio and the Excess Capital Premium will not take into account either (i) Market-maker domination charges or (ii) special charges, as determined pursuant to Procedure XV, that are imposed on a member as part of its base requirement. This adjusted clearing fund amount (*i.e.*, calculated clearing fund amount minus any market-maker domination or other special charges) used for purposes of calculating the Excess Capital Premium would be called the ''Calculated Amount.'' These charges are not included in the clearing fund premium calculation because NSCC recognizes that these types of charges already provide an additional reserve in the base clearing fund requirement against the risk of that position.

NSCC has also amended its proposed rule change to clarify that it may at its discretion: (i) Collect an amount less than the Excess Capital Premium (including no premium) and (ii) return all or a portion of the Excess Capital Premium if it believes that the imposition or maintenance of the Excess Capital Premium is not necessary or appropriate.[14]

In order to allow member's time to effect any necessary operational or systems changes, NSCC's proposed rule change will become effective on the first Monday following the 29th day after which the Commission issues an order granting approval of the proposed rule change.

V. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

After carefully considering the proposed rule changes as amended and all of the written comments received, the Commission finds that the proposed rule changes are consistent with the

[11] The adjusted clearing fund requirement is referred to in the amendment as the ''Excess Capital Premium Calculation Amount.'' It is defined by the amendment as the calculation of the member's Required Fund Deposit, which excludes consideration of the Average Offset Margin Amount and the Average Offset Repo Volatility Amount.

Excluding these look back components, known as the Average Post Offset Margin Amount (''POMA'') and the Average Repo POMA (and defined in the GSD's Rules as the Average Offset Margin Amount and the Average Offset Repo Volatility Amount, respectively), from the calculation of the proposed premium is expected to provide relief from the Excess Capital Premium to members whose current portfolios would have a lower clearing fund requirement than their clearing fund requirement with the look back would suggest.

[12] As defined by the amendment, ''Excess Capital Differential'' means the amount by which a netting member's Excess Capital Premium Calculation Amount exceeds its excess capital.

[13] FICC management will look to see whether the premium results from unusual or non-recurring circumstances where management believes it would not be appropriate to assess the premium. Examples of such circumstances are a member's late submission of trade data for comparison that would have otherwise reduced the margined position if timely submission had occurred or an unexpected haircut or capital charge that does not fundamentally change a member's risk profile. FICC has stated that these examples are intended to serve as guidelines and are intended to be illustrative but not limiting in nature as to when the premium will not be imposed.

[14] NSCC has identified the following guidelines or circumstances, which NSCC has stated are intended to be illustrative but not limiting in nature as to when the premium will not be imposed: (1) Where the premium results from charges applied with respect to municipal securities trades settling in CNS where the member has offsetting compared trades settling on a trade-for trade basis through DTC and (2) where management has determined that the premium results from an unusual or non-recurring circumstance where management believes it would not be appropriate to assess the premium. Examples of such circumstances are a member's late submission of trade data for comparison or trade recording that would have otherwise reduced the margined position if timely submission had occurred or an unexpected haircut or capital charge that does not fundamentally change a member's risk profile.

requirements of the Act and the rules and regulations thereunder and particularly with the requirements of Section 17A(b)(3)(F).[15] Section 17A(b)(3)(F) requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. The Commission believes that the approval of FICC and NSCC's rule changes is consistent with this section because it should help FICC and NSCC to assure the safeguarding of securities and funds which are in their custody or control or for which they are responsible by allowing FICC and NSCC to more effectively manage risk presented by highly leveraged members [16] and thus avoid potential losses to FICC and to NSCC and their members.

When a member presents transactions for clearance and settlement through FICC or NSCC in an amount that is not supported by its excess regulatory capital, should the member fail, FICC, NSCC, or both if the member is a member of both FICC and NSCC would have to close out the failing member's open positions and assume the risk of loss. If the failing member's clearing fund deposit is insufficient to cover any such loss, the loss would be borne by FICC and/or NSCC and ultimately could be borne by the other members of the clearing agency(ies) from their collective clearing fund deposits.

All of the commenters in opposition to the proposed rule changes argued that the imposition of a clearing fund premium would place a disproportionate burden on smaller broker-dealers because they are generally less capitalized than the larger broker-dealers and not in a position to meet higher capital requirements that could result from the proposed rule changes. FICC and NSCC responded that the premium calculation is based on a ratio that is applied to all members equally and is meant to reflect the risk a member introduces to the clearing agencies. Section 17A(b)(3)(F)[17] provides that the rules of a clearing agency shall not permit unfair discrimination among participants in the use of the clearing agency. Because the premium calculation is applied to all members equally based on a ratio of each member's required clearing fund to its excess net capital, the Commission is not persuaded by the commenters' arguments. It should be noted that the proposed rule changes were prompted in part by the bankruptcy and wind-down of Refco, which was not a small broker-dealer.

All of the commenters opposing the proposed rule changes argued that the proposed rule changes would have anticompetitive effect and/or place an undue burden on competition in that smaller broker-dealers would be unable to meet the higher clearing fund obligations and would be forced out of business, and that that could result in less competition among broker-dealers. FICC and NSCC responded that the proposed rule changes are not barriers to entry to the brokerage business and that the Act does not provide broker-dealers with a right to be a direct member of a registered clearing agency. FICC and NSCC noted that a firm that is potentially affected by the proposed rule changes could (1) Retain or raise additional capital relative to the business it clears through the clearing agency, (2) limit the business it clears through the clearing agency so that the risk to which the clearing agency and its other members is exposed based upon such business is proportionate to the firm's excess regulatory capital, or (3) seek another firm through which to clear its business.

The Commission is not persuaded by the commenters' claims that the proposed rule changes are anticompetitive and/or will result in an undue burden on competition. While it is possible that the proposed rule changes will force some members of FICC and NSCC to discontinue their direct membership in FICC and/or NSCC, the Act does not provide broker-dealers with the right to be direct members in a clearing agency. Affected firms have a choice to raise excess regulatory capital or to limit their trading activities so that the risk to which the clearing agency and its other members is exposed is proportionate to the firm's excess regulatory capital. The Commission finds that the proposed rule changes should not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act in accordance with Section 17A(b)(3)(I).[18]

FICC and NSCC have requested that the Commission approve the proposed rule changes prior to the thirtieth day after publication of the notice of the amendment to the filing. The Commission finds good cause for approving the proposed rule changes prior to the thirtieth day after the publication of notice because implementation of the proposed rule changes will allow FICC and NSCC to activate the systems which are necessary to implement the proposed rule changes which are integral to assuring the safeguarding of securities and funds which are in their custody or control or for which they are responsible. Additionally, the Commission notes that FICC and NSCC's amendments were in large part in response to comments it received.

VI. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule changes are 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 Numbers SR–FICC–2006–03 and SR–NSCC–2006–03 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Numbers SR–FICC–2006–03 and SR–NSCC–2006–03. These file numbers 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 changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filings also will be available for inspection and copying at the principal offices of FICC and NSCC and on FICC's Web site at *http://www.ficc.com/gov/gov.docs.jsp?NS-query* and on NSCC's Web site at *http://*

[15] 15 U.S.C. 78q-1(b)(3)(F).

[16] A highly leveraged member is identified as one whose regulatory and excess capital are substantially less than it's clearing fund requirements.

[17] 15 U.S.C. 78q-1(b)(3)(F).

[18] 15 U.S.C. 78q-1(b)(3)(I).

www.nscc.com/legal/. 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 Numbers SR–FICC–2006–03 and SR–NSCC–2006–03 and should be submitted on or before October 12, 2006.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[19] that the proposed rule changes (File Nos. SR–FICC–2006–03 and SR–NSCC–2006–03) be and hereby are approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[20]

J. Lynn Taylor,

Assistant Secretary.

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[19] 15 U.S.C. 78s(b)(2).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54451; File No. SR–NASD–2006–104]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing of Proposed Rule Change To Reflect Nasdaq's Complete Separation From NASD Upon the NASDAQ Stock Market LLC's Operation as a National Securities Exchange for Non-Nasdaq Exchange-Listed Securities

September 15, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 5, 2006, the National Association of Securities Dealers, Inc. (''NASD'') 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 NASD. On September 14, 2006, NASD submitted Amendment No. 1 to the proposed rule change.[3] 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

NASD is proposing to: (1) Delete The Nasdaq Stock Market Inc.'s (''Nasdaq'') By-Laws and amend the Plan of Allocation and Delegation of Functions by NASD to Subsidiaries (''Delegation Plan''), NASD By-Laws, NASD Regulation, Inc. By-Laws, NASD Dispute Resolution, Inc. By-Laws, and NASD rules to reflect Nasdaq's separation from NASD upon the operation of the Nasdaq Exchange as a national securities exchange for non-Nasdaq exchange-listed securities; (2) amend NASD rules relating to quoting and trading otherwise than on an exchange in non-Nasdaq exchange-listed securities to reflect changes in the services provided by NASD in this regard; and (3) expand the scope of the NASD/Nasdaq Trade Reporting Facility rules to include trade reporting in non-Nasdaq exchange-listed securities.

The text of the proposed rule is available on the NASD Web Site (*http://www.nasd.com*), on the Commission's Web Site at (*http://www.sec.gov*), at the NASD Office of Secretary and at the Commission's Public Reference Room. All NASD rules that do not have rule text changes specified remain unchanged and effective for all NASD members.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD 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. NASD 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

On June 30, 2006, the Commission approved proposed rule change SR–NASD–2005–087, which, among other things, amended NASD's Delegation Plan, By-Laws, and NASD rules to reflect the Nasdaq Exchange's operation as a national securities exchange for purposes of Nasdaq-listed securities.[4] Specifically, to facilitate an orderly transition and minimize any potential disruption to the marketplace, for a transitional period that commenced on August 1, 2006, the Nasdaq Exchange has been operating as an exchange for purposes of Nasdaq-listed securities only, while Nasdaq continues to perform its current obligations under the NASD's Delegation Plan with respect to non-Nasdaq exchange-listed securities.[5] Pursuant to SR–NASD–2005–087 and under the Delegation Plan, Nasdaq, as a subsidiary of NASD, continues to perform during this transitional period only those functions relating to over-the-counter (''OTC'') quoting, trading, and execution of non-Nasdaq exchange-listed securities. As such, Nasdaq no longer performs functions relating to Nasdaq-listed securities pursuant to delegated authority from NASD.

The proposed rule change described herein provides amendments to NASD rules to reflect Nasdaq's complete separation from NASD upon the operation of the Nasdaq Exchange as a national securities exchange for purposes of non-Nasdaq exchange-listed securities in addition to Nasdaq-listed securities. In addition, the proposed rule change amends the current NASD rules for quoting and trading otherwise than on an exchange in non-Nasdaq exchange-listed securities to reflect the manner in which NASD would be satisfying its regulatory obligations under the Act and the rules thereunder on a temporary basis until the Alternative Display Facility (''ADF'') is able to satisfy those obligations. Further, this proposed rule change reflects NASD's continued participation in the ITS Plan.[6] This is one of the conditions that must be met before Nasdaq can operate as an exchange for non-Nasdaq exchange-listed securities.[7] Finally, the proposed rule change expands the scope of the NASD/Nasdaq Trade Reporting

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, NASD clarifies that (1) The effective date of the proposed rule change will be the date upon which The NASDAQ Stock Market LLC (''Nasdaq Exchange'') operates as an exchange for non-Nasdaq exchange listed securities, which the Nasdaq Exchange anticipates will be in November 2006; (2) the NASD's Market Regulation Committee will perform substantially the same functions as performed by the Nasdaq's Quality of Markets Committee; and (3) the proposed rule change reflects NASD's continued participation in the Intermarket Trading System (''ITS'') Plan.

[4] *See* Securities Exchange Act Release No. 54084 (June 30, 2006), 71 FR 38935 (July 10, 2006) (File No. SR–NASD–2005–087).

[5] The Commission approved the Nasdaq Exchange application on January 13, 2006. *See* Securities Exchange Act Release No. 53128 (Jan. 13, 2006), 71 FR 3550 (Jan. 23, 2006) (File No. 10–131). See also Securities Exchange Act Release No. 54085 (June 30, 2006), 71 FR 38910 (July 10, 2006), which modified the conditions set forth in the Nasdaq Exchange Approval Order to allow the Nasdaq Exchange to operate as a national securities exchange solely with respect to Nasdaq-listed securities.

[6] *See* Amendment No. 1.

[7] *See id.*

Facility rules to include trade reporting in non-Nasdaq exchange-listed securities, as well as other technical and clarifying changes.

Proposed Changes Relating to the Separation of Nasdaq

As described in detail in SR–NASD–2005–087, in 2000, NASD began restructuring its relationship with Nasdaq, which operates as an independent, for-profit company. As the result of a two-phase private placement of Nasdaq shares, a public offering completed in January 2005 and other dispositions of NASD shares, NASD no longer holds a common stock ownership interest in Nasdaq. However, because Nasdaq exercises regulatory authority under the Delegation Plan, NASD retains control of Nasdaq through a single share of Series D Preferred Stock (the ''Series D Preferred'') that allows NASD to cast a majority of the votes cast in any matter submitted to Nasdaq's stockholders, including the election of Nasdaq directors. Once the delegation to Nasdaq is no longer necessary, the share of Series D Preferred Stock would automatically lose its voting rights and would be redeemed by Nasdaq for $1.00.

Thus, upon the Nasdaq Exchange's operation as a national securities exchange for non-Nasdaq exchange-listed securities, Nasdaq and NASD would be unaffiliated corporate entities, and thus each will have separate rules applicable to their respective members. Therefore, NASD is proposing to amend its rules to reflect this complete separation of Nasdaq from NASD. These changes include removing references in the Delegation Plan to Nasdaq as a subsidiary and delegation of authority to Nasdaq; revising the NASD By-Laws, NASD Regulation, Inc. By-Laws, and NASD Dispute Resolution, Inc. By-Laws to remove references to Nasdaq as a subsidiary of NASD; deleting the Nasdaq By-Laws and all Nasdaq-specific rules and requirements; replacing references to ''Nasdaq'' with ''NASD'' or ''exchange,'' as applicable; and renaming and renumbering certain rules.[8] The NASD Rule 11890 Series (Clearly Erroneous Transactions) has been amended to delete those provisions relating to Nasdaq's current clearly erroneous authority, including the authority to break trades as a result of a complaint. The proposed rule change reallocates to NASD the authority previously delegated to Nasdaq to break trades in non-Nasdaq exchange-listed securities on its own motion.[9] Finally, the proposed rule change deletes NASD Rule 4400 (Impact of Non-Designation of Certain Dually Listed Securities), which is no longer applicable once Nasdaq is operating as a separate entity.

As part of the proposed amendments to the Delegation Plan, NASD is proposing to delete Section III of the Delegation Plan relating to the Quality of Markets Committee, which was a Committee appointed by the Nasdaq Board. NASD is clarifying that NASD's Market Regulation Committee will perform substantially the same functions as performed by Quality of Markets Committee. The Supplemental Delegation Regarding the Market Regulation Committee is set forth in Section II.C.1 of the Delegation Plan.

Quoting and Trading of Non-Nasdaq Exchange-listed Securities

As part of the Nasdaq Exchange approval order, the Commission conditioned the operation of Nasdaq as an exchange for non-Nasdaq exchange-listed securities on NASD's ability to represent to the Commission that control of Nasdaq through the Series D Preferred share is no longer necessary because NASD can fulfill through other means its obligations with respect to non-Nasdaq exchange-listed securities under Section 15A(b)(11) of the Act, Rules 602 and 603 of Regulation NMS, and the national market system plans in which NASD participates.[10]

To meet these obligations under the federal securities laws with respect to non-Nasdaq exchange-listed securities, NASD is proposing amendments to provide for the operation of an OTC quoting and trading facility in non-Nasdaq exchange-listed securities on a temporary basis, as well as linkage and communications mechanisms necessary under the Intermarket Trading System (ITS) Plan, as described in more detail below. In doing so, NASD is amending (or deleting as appropriate) those rules relating to Nasdaq and Nasdaq's performance of any functions and operation of any systems relating to OTC trading in non-Nasdaq exchange-listed securities under the current Delegation Plan.[11]

Specifically, the NASD Rule 4900 (Brut System) and NASD 4950 (INET System) Series have been deleted in their entirety, given that the Brut and INET Systems will no longer be operating pursuant to NASD Rules. With respect to the NASD Rule 4700 Series (ITS/CAES System—Execution Services), the NASD Rule 5200 Series (Intermarket Trading System/Computer Assisted Execution System) and the NASD Rule 6300 Series (Consolidated Quotation Services (CQS)), the general framework under those rule series would remain substantially similar to the rules in place today, including all functionality relating to the outbound and inbound ITS linkage; however the functionality available to users within the ITS/CAES System under those rules, particularly the NASD Rule 4700 Series, would be more limited in nature as described below.

The proposed ITS/CAES System would permit registered ITS/CAES Market Makers to (1) Display attributable quotes and orders through the system; (2) access other ITS/CAES Market Makers' bids and offers using the ''Preferenced Order'' functionality described below; and (3) interact with other ITS exchanges' bids and offers via inbound and outbound ITS Commitments. Only ITS/CAES Market Makers can display quotes in the system and send Preferenced Orders and ITS Commitments. Non-ITS/CAES Market Makers would not be permitted to display interest on the system or send orders; however, as described in more detail below, non-ITS/CAES Market Makers would be able to report locked-in trades through the system.[12]

Members would be required to register with NASD to become ITS/CAES Market Makers (including ECNs that choose to register as such). Members must meet the minimum requirements to be an ITS/CAES Market Maker, as described in NASD Rules 4705, 5220, 6320, and 6330, and all ITS/CAES Market Makers must display and maintain continuous two-sided quotes.

To comply with its two-sided quotation requirements, an ITS/CAES Market Maker would have the option of entering quotations or summary orders.

[8] This proposed rule change also includes corrections of minor grammatical or typographical errors and other miscellaneous non-substantive changes.

[9] This is consistent with NASD's current clearly erroneous authority with respect to Nasdaq and OTC equity securities.

[10] Currently, Nasdaq fulfills these obligations for NASD through the operation of, among other things, its SuperIntermarket (''SiM'') trading platform, pursuant to authority delegated to Nasdaq under the Delegation Plan. NASD fulfills the obligations with respect to Nasdaq-listed securities through the operation of the ADF.

[11] With respect to the OTC quoting and trading facility proposed herein, Nasdaq will be acting solely in the capacity of a vendor pursuant to a services agreement.

[12] By comparison, under current rules, non-ITS/CAES Market Makers (defined as ''Order Entry Firms'') also are not able to display orders or send or receive ITS Commitments; however, they are able to use the system to send ''immediate or cancel'' orders to ITS/CAES Market Makers.

Specifically, an ITS/CAES Market Maker may enter a bid quotation and an offer quotation, each at a single price level, and/or it may choose to enter ''summary orders'' at multiple price levels into the system. All orders and quotes must be in round lots. Both quotations and summary orders would be treated the same for purposes of display and ITS execution purposes. Summary orders may be entered with the following Time in Force (TIF):

(1) ''DAY'' order type, which means that after entry into the system, the order would remain available for potential display and/or execution until market close (4 p.m. Eastern Time), after which it shall be returned to the entering party; and

(2) Total Day (''X'') order type, which means that after entry into the system, the order would remain available for potential display between 7:30 a.m. and 6:30 p.m. and for potential execution between market open (9:30 a.m.) and 6:30 p.m., after which it shall be returned to the entering party.

Where an ITS/CAES Market Maker's quote is exhausted due to an execution with a commitment to trade, as described in NASD Rule 4710(b)(1)(C) and consistent with current practice, the bid side of the ITS/CAES Market Maker's quote would be zeroed out and then automatically refreshed to establish a bid of $0.01 for 100 shares. Similarly, if the offer side of the ITS/CAES Market Maker's quote is zeroed out, the system would automatically establish an offer of two times the system best bid plus $0.01 for 100 shares. Although quotes would be refreshed automatically in this manner, NASD Rule 5230(c) would require that the ITS/CAES Market Maker enter quotes promptly, but in no event later than 15 seconds from when the quote(s) were exhausted.

Quotations displayed through the ITS/CAES System would be accessible by other ITS Exchanges through inbound ITS Commitments, which would have a uniform TIF of 5 seconds. The system would not provide auto-execution functionality; therefore ITS Commitments received by ITS/CAES Market Makers would not be responded to (or executed) unless the ITS/CAES Market Maker provides an affirmative response within 5 seconds. If the ITS Commitment is not responded to within that time period, it would be returned to the sending exchange.

Similarly, ITS/CAES Market Makers would be able to send outbound ITS Commitments to access quotes displayed by other ITS exchanges. All outbound ITS Commitments entered by an ITS/CAES Market Maker would be treated as Immediate or Cancel (''IOC'' or ''IOX,'' if it includes the 4 p.m. to 6:30 p.m. session) and would have a TIF of 5 seconds (or 30 seconds in the limited circumstance where the ITS Commitment is sent to an ITS Exchange that can only accept a TIF of 30 seconds). Once an ITS Commitment is entered, it cannot be cancelled by the ITS/CAES Market Maker.

At the end of each trading day, all quotes/orders would be cleared from the system (returned to the sender). Therefore, at the beginning of each trading day, an ITS/CAES Market Maker must enter new quotes and/or summary orders in each security for which it is a registered market maker.

ITS/CAES Market Makers would be able to access other ITS/CAES Market Maker quotes and ITS Exchanges through the use of ''Preferenced Orders,'' which must be entered using the IOC or IOX TIF. Preferenced Orders may only be sent to another ITS/CAES Market Maker when that ITS/CAES Market Maker is at the best bid/best offer in the system and only in an amount equal to or less than the ITS/CAES Market Maker's displayed quote. The system would reject a Preferenced Order sent to an ITS/CAES Market Maker that is not at the best bid/best offer in the system, or where the execution of the Preferenced Order would result in the violation of the Trade-Through Rule under NASD Rule 5262.

The proposed rule change deletes all rules relating to functionality not available in the new system, including reserve size, the ability to quote or submit orders on a non-attributable basis and certain order types such as ''discretionary,'' ''non-directed,'' ''sweep'' and ''fill or return'' orders. In addition, because the system is not an ''execution'' system (*i.e.,* it does not provide auto-execution functionality, only order delivery requiring user response), all references to auto-execution functionality or execution algorithms have been deleted. Similarly, as noted above, members not registered as ITS/CAES Market Makers can use the system only for trade reporting purposes and therefore, rules relating to order functionality previously available to ''order entry firms'' have been deleted.

The proposed rule change also deletes all rules relating to the ITS Pre-Opening Application (*e.g.,* current NASD Rules 5240 and 5250) functionality. The Pre-Opening Application is a mechanism designed for use by the primary listing markets for ITS Securities to open their markets at prices that are materially different than the previous day's closing prices. The Pre-Opening Application is initiated by the New York Stock Exchange LLC (''NYSE'') and the American Stock Exchange LLC (''Amex'') for their securities and today, NASD, through its delegation to Nasdaq, does not provide a mechanism to participate in that process via SiM. Therefore, NASD would not be offering that functionality as part of the proposed ITS/CAES System. The proposed system, however, would provide the ability for ITS/CAES Market Makers to view the Pre-Opening notifications published by other ITS Exchanges.

With respect to locked/crossed markets, the NASD ITS/CAES System would reject all quotes that lock or cross the NASD BBO or the National BBO. Because the system would not permit ITS/CAES Market Makers to initiate a locking or crossing quote, NASD is proposing to delete NASD Rule 5263, which provides procedures relating to locking and crossing markets, and replace it with a general prohibition of such quoting activities.

With respect to the minimum price variation (MPV), NASD is retaining the current MPV increment ($0.01 for quotations priced at or above $1.00 per share and $0.0001 for quotations priced below $1.00 per share), but is proposing to amend NASD Rule 6330(d) to prohibit the entry of quotes or orders not in compliance with the MPV. NASD would not adjust or round such quotes or orders, but would reject those not in compliance with the MPV.

If a Preferenced Order or ITS Commitment is accepted by an ITS/CAES Market Maker, the ITS/CAES System would lock-in the transaction and report it to the ''tape'' for dissemination purposes and also would provide the necessary clearing information regarding the transaction to the National Securities Clearing Corporation (''NSCC'').

With respect to non-ITS/CAES transactions (*i.e.,* OTC trades in non-Nasdaq exchange-listed securities that are not effected through the ITS/CAES System), NASD is providing a mechanism by which members (both ITS/CAES Market Makers and non-ITS/CAES Market Makers) may report those trades through the ITS/CAES System. Non-ITS/CAES Market Makers that wish to use this functionality must register as a ''Trade Reporting Only Participant,'' pursuant to proposed NASD Rule 4705(a).

To report transactions through the ITS/CAES System, members must comply with the requirements of NASD Rule 4720, including that members that are parties to the trade must agree to all trade details prior to submitting the report to the system and have in effect,

and on file with NASD, an NASD Service Bureau/Executing Broker Supplement to the NASD Services Agreement (''Attachment C Agreement'') and an NASD Give-Up Addendum to the NASD Services Agreement (''NASD Give-Up Agreement''). In the event that the parties do not have such agreements in effect and on file with NASD, NASD would only facilitate the reporting of the transaction pursuant to an effective transaction reporting plan; the parties must use an alternative mechanism for clearing and comparing the transaction, as necessary.

NASD also is proposing to amend NASD Rule 4720 to require that all transaction reports submitted to the system via NASD Rule 4720 comply with the requirements contained in the NASD Rule 6400 Series, which are substantially similar to the non-Nasdaq exchange-listed trade reporting requirements in place today. NASD is also proposing to amend Rule 6400 (Reporting Transactions in Listed Securities) to clarify that transactions required or eligible to be reported under the Rule 6400 Series must be reported through the ITS/CAES System pursuant to the provisions of Rule 4720.

Proposed Changes Relating to the NASD/Nasdaq Trade Reporting Facility Rules

Pursuant to SR–NASD–2005–087, NASD established the NASD/Nasdaq Trade Reporting Facility, which provides members another mechanism for reporting transactions effected otherwise than on an exchange. The NASD/Nasdaq Trade Reporting Facility is a facility of NASD and subject to NASD's registration as a national securities association. As such, NASD has regulatory responsibility for the trades reported to the NASD/Nasdaq Trade Reporting Facility, while Nasdaq pays for the cost of regulation and provides the systems to enable broker-dealers to report trades to the NASD/Nasdaq Trade Reporting Facility.

Currently, the NASD/Nasdaq Trade Reporting Facility rules apply only to reporting transactions in Nasdaq-listed securities. The proposed rule change amends the NASD Rule 4100, 4200, 4600, and 6100 Series to combine with those provisions the trade reporting requirements for exchange-listed securities currently found in the NASD Rule 6400 Series.[13] As a result, the trade reporting requirements for Nasdaq and other exchange-listed securities reported through the NASD/Nasdaq Trade Reporting Facility would be uniform and found in these rule series.[14] In this regard, current NASD Rules 6420(e)(6) and (7) provide exclusions to the trade reporting requirements for non-Nasdaq exchange-listed securities; these exclusions were specific to exchange trading and therefore did not apply to trade reporting in Nasdaq securities. They have now been incorporated into proposed subparagraphs (7) and (8) of NASD Rule 4632(e) and would apply to all exchange-listed securities reported to the NASD/Nasdaq Trade Reporting Facility, including Nasdaq securities.

The NASD/Nasdaq Trade Reporting Facility permits participants to enter into ''give-up'' arrangements whereby one member reports to the NASD/Nasdaq Trade Reporting Facility on behalf of another member. Participants must complete and submit to the NASD/Nasdaq Trade Reporting Facility the appropriate documentation reflecting the arrangement. Proposed NASD Rule 4632(h) codifies this process and provides that the member with the reporting obligation remains responsible for the transaction submitted on its behalf. Further, both the member with the reporting obligation and the member submitting the trade to the NASD/Nasdaq Trade Reporting Facility are responsible for ensuring that the information submitted is in compliance with all applicable rules and regulations.

Finally, NASD is also proposing an amendment to NASD Rule 4632(d)(3)(B) relating to requirements for reporting ''riskless principal'' transactions to the NASD/Nasdaq Trade Reporting Facility.[15] The proposed rule change would clarify that where the media leg of the riskless principal transaction is reported to the NASD/Nasdaq Trade Reporting Facility, the second, non-media leg must also be reported to the NASD/Nasdaq Trade Reporting Facility. However, where the media leg of the riskless principal transaction was previously reported by an exchange, the member would be permitted, but not required, to report the second, non-media leg to the NASD/Nasdaq Trade Reporting Facility.[16] Members that choose to report such transactions to the NASD/Nasdaq Trade Reporting Facility must include all data elements required under the rules. Members should note, however, that transactions reported by an exchange should not be reported to NASD/Nasdaq Trade Reporting Facility for media purposes, as that would result in double reporting of the same transaction.[17]

Finally, NASD is proposing to amend the definition of ''Reporting ECN'' in NASD Rule 6110(i) to clarify that the term includes alternative trading systems, as well as electronic communications networks, as those terms are defined in Rule 600 of Regulation NMS, for purposes of reporting transactions to the System.[18] Pursuant to NASD Rule 6130(c)(5), a Reporting ECN must ensure that transactions are reported in accordance with one of three methods and must provide written notice to NASD of the method of trade reporting for each of its subscribers.

Other Related Changes

Certain trading practice requirements relating to exchange-listed securities currently found in NASD Rule 6440 have been moved to NASD Rule 5120 and would apply to all trading otherwise than on an exchange.

In addition, NASD is proposing to add a new NASD Rule 5130 (Obligation to Provide Information) to require explicitly that members participating in any NASD system or facility provide information orally, in writing, or electronically (if such information is, or is required to be, maintained in electronic form) to the staff of NASD when NASD staff makes an oral, written or electronically communicated request for information relating to a specific

[13] NASD also is proposing technical changes to the NASD Rule 4000 and 6000 Series to replace the term ''Trade Reporting Facility'' with the ''NASD/Nasdaq Trade Reporting Facility'' to make it clear that these rules apply to the Trade Reporting Facility operated by the Nasdaq Exchange.

[14] NASD will have an integrated audit trail of non-Nasdaq exchange-listed securities transactions from the ITS/CAES system and the NASD/Nasdaq Trade Reporting Facility and will have integrated surveillance capabilities. Based on the structure and functionality of the system and rules proposed herein, NASD expects that comprehensive audit trail and surveillance integration on an automated basis will be completed by the end of fourth quarter 2006. Prior to that time, NASD staff will be able to create an integrated audit trail on a manual basis as needed for regulatory purposes.

[15] A riskless principal transaction is a transaction in which a member, after having received a customer order, executes an offsetting transaction, as principal, with another customer or broker-dealer to fill that customer order and both transactions are executed at the same price.

[16] NASD is proposing a similar amendment to NASD Rule 6420(d)(3)(B) to clarify that members can report the second non-media leg of a riskless principal transaction to NASD, but should not report the first media leg, where such leg has been reported by an exchange.

[17] *See* NASD Rule 4632(e)(6), which has been amended to provide that transactions reported on or through the facilities of an exchange shall not be reported to the NASD/Nasdaq Trade Reporting Facility for purposes of publication. *See* Securities Exchange Act Release Nos. 54084 (June 30, 2006), 71 FR 38935 (July 10, 2006) (File No. SR–NASD–2005–087); 53977 (June 12, 2006), 71 FR 34976 (June 16, 2006) (File No. SR–NASD–2006–055); and 54318 (August 15, 2006), 71 FR 48959 (August 22, 2006) (File No. SR–NASD–2006–098).

[18] As defined in NASD Rule 6110(m), ''System'' includes, *inter alia,* the NASD/Nasdaq Trade Reporting Facility and the trade reporting service of the ITS/CAES System.

NASD rule, Commission rule, or provision of a joint industry plan (*e.g.,* UTP, CTA, CQA and ITS). A failure to comply in a timely, truthful and/or complete manner with a request for information made pursuant to proposed NASD Rule 5130 may be deemed conduct inconsistent with just and equitable principles of trade.[19]

Proposed Implementation

The effective date of the proposed rule change will be the date upon which the Nasdaq Exchange operates as an exchange for non-Nasdaq exchange-listed securities, which Nasdaq currently anticipates will be in November 2006.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,[20] in general, and Section 15A(b)(6) of the Act,[21] in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that the proposed rule change will provide an effective mechanism and regulatory framework for quoting and trading activities otherwise than on an exchange in non-Nasdaq exchange-listed securities upon Nasdaq's complete separation from NASD.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD believes that the proposed rule change will not result in 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 this proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which NASD consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. 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–NASD–2006–104 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASD–2006–104. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of NASD.

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 the File Number SR–NASD–2006–104 and should be submitted on or before October 12, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[22]

J. Lynn Taylor,

Assistant Secretary.

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[19] Proposed NASD Rule 5130 is substantially similar to former NASD Rule 4625 (Obligation to Provide Information), which imposed obligations on members relating to requests from Nasdaq MarketWatch and Nasdaq Market Operations staff. NASD Rule 4625 was inadvertently deleted as part of SR–NASD–2005–087.

[20] 15 U.S.C. 78*o*–3.

[21] 15 U.S.C. 78*o*–3(b)(6).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54444; File No. SR–NSCC–2006–02]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Providing Financial Reports to Participants

September 14, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on February 15, 2006, the National Securities Clearing Corporation (''NSCC'') filed a proposed rule change with the Securities and Exchange Commission (''Commission'') and on July 21, 2006, and August 18, 2006, amended the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by NSCC. NSCC filed the proposed rule change pursuant to Section 19(b)(3)(A)(i) of the Act[2] and Rule 19b–4(f)(1)[3] thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will clarify NSCC's rules that it will provide unaudited quarterly financial statements to its members for the first three quarters of the calendar year only.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78s(b)(3)(A)(i).

[3] 17 CFR 240.19b–4(f)(1).

rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[4]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to further harmonize and clarify the rules of The Depository Trust & Clearing Corporation's clearing agency subsidiaries. In this filing, NSCC proposes to conform NSCC Rule 35 concerning providing financial reports to its members to the equivalent rule of The Depository Trust Company (''DTC''), DTC Rule 15. Specifically, the rule change would clarify NSCC's longstanding practice of providing unaudited quarterly financial statements to its members for the first three quarters of the calendar year only.[5]

NSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act[6] and the rules and regulations thereunder because it constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of NSCC and as such does not adversely affect the safeguarding of securities or funds in the custody or control of NSCC or for which it is responsible.

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have any impact or impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NSCC has not solicited or received written comments relating to the proposed rule change. NSCC will notify the Commission of any written comments it receives.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(i)[7] of the Act and Rule 19b–4(f)(1)[8] thereunder because it constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule. 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.[9]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–NSCC–2006–02 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NSCC–2006–02. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at NSCC's principal office and on NSCC's Web site at *http://www.nscc.com/legal/index.html*. 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 No. SR–NSCC–2006–02 and should be submitted on or before October 12, 2006.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[10]

Jill M. Peterson,

Assistant Secretary.

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[4] The Commission has modified the text of the summaries prepared by NSCC.

[5] Annual audited financial statements are provided to members after the last calendar quarter of the year.

[6] 15 U.S.C. 78q–1.

[7] 15 U.S.C. 78s(b)(3)(A)(i).

[8] 17 CFR 240.19b–4(f)(1).

[9] For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on August 18, 2006, the date on which the last amendment to the proposed rule change was filed with the Commission. 15 U.S.C. 78s(b)(3)(C).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54458; File No. SR–NYSE–2006–60]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to iShares® S&P Global Index Funds

September 15, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 14, 2006, the New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule changes as described in Items I and II below, which items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons, and is granting accelerated approval to the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to list and trade the following: iShares® S&P Global Consumer Discretionary Sector Index

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Fund; iShares S&P Global Consumer Staples Sector Index Fund; iShares S&P Global Industrials Sector Index Fund; iShares S&P Global Utilities Sector Index Fund; iShares S&P Global Materials Sector Index Fund (collectively, the Funds'').[3] The Funds are exchange-traded funds, which are a type of Investment Company Unit (''ICU'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The NYSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange has adopted listing standards applicable to Investment Company Units (''ICUs'') that it states are consistent with the listing criteria currently used by other national securities exchanges, and trading standards pursuant to which the Exchange may either list and trade ICUs or trade such ICUs on the Exchange on an unlisted trading privileges (''UTP'') basis.[4]

The Exchange now proposes to list and trade under Section 703.16 of the NYSE Listed Company Manual (''Manual'') and NYSE Rule 1100 *et seq.* shares of the following, each a series of the iShares Trust (the ''Trust'').[5] (1) iShares S&P Global Consumer Discretionary Sector Index Fund; (2) iShares S&P Global Consumer Staples Sector Index Fund; (3) iShares S&P Global Industrials Sector Index Fund; (4) iShares S&P Global Utilities Sector Index Fund; and (5) iShares S&P Global Materials Sector Index Fund. Because the Funds invest in non-U.S. securities not listed on a national securities exchange or the Nasdaq Stock Market, the Funds do not meet the ''generic'' listing requirements of Section 703.16 of the Manual applicable to listing of ICUs (permitting listing in reliance upon Rule 19b–4(e)[6] under the Act and cannot be listed without a filing pursuant to Rule 19b–4 under the Act). Therefore, to list the Funds (or trade pursuant to UTP), the Exchange must file, and obtain Commission approval of, a proposed rule change pursuant to Rule 19b–4 under the Act.[7]

As set forth in detail below, the Funds will hold certain securities (''Component Securities'') selected to correspond generally to the performance of the following indexes, (''Underlying Indexes''), respectively: (1) S&P Global Consumer Discretionary Index; (2) S&P Global Consumer Staples Index; (3) S&P Global Industrials Index; (4) S&P Global Utilities Index; and (5) S&P Global Materials Index.

Each Fund intends to qualify as a ''regulated investment company'' (a ''RIC'') under the Internal Revenue Code (the ''Code''). Barclays Global Fund Advisors (the ''Advisor'' or ''BGFA'') is the investment advisor to the Funds. The Advisor is registered under the Investment Advisers Act of 1940.[8] The Advisor is the wholly owned subsidiary of Barclays Global Investors, N.A. (''BGI''), a national banking association. BGI is an indirect subsidiary of Barclays Bank PLC of the United Kingdom. SEI Investments Distribution Co. (''SEI'' or ''Distributor''), a Pennsylvania corporation and broker-dealer registered under the Act, is the principal underwriter and distributor of Creation Unit Aggregations of iShares. The Distributor is not affiliated with the Exchange or the Advisor. The Trust has appointed Investors Bank & Trust Co. (''IBT'') to act as administrator (''Administrator''), custodian, fund accountant, transfer agent, and dividend disbursing agent for the Funds. The Exchange expects that performance of the Administrator's duties and obligations will be conducted within the provisions of the Investment Company Act[9] and the rules thereunder. There is no affiliation between the Administrator and the Trust, the Advisor, or the Distributor.

Operation of the Funds.[10]

The investment objective of the Funds will be to provide investment results that correspond generally to the price and yield performance of the Underlying Indexes. In seeking to achieve their investment objective, the Funds will utilize ''passive'' indexing investment strategies. The Funds may fully replicate their respective Underlying Index, but currently intend to use a ''representative sampling'' strategy to track the applicable Underlying Index. A Fund utilizing a representative sampling strategy generally will hold a basket of the Component Securities of its Underlying Index, but it may not hold all of the Component Securities of its Underlying Index.

Each Fund will invest at least 90% of its assets in the securities of its Underlying Index or in American Depositary Receipts (''ADRs''), Global Depositary Receipts (''GDRs''), or European Depositary Receipts (''EDRs'') (collectively ''Depositary Receipts'') representing securities in the Underlying Index. A Fund may invest the remainder of its assets in securities not included in its Underlying Index, but which BGFA believes will help the Fund track its Underlying Index. For example, a Fund may invest in securities not included in its Underlying Index in order to reflect various corporate actions (such as mergers) and other changes in its Underlying Index (such as reconstitutions, additions and deletions). A Fund also may invest its other assets in futures contracts, options on futures contracts, options, and swaps related to its Underlying Index, as well as cash and cash equivalents, including shares of money market funds affiliated with BGFA.

From time to time, adjustments may be made in the portfolio of the Funds in accordance with changes in the composition of the Underlying Indexes or to maintain compliance with requirements applicable to a RIC under

[3] iShares is a registered trademark of Barclays Global Investors, N.A.

[4] In 1996, the Commission approved Section 703.16 of the Listed Company Manual, which sets forth the rules related to the listing of ICUs. Securities Exchange Act Release No. 36923 (March 5, 1996), 61 FR 10410 (March 13, 1996).

[5] The Trust is registered under the Investment Company Act of 1940 (15 U.S.C. 80a), (the ''Investment Company Act''). On April 15, 2005, the Trust filed with the Commission a Registration Statement for the Funds on Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a), and under the Investment Company Act relating to the Funds (File Nos. 333–92935 and 811–09729) (as amended, the ''Registration Statement'').

[6] 17 CFR 240.19b–4(e).

[7] 17 CFR 240.19b–4.

[8] 15 U.S.C. 80b–1.

[9] 15 U.S.C. 80a–1.

[10] The Exchange states that the information provided herein is based on information included in the Registration Statement; however, the Commission notes that its approval of the listing and trading of these ICUs is subject to the continued operation of the Funds and their related Indexes as described herein by the Exchange. The Exchange also states that while the Advisor would manage the Funds, the Funds' Board of Directors would have overall responsibility for the Funds' operations. The composition of the Board is, and would be, in compliance with the requirements of Section 10 of the Investment Company Act. The Funds are subject to and must comply with Section 303A.06 of the Manual, which requires that the Funds have an audit committee that complies with SEC Rule 10A–3, 17 CFR 240.10A–3.

the Code.[11] For example, if at the end of a calendar quarter a Fund would not comply with the RIC diversification tests, the Advisor would make adjustments to the portfolio to ensure continued RIC status.

To the extent the Funds invest in ADRs, they will be listed on a national securities exchange or Nasdaq, and to the extent the Funds invest in other Depositary Receipts, they will be listed on a foreign exchange. The Funds will not invest in any unlisted Depositary Receipts or any listed Depositary Receipts that the Advisor deems to be illiquid or for which pricing information is not readily available. In addition, all Depositary Receipts must be sponsored (with the exception of certain pre-1984 ADRs that are listed and unsponsored because they are grandfathered).

Each Fund will not concentrate its investments (*i.e.*, hold 25% or more of its total assets in the stocks of a particular industry or group of industries), except that a Fund will concentrate to approximately the same extent that its Underlying Index concentrates in the stocks of such particular industry or group of industries. In such case, a Fund could hold 25% or more of its total assets in the stocks of such industry or group of industries. For purposes of this limitation, securities of the U.S. Government (including its agencies and instrumentalities), repurchase agreements collateralized by U.S. Government securities, and securities or state or municipal governments and their political subdivisions are not considered to be issued by members of any industry.

The Exchange believes that these requirements and policies prevent the Funds from being excessively weighted in any single security or small group of securities and significantly reduce concerns that trading in the Funds could become a surrogate for trading in unregistered securities.

Description of the Index Methodology

Each of the Indexes is a subset of the Standard & Poor's Global 1200 Index and thus contains the securities of both domestic and international companies as Index components. The Indexes are free float adjusted and market capitalization weighted. The Standard & Poor's Index Committee (which does not include employees of broker-dealers or their affiliates) is responsible for the overall management of these S&P Indices.

Selection Criteria for Domestic Components. Companies (*i.e.*, the ''Components'') selected for the investments represent a broad range of industry segments within the U.S. economy. The starting universe, all publicly traded U.S. companies (*i.e.*, companies listed and traded on a national securities exchange or the Nasdaq Stock Market), is screened to eliminate ADRs, mutual funds, limited partnerships and royalty trusts. The following criteria are then analyzed to determine a company's eligibility for inclusion in the investments: (1) Ownership of a company's outstanding common shares, in order to screen out closely held companies; (2) trading volume of a company's stock, in order to ensure ample liquidity and efficient share pricing; and (3) the financial and operating condition of a company.

Selection Criteria for International Components.[12] With respect to non-U.S. components of the Underlying Indexes, the eligible universe of Index components that are considered for inclusion are from the following S&P Indexes: (1) The S&P/Toronto Stock Exchange (''TSX'') 60 Index, which represents the liquid, large-cap stocks of the publicly listed companies in the Canadian equities market; (2) the S&P Tokyo Stock Price (''TOPIX'') 150 Index, which represents the liquid, large-cap stocks of the publicly listed companies in the Japanese equities market; (3) the S&P/ Australia Stock Exchange (''ASX'') 50 Index, which represents the liquid, large-cap stocks in the Australian equities market; (4) the S&P Asia 50 Index, which represents the liquid, large-cap stocks of four major equities markets in Asia (Hong Kong, Korea, Taiwan and Singapore); (5) the S&P Latin America 40 Index, which represents the liquid, large-cap stocks from major sectors of the Mexico, Brazil, Argentina and Chile equity markets; and (6) the S&P Europe 350 Index, which represents the liquid, large-cap stocks of the publicly listed companies in the region, covering approximately 70% of the region's market capitalization and spanning 17 exchanges. All stocks included in these S&P Indexes are in the S&P Global 1200 Index.[13]

Where there were multiple classes of a particular equity, all classes were deemed eligible if they met the criteria for size, liquidity and sector representation. The specific securities are then screened for industry sector classification; thus, the eligible securities are ranked according to Global Industry Classification Standards (''GICS''). Then, the Index components, now determined, are weighted on the basis of S&P's free float, market capitalization methodology. Generally, S&P observes a prospective constituent's liquidity over a period of at least 6 months before consideration for inclusion. However, it is recognized that there may be extraordinary situations when companies should be added immediately (*e.g.*, certain privatizations). When a particular company dominates its home market, it may be excluded from the Index if analysis of the sectors reveals that its securities are not as liquid as those of similar companies in other countries. The International Index components may include ADRs and GDRs.

Issue Changes. General oversight responsibility for the S&P Indices, including overall policy guidelines and methodology, is handled by the S&P Global Index Committee (which does not include employees of broker-dealers or their affiliates). Maintenance of component investments, including additions and deletions to these investments, is the responsibility of separate regional index committees

[11] In order for the Funds to qualify for tax treatment as a RIC, they must meet several requirements under the Code. Among these is a requirement that, at the close of each quarter of the Funds' taxable year, (1) at least 50% of the market value of the Funds' total assets must be represented by cash items, U.S. government securities, securities of other RICs and other securities, with such other securities limited for the purpose of this calculation with respect to any one issuer to an amount not greater than 5% of the value of the Funds' assets and not greater than 10% of the outstanding voting securities of such issuer; and (2) not more than 25% of the value of their total assets may be invested in securities of any one issuer, or two or more issuers that are controlled by the Funds (within the meaning of Section 851(b)(4)(B) of the Code) and that are engaged in the same or similar trades or business (other than U.S. government securities of other RICs).

Compliance with the above referenced RIC asset diversification requirements are monitored by the Advisor and any necessary adjustments to portfolio issuer weights will be made on a quarterly basis or as necessary to ensure compliance with RIC requirements. When an iShares Fund's Underlying Index itself is not RIC compliant, the Advisor generally employs a representative sampling indexing strategy (as described in the Funds' prospectus) in order to achieve the Fund's investment objective. The Funds' prospectus also gives the Funds additional flexibility to comply with the requirements of the Code and other regulatory requirements and to manage future corporate actions and index changes in smaller markets by investing a percentage of fund assets in securities that are not included in the Fund's Underlying Index or in ADRs and GDRs representing such securities.

[12] S&P determines a stock's domicile based on a number of criteria, including the headquarters of the issuer, its registration, its stock listing, its place of operations, the residence of the senior officers, and other criteria. Each region's Index Committee reviews all criteria before deciding on the domicile of a stock. Telephone conversation between Michael Cavalier, Associate General Counsel, NYSE, and Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission, on September 15, 2006 (''September 15 Telephone Conference'').

[13] September 15 Telephone Conference.

composed of S&P staff specialized in the various regional equity markets and, in some cases with the assistance of local stock exchanges. Public announcements of index changes as the result of committee decisions will generally be made two business days in advance of the anticipate effective date whenever possible, although for exceptional corporate events announcements may be made earlier.

Index Maintenance. Maintaining the S&P Indices includes monitoring and completing the adjustments for company additions and deletions, share changes, stock splits, stock dividends, and stock price adjustments due to restructuring and spin-offs. Share changes of less than 5% are only updated on a quarterly basis on the Friday near the end of the calendar quarter.

A company will be removed from the S&P Indices as a result of mergers/acquisitions, bankruptcy, restructuring, or if it is no longer representative of its industry group. A company is removed from the relevant Index as close as possible to the actual date on which the event occurred. A company can be removed from an Index because it no longer meets current criteria for inclusion and/or is no longer representative of its industry group. All replacement companies are selected based on the above component section criteria.

When calculating index weights, individual constituents' shares held by governments, corporations, strategic partners, or other control groups are excluded from the company's shares outstanding. Shares owned by other companies are also excluded regardless of whether they are index constituents.

In countries with regulated environments, where a foreign investment limit exists at the sector or company level, the constituent's weight will reflect either the foreign investment limit or the percentage float, whichever is the more restrictive.

Once a year, the float adjustments will be reviewed and potentially changed based on such review. Each company's financial statements will be used to update the major shareholders' ownership for the float adjustments calculation, as the Indexes are free float adjusted, market capitalization weighted for each company's shares. However, during the course of the year, S&P also monitors each company's Investable Weight Factor (IWF), which is S&P's term for the mathematical float factor used to calculate the float adjustment. If a change in the IWF is caused by a major corporate action (*i.e.*, privatization, merger, takeover, or share offering) and the change is equal to or greater than 5%, a float adjustment will be implemented as soon as reasonably possible.

Changes in the number of shares outstanding driven by corporate events such as stock dividends, splits, and rights issues will be adjusted on the ex-date. Share changes of 5% or greater are implemented when they occur. All share changes of less than 5% are updated on a quarterly basis (third Friday of March, June, September, and December or at the close of the expiration of futures contracts). Implementation of new additions, deletions, and changes to the float adjustment, due to corporate actions, will be made available at the close of the third Friday in March, June, September and December. Generally, index changes due to rebalancing are announced two days before the effective date by way of a news release posted on *http://www.spglobal.com.*

The S&P Indices are calculated continuously and are available from major data vendors. A current list of the Index components is attached as Exhibit 3 to the NYSE's filing.

Index Descriptions

The S&P Global Consumer Discretionary Index measures the performance of companies that Standard & Poor's deems to be part of the consumer discretionary sector of the economy and that Standard & Poor's believes are important to global markets. Component companies include manufacturing and service companies. As of the close of business on January 31, 2006, the Index was comprised of stocks of companies in the following countries: Australia, Belgium, Canada, Chile, France, Germany, Hong Kong, Italy, Japan, Korea, Mexico, Netherlands, Singapore, Spain, Sweden, Switzerland, United Kingdom, and the United States.

The S&P Global Consumer Staples Index measures the performance of companies that Standard & Poor's deems to be part of the consumer staples sector of the economy and that Standard & Poor's believes are important to global markets. Component companies include manufacturers and distributors of food, producers of non-durable household goods, and food and drug retailing companies. As of the close of business on January 31, 2006, the Index was comprised of stocks of companies in the following countries: Australia, Belgium, Brazil, Canada, Chile, Germany, Japan, Korea, Mexico, Netherlands, Norway, Spain, Sweden, Switzerland, United Kingdom, and the United States.

The S&P Global Industrials Index measures the performance of companies that Standard & Poor's deems to be part of the industrials sector of the economy and that Standard & Poor's believes are important to global markets. Component companies include manufacturers and distributors of capital goods, providers of commercial services and supplies, and transportation service providers. As of the close of business on January 31, 2006, the Index was comprised of stocks of companies in the following countries: Australia, Brazil, Canada, Chile, Denmark, France, Germany, Hong Kong, Ireland, Italy, Japan, Korea, Mexico, Netherlands, Norway, Portugal, Singapore, Spain, Sweden, Switzerland, United Kingdom and the United States.

The S&P Global Utilities Index measures the performance of companies that Standard & Poor's deems to be part of the Utilities sector of the economy and that Standard & Poor's believes are important to global markets. Component companies include providers of electric, gas or water utilities, or companies that operate as independent producers and/or distributors of power. As of the close of business on January 31, 2006, the Index was comprised of stocks of companies in the following countries: Australia, Brazil, Canada, Chile, Finland, France, Germany, Hong Kong, Italy, Japan, Portugal, Spain, United Kingdom, and the United States.

The S&P Global Materials Index measures the performance of companies that Standard & Poor's deems to be part of the materials sector of the economy and that Standard & Poor's believes are important to global markets. Component companies include those companies engaged in a wide variety of commodity-related manufacturing. As of the close of business on January 31, 2006, the Index was comprised of stocks of companies in the following countries: Australia, Belgium, Brazil, Canada, Chile, Finland, France, Germany, Ireland, Japan, Korea, Luxembourg, Mexico, Netherlands, Portugal, Spain, Sweden, Switzerland, Taiwan, United Kingdom, and the United States.

As of May 31, 2006, the iShares S&P Global Consumer Discretionary Sector Index's top three holdings were Toyota Motor Corp., Home Depot, Time Warner Inc.; the Index's top three industries were Consumer Discretionary and Index components had a total market capitalization of approximately $2.8 trillion. The average total market capitalization was approximately $14.6 billion. The 10 largest constituents represented approximately 28.4% of the Index weight. The five highest weighted stocks, which represented 18.2% of the Index weight, had an average daily

trading volume in excess of 66.1 million shares during the period April 1 through May 31, 2006. 99.98% of the component stocks traded at least 250,000 shares monthly from December 2005 through May 2006.

As of May 31, 2006, the iShares S&P Global Consumer Staples Sector Index's top three holdings were Procter & Gamble, Altria Group, Inc., Wal-Mart Stores; the Index's top three industries were Consumer Staples and Index components had a total market capitalization of approximately $2.3 trillion. The average total market capitalization was approximately $23.5 billion. The 10 largest constituents represented approximately 48.3% of the Index weight. The five highest weighted stocks, which represented 34.6% of the Index weight, had an average daily trading volume in excess of 32.3 million shares during the period April 1 through May 31, 2006. 99.6% of the component stocks traded at least 250,000 shares monthly from December 2005 through May 2006.

As of May 31, 2006, the iShares S&P Global Industrials Sector Index's top three holdings were General Electric, United Parcel Service, Siemens AG; the Index's top three industries were Industrials and Index components had a total market capitalization of approximately $2.7 trillion. The average total market capitalization was approximately $15.3 billion. The 10 largest constituents represented approximately 37.1% of the Index weight. The five highest weighted stocks, which represented 27.2% of the Index weight, had an average daily trading volume in excess of 38.6 million shares during the period April 1 through May 31, 2006. 99.65% of the component stocks traded at least 250,000 shares monthly from December 2005 through May 2006.

As of May 31, 2006, the iShares S&P Global Materials Sector Index's top three holdings were BHP Billiton Limited, Anglo American, Rio Tinto; the Index's top three industries were Materials and Index components had a total market capitalization of approximately $1.6 trillion. The average total market capitalization was approximately $12.9 billion. The 10 largest constituents represented approximately 30.7% of the Index weight. The five highest weighted stocks, which represented 19.5% of the Index weight, had an average daily trading volume in excess of 66.5 million shares during the period April 1 through May 31, 2006. 99.31% of the component stocks traded at least 250,000 shares monthly from December 2005 through May 2006.

As of May 31, 2006, the iShares S&P Global Utilities Sector Index's top three holdings were E.On AG, Suez SA, RWE AG; the Index's top three industries were Utilities and Index components had a total market capitalization of approximately $1.2 trillion. The average total market capitalization was approximately $16.9 billion. The 10 largest constituents represented approximately 41.5% of the Index weight. The five highest weighted stocks, which represented 25.0% of the Index weight, had an average daily trading volume in excess of 47.8 million shares during the period April 1 through May 31, 2006. 100% of the component stocks traded at least 250,000 shares monthly from December 2005 through May 2006.

Additional information regarding the Funds' holdings is available at *http://www.ishares.com.*

Determination of Net Asset Value

IBT calculates the NAV for each Fund generally once daily Monday through Friday generally as of the regularly scheduled close of business of the NYSE (normally 4 p.m. Eastern time) on each day that the NYSE is open for trading, based on prices at the time of closing, provided that (a) any assets or liabilities denominated in currencies other than the U.S. dollar shall be translated into U.S. dollars at the prevailing market rates on the date of valuation as quoted by one or more major banks or dealers that makes a two-way market in such currencies (or a major market data service provider based on quotations received from such banks or dealers); and (b) U.S. fixed-income assets may be valued as of the announced closing time for trading in fixed-income instruments on any day that the Bond Market Association announces an early closing time. The NAV of each Fund is calculated by dividing the value of the net assets of such Fund (*i.e.*, the value of its total assets less total liabilities) by the total number of outstanding shares of the Fund, generally rounded to the nearest cent. In calculating a Fund's NAV, a Fund's investments are generally valued using market valuations. In the event that current market valuations are not readily available or such valuations do not reflect current market values, the affected investments will be valued using fair value pricing pursuant to the pricing policy and procedures approved by the Board of Trustees. The frequency with which a Fund's investments are valued using fair value pricing is primarily a function of the types of securities and other assets in which the Fund invests pursuant to its investment objective, strategies and limitations.

According to the Funds' prospectus, valuing the Fund's investments using fair value pricing will result in using prices for those investments that may differ from current market prices. Accordingly, fair value pricing could result in a difference between the prices used to calculate the Fund's net asset value and the prices used by the Fund's benchmark index, which, in turn, could result in a difference between the Fund's performance and the performance of the Fund's benchmark index.

Because foreign markets may be open on different days than the days during which a shareholder may purchase the Fund's shares, the value of the Fund's investments may change on days when shareholders are not able to purchase the Fund's shares.

The value of assets denominated in foreign currencies is converted into U.S. dollars using exchange rates deemed appropriate by BGFA as investment advisor.[14]

Issuance of Creation Unit Aggregations

In General. Shares of the Funds (the ''iShares'') will be issued on a continuous offering basis in groups of iShares, or multiples thereof. These ''groups'' of shares are called ''Creation Unit Aggregations.'' The Funds will issue and redeem iShares only in Creation Unit Aggregations of 50,000 iShares.[15]

As with other open-end investment companies, iShares will be issued at the net asset value (''NAV'') per share next determined after an order in proper form is received. The anticipated price at which the iShares will initially trade is approximately $50.

The NAV per share of the Funds is determined as of the close of the regular trading session on the Exchange on each day that the Exchange is open. The Trust sells Creation Unit Aggregations of the Funds only on business days at the next determined NAV of the Fund. Creation Unit Aggregations generally will be issued by the Funds in exchange for the in-kind deposit of equity securities designated by the Advisor to correspond generally to the price and yield performance of the Fund's Underlying Index (the ''Deposit Securities'') and a specified cash payment. Creation Unit Aggregations generally will be redeemed by the Fund in exchange for portfolio securities of

[14] The Fund utilizes foreign exchange rates of major market data vendors, such as WM/Reuters. September 15 Telephone Conference.

[15] Each Creation Unit Aggregation will have an estimated initial value of approximately $2,500,000.

the Fund (''Fund Securities'') and a specified cash payment. Fund Securities received on redemption may not be identical to Deposit Securities deposited in connection with creations of Creation Unit Aggregations for the same day.

All orders to purchase iShares in Creation Unit Aggregations must be placed through an Authorized Participant. An Authorized Participant must be either a ''Participating Party,'' *i.e.*, a broker-dealer or other participant in the clearing process through the National Securities Clearing Corporation (''NSCC'') Continuous Net Settlement System (the ''Clearing Process''), a clearing agency that is registered with the SEC, or a Depository Trust Company (''DTC'') participant, and in each case, must enter into a Participant Agreement. The Funds impose a transaction fee in connection with the issuance and redemption of iShares to offset transfer and other transaction costs. The transaction fee in connection with the issuance and redemption of Creation Unit Aggregations of the Funds are estimated to be approximately between $2,200 and $8,800.

In-Kind Deposit of Portfolio Securities. Payment for Creation Unit Aggregations will be made by the purchasers generally by an in-kind deposit with the applicable Fund of the Deposit Securities together with an amount of cash (the ''Balancing Amount'') specified by the Advisor in the manner described below. The Balancing Amount is an amount equal to the difference between (1) the NAV (per Creation Unit Aggregation) of the Fund and (2) the total aggregate market value (per Creation Unit Aggregation) of the Deposit Securities (such value referred to herein as the ''Deposit Amount''). The Balancing Amount serves the function of compensating for differences, if any, between the NAV per Creation Unit Aggregation and that of the Deposit Amount. The deposit of the requisite Deposit Securities and the Balancing Amount are collectively referred to herein as a ''Fund Deposit.'' The Advisor will make available to the market through the NSCC on each business day, prior to the opening of trading on the Exchange (currently 9:30 a.m. Eastern Time), the list of the names and the required number of shares of each Deposit Security included in the current Fund Deposit (based on information at the end of the previous business day) for each Fund. The Fund Deposit will be applicable to the relevant Fund (subject to any adjustments to the Balancing Amount, as described below) in order to effect purchases of Creation Unit Aggregations of such Fund until such time as the next-announced Fund Deposit composition is made available.

The identity and number of shares of the Deposit Securities required for the Fund Deposit for each Fund will change from time to time. The composition of the Deposit Securities may change in response to adjustments to the weighting or composition of the Component Securities in the Underlying Index. In addition, the Trust reserves the right to permit or require the substitution of an amount of cash—*i.e.*, a ''cash in lieu'' amount—to be added to the Balancing Amount to replace any Deposit Security that may not be available in sufficient quantity for delivery or that may not otherwise be eligible for transfer. The Trust also reserves the right to permit or require a ''cash in lieu'' amount where the delivery of the Deposit Security by the Authorized Participant would be restricted under the securities laws or where the delivery of the Deposit Security to the Authorized Participant would result in the disposition of the Deposit Security by the Authorized Participant becoming restricted under the securities laws, or in certain other situations. The adjustments described above will reflect changes known to the Advisor on the date of announcement to be in effect by the time of delivery of the Fund Deposit, in the composition of the applicable Underlying Index or resulting from certain corporate actions.

Redemption of iShares

Creation Unit Aggregations of the Funds will be redeemable at the NAV next determined after receipt of a request for redemption. Creation Unit Aggregations of the Funds generally will be redeemed in-kind, together with a balancing cash payment (although, as described below, Creation Unit Aggregations may sometimes be redeemed for cash). The value of the Funds' redemption payments on a Creation Unit Aggregation basis will equal the NAV per the appropriate number of iShares of the Funds. Owners of iShares may sell their iShares in the secondary market but must accumulate enough iShares to constitute a Creation Unit Aggregation in order to redeem through the Funds. Redemption orders must be placed by or through an Authorized Participant.

Creation Unit Aggregations of the Funds generally will be redeemable on any business day in exchange for applicable Fund Securities and the Cash Redemption Payment (defined below) in effect on the date a request for redemption is made. The Advisor will publish daily through NSCC the list of securities which a creator of Creation Unit Aggregations must deliver to the Fund (the ''Creation List'') and which a redeemer will receive from the Funds (the ''Redemption List''). The Creation List is identical to the list of the names and the required numbers of shares of each Deposit Security included in the current Fund Deposit.

In addition, just as the Balancing Amount is delivered by the purchaser of Creation Unit Aggregations to the Funds, the Trust will also deliver to the redeeming beneficial owner in cash the ''Cash Redemption Payment.'' The Cash Redemption Payment on any given business day will be an amount calculated in the same manner as that for the Balancing Amount, although the actual amounts may differ if the Fund Securities received upon redemption are not identical to the Deposit Securities applicable for creations on the same day. To the extent that the Fund Securities have a value greater than the NAV of iShares being redeemed, a cash payment equal to the differential is required to be paid by the redeeming beneficial owner to the applicable Fund. The Trust may also make redemptions in cash in lieu of transferring one or more Fund Securities to a redeemer if the Trust determines, in its discretion, that such method is warranted due to unusual circumstances. An unusual circumstance could arise, for example, when a redeeming entity is restrained by regulation or policy from transacting in certain Fund Securities, such as the presence of such Fund Securities on a redeeming investment banking firm's restricted list.

Availability of Information Regarding iShares and the Underlying Index

On each business day the list of names and amount of each security constituting the current Deposit Securities of the Fund Deposit and the Balancing Amount effective as of the previous business day, per outstanding share of each Fund, will be made available. An amount per iShare representing the sum of the estimated Balancing Amount effective through and including the previous business day, plus the current value of the Deposit Securities in U.S. dollars, on a per iShare basis (the ''Intra-day Optimized Portfolio Value'' or ''IOPV'') will be calculated by an independent third party that is a major market data vendor (the ''Value Calculator''), such as Bloomberg L.P., every 15 seconds during the Exchange's regular trading hours and disseminated every 15 seconds on the Consolidated Tape.

The IOPV reflects the current value of the Deposit Securities and the Balancing Amount. The IOPV also reflects changes

in currency exchange rates between the U.S. dollar and the applicable home foreign currency.[16]

Since the Funds will utilize a representative sampling strategy, the IOPV may not reflect the value of all securities included in the Underlying Indexes. In addition, the IOPV does not necessarily reflect the precise composition of the current portfolio of securities held by the Funds at a particular point in time. Therefore, the IOPV on a per Fund share basis disseminated during the Exchange's trading hours should not be viewed as a real time update of the NAV of the Funds, which is calculated only once a day.

While the IOPV disseminated by the Exchange at 9:30 a.m. is expected to be generally very close to the most recently calculated Fund NAV on a per Fund share basis, it is possible that the value of the portfolio of securities held by each Fund may diverge from the Deposit Securities values during any trading day. In such case, the IOPV will not precisely reflect the value of each Fund's portfolio. However, during the trading day, the IOPV can be expected to closely approximate the value per Fund share of the portfolio of securities for each Fund except under unusual circumstances (*e.g.*, in the case of extensive rebalancing of multiple securities in a Fund at the same time by the Advisor).

The Exchange believes that dissemination of the IOPV based on the Deposit Securities provides additional information regarding the Funds that is not otherwise available to the public and is useful to professionals and investors in connection with Fund shares trading on the Exchange or the creation or redemption of Fund shares.

There is an overlap in trading hours between the foreign and U.S. markets with respect to the Funds. Therefore, the Value Calculator will update the applicable IOPV every 15 seconds to reflect price changes in the applicable foreign market or markets, and convert such prices into U.S. dollars based on the currency exchange rate. When the foreign market or markets are closed but U.S. markets are open, the IOPV will be updated every 15 seconds to reflect changes in currency exchange rates after the foreign market closes. The IOPV will also include the applicable cash component for each Fund.

In addition, there will be disseminated a value for the Underlying Indexes once each trading day, based on closing prices in the relevant exchange market, utilizing the WM/Reuters (or other major market information vendor) currency exchange rates. In each S&P Index, the prices used to calculate the S&P Indices are the official exchange closing prices or those figures accepted as such. S&P reserves the right to use an alternative pricing source on any given day.

The NAV for the Fund will be calculated and disseminated daily. The Funds' NAV will be calculated by IBT. IBT will disseminate the information to BGI, SEI and others, including the NYSE. The Funds' NAV will be published in a number of places, including, *http://www.iShares.com* and on the Consolidated Tape. The Advisor for the Funds has informed the Exchange that the Funds will make the NAV for the Funds available to all market participants at the same time. If the NAV is not disseminated to all market participants at the same time, the Exchange will halt trading in the Shares of the Funds.[17]

Closing prices of the Funds' Deposit Securities are readily available from, as applicable, the relevant exchanges, automated quotation systems, published or other public sources in the relevant country, or on-line information services such as Bloomberg or Reuters. The exchange rate information required to convert such information into U.S. dollars is also readily available in newspapers and other publications and from a variety of on-line services.

In addition, the Web site for the Trust, *http://www.iShares.com*, which will be publicly accessible at no charge, will contain the following information, (1) the prior business day's NAV and the mid-point of the bid-ask price at the time of calculation of such NAV (''Bid/Ask Price''), and a calculation of the premium or discount of such price against such NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters.

Dividends and Distributions

Dividends are accrued daily from net investment income and will be declared and paid to beneficial owners of record at least annually by the Funds. Distributions of realized securities gains, if any, generally will be declared and paid once a year, but the Funds may make distributions on a more frequent basis to comply with the distribution requirements of the Code and consistent with the Investment Company Act.

Dividends and other distributions on iShares of the Funds will be distributed on a pro rata basis to beneficial owners of such iShares. Dividend payments will be made through the Depository and the DTC Participants to beneficial owners then of record with amounts received from the Fund.

The Trust currently does not intend to make the DTC book-entry Dividend Reinvestment Service (the ''Service'') available for use by beneficial owners for reinvestment of their cash proceeds, but certain individual brokers may make the Service available to their clients. The Statement of Additional Information (''SAI'') will inform investors of this fact and direct interested investors to contact such investor's broker to ascertain the availability and a description of the Service through such broker. The SAI will also caution interested beneficial owners that they should note that each broker may require investors to adhere to specific procedures and timetables in order to participate in the Service and such investors should ascertain from their broker such necessary details. The Funds acquired pursuant to the Service will be held by the beneficial owners in the same manner and subject to the same terms and conditions, as for original ownership of the Funds.

Beneficial owners of the Funds will receive all of the statements, notices, and reports required under the Investment Company Act and other applicable laws. They will receive, for example, annual and semi-annual reports, written statements accompanying dividend payments, proxy statements, annual notifications detailing the tax status of distributions, IRS Form 1099–DIVs, etc. Because the Trust's records reflect ownership of iShares by DTC only, the Trust will make available applicable statements, notices, and reports to the DTC Participants who, in turn, will be responsible for distributing them to the beneficial owners.

Other Issues

Criteria for Initial and Continued Listing. The Funds are subject to the criteria for initial and continued listing of Investment Company Units in Section 703.16 of the Manual. A minimum of two Creation Units (100,000 iShares) will be required to be outstanding at the start of trading. This minimum number of shares of each Fund required to be outstanding at the start of trading will be comparable to requirements that have

[16] The IOPV ticker is available at *www.ishares.com* and Intra-day IOPV is publicly available utilizing this ticker through various financial Web sites such as *http://finance.yahoo.com*.

[17] The Exchange will immediately contact the Commission staff to discuss measures that may be appropriate under the circumstances. September 15 Telephone Conference.

been applied to previously traded series of ICUs.

Prospectus Delivery. The Commission has granted the Trust an exemption from certain prospectus delivery requirements under section 24(d) of the Investment Company Act.[18] Any product description used in reliance on a section 24(d) exemptive order will comply with all representations made therein and all conditions thereto. The Exchange, in an Information Memo to Exchange members and member organizations, will inform members and member organizations, prior to commencement of trading, of the prospectus or product description delivery requirements applicable to the Funds and will refer members and member organizations to NYSE Rule 1100(b). There is not currently a product description available for the Funds. The Information Memo will also advise members and member organizations that delivery of a prospectus to customers in lieu of a product description would satisfy the requirements of Rule 1100(b).

Information Memo. The Exchange will distribute an Information Memo to its members in connection with the trading of the Funds. The Memo will discuss the special characteristics and risks of trading this type of security. Specifically, the Memo, among other things, will discuss what the Funds are, how the Funds' shares are created and redeemed, the requirement that members and member firms deliver a prospectus or product description to investors purchasing shares of the Funds prior to or concurrently with the confirmation of a transaction, applicable Exchange rules, dissemination information, trading information and the applicability of suitability rules (including Exchange Rule 405). The Memo will also discuss exemptive, no-action and interpretive relief, if granted by the Commission from certain rules under the Act.

Trading Halts. In order to halt the trading of the Funds, the Exchange may consider, among other things, factors such as the extent to which trading is not occurring in underlying security(s) and whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in the Funds' shares is subject to trading halts caused by extraordinary market volatility pursuant to Exchange Rule 80B. The Exchange will halt trading in a Fund if the Index Value or IOPV applicable to such Fund is no longer calculated or disseminated or the NAV is not disseminated to all market participants at the same time.[19]

Due Diligence. The Information Memo to members will note, for example, Exchange responsibilities including that before an Exchange member, member organization, or employee thereof recommends a transaction in the Funds, a determination must be made that the recommendation is in compliance with all applicable Exchange and Federal rules and regulations, including due diligence obligations under Exchange Rule 405 (Diligence as to Accounts).

Purchases and Redemptions in Creation Unit Size. In the Memo referenced above, members and member organizations will be informed that procedures for purchases and redemptions of shares of the Funds in Creation Unit Size are described in the Funds' Prospectus and SAI[20] and that Funds' shares are not individually redeemable but are redeemable only in Creation Unit Size aggregations or multiples thereof.

Surveillance. The Exchange will utilize its existing surveillance procedures applicable to ICUs monitor trading of the shares of the Funds. Surveillance procedures applicable to trading in the proposed iShares are comparable to those applicable to other ICUs currently trading on the Exchange. The Exchange represents that these surveillance procedures are adequate to properly monitor the trading of the Funds.[21] The Exchange's current trading surveillances focus on detecting securities trading outside their normal patterns. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations. The Exchange may obtain trading information via the Intermarket Surveillance Group (''ISG'') from other exchanges who are members or affiliates of the ISG. For a list of the current members and affiliate members of ISG, see *http://www.isgportal.com.*

Hours of Trading/Minimum Price Variation. The Funds will trade on the Exchange until 4:15 p.m. (Eastern time). The minimum price variation for quoting will be $.01.

2. Statutory Basis

NYSE believes that the proposed rule change is consistent with section 6(b)(5) of the Act[22] requiring that an exchange have rules that are designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, 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

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. 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 Exchange Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2006–60 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2006–60. 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

[18] *See In the Matter of iShares, Inc., et al.*, Investment Company Act Release No. 25623 (June 25, 2002).

[19] Under such circumstances, the Exchange would immediately contact the Commission staff to discuss appropriate measures that may be appropriate under the circumstances. September 15 Telephone Conference.

[20] *See* Securities Exchange Act Release Nos. 44990 (October 25, 2001), 66 FR 56869 (November 13, 2001) (SR–Amex–2001–45); 42748 (May 2, 2000), 65 FR 30155 (May 10, 2000) (SR–Amex–98–49); and 36947 (March 8, 1996), 61 FR 10606 (March 14, 1996) (SR–Amex–95–43).

[21] The Exchange states that it submitted such surveillance procedures to the Commission staff in the past. September 15 Telephone Conference.

[22] 15 U.S.C. 78f(b)(5).

amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File number SR–NYSE–2006–60 and should be submitted on or before October 12, 2006.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder, applicable to a national securities exchange.[23] In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act [24] and will promote just and equitable principles of trade, and facilitate transactions in securities, and, in general, protect investors and the public interest.

The Commission believes that the NYSE's proposal should advance the public interest by providing investors with increased flexibility in satisfying their investment needs and by allowing them to purchase and sell Fund shares at negotiated prices throughout the business day that generally track the price and yield performance of the Underlying Index.

Furthermore, the Commission believes that the proposed rule change raises no issues that have not been previously considered by the Commission. The Fund is similar in structure and operation to exchange-traded funds that the Commission has previously approved for listing and trading on national securities exchanges under section 19(b)(2) of the Act.[25] Further, with respect to each of the following issues, the Commission believes that the listing and trading of the Funds' shares satisfies established standards.

A. Fund Characteristics

The Commission believes that the proposed Funds are reasonably designed to provide investors with an investment vehicle that substantially reflects in value the performance of the respective Underlying Indexes and will provide investors with an alternative to trading a range of securities on an individual basis. Investors will be able to trade shares in the Fund continuously throughout the business day in secondary market transactions at negotiated prices. Accordingly, the proposed Fund will allow investors to: (1) Respond quickly to market changes through intra-day trading opportunities; (2) engage in hedging strategies similar to those used by institutional investors; and (3) reduce transaction costs for trading a portfolio of securities.

The Commission also notes that the market capitalization and liquidity of the underlying Indexes' component securities is also a deterrent to manipulation of the Fund shares. Because each Fund's Underlying Index is broad-based and well diversified, the Exchange represents that it does not believe that the Fund will be so highly concentrated such that it becomes a surrogate for trading unregistered foreign securities on the Exchange.

While the Commission believes that these requirements should help to reduce concerns that the Funds could become a surrogate for trading in a single or a few unregistered stocks, if the characteristics of the Funds, or their underlying Indexes, changed materially from the characteristics described the Exchange,[26] the Fund would not be in compliance with the listing and trading standards approved herein, and the Commission would expect the NYSE to file a proposed rule change pursuant to Rule 19b–4 of the Act, which must be approved to permit continued trading of the Funds' shares.

B. Disclosure

The Exchange represents that it will circulate an information memo detailing applicable prospectus and product description delivery requirements. The memo will also discuss any exemptive, no-action and interpretive relief granted by the Commission from certain rules under the Act. The memo also will address NYSE members' responsibility to deliver a prospectus or product description to all investors (in accordance with NYSE Rule 1100(b)) and highlight the characteristics of the Funds. The memo will also remind members of their suitability obligations, including NYSE Rule 405 (Diligence as to Accounts). Additionally, for example, the information memo will also inform members and member organizations that Funds' shares are not individually redeemable, but are redeemable only in Creation-Unit-size aggregations or multiples thereof as set forth in the Fund Prospectus and SAI. The Commission believes that the disclosure included in the information memo is appropriate and consistent with the Act.

C. Dissemination of Fund Information

With respect to pricing, once each day, the NAV for the Fund will be calculated and disseminated by IBT, to various sources, including the NYSE, and made available on *http://www.iShares.com* and the Consolidated Tape. The Exchange represents that the NAV will be made available to all market participants at the same time; otherwise, the Exchange will halt trading in the Funds' shares. Also, during the Exchange's regular trading hours, the IOPV Calculator will determine and disseminate every 15 seconds the IOPV for each Fund. The IOPV will reflect price changes in the applicable foreign market or markets and changes in currency exchange rates. The Exchange also represents that the value of the underlying Indexes will be calculated and disseminated at least every 15 seconds during the time the Funds' shares trade on the Exchange. If the IOPV and underlying Index values are not so disseminated, the Exchange will halt trading in the Funds' shares.

The Commission notes that a variety of additional information about each Fund will be readily available. Information with respect to recent NAV, shares outstanding, estimated cash amount and total cash amount per Creation Unit Aggregation will be made available prior to the opening of the Exchange. In addition, the Web site for the Trust, *http://www.iShares.com*, which will be publicly accessible at no charge, will contain relevant information about the Funds and their shares. Also, the closing prices of the Fund's Deposit Securities are available from, as applicable, the relevant exchanges, automated quotation systems, published or other public sources in the relevant country, or on-line information services, such as Bloomberg or Reuters. The exchange rate information required to convert such information into U.S. dollars is

[23] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[24] 15 U.S.C. 78f(b)(5).

[25] 15 U.S.C. 78s(b)(2).

[26] Substitution of an underlying index or significant alteration of the index methodology described herein would be a material change.

also readily available in newspapers and other publications and from a variety of on-line services.

Based on the representations made in the NYSE proposal, the Commission believes that pricing and other important information about the Fund is adequate and consistent with the Act.

D. Listing and Trading

The Commission finds that adequate rules and procedures exist to govern the listing and trading of the Funds' shares. Fund shares will be deemed equity securities subject to NYSE rules governing the trading of equity securities, including, among others, rules governing trading halts, responsibilities of the specialist, account opening and customer suitability requirements, and the election of stop and stop limit orders. In addition, the Exchange states that iShares are subject to the criteria for initial and continued listing of ICUs in Section 703.16 of the NYSE Manual.

E. Surveillance

The Exchange represents that its surveillance procedures are adequate to properly monitor the trading of the Funds. The Exchange states that it is able to obtain trading information from ISG from other exchanges that are members or affiliates of the ISG.

F. Accelerated Approval

The Commission finds good cause, pursuant to section 19(b)(2) of the Act,[27] for approving the proposed rule change prior to the thirtieth day after the date of publication of notice in the **Federal Register**. The Commission notes that the proposal is consistent with the listing and trading standards in NYSE Rule 703.16 (ICUs), and the Commission has previously approved similar products based on foreign indices.[28] The Funds are substantially identical in structure to other iShares Funds based on foreign stock indexes, including the iShares S&P Global 1200 Index Fund, which has an established and active trading history on the NYSE and other exchanges.[29] The Commission does not believe that the proposed rule change, as amended, raises novel regulatory issues. Consequently, the Commission believes that it is appropriate to permit investors to benefit from the flexibility afforded by trading these products as soon as possible.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (SR–NYSE–2006–60) is hereby approved on an accelerated basis.[30]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[31]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 06–7896 Filed 9–20–06; 8:45 am]

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[27] 15 U.S.C. 78s(b)(2).

[28] *See* Securities Exchange Act Release Nos. 44990 (October 25, 2001), 66 FR 56869 (November 13, 2001) (SR–Amex–2001–45); 42748 (May 2, 2000), 65 FR 30155 (May 10, 2000) (SR–Amex–98–49); and 36947 (March 8, 1996), 61 FR 10606 (March 14, 1996) (SR–Amex–95–43).

[29] *See* Securities Exchange Act Release No. 52178 (July 29, 2005), 70 FR 46244 (August 9, 2005) (SR–NYSE–2005–41)

[30] 15 U.S.C. 78s(b)(2).

[31] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54430; File No. SR–NYSEArca–2006–20]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Order Granting Accelerated Approval to Amendment No. 4 to a Proposed Rule Change Relating to the Exchange's Schedule of Fees and Charges

September 12, 2006.

I. Introduction

On May 17, 2006, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] the proposed rule change to amend the Trade Related Charges portion of its Schedule of Fees and Charges (''Schedule''). On May 26, 2006, the Exchange filed Amendment No. 1 to the proposed rule change. On June 30, 2006, the Exchange filed Amendment No. 2 to the proposed rule change. On July 7, 2006, the Exchange filed Amendment No. 3 to the proposed rule change.[3] The proposed rule change, as amended, was published for comment in the **Federal Register** on July 20, 2006.[4] Two comment letters were submitted in connection with this filing.[5]

On August 31, 2006, the Exchange filed Amendment No. 4.[6] This order grants accelerated approval of Amendment No. 4, and solicits comments from interested persons on Amendment No. 4.

I. Description of the Proposal

A. Fees for Manually Executed Linkage Orders

NYSE Arca proposes to combine two existing fees associated with certain Linkage Orders.[7] Presently, the Exchange assesses on Linkage Orders a $0.21 transaction fee and a $0.05 comparison fee.[8] To simplify the Schedule, the Exchange proposes combining these fees into one transaction fee of $0.26 for Linkage Orders executed manually. This fee is equal to the fee for manually executed orders from broker-dealers.

B. Fees for Electronically Executed Linkage Orders

Under the current NYSE Arca Schedule, electronically executed orders from broker-dealers are charged $0.50 per contract (''BD Electronic Transaction Fee''). The BD Electronic Transaction Fee was recently revised to combine a previously assessed transaction fee of $0.26 and a BD Surcharge of $0.25.[9] The current $0.50 BD Electronic Transaction Fee represents a $0.01 reduction in the total fee for electronic executions of orders from broker-dealers. In Amendment No. 4, the Exchange proposes to modify its Schedule to make clear that

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Form 19b–4 dated July 7, 2006 (''Amendment No. 3''). Amendment No. 3 replaced and superseded the original filing and Amendments No. 1 and 2 in their entirety.

[4] *See* Securities Exchange Act Release No. 54130 (July 11, 2006), 71 FR 41305.

[5] *See* letter from Arthur J. Gross, Arthur J. Gross SP, dated August 9, 2006, and letter from Gennaro J. Lettera, dated August 9, 2006. The Exchange believes that these commenters intended to address a separate proposed rule change, SR–NYSE–2006–46, not the instant proposed rule change. *See* e-mail from Janet Angstadt, Acting General Counsel, NYSE Arca, to Timothy Fox, Special Counsel, Division of Market Regulation, Commission, dated August 16, 2006. The Commission believes that the commenters' concerns do not relate to the instant proposed rule change and, as such, these letters are not addressed in this order.

[6] Amendment No. 4 was filed to reconcile the original filing, as amended, with the subsequent immediately effective rule filing, as discussed *infra* note 9 and accompanying text. Amendment No. 4 replaces and supersedes the original filing and subsequent amendments in their entirety.

[7] ''Linkage Orders'' are immediate or cancel orders containing certain information that are routed through the Intermarket Linkage System (''Linkage''). *See* Section 2(16) of the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage (''Linkage Plan''). As used in this approval order, the term, ''Linkage Orders,'' refers only to Principal Acting as Agent Orders and Principal Orders. *See* Sections 2(16)(a) and 2(16)(b) of the Linkage Plan.

[8] These fees are applicable through an Exchange Pilot Program due to expire on July 31, 2007. *See* Securities Exchange Act Release No. 54230 (July 27, 2006), 71 FR 44757 (August 7, 2006) (SR–NYSEArca–2006–41).

[9] *See* Securities Exchange Act Release No. 54309 (August 11, 2006), 71 FR 48571 (August 21, 2006) (SR–NYSEArca–2006–25).

electronically executed Linkage Orders also will be charged $0.50 per contract.

The Exchange acknowledges that the Exchange's previous version of its Schedule did not reflect that the BD Surcharge was imposed on electronically executed Linkage Orders.[10] In Amendment No. 4, the Exchange proposes to modify the Schedule to make clear that the BD Surcharge will be included as a component of the $0.50 fee assessed for electronically executed Linkage Orders.

III. Discussion and Commission Findings

The Commission has reviewed carefully the proposed rule change, as amended, and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[11] In particular, the Commission believes that the proposal is consistent with Section 6(b)(4) of the Act,[12] which requires that the rules of an exchange provide an equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. Under the current NYSE Arca Schedule, manually executed BD orders are charged $0.26 per contract and electronically executed orders from broker-dealers are charged $0.50 per contract. The Exchange proposed that manually executed Linkage Orders be charged $0.26 per contract and electronically executed Linkage Orders be charged $0.50 per contract. Accordingly, the Commission believes that the Exchange's proposed Schedule clearly sets forth the fees imposed on Linkage Orders.

As discussed above, the Exchange acknowledges, in Amendment No. 4, that prior versions of its Schedule did not represent that the $0.25 BD Surcharge was applied to electronically executed Linkage Orders. Because the Exchange assessed the BD Surcharge on Linkage Orders prior to this approval and, therefore, without authority, parties assessed the BD Surcharge for Linkage Orders prior to the approval of this proposed rule change may seek reimbursement.

The Commission finds good cause for approving proposed Amendment No. 4 before the 30th day after the date of publication of notice of filing thereof in the **Federal Register** pursuant to Section 19(b)(2) of the Act.[13] The Exchange filed Amendment No. 4 to reconcile the proposed rules in the original filing, as amended, with the Exchange's current rules, which reflect an immediately effective proposed rule change filed after this proposed rule change was published for comment.[14] The Commission believes that in Amendment No. 4, the Exchange proposes no significant changes to the fees proposed in the original filing. Therefore, the Commission finds good cause exists to accelerate approval of Amendment No. 4, pursuant to Section 19(b)(2) of the Act.[15]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 4, including whether Amendment No. 4 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–NYSEArca–2006–20 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to Amendment No. 4 to SR–NYSEArca–2006–20. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to Amendment No. 4 to SR–NYSEArca–2006–20 and should be submitted on or before October 12, 2006.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[16] that Amendment No. 4 to the proposed rule change (SR–NYSEArca–2006–20) be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 06–7842 Filed 9–20–06; 8:45 am]

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[10] The Schedule set forth the Transaction and Comparison fees assessed on Linkage Orders.

[11] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78f(b)(4).

[13] 15 U.S.C. 78s(b)(2).

[14] *See supra* note 9.

[15] 15 U.S.C. 78s(b)(2).

[16] 15 U.S.C. 78s(b)(2).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54448; File No. SR–OCC–2006–07]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving Proposed Rule Change Relating to a Surcharge for Non-Clearing Member Subscribers That Have Not Met a Mandated Conversion Date for Its Data Distribution Service

September 14, 2006.

I. Introduction

On May 15, 2006, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR-OCC–2006–07 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on July 10, 2006.[2] On July 21, 2006, OCC amended the proposed rule change.[3] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 54060 (June 28, 2006), 71 FR 38961.

[3] The amendment, as noted below, is not substantive and did not require republication of the notice. *Infra*, note 4 and accompanying text.

II. Description

The purpose of the rule change is to implement a surcharge to the monthly service fee charged to non-clearing member subscribers of OCC's Data Distribution Service (''DDS'') that have not converted to the new DDS format by the revised mandated conversion date of September 29, 2006.

Both clearing members and non-clearing members may subscribe to DDS. A clearing member may subscribe to DDS in order to receive in a machine readable format data processed by OCC that is proprietary to such clearing member (*e.g.*, position and post-trade entries) as well as non-proprietary data (*i.e.*, data not specific to the clearing member) produced by OCC (*e.g.*, information relating to series and prices). Non-clearing members may subscribe to DDS in order to receive certain non-proprietary data.

In December, 2004, OCC informed all DDS subscribers that OCC was requiring them to convert to the new ENCORE DDS format by February 28, 2006. Although OCC diligently worked with subscribers to facilitate their implementation of the new DDS format, it became apparent that some subscribers needed additional time in order to complete their systems work. Accordingly, in December, 2005, OCC announced an extension of the mandated conversion date to September 29, 2006.

After the mandated conversion date, OCC will continue to support the old legacy data service distribution system. However, for subscribers that do not meet the revised conversion date of September 29, 2006, OCC will charge a monthly surcharge of $1,000 per month in order to reasonably allocate the costs of continuing to support the old legacy data distribution system.[4] The surcharge will be imposed starting with the October 2006 billing cycle and will continue until the subscriber converts to the new DDS format and ceases to receive any legacy data service distribution transmissions. OCC will terminate all legacy data service transmissions after March 30, 2007.[5]

[4] Pursuant to a separate rule change, OCC will impose the $1,000 per month surcharge on clearing member subscribers to DDS that likewise fail to convert to the new format. Implementation of the surcharge on clearing members is pending approval of this rule filing by the Commission. Securities Exchange Act Release No. 54059 (June 28, 2006), 71 FR 38962 (July 10, 2006) [File No. SR–CC–2006–06].

[5] The March 30, 2007, termination date was the subject of the amendment to the proposed rule change filed on July 21, 2006.

III. Discussion

Section 17A(b)(3)(D) of the Act requires that the rules of a clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges.[6] The Commission finds that OCC's proposed rule change is consistent with this requirement because by establishing a surcharge for continued use of its old legacy data distribution system, OCC will be able to more equitably allocate its cost of providing continued service to those DDS subscribers that have failed to convert to OCC's ENCORE DDS format.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (File No. SR–OCC–2006–07) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 06–7839 Filed 9–20–06; 8:45 am]

BILLING CODE 8010–01–P

[6] 15 U.S.C. 78q–1(b)(3)(D).

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 5551]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: The Future Leaders Exchange Program: Host Family and School Placement

Announcement Type: New Grant.

Funding Opportunity Number: ECA/PE/C/PY–07–06.

Catalog of Federal Domestic Assistance Number: 00.000.

Key Dates: Application Deadline: December 4, 2006.

Executive Summary

SUMMARY: The Youth Programs Division of the Bureau of Educational and Cultural Affairs announces an open competition for the placement component of the Future Leaders Exchange (FLEX) program. Public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3) may submit proposals to recruit and select host families and schools for high school students between the ages of 15 and 17 from countries of the former Soviet Union, thereafter referred to as Eurasia. This solicitation and the activities to which it refers, applies only to FLEX students from the following Eurasian countries: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

In addition to identifying schools and screening, selecting, and orienting families, organizations will be responsible for: (1) Providing English language enhancement activities for a small percentage of students who are specially identified; (2) orienting all students at the local level; (3) providing support services for students; (4) arranging enhancement activities and skill-building opportunities; (5) assessing student performance and progress; (6) providing mid-year programming and re-entry training; and (7) evaluating project success. Preference will be given to those organizations that offer participants opportunities to develop leadership skills and raise their awareness of tolerance and social justice through community activities and networks. The award of grants and the number of students who will participate is subject to the availability of funding in fiscal year 2007.

I. Funding Opportunity Description

Authority: Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, as amended, Public Law 87–256, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic, and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation.

Overview: The Future Leaders Exchange Program seeks to provide 1,200 high school students with an opportunity to live in the United States for the purpose of promoting democratic values and institutions throughout Eurasia. Participants will reside with

American host families and attend high school during the 2007–08 academic year. In special situations, students may come to the U.S. for a short-term, rather than yearlong, program. Further details about such modifications are provided in the attached Project Objectives, Goals and Implementation (POGI) document.

During the year, FLEX participants will be engaged in a variety of activities, such as community and school-based programs, skill-building workshops, and cultural events. Academic year 2007/2008 will be the fifteenth year of the FLEX program, with more than 15,000 students who have been awarded scholarships.

Goals: The goals of the program are (1) to promote mutual understanding and foster a relationship between the people of Eurasia and the U.S.; (2) to assist the successor generation of Eurasian countries in developing the qualities it will need to lead in their aspirations for transformation in the 21st century; and (3) to promote democratic values and civic responsibility.

Considering the specific focus of the FLEX program, the following outcomes will indicate a successful project:

1. Participants will acquire an understanding of important elements of a civil society. This includes concepts such as volunteerism, the idea that American citizens can and do act at the grassroots level to deal with societal problems, and an awareness of and respect for the rule of law.

2. Participants will acquire an understanding of a free market economy and private enterprise, including an awareness of privatization and an appreciation of the role of the entrepreneur in economic growth.

3. Participants will develop an appreciation for American culture, an understanding of the diversity of American society and increased tolerance and respect for others with differing views and beliefs.

4. Participants will interact with Americans and generate enduring ties.

5. Participants will teach Americans about the cultures of their home countries.

6. Participants will gain leadership capacity that will enable them, as FLEX alumni, to initiate activities in their home countries that focus on development and community service.

Objectives: The immediate objectives of the FLEX program are:

- To place approximately 1,200 pre-selected high school students from Eurasian countries in qualified, well-motivated host families;
- To place students in schools that have been accredited by the respective State departments of education;
- To expose program participants to American culture and democracy that will enable them to attain a broad view of U.S. society and culture;
- To provide appropriate venues for program participants to share their culture, lifestyle and traditions with U.S. citizens;
- To provide participants with leadership training and opportunities that foster skills they can take back with them and use in their home countries; and
- To provide activities that will increase and enhance students' understanding of the importance of tolerance and respect for the views and beliefs of others in a civil society.

Other Components: One organization has been awarded a grant to perform the following functions: Recruitment and selection of Eurasian students; assistance in documentation and preparation of DS–2019 visa forms; preparation of cross-cultural materials; pre-departure orientation; international travel from home to host community and return; facilitation of ongoing communication between the natural parents and placement organization, as needed; maintenance of a student database and provision of data to the U.S. Department of State; and ongoing follow-up with alumni after their return to Eurasia.

Another organization is responsible for supporting students with disabilities. This involves a post-arrival orientation and reentry training as well as ongoing support throughout the year in order to help them cope with challenges specific to their circumstances. Placement organizations will be in direct communication with this organization, especially since some students with disabilities may need supplementary independence skills training early on in the program.

Guidelines: Applicants are requested to submit a narrative outlining a comprehensive strategy for the administration and implementation of the placement component of the FLEX program including the identification of host families and schools; organization of post-arrival orientation programming; placement of students, as needed, in pre-academic intensive English program; enrichment programming; monitoring and supporting participants; and evaluation. Specific responsibilities are as follows:

(1) Recruitment, screening, selection, and Eurasia/FLEX-specific orientation of host families;

(2) enrollment in an accredited school;

(3) post-arrival orientation for participants;

(4) placement of a small number of students with disabilities;

(5) pre-program specialized English language tutoring for pre-selected students who require focused preparation for their academic year;

(6) specialized training of local staff and volunteers to work with FLEX students from Eurasia;

(7) preparation and dissemination of materials to students pertaining to the respective placement organization;

(8) dispersal of program-specific information, such as alumni activity reports and Host Family and School Administrator handbooks, to respective persons involved with the program (e.g., host families, school administrators, local coordinators);

(9) program-related enhancement and leadership training activities;

(10) troubleshooting;

(11) communication with the organizations conducting other program components, when appropriate;

(12) evaluation of the students' performance;

(13) quarterly evaluation of the organization's success in achieving program goals;

(14) mid-year orientations to assess progress; and

(15) Eurasia-specific re-entry training to prepare students for readjustment to their home environments.

Applicants must request a grant for the placement of at least 30 students. There is no ceiling on the number of students who may be placed by one organization. Placements may be in any region of the U.S. Strong preference will be given to organizations that choose to place participants in clusters of at least three students. Please refer to the Solicitation Package, available on request from the address listed below, for details on essential program elements, permissible costs, and criteria used to select and place students.

We anticipate grants beginning no later than April 2007, subject to the availability of funds.

Most participants arrive in their host communities during the month of August and remain for 10 or 11 months until their departure during the period mid-May to late June 2008. Students with disabilities and students requiring supplementary English language instruction may arrive at the end of July.

Administration of the program must be in compliance with reporting and withholding regulations for Federal, State, and local taxes as applicable. Recipient organizations should demonstrate tax regulation adherence in the proposal narrative and budget.

Applicants should submit the health and accident insurance plans they

intend to use for students on this program. If use of a private plan is proposed, the State Department will compare that plan with the Bureau plan and make a determination of which will be applicable.

II. Award Information

Type of Award: New Grant Agreement.

Fiscal Year Funds: FY 2007.

Approximate Total Funding: $6,625,000.

Approximate Number of Awards: 10–15 grants.

Average Grant Award: Dependent on the number of proposed students, total amount not to exceed $5,500 per student; a minimum award is approximately $165,000.

Anticipated Award Date: April 2007, pending availability of funds.

Anticipated Project Completion Date: August 2008.

Additional Information: Pending successful implementation of this program and the availability of funds in subsequent fiscal years, it is ECA's intent to renew grants awarded under this competition for at least two additional fiscal years, before openly competing it again.

III. Eligibility Information

III.1. *Eligible applicants:* Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

III.2. Cost Sharing or Matching Funds: There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs. When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved grant agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs which are claimed as your contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III. 3. Other Eligibility Requirements: Bureau grant guidelines require that organizations with less than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. ECA will award grants in amounts exceeding $60,000,which will cover costs to support and monitor a minimum of 30 students. Consequently, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition. The Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

IV. Application and Submission Information

Note: Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1. Contact Information to Request an Application Package: Please contact The Office of Youth Programs, ECA/PE/C/PY, Room 568, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, telephone (202) 203–7527, and fax (202) 203–7529, e-mail Judy Nowlin at *NowlinJR@state.gov* to request a Solicitation Package. Please refer to the Funding Opportunity Number ECA/PE/C/PY–07–06 located at the top of this announcement when making your request.

Alternatively, an electronic application package may be obtained from *http://www.grants.gov*. Please see section IV.3f for further information.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document, which consists of required application forms and standard guidelines for proposal preparation.

It also contains the Project Objectives, Goals and Implementation (POGI) document, which provides specific information, award criteria and budget instructions tailored to this competition.

Please specify Bureau Program Officer Anna Mussman (*MussmanAP@state.gov*) and refer to the Funding Opportunity Number (ECA/PE/C/PY–07–06) at the top of this announcement on all other inquiries and correspondence.

IV.2. To Download a Solicitation Package Via Internet: The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/rfgps/menu.htm*. Please read all information before downloading.

IV.3. Content and Form of Submission: Applicants must follow all instructions in the Solicitation Package. The original and 8 copies of the application should be sent per the instructions under IV.3e. ''Application Deadline and Methods of Submissions'' section below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget. Please Refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document and the Project Objectives, Goals and Implementation (POGI) for additional formatting and technical requirements.

IV.3c. You must have nonprofit status with the IRS at the time of application. If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1 Adherence to all regulations governing the J Visa. The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs is the official program sponsor of the exchange program covered by this RFGP, and an employee of the Bureau will be the ''Responsible Officer'' for the program under the terms of 22 CFR 62, which covers the administration of the Exchange Visitor Program (J visa program). Under the terms of 22 CFR 62, organizations receiving grants under this RFGP will be third parties ''cooperating with or assisting the sponsor in the conduct of the sponsor's program.'' The actions of grantee program organizations shall be ''imputed to the sponsor in evaluating the sponsor's compliance with'' 22 CFR

62. Therefore, the Bureau expects that any organization receiving a grant under this competition will render all assistance necessary to enable the Bureau to fully comply with 22 CFR 62 *et seq.*

The Bureau of Educational and Cultural Affairs places great emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantee program organizations and program participants to all regulations governing the J visa program status. Therefore, proposals should *explicitly state in writing* that the applicant is prepared to assist the Bureau in meeting all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR 62. If your organization has experience as a designated Exchange Visitor Program Sponsor, the applicant should discuss their record of compliance with 22 CFR 62 *et. seq.*, including the oversight of their Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, recordkeeping, reporting and other requirements.

The Office of Citizen Exchanges of ECA will be responsible for issuing DS–2019 forms to participants in this program. A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD—SA–44, Room 734, 301 4th Street, SW., Washington, DC 20547, telephone: (202) 203–5029, fax: (202) 453–8640.

IV.3.d.2 Diversity, Freedom and Democracy Guidelines. Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content.

Please refer to the review criteria under the ''Support for Diversity'' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. Program monitoring and evaluation. Monitoring: Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique, plus a description of a methodology that will be used to link outcomes to original project objectives. The Bureau expects that the grantee will track participants and be able to respond to key monitoring questions throughout the year, particularly on effects of the program on program participants, their host families and communities.

Successful monitoring depends heavily on setting clear goals and outcomes at the outset of a program. Your monitoring plan should include a description of your project's objectives and how and when you intend to measure these outcomes. You should also show how your project objectives link to the goals of the program described in this RFGP.

Overall, the quality of your monitoring plan will be judged on how well it specifies successes and challenges. Grantees will be required to provide reports analyzing their monitoring findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

Evaluation: The Bureau's Office of Policy and Evaluation will conduct evaluations of the FLEX program through E-GOALS, its online system for surveying program participants and collecting data about program performance. These evaluations assist ECA and its program grantees in meeting the requirements of the Government Performance Results Act (GPRA) of 1993. This Act requires Federal agencies to measure the results of their programs in meeting pre-determined performance goals and objectives.

All FLEX program participants will take three online surveys:

1. Standardized pre-program surveys, at the beginning of the program;

2. Standardized post-program surveys, at the end of the program and before their return home; and

3. Standardized follow-up surveys, approximately six months to a year after the conclusion of the program.

These surveys help ECA assess: Student satisfaction with the program; student attitudes and views; the extent of learning and skill development (including leadership); reliance on new learning and skills in their studies, at work, and in their communities; and their efforts to share new ideas, knowledge, and insights with citizens in their home countries.

Since organizations play a critical role in facilitating E-GOALS evaluations of FLEX participants, it is imperative that applicants include a plan to ensure that FLEX students complete the post-program surveys while they are still on program and prior to their departure from the United States; this includes monitoring the response rate through collection of a certificate issued by the system to each student upon completion of the survey. The grantee will be working directly with an E-GOALS evaluator in the Office of Policy and Evaluation. Please see specific responsibilities in the accompanying Project Objectives, Goals and Implementation (POGI) document.

IV.3e. Please take the following information into consideration when preparing your budget:

1V.3e.1. Applicants must submit a comprehensive budget for the entire program. Per capita costs are not to exceed $5,500 per participant. The budget must reflect costs for a minimum of 30 participants. Please indicate clearly the number of students funded. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

IV.3e.2. Allowable costs for the program and additional budget guidance are outlined in detail in the POGI document.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f. Application deadline and methods of submission.

Application deadline date: December 4, 2006.

Reference number: ECA/PE/C/PY–07–06.

Methods of submission: applications may be submitted in one of two ways:

(1) In hard copy, via a nationally recognized overnight delivery service (i.e., DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Express Overnight Mail, etc.), or

(2) Electronically through *http://www.grants.gov.* Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1 Submitting Printed Applications. Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will not notify upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages may not be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to ''ECA/EX/PM''.

The original and eight (8) copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/PE/C/PY–07–06, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.2. Submitting electronic applications. Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the ''Find'' portion of the system. Please follow the instructions available in the ''Get Started'' portion of the site (*http://www.grants.gov/GetStarted*).

Applicants have until midnight (12 a.m.) of the closing date to ensure that their entire application has been uploaded to the grants.gov site. Applications uploaded to the site after midnight of the application deadline date will be technically ineligible.

Applicants will receive a confirmation e-mail from grants.gov upon the successful submission of an application. ECA will not notify you upon receipt of electronic applications.

IV.3g. Intergovernmental Review of Applications Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. Review process: The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards (grants) resides with the Bureau's Grants Officer.

Review Criteria: Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Program Management and Planning:* Your proposal narrative should exhibit originality, substance, and relevance to the Bureau's mission as well as to the goals of the FLEX program. The level of creativity, resources, and effectiveness will be primary factors for review. Proposals should demonstrate an understanding of Eurasian countries and of the needs of students from this region, as related to the program. Proposals should also indicate how students will be monitored, trained and prepared for their role as FLEX alumni. Reviewers will assess the degree in which proposals engage participants in community activities that involve skills development and leadership training. They will also assess proposed activities that foster tolerance and social justice. Proposals should indicate clearly the capacity and willingness to provide short-term programming for some students if this becomes necessary. A detailed agenda and work plan should adhere to the program overview and guidelines described in the solicitation package.

2. *Ability to achieve program objectives:* Objectives should be reasonable, feasible, and flexible. With respect to anticipated program outcomes, reviewers will assess the degree to which the proposed outcomes of the project are realistic and measurable. Strategies should creatively utilize and reinforce activities to ensure an efficient use of program resources.

3. *Multiplier effect/impact:* Proposed programs should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages. Reviewers will assess ways in which proposals include innovative ways to involve students in their U.S. communities and substantive plans to prepare them for their role as active, effective FLEX alumni.

4. *Support of diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, host families, schools, program venue and program evaluation) and program content (orientations, program meetings, resource materials and follow-up activities).

5. *Organization's record/institutional capacity:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals. In assessing institutional capacity, reviewers will assess the applicant and its partners to determine if they offer adequate resources, expertise, and experience to fulfill program objectives. Partner activities should be clearly defined. Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting and J–1 Visa requirements for past Bureau grants as determined by Bureau Grant Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants.

6. *Project monitoring and evaluation:* Proposals should include a plan to monitor the activity's success, both as the activities unfold and at the end of

the program. Reviewers will assess your plans to monitor student progress and program activities, particularly in regard to intended outcomes indicated in your proposal. Successful applicants will be expected to submit quarterly reports, which should be included as an inherent component of the work plan. Proposals should also specify ways in which students will be encouraged and monitored to ensure they complete the mandatory end-of-the-year surveys administered through the E-GOALS system.

7. *Cost-effectiveness/cost sharing:* Reviewers will analyze the budget for clarity and cost-effectiveness. They will also assess the rationale of the proposed budget and whether the allocation of funds is appropriate to complete tasks outlined in the project narrative. The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions. Preference will be given to organizations whose proposals demonstrate a quality, cost-effective program.

VI. Award Administration Information

VI.1a. *Award notice:* Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive an Assistance Award Document (AAD) from the Bureau's Grants Office. The AAD and the original grant proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The AAD will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.2. *Administrative and National policy requirements:* Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, ''Cost Principles for Nonprofit Organizations.''

Office of Management and Budget Circular, ''Cost Principles for Educational Institutions.''

OMB Circular A–87, ''Cost Principles for State, Local and Indian Governments.''

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference the following Web sites for additional information: *http://www.whitehouse.gov/omb/grants*, *http://exchanges.state.gov/education/grantsdiv/terms.htm#articleI*.

VI.3. *Reporting requirements:* You must provide ECA with a hard copy original plus one copy of the following reports:

(1) A final program and financial report no more than 90 days after the expiration of the award;

(2) Quarterly program and financial reports which should include both quantitative and qualitative data you have available.

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and submission instructions (IV.3.d.3) above for Program Monitoring and Evaluation information.

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VI.4. Program data requirements: Organizations awarded grants will be required to maintain specific data on program participants and activities in an electronically accessible database format that can be shared with the Bureaus required.

VII. Agency Contacts

For questions about this announcement, contact: Anna Mussman, Office of Citizen Exchanges, ECA/PE/C/PY, Room 568, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547. Telephone: (202) 203–7506, fax number: (202) 203–7529, Internet address: *MussmanAP@state.gov*. All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/PE/C/PY–07–06.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice: The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: September 13, 2006.

Dina Habib Powell,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 06–7937 Filed 9–20–06; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Submission Deadline for International Slots for the Summer 2007 Scheduling Season

AGENCY: Department of Transportation, FAA.

ACTION: Notice of submission deadline

SUMMARY: The FAA announces in this notice that the deadline for submitting requests for international Arrival Authorizations at Chicago O'Hare International Airport (ORD) for allocation under 14 CFR 93.29 is October 12, 2006. This date coincides with the deadline established by the International Air Transport Association (IATA) for the Schedule Coordination Conference for the Summer 2007 season. The FAA will allocate ORD international Arrival Authorizations for the period covering the U.S. Summer Scheduling Season in accordance with recent changes to the start and end dates of daylight saving time in the United States. The applicable period is March 11 through November 3, 2007. The FAA recognizes that these dates differ from the March 25 through October 27, 2007 period used by IATA for the Summer 2007 schedule. Therefore, for those carriers who previously submitted schedules to the FAA through March 24, 2007, as part of the Winter 2006

submission, resubmission is not necessary unless schedule information has changed because the FAA has acted on those submissions. Carriers also may choose to file initial summer schedules through October 27, 2007, the end of the IATA Northern Summer Scheduling Season, and submit the period October 28 through November 3, 2007, as part of winter schedules.

Previously, the FAA designated Chicago's O'Hare International Airport (O'Hare) as a Level 2, Schedules Facilitated Airport under the IATA Guidelines. The FAA has changed the designation for O'Hare to Level 3 based on runway movement parameters under an August 29, 2006, final rule (71 FR 51382). Carriers are advised that this notice does not alter or change any coordination procedures conducted separately for O'Hare's Terminal 5 facilities. The IATA designation for those flights remains Level 2 and information on those submission requirements is available from IATA.

Finally, the FAA notes that the High Density Rule slot limitations for John F. Kennedy International Airport (JFK) will not apply after January 1, 2007, in accordance with 49 U.S.C. § 41715(a)(2). Consequently, the FAA determination for JFK under IATA guidelines has changed to Level 1. Carriers do not need to submit JFK schedules for slot approval.

DATES: Requests for international slots must be submitted no later than October 12, 2006.

ADDRESSES: Requests may be submitted by mail to Slot Administration Office, AGC–220 Office of the Chief Counsel, 800 Independence Ave., SW., Washington, DC 20591; facsimile: 202–267–7277; ARINC: DCAYAXD; or by e-mail to: *7-AWA-slotadmin@faa.gov*.

FOR FURTHER INFORMATION CONTACT: Komal Jain, Regulations Division, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone number: 202–267–3073.

Issued in Washington, DC, on September 14, 2006.

James Whitlow,

Deputy Chief Counsel.

[FR Doc. 06–7812 Filed 9–20–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Government/Industry Air Traffic Management Advisory Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Government/Industry Air Traffic Management Advisory Committee.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Government/Industry Air Traffic Management Advisory Committee.

DATES: The meeting will be held October 11, 2006, from 1 a.m. to 4 p.m.

ADDRESS: The meeting will be held at FAA Headquarters, 800 Independence Avenue, SW., Bessie Coleman Conference Center (2nd Floor), Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org*.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for the Air Traffic Management Advisory Committee meeting.

Note: *Non-Government attendees to the meeting must go through security and be escorted to and from the conference room. Attendees with laptops will be required to register them at the security desk upon arrival and departure. Agenda items will be posted on http://www.rtca.org Web site.*

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on September 11, 2006.

Francisco Estrada C.,

RTCA Advisory Committee.

[FR Doc. 06–7828 Filed 9–20–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 202: Portable Electronic Devices

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 202 Meeting: Portable Electronic Devices.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 202: Portable Electronic Devices.

DATES: The meeting will be held on October 16–20, 2006, from 9 a.m. to 4:30 p.m.

ADDRESSES: The meeting will be held at Conference Rooms, 1828 L Street, NW., Suite 805, Washington, DC.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC, 20036–5133; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org*.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 202 Portable Electronic Devices meeting. The agenda will include:

- October 16:
- Co-chairs' Strategy Sessions with Working Group Leaders.
  - Working Group Progress and Status Update, Final Review and Comment (FRAC) Disposition Plan.
  - Overall Review of Plan and Schedule for Phase 2.
- Working Groups Coordination.
  - Time for all Working Groups to meet together if required.
- Working & Focus Groups Sessions.
  - WG–1, PED Characterization—Garmin Room.
  - WG–2, Aircraft Path Loss and Test, with WG–3, Aircraft Susceptibility—Colson Board Room.
  - FCC Recommendations Focus Group—ARINC Conference Room.
  - Picocell Focus Group—MacIntosh-NBAA Hilton/ATA Room.
  - Ad-hoc Working Group 4, Process and Overall Document—Small Conference Room.
- Chairmen's Strategy Session with Working Group Leaders.
  - Coordinate Recommendations to Plenary: FRAC Comment Dispositions, TOR Compliance Verification, and Publication of Final Update to DO–294.

- October 17:
- Opening Plenary Session (Welcome and Introductory Remarks, Review Agenda, Review/Approve previous Common Plenary Summary).
- Update from Regulatory Agencies (FAA, UK–CAA, Canadian TSB, FCC, or other).
- Update on Work of EUROCAE Working Group WG58 by Michel Crokaert of Airbus, WG58 Chairman.
- CEA PEDs Working Group Report and Plans for ANSI Accredited Standard by Doug Johnson of CEA.
- Update on CTIA Task Force on Cell Phones on Airborne Aircraft by Paul Guckian of QUALCOMM.
- PED Emission Statistics and IPL Target Calculations for Airplane Design and Certification Guidance.
- Break-out Sessions for Working Groups and Focus Groups on Phase 2 work—FRAC Comment Dispositions, DO–294 Final Update Recommendations, Status of Draft DO–YY Design and Certification Guidance Document, Remaining Work, Open Issues or Coordination Requirements.
- Working Groups (WG) 1 through 5 meet.
  - WG–1, T–PED Characterization.
  - WG–2, Aircraft Path Loss and Test, with WG–3, Aircraft Susceptibility.
  - WG–4, Risk Assessment, Mitigation, and Process.
  - WG–5, Airplane Design and Certification Guidance.
  - FCC Recommendations Focus Group.
  - Picocell Focus Group.
  - Reference Data in Appendix CD for Phase 2 Document.
  - Committee Consensus on Remaining Phase 2 Work Plan. TOR Compliance Plan, and Schedule for Completion.
- October 18:
- Co-chairs' Strategy Session with Working Group Leaders.
  - WG Progress and Plan for Completion of FRAC Comment Dispositions, Preparation of Recommendation to Publish Final Update DO–294, Initial Draft DO–YYY.
- Working Groups Coordination.
  - Time for all Working Groups to meet, if required.
- Working Groups Sessions.
  - WG–1 PEDs Characterization.
  - WG–2 Aircraft Path Loss and Test with WG–3, Aircraft Susceptibility.
  - WG–4 Risk Assessment, Mitigation, and Process.
  - WG–5 Airplane Design and Certification Guidance.
- Focus Groups Sessions.
  - FCC Recommendations Focus Group.
  - Picocell Focus Group.
- Chairmen's Strategy Session with Working Group Leaders.
- Readiness for Recommendations to Plenary, Plan for Completion of Documents.
- October 19:
- Chairmen's Day 2 Opening Remarks and Process Check.
- Working Groups report out.
  - Each Working Group will cover the following:
  - FRAC Comment Disposition Status.
  - TOR Compliance Assessment.
  - Plan for Closure of any Open Issues.
  - Recommendations to Support to Plenary consensus on Recommendation to Publish DO–294B.
  - Phase 2 Work Remaining: Work plan and schedule for completion of DO–YYY.
  - Working Group 1 (PEDs Characterization, Test and Evaluation).
  - FCC Recommendations Focus Group.
  - Working Group 2 (Aircraft Test and Analysis).
  - Working Group 3 (Aircraft Systems Susceptibility).
  - Picocell Focus Group.
  - Overall document Structure and Process (Ad-hoc Working Group 4).
  - Working Group 5 (Recommended Guidance for Airplane Design and Certification).
  - Plenary Consensus on Recommendation to Publish Final Update DO–294
  - Working Groups' teleconference and meeting schedule, plan for Phase 2 work completion.
- Closing Session (Other Business, Date and Place of Upcoming Meetings—December 5–7, 2006 Seventeenth Plenary at RTCA; January 23–25, 2007 Eighteenth Plenary at RTCA; April 17–19, 2007 Nineteenth Plenary at RTCA—Closing Remarks, Adjourn).
- Break-out sessions for Working Groups Phase 2 work if required and time permits.
- October 20:
  - Working Groups and Focus Groups complete action items and prepare and format document for Final Review And Comment (FRAC), as required.

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on September 12, 2006.

Francisco Estrada C.,

RTCA Advisory Committee.

[FR Doc. 06–7829 Filed 9–20–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 159: Global Positioning System (GPS)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 159 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 159: Global Positioning System.

DATES: The meeting will be held October 9–13, 2006, from 9 a.m. to 4:30 p.m. (unless stated otherwise).

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org*.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 159 meeting. *Note: Specific working group sessions will be held October 9–13.* October 9 is Columbus Day (USA). There will be no scheduled activities. The plenary agenda will include:

- October 13:
- Opening Plenary Session (Welcome and Introductory Remarks, Approve Minutes of Previous Meeting).
- Review Working Group (WG) Progress and Identify Issues for Resolution.
  - Global Positioning System (GPS)/3rd Civil Frequency (WG–1).
  - GPS/Wide Area Augmentation System (WAAS) (WG–2).
  - GPS/GLONASS (WG–2A).
  - GPS/Inertial (WG–2C).
  - GPS/Precision Landing Guidance (WG–4).
  - GPS/Airport Surface Surveillance (WG–5).
  - GPS/Interference (WG–6).
  - GPS/Antennas (WG–7).

- GPS/GRAS (WG–8).
- Review of EUROCAE activities.
- Review Final Review and Comment Status of DO–229C Revision.
- Consider for Approval—new document—*Minimum Operational Performance Standards for Global Navigation Satellite System (GNSS) Airborne Active Antenna Equipment for the L1 Frequency Band,* RTCA Paper No. 192–06/SC–159–941.
- Closing Plenary Session (Assignment/Review of Future Work, Other Business, Date and Place of Next Meeting).

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on September 12, 2006.

Francisco Estrada C.,

RTCA Advisory Committee.

[FR Doc. 06–7830 Filed 9–20–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2006–25842]

Agency Information Collection Activities: Notice of Request for Extension of Currently Approved Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA has forwarded the information collection request described in this notice to the Office of Management and Budget (OMB) for an extension of a currently approved information collection. We published a **Federal Register** Notice with a 60-day public comment period on this information collection on June 26, 2006. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by October 23, 2006.

ADDRESSES: You may send comments within 30 days to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC, 20503, Attention DOT Desk Officer. You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burden; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. All comments should include the Docket number FHWA–2006–25842.

FOR FURTHER INFORMATION CONTACT: For questions concerning the Truck Parking Initiatives Grant Program, please contact William F. Mahorney, Office of Freight Management and Operations, HOFM–1, (202) 366–6817, Department of Transportation, 400 Seventh Street, SW., Washington, DC, 20590. Office hours are from 7:45 a.m. to 4:15 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Truck Parking Initiative.

OMB Control Number: 2125–0610.

Background

The shortage of long-term truck parking on the National Highway System (NHS) is a problem that needs to be addressed. It is nationally recognized that truck drivers frequently cannot find adequate, safe parking in order to obtain rest needed to comply with the Federal Motor Carrier Safety Regulations and ensure safety. Further, parking areas are often designed or maintained for short-term parking only, and as a result, allow parking for limited time periods. Section 1305 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) directed the Secretary of Transportation to establish a Pilot program to address the long-term parking shortages along the NHS. Eligible projects under Section 1305 include:

1. Promoting the real-time dissemination of publicly or privately provided commercial motor vehicle parking availability on the NHS using ITS and other means;
2. Opening non-traditional facilities to commercial motor vehicle parking, including inspection and weigh stations, and park and ride facilities;
3. Making capital improvements to public commercial motor vehicle parking facilities currently closed on a seasonal basis to allow the facilities to remain open year round;
4. Constructing turnouts along the NHS to facilitate commercial motor vehicle access to parking facilities, and/or improving the geometric design of interchanges to improve access to commercial motor vehicle parking facilities;
5. Constructing commercial motor vehicle parking facilities adjacent to commercial truck stops and travel plazas;
6. Constructing safety rest areas that include parking for commercial motor vehicles.

It is the belief of FHWA that given the limited resources available, the broad dissemination of the availability of public or private long-term parking spaces provides the greatest opportunity to maximize the effectiveness of this pilot program.

Guidelines and Administration

To administer this program for fiscal years 2006 through 2009, the FHWA will collect information necessary to evaluate and rank projects. The information collection is intended to only address the project funding allotted through the program.

1. The Administrator has determined that $5.385 million is available for grants in FY 2006 under Section 1305, after obligation limitations.
2. Projects funded under this section shall be treated as projects on a Federal-Aid System under Chapter 1 of Title 23, U.S. Code.
3. Grants may be funded at an 80 to 100 percent funding level based on the criteria specified in Section 120 of Title 23, U.S. Code.

As soon as practicable, a **Federal Register** Notice will be published with information and guidance relating to the application process. Also, a solicitation letter will be sent to all FHWA Division Offices containing the same information. This information will also be posted on the FHWA Web site, *http://www.fhwa.dot.gov/*. All applications must be submitted through a State Department of Transportation to FHWA's Office of Freight Management and Operations, via the FHWA Division Office in the State in which the application was submitted. Awarded projects will be administered by the applicable State Department of Transportation as a Federal-aid grant.

Information Proposed for Collection

Information recommended under SAFETEA–LU and proposed for the current program includes the following:

1. *Project Description.* The proposal should include a detailed project description, which would include the extent of the long-term truck parking shortage in the corridor/area to be addressed, along with contact

information for the project's primary point of contact, and whether funds are being requested under 120 U.S. Code (b) or (c) of Title 23. Data helping to define the shortage may include truck volume (Average Daily Truck Traffic—ADTT) in the corridor to be addressed, current number of long-term commercial motor vehicle parking spaces, utilization of current long-term parking spaces, driver surveys, observational field studies, proximity to freight loading/unloading facilities, proximity to the NHS, etc.

2. *Project Rationale.* The proposal should set forth the rationale for the project and should include an analysis and demonstration of how the proposed project will positively affect truck parking, safety, traffic congestion, or air quality in the identified corridor. Examples may include: advance information on availability of parking that may help to reduce the number of trucks parked on roadsides and increase the utilization of available truck parking spaces, *etc.*

3. *Scope of work.* The scope of work should include a complete listing of activities to be funded through the grant; including technology development, information processing, information integration activities, developmental phase activities (planning, feasibility analysis, environmental review, engineering or design work, and other activities), construction, reconstruction, acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, acquisition of equipment, and operational improvements. Also to be included should be a 3-year performance measurement plan that continues beyond the demonstration period of the project.

4. *Stakeholder identification.* Stakeholder identification should include evidence of prior consultation and/or partnership with affected MPOs, local governments, community groups, private providers of commercial motor vehicle parking, and motorist and trucking organizations. It should include a listing of all public and private partners, and the role each will play in the execution of the project. Consultation examples may include: Memorandums of Agreement, Memorandums of Understanding, contracts, meeting minutes, letters of support/commitment, documentation in a State's TIPS/STIPS plans, etc.

5. *Cost estimate.* Applicants should provide a detailed quantification of eligible project costs by activity, an identification of all funding sources that will supplement the grant and be necessary to fully fund the project, and the anticipated dates on which the additional funds are to be made available. Public and private sources of funds (non-federal commitment) will be considered by FHWA as an in-kind match contributing to the project. State matching funds will be required for projects eligible under 120 U.S. Code (b).

6. *Timeline.* Applicants should also submit a timeline that includes work to be completed and anticipated funding cycles. Gantt charts are preferred.

7. *Environmental process.* Applicants should show the timeline for complying with the National Environmental Policy Act (NEPA), if applicable.

8. *Project map.* Applicants should include a project map consisting of schematic illustrations depicting the project and connecting transportation infrastructure.

9. *Proposals should not exceed 20 pages in length.*

Burden Hours for Information Collection

Frequency: Annual.

Respondents: The 50 State DOTs and Puerto Rico and the District of Columbia.

Estimated Average Burden per response: Burden hours estimates and discussions are provided for each item presented and required within the application submittal process.

- Project Description 16 hours.
  - The project description will be submitted through the submitting State agency, in conjunction with local governments, MPOs, and other potential partners.
- Project Rationale 8 hours.
  - Project rationale should include an analysis and demonstration of how the proposed project will positively effect truck parking, safety, traffic congestion, or air quality in the identified corridor.
  - Scope of Work 6 hours.
  - A complete listing of activities to be funded through the grant including technology development, information processing, information integration activities, developmental phase activities (planning, feasibility analysis, environmental review, engineering or design work, and other activities), construction, reconstruction, acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, acquisition of equipment, operational improvements, and a 3-year performance measurement plan that continues beyond the demonstration period of the project.
- Stakeholder Identification 1 hour.
  - Evidence of prior consultation and/or partnership with affected MPOs, local governments, community groups, private providers of commercial motor vehicle parking, and motorist and trucking organizations. A listing of all public and private partners, and the role each will play in the execution of the project should also be included.
- Cost estimate 4 hours.
  - A detailed quantification of eligible project costs by activity, and an identification of all funding sources that will supplement the grant and be necessary to fully fund the project, and the anticipated dates on which the additional funds are to be made available. Public and private sources of funds (non-federal commitment) will be considered. State matching funds will be required for projects eligible under 120 U.S. Code (b).
- Project Timeline 1 hour 30 minutes.
  - Includes work to be completed and anticipated funding cycles; Gantt charts preferred.
- Environmental process 2 hours.
  - Applicant should show the timeline for complying with the National Environmental Policy Act (NEPA), if applicable.
- Project Map 1 hour.
- Consisting of schematic illustrations depicting the project and connecting transportation infrastructure.
- Contact information for the State DOT, Local Agency, or MPO (if applicable), FHWA Division Office 5 minutes.
  - This requires providing a list of contacts and involves a nominal amount of time.

The total amount of time estimated to complete the application is 39 hours and 35 minutes.

Estimated Total Annual Burden Hours: 1187 total burden hours. It is estimated 30 applications will be processed annually.

Electronic Access: Internet users may access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov*, 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: September 15, 2006.

James R. Kabel,

Chief, Management Programs and Analysis Division.

[FR Doc. 06–7832 Filed 9–20–06; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2006–25848]

Agency Information Collection Activities: Request for Comments for New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information collection, which is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by November 20, 2006.

ADDRESSES: You may submit comments identified by DOT DMS Docket Number FHWA–2006–25848 by any of the following methods:

- Web site: *http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1–202–493–2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room 401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For questions concerning the Mechanistic Empirical Pavement Design National Status Survey, please contact Gary Crawford, Office of Pavement Technology, HIPT–1, (202) 366–1286, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Mechanistic Empirical Pavement Design National Status Survey.

Background

In June 2004, the National Cooperative Highway Research Program (NCHRP) released the Mechanistic Empirical Pavement Design Guide (MEPDG) for New and Rehabilitated Pavement Structures. The Federal Highway Administration (FHWA) organized a Design Guide Implementation Team (DGIT) to immediately begin the process of informing, educating, and assisting the FHWA field offices, State Highway Agencies (DOTs), Industry, and others about the new design guide. The FHWA considers implementation of mechanistic empirical pavement design a critical element in improving the National Highway System. It ties directly into objectives listed in The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) section 1503, which supports longer life pavements through design-build efforts. The impacts of long-life pavements include congestion mitigation and improved work zone safety. The MEPDG represents a significant advancement in pavement design and includes the best available engineering theory and mechanistic principles to determine the structural response and predict performance over the lifetime of a pavement structure. The mechanistic theory is balanced with over 525 empirical observations from the Long Term Pavement Performance database that represents a wide range of both material and climatic conditions. The use of both the mechanistic theory and a wide range of empirical observations make the MEPDG a robust design procedure. The MEPDG can be considered a 40-year step forward in pavement design. The MEPDG is a more theoretical and mathematical based procedure, strongly bolstered by fundamental engineering principles and is readily useful to academia, researchers, and practitioners of pavement analysis and design. The MEPDG provides significant potential benefits over the current AASHTO Guide in achieving cost-effective pavement designs and rehabilitation strategies. Most importantly, its user-oriented computational software implements an integrated analysis approach for predicting pavement condition over time. This analysis considers the complex interaction between traffic loadings, climatic conditions, materials and pavement structure. Implementation of the MEPDG will require a significant amount of time, resources, and funding. However, the adoption of the guide has the potential for providing a substantial long term savings based on the sheer magnitude of annual expenditures for highway pavements. In 2003, over 79 billion dollars was used for highway purposes; based on data published in *Highway Statistics 2003* from the FHWA Office of Highway Policy Information. Any improvement in the designs will have a significant implication in reducing costs to maintain these pavements and more than offset the resources required to implement the new pavement design guide.

The DGIT has put forth a strategic plan of action to aid the transportation community in deploying this new technology. The DGIT is an integral part of an extensive outreach campaign including enhancement, education, and implementation strategies to promote the MEPDG. These activities include onsite and web-based workshops that have already educated more than 1,200 engineers across the U.S. in 21 States and around the globe in Canada, Europe, China, India, Mexico, and Central and South America. The FHWA encourages States to evaluate the utility that the Mechanistic Empirical Pavement Design Guide offers and to carefully implement the guidelines and recommendations. The long-term goal of the AASHTO Joint Technical Committee on Pavements is to adopt the guide as an AASHTOWare product to replace the AASHTO 1993 design guide. Moving towards a mechanistic empirical design process represents a huge paradigm shift for the majority of States and will require a significant amount of education, training, new equipment, new testing requirements, and data collection. Most importantly it will require better communication and coordination between the designers, materials engineers, traffic engineers, and consultants to collect and maintain the data needed to optimize the pavement designs and continue to validate and calibrate the models in the Guide. The DGIT is focused on being a leader in this effort, providing education, enhancement, and implementation activities to the transportation community.

Guidelines and Administration

This Survey will be a continuation of a previous informal assessment of State Practices in MEPDG Pavement Design

that was undertaken in 2004 by the AASHTO Lead States Group and will provide a benchmark for future surveys to which later responses may be assessed. The information will serve as a baseline measurement on the national activities related to Mechanistic Pavement Design Procedures. The information will be used by FHWA to develop a national program to aid State DOTs in the implementation efforts and to guide research efforts. The information has been requested by the AASHTO Lead States Group in order to be better able to address areas of need. The information will be used in order to disseminate information and to avoid the duplication of implementation efforts. The information will also be helpful to the AASHTO through the process of assessing the procedure as an official national pavement design procedure. Information concerning national activities in MEPDG will be very useful in aiding this governing body in the balloting process. The information will aid in guiding the direction of research and implementation efforts by both the FHWA and State DOTs. The results of the survey will be disseminated by the FHWA and the Lead States Group to interested parties throughout the Nation. Stakeholders in the MEPDG will be able to assess the adequacy of the implementation efforts over time. This information will be collected under a contract through the Office of Pavement Technology. The survey will be administered through electronic media in order to reduce the burden of the responders.

Information Proposed for Collection

The information collected will asses the current state of pavement design and capture current activities associated with the implementation of mechanistic design procedures throughout the Nation. This information can be categorized into four major areas.

1. *Implementation Plan for Mechanistic Empirical Pavement Design.* This information includes current status of pavement design and implementation strategies included in the State DOT activities. This includes information about the major areas of materials characterization and traffic collection.

2. *Calibration Plan for Mechanistic Empirical Pavement Design.* This information details the SHA activities associated with calibration of the mechanistic pavement design procedure. Calibration activities at the State and regional level are of particular interest for guiding research activities and avoiding duplication of efforts.

3. *Mechanistic Empirical Pavement Design: Methodology and Partnering.* This information includes the intended use of the mechanistic pavement design procedure for other applications and the possible use by other transportation agencies in a State. The mechanistic pavement design procedure has the potential to be used in coordination with innovative contracting techniques and other pavement analysis and materials acceptance programs.

4. *Mechanistic Empirical Pavement Design: Training and Communication.* This is information outlining the training activities anticipated or already conducted in relation to the mechanistic pavement design procedure. The information also includes anticipated costs associated with implementation activities.

Burden Hours for Information Collection

Frequency: Bi-Annual.

Respondents: The Pavement Design Engineer in each State DOT, Puerto Rico, and the District of Columbia; for a total of 52.

Estimated Average Burden per response: Assuming 1 respondent per State plus Puerto Rico and the District of Columbia and 1 hr to respond to the survey, the total will be approximately 52 burden hours. FHWA is seeking a 3-year approval and plan on conducting the survey in the first and third year of the approval time period. The estimated annual burden is 35 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: September 15, 2006.

James R. Kabel,

Chief, Management Programs and Analysis Division.

[FR Doc. 06–7931 Filed 9–20–06; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety, Notice of Application for Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration, DOT.

ACTION: List of Applications for Special Permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follow: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before October 23, 2006.

ADDRESS COMMENTS TO: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If Confirmation of receipt of comments if desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, Nassif Building, 400 7th Street SW., Washington DC or at *http://dms.dot.gov*.

This notice of receipt of applications for special permit is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on September 15, 2006.

R. Ryan Posten,

Chief, Special Permits Program, Office of Hazardous Materials, Special Permits & Approvals.

NEW SPECIAL PERMITS

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permits therof
14393–N	PHMSA–25797	Hamilton Sundstrand Windsor Locks, CT.	49 CFR 173.306(e)(iii), (iv), (v) and (vi); 173.307(a)(4)(iv).	To authorize the transportation in commerce of new supplemental cooling unit refrigeration machines with alternative safety devices as a component part of an aircraft. (modes 1,2,3,4)
14394–N	PHMSA–25799	Boeing Company, Kennedy Space Center, FL.	49 CFR 173.302a	To authorize the transportation in commerce of Nitrogen Tank Assemblies by motor vehicle between the Kennedy Space Center and Cape Canaveral Air Force Station not subject to the packaging requirements of the Hazardous Materials Regulations. (mode 1)
14395–N	PHMSA–25782	Britz Fertilizers, Inc., Fresno, CA.	49 CFR 172, 173, 177	To authorize the transportation in commerce of a liquid soil fumigant classed as Division 6.1, PG II, in a non-DOT specification bulk packaging mounted on a farm tractor or wagon, not subject to certain requirements of Parts 172 and 177 of the Hazardous Materials Regulations. (mode 1)
14396–N	PHMSA–25783	Matheson Tri-Gas, Parsippany, NJ.	49 CFR 173.192(a)	To authorize the transportation in commerce of Arsine, Division 2.3, in certain DOT specification and non-DOT specification cylinders not normally authorized for cargo vessel transportation, for export only. (modes 1, 3)
14398–N		Lyondell Chemical Company, Houston, TX.	49 CFR 172.203(a); 179.13; 173.31(c)(1).	To authorize the transportation in commerce of Titanium tetrachloride in DOT105J600W tank cars with a maximum gross weight on rail that exceed the maximum limit of 263,000 pounds. (mode 2)
14399–N	PHMSA–25821	Gas Cylinder Technologies Inc., Tecumseh, Ontario.	49 CFR 173.302a	To authorize the manufacture, marking, sale and use of non-DOT specification cylinders similar to DOT 39 for the transportation of non-flammable, non-liquefied gases. (modes 1, 2, 3, 4, 5)
14400–N	PHMSA–25820	Ultra Electronics, Alexandria, VA.	49 CFR 172.301, 172.400, 173.306, 175.26.	To authorize the transportation in commerce of Air, compressed in a non-DOT specification high pressure compressor system. (modes 1, 2, 3, 4)
14402–N		Lincoln Composites, Lincoln, NE.	49 CFR 173.302a	To authorize the manufacture, marking, sale and use of a non-DOT specification fully wrapped fiber reinforced composite gas cylinders with a non-load sharing plastic liner that meets the ISO 11119–3 standard except for the design water capacity and service pressure. (modes 1, 2, 3, 4, 5)

[FR Doc. 06–7817 Filed 9–20–06; 8:45 am]
BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety; Notice of Applications for Modification of Special Permit

AGENCY: Pipeline and Hazardous Materials Safety Administration, DOT.

ACTION: List of Applications for Modification of Special Permit.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. This notice is abbreviated to expedite docketing and public notice. Because the section affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Request of modifications of special permits (*e.g.,* to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix ''M'' denote a modification request. These applications have been separated from the new applications have been separated from the new application for special permits to facilitate processing.

DATES: Comments must be received on or before October 6, 2006.

Address Comments To: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If Confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, Nassif Building, 400 7th Street, SW., Washington DC or at *http://dms.dot.gov.*

This notice of receipt of applications for modification of special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on September 15, 2006.

R. Ryan Posten,

Chief, Special Permits Program, Office of Hazardous Materials, Special Permits & Approvals.

MODIFICATION SPECIAL PERMITS

Application number	Docket number	Applicant	Regulation(s) affected	Modification of special permit	Nature of special permit thereof
7945–M	.....	Pacific Scientific Duarte, CA.	49 CFR 173.304(a)(1); 175.3.	7945	To modify the special permit to authorize additional 2.2 hazardous materials in non-DOT specification cylinders.
10945–M	.....	Structural Composites Industries Pomona, CA.	49 CFR 173.302(a); 173.304(a); 175.3.	10945	To modify the special permit to authorize retest markings to be applied to the cylinder neck.
12306–M	RSPA–99–5956	Griffin Pipe Products Co. Lynchburg, VA.	49 CFR Part 172, Subparts C, F.	12306	To modify the special permit to authorize additional Class 3 hazardous materials.
13179–M	RSPA–03–14876.	Clean Harbors Environmental Services Norwell, MA.	49 CFR 173.21; 173.308.	13179	To modify the special permit to authorize the use of an alternative shipping description and hazard class for the Division 2.1 materials being transported to a disposal facility.
13556–M	RSPA–04–17727.	Stericycle Lake Forest, IL.	49 CFR 172.301(a)(1); 172.301(c).	13556	To modify the special permit to authorize transportation in commerce of a Division 6.2 material in packagings marked with an outdated proper shipping name.
13598–M	RSPA–04–18706.	Jadoo Folsom, CA.	49 CFR 173.301(a)(1), (d) and (f).	13598	To modify the special permit to authorize passenger carrying aircraft as an additional mode of transportation.
14287–M	PHMSA–05–23247.	Troxler Electronic Laboratories, Inc. Research Triangle Park, NC.	49 CFR 173.431	14287	To modify the special permit to authorize cargo vessel as an additional mode of transportation.

[FR Doc. 06–7818 Filed 9–20–06; 8:45 am]

BILLING CODE 4909–60–M

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

September 14, 2006.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before October 23, 2006 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0130.

Type of Review: Extension.

Title: U.S. Income Tax Return for an S Corporation.

Forms: Schedule D and K–1 F–1120S.

Description: Form 1120S, Schedule D (Form 1120S), and Schedule K–1 (Form 1120S) are used by an S corporation to figure its tax liability, and income and other tax-related information to pass through to its shareholders. Schedule K–1 is used to report to shareholders their share of the corporation's income, deductions, credits, etc. IRS uses the information to determine the correct tax for the S corporation and its shareholders.

Respondents: Business or other for profit.

Estimated Total Burden Hours: 485,422,640 hours.

Clearance Officer: Glenn P. Kirkland, (202) 622–3428, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Michael A. Robinson,

Treasury PRA Clearance Officer.

[FR Doc. 06–7826 Filed 9–20–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

September 14, 2006.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before October 23, 2006 to be assured of consideration.

Alcohol and Tobacco Tax and Trade Bureau (TTB)

OMB Number: 1513–0056.

Type of Review: Extension.

Title: Distilled Spirits Plants—Transaction and Supporting Records (TTB REC 5110/5).

Description: Transaction records provide the source data for accounts of distilled spirits in all DSP operations. They are used by DSP proprietors to

account for spirits and by TTB to verify those accounts and consequent tax liabilities.

Respondents: Business or other for profits.

Estimated Total Burden Hours: 6,060 hours.

OMB Number: 1513–0106.

Type of Review: Extension.

Title: Recordkeeping Requirements for Importers of Tobacco Products.

Form: TTB F 5220.6.

Description: Importers of tobacco products are required to maintain records of physical receipts and disposition of tobacco products to be able to prepare TTB Form 5220.6 a monthly report. Importers of tobacco products will consist of both large and small businesses that operate for profit.

Respondents: Business or other for profits.

Estimated Total Burden Hours: 1 hours.

OMB Number: 1513–0049.

Type of Review: Extension.

Title: Distilled Spirits Plant Denaturation Records and Monthly Report of Processing (Denaturing) Operations.

Form: TTB F 5110.43.

Description: The information collected is necessary to account for and verify the denaturation of distilled spirits. It is used to audit plant operations, monitor the industry for the efficient allocation of personnel resources, and compile statistics for government economic planning.

Respondents: Business and other for profits.

Estimated Total Burden Hours: 1,176 hours.

OMB Number: 1513–0080.

Type of Review: Extension.

Title: Equipment and Structures (TTB REC 5110/12).

Description: Marks, signs and calibrations are necessary on equipment and structures at a distilled spirits plant. These tools are used for the identification of major equipment and the accurate determination of contents.

Respondents: Business or other for profits.

Estimated Total Burden Hours: 1 hour.

OMB Number: 1513–0084.

Type of Review: Extension.

Title: Labeling of Sulfites in Alcoholic Beverages.

Description: In accordance with our consumer protection responsibilities, as mandated by law, TTB requires label disclosure statements on all alcoholic beverage products released from U.S. bottling premises or customs custody that contain 10 parts per million or more of sulfites. The disclosure reduces the consumer's exposure to sulfites, which has been shown to cause an allergic-type reaction in humans.

Respondents: Business or other for profits.

Estimated Total Burden Hours: 3,159 hours.

OMB Number: 1513–0039.

Type of Review: Extension.

Title: Distilled Spirits Plants Warehousing Records (TTB REC 5110/02) and Monthly Report of Storage Operations.

Form: TTB F 5110.11.

Description: The information collected is used to account for proprietor's tax liability, adequacy of bond coverage and protection of the revenue. It also provides data to analyze trends, audit plant operations, monitor industry activities and compliance to provide for efficient allocation of field personnel plus provide for economic analysis.

Respondents: Business or other for profits.

Estimated Total Burden Hours: 5,520 hours.

OMB Number: 1513–0082.

Type of Review: Extension.

Title: Alternate Methods or Procedures and Emergency Variations from Requirements for Exports of Liquors (TTB REC 5170/7).

Description: TTB allows exporters to request approval of alternate methods from those specified in regulations under 27 CFR part 28. TTB uses the information to evaluate needs, jeopardy to the revenue, and compliance with the law. TTB also uses the information to identify areas where regulations need changing.

Respondents: Business or other for profits.

Estimated Total Burden Hours: 200 hours.

OMB Number: 1513–0045.

Type of Review: Extension.

Title: Distilled Spirits Plants—Excise Taxes—TTB REC 5110/06.

Description: This collection of information is necessary to account for and verify taxable removals of distilled spirits. The data is used to audit tax payments.

Respondents: Business or other for profits.

Estimated Total Burden Hours: 3,458 hours.

Clearance Officer: Frank Foote, (202) 927–9347, Alcohol and Tobacco Tax and Trade Bureau, Room 200 East, 1310 G. Street, NW., Washington, DC 20005.

OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Michael A. Robinson,

Treasury PRA Clearance Officer.

[FR Doc. 06–7827 Filed 9–20–06; 8:45 am]

BILLING CODE 4810–31–P

TREASURY DEPARTMENT

Bureau of Engraving & Printing

Senior Executive Service; Combined Performance Review Board (PRB)

AGENCY: Bureau of Engraving & Printing, Treasury Department.

ACTION: Notice of Members of Combined Performance Review Board (PRB).

SUMMARY: Pursuant to 5 U.S.C. 4314(c)(4), this notice announces the appointment of the members of the Combined Performance Review Board (PRB) for the Bureau of Engraving and Printing, the Financial Management Service, the Bureau of the Public Dept, and the United States Mint. The Board reviews the performance appraisals of career senior executives below the level of bureau head and principal deputy in the bureaus, except for executives below the Assistant Commissioner level in the Financial Management Service. The Board makes recommendations regarding proposed performance appraisals, ratings, bonuses, pay adjustments and other appropriate personnel actions.

Composition of Combined PRB

The Board shall consist of at least three voting members. In the case of an appraisal of a career appointee, more than half of the members shall consist of career appointees. The names and titles of the Combined PRB members are as follows:

Primary Members

Pamela J. Gardiner, Associate Director (Management), BEP.

Marty Griener, Associate Director/Chief Financial Officer, United States Mint.

John R. Swales, Assistant Commissioner, Office of Security Operations, BPD.

J. Martin Mills, Assistant Commissioner, Debt Management Service, FMS.

Alternate Members

Leonard Olijar, Associate Director, (Chief Financial Officer), BEP.

Debra Tomchek, Senior Advisor, Office of Workforce Solutions, United States Mint.

Glenn E. Ball, Assistant Commissioner, Office of Management Services, BPD.

Gary Grippo, Assistant Commissioner, Federal Finance, FMS.

DATES: Membership is effective on 09–30–2006.

FOR FURTHER INFORMATION CONTACT: Angie McNeal, Chief, Office of Human Resources, Bureau of Engraving & Printing, 14th & C Streets, SW., Washington, DC 20228; Telephone Number: (202) 874–2781.

Larry Felix,

Director, Bureau of Engraving & Printing.

[FR Doc. 06–7910 Filed 9–20–06; 8:45 am]

BILLING CODE 4840–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for the MeF letter

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning the MeF letter, Mondernized e-File—Non-compliance with Mandate for Large Corporations to file electronically.

DATES: Written comments should be received on or before November 20, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, (202) 622–6665, at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Allan.M.Hopkins@irs.gov*.

SUPPLEMENTARY INFORMATION: Title: Mondernized e-File—Non-compliance with Mandate for Large Corporations to file electronically.

OMB Number: 1545–2023.

Form Number: MeF letter.

Abstract: Service will contact those taxpayers who file paper income tax returns to determine if these taxpayers should have filed electronic returns under the Mandate, Treasury Regulation Section 301.6011–5T.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 20,250.

Estimated Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 2,080.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 13, 2006.

Larnice Mack,

IRS Reports Clearance Officer.

[FR Doc. 06–7849 Filed 9–20–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2000–35

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2000–35, Section 1445 Withholding Certificates.

DATES: Written comments should be received on or before November 20, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Joseph R. Durbala, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Larnice Mack at Internal Revenue Service, Room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the internet at (*Larnice.Mack@irs.gov*).

SUPPLEMENTARY INFORMATION: *Title:* Section 1445 Withholding Certificates.

OMB Number: 1545–1697.

Revenue Procedure Number: Revenue Procedure 2003–35.

Abstract: Revenue Procedure 2003–35 provides guidance concerning applications for withholding certificates under Code section 1445.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, and business or other for-profit organizations.

Estimated Number of Respondents: 6,000.

Estimated Average Time per Respondent: 10 hours.

Estimated Total Annual Burden Hours: 60,000.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 5, 2006.

Joseph R. Durbala,

IRS Reports Clearance Officer.

[FR Doc. 06–7850 Filed 9–20–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[LR–311–81]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, LR–311–81 (T.D. 7924), Penalties for Underpayment of Deposits and Overstated Deposit Claims, and Time for Filing Information Returns of Owners, Officers and Directors of Foreign Corporations (section 1.6046–1).

DATES: Written comments should be received on or before November 20, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Joseph R. Durbala, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at (*Larnice.Mack@irs.gov*).

SUPPLEMENTARY INFORMATION: *Title:* Penalties for Underpayment of Deposits and Overstated Deposit Claims, and Time For Filing Information Returns of Owners, Officers and Directors of Foreign Corporations.

OMB Number: 1545–0794.

Regulation Project Number: LR–311–81.

Abstract: These regulations relate to the penalty for underpayment of deposits and the penalty for overstated deposit claims, and to the time for filing information returns of owners, officers and directors of foreign corporations. Internal Revenue Code section 6046 requires information returns with respect to certain foreign corporations, and the regulations provide the date by which these returns must be filed.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other-for-profit organizations, and not-for-profit institutions.

The burden for section 6046–1 is entirely reflected on Form 5471.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 5, 2006.

Joseph R. Durbala,

IRS Reports Clearance Officer.

[FR Doc. 06–7857 Filed 9–20–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedures 97–36, 97–38, 97–39, and 2002–9

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedures 97–36, 97–38, 97–39, and 2002–9, Changes in Methods of Accounting.

DATES: Written comments should be received on or before November 20, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Joseph R. Durbala, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or

copies of the regulations should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at (*Larnice.Mack@irs.gov*).

SUPPLEMENTARY INFORMATION:

Title: Changes in Methods of Accounting.

OMB Number: 1545–1551.

Revenue Procedure Number: Revenue Procedures 97–36, 97–38, 97–39, and 2002–9.

Abstract: The information collected in the four revenue procedures is required in order for the Commissioner to determine whether the taxpayer properly is requesting to change its method of accounting and the terms and conditions of the change.

Current Actions: There are no changes being made to the revenue procedures at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions, and farms.

Estimated Number of Respondents: 23,545.

Estimated Time per Respondent: 9 hours, 27 minutes.

Estimated Total Annual Burden Hours: 222,454.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 5, 2006.

Joseph R. Durbala,

IRS Reports Clearance Officer.

[FR Doc. 06–7861 Filed 9–20–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request For Form 706–GS(D)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 706–GS(D), Generation-Skipping Transfer Tax Return for Distributions.

DATES: Written comments should be received on or before November 20, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *Allan.M.Hopkins@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Generation-Skipping Transfer Tax Return for Distributions.

OMB Number: 1545–1144.

Form Number: 706–GS(D).

Abstract: Form 706–GS(D) is used by persons who receive taxable distributions from a trust to compute and report the generation-skipping transfer tax imposed by Internal Revenue Code section 2601. IRS uses the information to verify that the tax has been properly computed.

Current Actions: 4 line items have been deleted.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 1,000.

Estimated Time Per Respondent: 59 minutes.

Estimated Total Annual Burden Hours: 980.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 12, 2006.

Larnice Mack,

IRS Reports Clearance Officer.

[FR Doc. 06–7863 Filed 9–20–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 5 Taxpayer Advocacy Panel (including the States of IA, KS, MN, MO, NE, OK, and TX)

AGENCY: Internal Revenue Service, (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 5 Taxpayer Advocacy Panel will be conducted. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, October 10, 2006, at 9:30 a.m. Central Time.

FOR FURTHER INFORMATION CONTACT: Mary Ann Delzer at 1–888–912–1227, or (414) 231–2360.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Area 5 Taxpayer Advocacy Panel will be held Tuesday, October 10, 2006, at 9:30 a.m. Central Time via a telephone conference call. You can submit written comments to the panel by faxing to (414) 231–2363, or by mail to Taxpayer Advocacy Panel, Stop1006MIL, PO Box 3205, Milwaukee, WI 53203–2221, or you can contact us at *http://www.improveirs.org*. This meeting is not required to be open to the public, but because we are always interested in community input, we will accept public comments. Please contact Mary Ann Delzer at 1–888–912–1227 or (414) 231–2360 for additional information.

The agenda will include the following: Various IRS issues.

Dated: September 12, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 06–7851 Filed 9–20–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, October 5, 2006 from 11 a. m. ET.

FOR FURTHER INFORMATION CONTACT: Sallie Chavez at 1–888–912–1227, or 954–423–7979.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel will be held Thursday, October 5, 2006, from 11 a.m. ET via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 954–423–7979, or write Sallie Chavez, TAP Office, 1000 South Pine Island Road, Suite 340, Plantation, FL 33324. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Sallie Chavez. Ms. Chavez can be reached at 1–888–912–1227 or 954–423–7979, or post comments to the Web site: *http://www.improveirs.org*.

The agenda will include: Various IRS issues.

Dated: September 8, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 06–7852 Filed 9–20–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the AD Hoc Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the AD Hoc Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, October 12, 2006 at 2 p.m. ET.

FOR FURTHER INFORMATION CONTACT: Inez De Jesus at 1–888–912–1227, or 954–423–7977.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Ad Hoc Committee of the Taxpayer Advocacy Panel will be held Thursday, October 12, 2006 at 2 p.m. ET via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 954–423–7977, or write Inez De Jesus, TAP Office, 1000 South Pine Island Road, Suite 340, Plantation, FL 33324. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Inez De Jesus. Ms. De Jesus can be reached at 1–888–912–1227 or 954–423–7977, or post comments to the Web site: *http://www.improveirs.org*.

The agenda will include: Various IRS issues.

Dated: September 12, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 06–7853 Filed 9–20–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Earned Income Tax Credit Issue Committee

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Earned Income Tax Credit Issue Committee will be conducted (via teleconference). The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, October 10, 2006.

FOR FURTHER INFORMATION CONTACT: Audrey Y. Jenkins at 1–888–912–1227 (toll-free), or 718–488–2085 (non toll-free).

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Earned Income Tax Credit Issue Committee will be held Tuesday, October 10, 2006 from 12 p.m. to 1 p.m. ET via a telephone conference call. The public is invited to make oral comments. Individual comments will be limited to 5 minutes. For information or to confirm attendance, notification of intent to attend the meeting must be made with Audrey Y. Jenkins. Ms. Jenkins may be reached at 1–888–912–1227 or (718) 488–2085, send written comments to Audrey Y. Jenkins, TAP

Office, 10 MetroTech Center, 625 Fulton Street, Brooklyn, NY 11201 or post comments to the Web site: *http://www.improveirs.org*. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made in advance.

The agenda will include various IRS issues.

Dated: September 12, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 06–7854 Filed 9–20–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Joint Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Joint Committee of the Taxpayer Advocacy Panel will be conducted. The Taxpayer Advocacy Panel is reviewing public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service brought forward by the Area and Issue Committees.

DATES: The meeting will be held Thursday, October 12, 2006, 9 a.m. to 5 p.m., Friday, October 13, 2006, 9 a.m. to 5 p.m., and Saturday, October 14, 2006, 8 a.m. to Noon, Central Time.

FOR FURTHER INFORMATION CONTACT: Barbara Toy at 1–888–912–1227 or 414–231–2360.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Joint Committee of the Taxpayer Advocacy Panel (TAP) will be held Thursday, October 12, 2006, 9 a.m. to 5 p.m., Friday, October 13, 2006, 9 a.m. to 5 p.m., and Saturday, October 14, 2006, 8 a.m. to Noon, Central Time, at the Crowne Plaza Suites, 7800 Alpha Road, Dallas, TX 75240. If you would like to have the Joint Committee of TAP consider a written statement, please call 1–888–912–1227 or 414–231–2360, or write Barbara Toy, TAP Office, MS–1006MIL, 211 West Wisconsin Avenue, Milwaukee, WI 53203–2221, or fax to 414–231–2363, or you can contact us at *http://www.improveirs.org.*

The agenda will include the following: Monthly committee summary report, discussion of issues brought to the joint committee, office reports, and discussion of next meeting.

Dated: September 8, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 06–7855 Filed 9–20–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 1 Taxpayer Advocacy Panel (Including the States of New York, Connecticut, Massachusetts, Rhode Island, New Hampshire, Vermont and Maine)

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 1 Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, October 17, 2006.

FOR FURTHER INFORMATION CONTACT: Audrey Y. Jenkins at 1–888–912–1227 (toll-free), or 718–488–2085 (non toll-free).

SUPPLEMENTARY INFORMATION: An open meeting of the Area 1 Taxpayer Advocacy Panel will be held Tuesday, October 17, 2006 from 9 a.m. ET to 10 a.m. ET via a telephone conference call. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 718–488–2085, or write Audrey Y. Jenkins, TAP Office, 10 MetroTech Center, 625 Fulton Street, Brooklyn, NY 11201. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Audrey Y. Jenkins. Ms. Jenkins can be reached at 1–888–912–1227 or 718–488–2085, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: September 12, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 06–7856 Filed 9–13–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Members of Senior Executive Service Performance Review Boards

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: The purpose of this notice is to publish the names of those IRS employees who will serve as members on IRS' Fiscal Year 2006 Senior Executive Service (SES) Performance Review Boards.

DATES: This notice is effective October 1, 2006.

FOR FURTHER INFORMATION CONTACT: Darwin McCallian, 575 North Pennsylvania Street, Mail Stop AW210, Indianapolis, Indiana 46204, (317) 685–7694.

SUPPLEMENTARY INFORMATION: Pursuant to 5 U.S.C. 4314(c)(4), this notice announces the appointment of members to the Internal Revenue Service's SES Performance Review Boards. The names and titles of the executives serving on the boards follow:

John M. Dalrymple, Deputy Commissioner for Operations Support, and Chair, Service-wide Performance Review Board; Mark Matthews, Deputy Commissioner for Services and Enforcement; Kathy K. Petronchak, Chief of Staff; Robert F. Albicker, Deputy Associate CIO, Systems Integration (MITS); Beverly O. Babers, Chief Human Capital Officer; Carol A. Barnett, Director, Human Capital (W&I); Gary D. Bell, Director, CI Technical Operations and Investigative Services (CI); Kevin M. Brown, Commissioner, Small Business and Self-Employed; Preston R. Butcher, Director, Government Entities (TEGE).

Pota E. Coston, Director for Field Operations (CI); Diane Crothers, Chief, EEO and Diversity; Carl T. Froehlich, Chief, Agency-wide Shared Services; Daniel Galik, Chief Mission Assurance; Silvana G. Garza, Deputy Associate CIO, Business Systems Integration (MITS); Carol D. Gold, Director Employee Plans (TEGE); Arthur L. Gonzalez, Acting Chief Information Officer; James M. Grimes, Director, Compliance (W&I); Sarah Hall Ingram, Chief, Appeals; Kathy P. Jantzen, Associate CIO, Enterprise Operations (MITS).

Nancy J. Jardini, Chief Criminal Investigation; Cecille M. Jones, Deputy Associate CIO for Applications Development (MITS);Frank Keith, Chief, Communications and Liaison; Betsy M. Kinter, Director, Customer Accounts Services (W&I); Janice Lambert, Chief

Financial Officer; Lois G. Lerner, Director, Exempt Organizations (TEGE); Mark J. Mazur, Director, Research, Analysis, and Statistics; Steven T. Miller, Commissioner, Tax Exempt and Government Entities; Richard J. Morgante, Commissioner, Wage and Investment; Deborah M. Nolan, Commissioner, Large and Mid-Size Business; Frank Y. Ng, Deputy Commissioner (International), Large and Mid-Size Business.

Nina E. Olson, National Taxpayer Advocate; Mark E. Pursley, Customer Assistance, Relations, and Education (W&I); Kenneth M. Riche, Director of Strategy (CI); Julie Rushin, Director, Strategy and Finance (W&I); Richard Spires, Associate CIO for Business Systems Modernization (MITS); Linda E. Stiff, Deputy Commissioner, Small Business and Self-Employed; Robert C. Turner, Associate CIO for Management (MITS); Bruce B. Unger, Deputy Commissioner (Operations), Large and Mid-Size Business; Christopher Wagner, Deputy Commissioner, Tax Exempt and Government Entities (TEGE); Pamela G. Watson, Deputy Commissioner, Wage and Investment.

This document does not meet the Department of the Treasury's criteria for significant regulations.

Dated: September 6, 2006.

John M. Dalrymple,

Deputy Commissioner for Operations Support, Internal Revenue Service.

[FR Doc. 06–7847 Filed 9–13–06; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register

Vol. 71, No. 183

Thursday, September 21, 2006

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 COMMERCE

International Trade Administration

Announcement of Performance Review Board Members

Correction

In notice document E6–15200 beginning on page 53666 in the issue of Tuesday, September 12, 2006, make the following correction:

On page 53667, in the first column, in numbered paragraph 5., in the second line, ''Executive Secretary'' should read ''At–Large''.

[FR Doc. Z6–15200 Filed 9–20–06; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2005–0155; FRL–8200–2]

RIN 2060-AK18

National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities

Correction

In rule document 06–6447 beginning on page 42724 in the issue of Thursday, July 27, 2006, make the following correction:

§63.323 [Corrected]

On page 42745, in the third column, in §63.323(b)(1), in the fifth line, ''25 parts per million '' should read ''± 25 parts per million''.

[FR Doc. C6–6447 Filed 9–20–06; 8:45 am]

BILLING CODE 1505–01–D

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The

text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 4646/P.L. 109–273
To designate the facility of the United States Postal Service located at 7320 Reseda Boulevard in Reseda, California, as the ''Coach John Wooden Post Office Building''. (Aug. 17, 2006; 120 Stat. 773)

H.R. 4811/P.L. 109–274
To designate the facility of the United States Postal Service located at 215 West Industrial Park Road in Harrison, Arkansas, as the ''John Paul Hammerschmidt Post Office Building''. (Aug. 17, 2006; 120 Stat. 774)

H.R. 4962/P.L. 109–275
To designate the facility of the United States Postal Service located at 100 Pitcher Street in Utica, New York, as the ''Captain George A. Wood Post Office Building''. (Aug. 17, 2006; 120 Stat. 775)

H.R. 5104/P.L. 109–276
To designate the facility of the United States Postal Service located at 1750 16th Street South in St. Petersburg, Florida, as the ''Morris W. Milton Post Office''. (Aug. 17, 2006; 120 Stat. 776)

H.R. 5107/P.L. 109–277
To designate the facility of the United States Postal Service located at 1400 West Jordan Street in Pensacola, Florida, as the ''Earl D. Hutto Post Office Building''. (Aug. 17, 2006; 120 Stat. 777)

H.R. 5169/P.L. 109–278
To designate the facility of the United States Postal Service located at 1310 Highway 64 NW. in Ramsey, Indiana, as the ''Wilfred Edward 'Cousin Willie' Sieg, Sr. Post Office''. (Aug. 17, 2006; 120 Stat. 778)

H.R. 5540/P.L. 109–279
To designate the facility of the United States Postal Service located at 217 Southeast 2nd Street in Dimmitt, Texas, as the ''Sergeant Jacob Dan Dones Post Office''. (Aug. 17, 2006; 120 Stat. 779)

H.R. 4/P.L. 109–280
Pension Protection Act of 2006 (Aug. 17, 2006; 120 Stat. 780)

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