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INFORMATION
GPO

Federal Register

10–5–06 Thursday
Vol. 71 No. 193 Oct. 5, 2006

Pages 58735–59004

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 360 and 361

[Docket No. APHIS–2006–0019]

Noxious Weeds; South African Ragwort and Madagascar Ragwort

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the noxious weed and imported seed regulations by adding South African ragwort (*Senecio inaequidens* DC.) and Madagascar ragwort (*Senecio madagascariensis* Poir.) to the list of terrestrial noxious weeds and to the list of seeds with no tolerances applicable to their introduction. That action was necessary to prevent the artificial spread of these noxious weeds into the United States.

DATES: Effective on October 5, 2006, we are adopting as a final rule the interim rule published at 71 FR 35378–35381, June 20, 2006.

FOR FURTHER INFORMATION CONTACT: Dr. Alan V. Tasker, Noxious Weeds Program Coordinator, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1237; (301) 734–5225.

SUPPLEMENTARY INFORMATION:

Background

The Plant Protection Act (7 U.S.C. 7701 *et seq.*) authorizes the Secretary of Agriculture to prohibit or restrict the importation, entry, exportation, or movement in interstate commerce of any plant, plant product, biological control organism, noxious weed, article, or means of conveyance if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction of a plant pest or noxious weed into the United States or the dissemination of a plant pest or noxious weed within the United States.

In an interim rule [1] effective June 14, 2006, and published in the **Federal Register** on June 20, 2006 (71 FR 35378–35381, Docket No. APHIS–2006–0019), we amended the noxious weed and imported seed regulations by adding South African ragwort (*Senecio inaequidens* DC.) and Madagascar ragwort (*Senecio madagascariensis* Poir.) to the list in § 360.200(c) of terrestrial noxious weeds and to the list in § 361.6(a)(1) of seeds with no tolerances applicable to their introduction. That action was necessary to prevent the artificial spread of South African ragwort and Madagascar ragwort into the United States.

Comments on the interim rule were required to be received on or before August 21, 2006. We did not receive any comments. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

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

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

List of Subjects

7 CFR Part 360

Imports, Plants (Agriculture), Quarantine, Reporting and recordkeeping requirements, Transportation, Weeds.

7 CFR Part 361

Agricultural commodities, Imports, Labeling, Quarantine, Reporting and recordkeeping requirements, Seeds, Vegetables, Weeds.

[1] To view the interim rule, go to *http://www.regulations.gov*, click on the ''Advanced Search'' tab, and select ''Docket Search.'' In the Docket ID field, enter APHIS–2006–0019, 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.

PART 360—NOXIOUS WEED REGULATIONS

PART 361—IMPORTATION OF SEED AND SCREENINGS UNDER THE FEDERAL SEED ACT

■ Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR parts 360 and 361 and that was published at 71 FR 35378–35381 on June 20, 2006.

Done in Washington, DC, this 29th day of September 2006.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E6–16462 Filed 10–4–06; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE260, Special Condition 23–200–SC]

Special Conditions; Garmin International, Inc.; Raytheon Model C90A King Air; Protection of Electronic Flight Instrument System from the Effects of High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued to Garmin International Inc., 1200 East 151st Street, Olathe, Kansas, 66062, for a Supplemental Type Certificate for the Raytheon Model C90A King Air airplane. This airplane will have novel and unusual design features when compared to the state of technology envisaged in the applicable airworthiness standards. These novel and unusual design features include the installation of electronic flight instrument system (EFIS) displays in the Garmin G1000 system, GFC 700 autopilot, Mid-Continent Instrument Attitude Indicator and Sandia Avionics cooling fans. The applicable regulations do not contain adequate or appropriate airworthiness standards for the protection of these systems from the effects of high intensity radiated fields

(HIRF). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to the airworthiness standards applicable to these airplanes.

DATES: The effective date of these special conditions is September 27, 2006. Comments must be received on or before November 6, 2006.

ADDRESSES: Comments may be mailed in duplicate to: Federal Aviation Administration, Regional Counsel, ACE–7, Attention: Rules Docket Clerk, Docket No. CE260, Room 506, 901 Locust, Kansas City, Missouri 64106. All comments must be marked: Docket No. CE260. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Jim Brady, Aerospace Engineer, Standards Office (ACE–111), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone (816) 329–4132.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay issuance of the approval design and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA, therefore, finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

Interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. The special conditions may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. CE260.'' The postcard will be date stamped and returned to the commenter.

Background

On June 2, 2006, Garmin International, Inc., 1200 East 151st Street, Olathe, Kansas, 66062, applied to the FAA for a new Supplemental Type Certificate for the Raytheon Model C90A King Air airplane. The C90A King Air is currently approved under TC No. 3A20, Revision 62 dated December 7, 2005. The proposed modification incorporates a novel or unusual design feature, such as digital avionics consisting of an EFIS that is vulnerable to HIRF external to the airplane.

Type Certification Basis

Under the provisions of 14 CFR, part 21, § 21.101, Garmin International, Inc., must show that the Raytheon Model C90A King Air aircraft as changed continues to meet the following provisions, or the applicable regulations in effect on the date of application for the change to the Raytheon Model C90A King Air as specified on Type Certification Data Sheet TCDS No. 3A20, revision 62, dated December 7, 2005.

Discussion

If the Administrator finds that the applicable airworthiness standards do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane, special conditions are prescribed under the provisions of § 21.16.

Special conditions, as appropriate, as defined in § 11.19, are issued in accordance with § 11.38 after public notice and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model already included on the same type certificate to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101.

Novel or Unusual Design Features

Garmin International, Inc. plans to incorporate certain novel and unusual design features into an airplane for which the airworthiness standards do not contain adequate or appropriate safety standards for protection from the effects of HIRF. These features include EFIS as part of the Garmin G1000 system. Additionally, the Garmin GFC 700 autopilot, Mid-Continent Instrument Attitude Indicator and Sandia Avionics Cooling Fans, which are susceptible to the HIRF environment, are included and were not envisaged by the existing regulations for this type of airplane.

Protection of Systems From High Intensity Radiated Fields (HIRF)

Recent advances in technology have given rise to the application in aircraft designs of advanced electrical and electronic systems that perform functions required for continued safe flight and landing. Due to the use of sensitive solid state advanced components in analog and digital electronics circuits, these advanced systems are readily responsive to the transient effects of induced electrical current and voltage caused by the HIRF. The HIRF can degrade electronic systems performance by damaging components or upsetting system functions.

Furthermore, the HIRF environment has undergone a transformation that was not foreseen when the current requirements were developed. Higher energy levels are radiated from transmitters that are used for radar, radio, and television. Also, the number of transmitters has increased significantly. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling to cockpit-installed equipment through the cockpit window apertures is undefined.

The combined effect of the technological advances in airplane design and the changing environment has resulted in an increased level of vulnerability of electrical and electronic systems required for the continued safe flight and landing of the airplane. Effective measures against the effects of exposure to HIRF must be provided by the design and installation of these systems. The accepted maximum energy levels in which civilian airplane system installations must be capable of operating safely are based on surveys and analysis of existing radio frequency emitters. These special conditions require that the airplane be evaluated under these energy levels for the protection of the electronic system and its associated wiring harness. These external threat levels, which are lower than previous required values, are believed to represent the worst case to which an airplane would be exposed in the operating environment.

These special conditions require qualification of systems that perform

critical functions, as installed in aircraft, to the defined HIRF environment in paragraph 1 or, as an option to a fixed value using laboratory tests, in paragraph 2, as follows:

(1) The applicant may demonstrate that the operation and operational capability of the installed electrical and electronic systems that perform critical functions are not adversely affected when the aircraft is exposed to the HIRF environment defined below:

Frequency	Field Strength (volts per meter)	
	Peak	Average
10 kHz–100 kHz	50	50
100 kHz–500 kHz	50	50
500 kHz–2 MHz	50	50
2 MHz–30 MHz	100	100
30 MHz–70 MHz	50	50
70 MHz–100 MHz	50	50
100 MHz–200 MHz	100	100
200 MHz–400 MHz	100	100
400 MHz–700 MHz	700	50
700 MHz–1 GHz	700	100
1 GHz–2 GHz	2000	200
2 GHz–4 GHz	3000	200
4 GHz–6 GHz	3000	200
6 GHz–8 GHz	1000	200
8 GHz–12 GHz	3000	300
12 GHz–18 GHz	2000	200
18 GHz–40 GHz	600	200

The field strengths are expressed in terms of peak root-mean-square (rms) values.

or,

(2) The applicant may demonstrate by a system test and analysis that the electrical and electronic systems that perform critical functions can withstand a minimum threat of 100 volts per meter, electrical field strength, from 10 kHz to 18 GHz. When using this test to show compliance with the HIRF requirements, no credit is given for signal attenuation due to installation.

A preliminary hazard analysis must be performed by the applicant, for approval by the FAA, to identify either electrical or electronic systems that perform critical functions. The term ''critical'' means those functions whose failure would contribute to, or cause, a failure condition that would prevent the continued safe flight and landing of the airplane. The systems identified by the hazard analysis that perform critical functions are candidates for the application of HIRF requirements. A system may perform both critical and non-critical functions. Primary electronic flight display systems, and their associated components, perform critical functions such as attitude, altitude, and airspeed indication. The HIRF requirements apply only to critical functions.

Compliance with HIRF requirements may be demonstrated by tests, analysis, models, similarity with existing systems, or any combination of these. Service experience alone is not acceptable since normal flight operations may not include an exposure to the HIRF environment. Reliance on a system with similar design features for redundancy as a means of protection against the effects of external HIRF is generally insufficient since all elements of a redundant system are likely to be exposed to the fields concurrently.

Applicability

As discussed above, these special conditions are applicable to the Raytheon Model C90A King Air airplane. Should Garmin International, Inc. apply at a later date for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101.

Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113 and 44701; 14 CFR 21.16 and 21.101; and 14 CFR 11.38 and 11.19.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Raytheon Model C90A King Air airplane modified by Garmin International, Inc., which includes the Garmin G1000 system, GFC 700 autopilot, Mid-Continent Instrument Attitude Indicator and Sandia Avionics Cooling Fans.

1. Protection of Electrical and Electronic Systems from High Intensity Radiated Fields (HIRF). Each system that performs critical functions must be designed and installed to ensure that the

operations and operational capabilities of these systems to perform critical functions are not adversely affected when the airplane is exposed to high intensity radiated electromagnetic fields external to the airplane.

2. For the purpose of these special conditions, the following definition applies: Critical Functions: Functions whose failure would contribute to, or cause, a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Kansas City, Missouri, on September 27, 2006.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–16497 Filed 10–4–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–25502; Airspace Docket No. 06–ACE–10]

Modification of Class E Airspace; West Plains, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of the direct final rule which revises Class E Airspace at West Plains, MO.

DATES: *Effective Date:* 0901 UTC, November 23, 2006.

FOR FURTHER INFORMATION CONTACT: Grant Nichols, System Support, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2522.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on August 11, 2006 (71 FR 46076). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comments, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on November 23, 2006. No adverse comments were received, and thus this notice conforms that this direct final rule will become effective on that date.

Issued in Fort Worth, Texas, on September 22, 2006.

Walter Tweedy,

Acting Manager, System Support Group, ATO Central Service Area.

[FR Doc. 06–8494 Filed 10–4–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–24448; Airspace Docket No. 06–AGL–02]

Establishment of Class E Airspace; Mineral Point, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This document establishes Class E airspace at Mineral Point, WI. A request has been made for a new area of Class E airspace extending upward from the surface, due to traffic volume. This action would establish a radius of class E airspace for Iowa County Airport.

DATES: Effective 0901 UTC, January 18, 2007. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments. Comments must be received on or before November 25, 2006.

ADDRESSES: Send comments on the proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket Number FAA–2006–24448/ Airspace Docket No. 06–AGL–02, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at FAA Terminal Operations, Central Service Office, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Steve Davis, FAA Terminal Operations, Central Service Office, Airspace and Procedures Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7131.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR part 71 establishes Class E airspace at Mineral Point, WI, to accommodate aircraft operating into and out of Iowa County Airport. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from the surface of the earth are published in paragraph 6002, of FAA Order 7400.9P dated September 1, 2006, and effective September 15, 2006, airspace which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document will be published subsequently in the order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and therefore is issuing it as a direct final rule.

A substantial number of previous opportunities provided to the public to comment on substantially identical actions have resulted in negligible adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document will be published in the **Federal Register.** This document may withdraw the direct final rule in whole or in part.

After considering the adverse or negative comment, we may publish another direct final rule or publish a notice of proposed rulemaking with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested person are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Communications should identify the Rules Docket

number and be submitted to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action is needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: '' Comments to Docket No. FAA–2006–24448/Airspace Docket No. 06–AGL–02.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

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

Further, the FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments and only involves an established body of technical regulations that require frequent and routine amendments to keep them operationally current. Therefore, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. Since this rule involves routine matters that will only affect air traffic procedures and air navigation, it does not warrant preparation of a Regulatory Flexibility Analysis because the anticipated impact is so minimal.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follow:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9P, Airspace Designations and Reporting Points, dated September 1, 2006, and effective September 15, 2006 is amended as follows:

* * * * *

Paragraph 6002 Class E airspace designated as surface areas.

* * * * *

AGL WI E2 Mineral Point, WI [New]

Mineral Point, Iowa County Airport, WI
(Lat. 42°53′13″ N., long. 90°14′10″ W.)
Mineral Point, NDB
(Lat 42°53′17″ N., long. 90°13′35″ W.

That airspace extending upward from the surface within a 7.2-mile radius of the Iowa County Airport and within 2.6 miles each side of the 029° bearing from the Mineral Point NDB extending from the 7.2-mile radius to 7.4 miles northeast of the airport.

* * * * *

Issued in Fort Worth, Texas, on September 22, 2006.

Walter Tweedy,

Acting Manager, System Support Group, ATO Central Service Area.

[FR Doc. 06–8495 Filed 10–4–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 201, 606, and 610

[Docket No. 2005D–0202]

Guidance for Industry on Bar Code Label Requirements—Questions and Answers; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of additional questions and answers that are being incorporated into the final guidance document entitled ''Guidance for Industry: Bar Code Label Requirements—Questions and Answers.'' This final guidance is dated October 2006. The additional questions and answers relate to blood and blood components intended for transfusion and requirements that their container labels bear certain machine-readable information. These requirements were part of the final rule on bar code label requirements for human drugs published on February 26, 2004.

DATES: Submit written or electronic comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. The guidance may also be obtained by mail by calling 1–800–835–4709 or 301–827–1800. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit written comments on the guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments.*

FOR FURTHER INFORMATION CONTACT: *For products regulated by the Center for Drug Evaluation and Research:* Valerie L. Whipp, Center for Drug Evaluation

and Research (HFD–310), Food and Drug Administration,11919 Rockville Pike, Rockville, MD 20852, 301–827–8957.

For products regulated by the Center for Biologics Evaluation and Research: Kathleen E. Swisher, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of February 26, 2004 (69 FR 9120), FDA published a final rule (the February 2004 final rule) requiring certain human drug and biological products to have on their labels a linear bar code that contains, at a minimum, the drug's NDC number (21 CFR 201.25). The February 2004 final rule requires also that the container label of blood and blood components intended for transfusion bear encoded information in a machine-readable format that must be approved for use by the Director, Center for Biologics Evaluation and Research (21 CFR 606.121(c)(13)).

In the **Federal Register** of April 27, 2006 (71 FR 24856), FDA announced the availability of a final guidance ''Guidance for Industry: Bar Code Label Requirements—Questions and Answers.'' The purpose of the April 2006 guidance was to respond to questions about how the requirements in the February 2004 final rule applied to specific products or circumstances. The questions and answers in the April 2006 guidance focused on bar codes, not machine-readable information on container labels of blood and blood components, because most of the questions we received at that time focused on bar codes. In the April 2006 guidance, we stated that the guidance may be revised as we receive additional questions.

Following publication of the February 2004 final rule and issuance of the April 2006 guidance, FDA received several additional questions concerning blood and blood components and the use of machine-readable information. The answers to these additional questions were provided in the preamble to the February 2004 final rule. We have updated the April 2006 guidance with this additional information to make the information more accessible and convenient. We consider the changes to the April 2006 guidance to be level 2 changes because they set forth existing practices (21 CFR 10.115(c)(2)).

Therefore, FDA is announcing the availability of additional questions and answers incorporated in the document entitled ''Guidance for Industry: Bar Code Label Requirements—Questions and Answers,'' and we are revising the date of the guidance to October 2006.

The guidance is issued consistent with FDA's good guidance practices regulation (21 CFR 10.115), particularly 21 CFR 10.115(g)(4)(i). The guidance represents the FDA's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may, at any time, submit written or electronic comments to the Division of Dockets Management (see **ADDRESSES**) regarding this guidance. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in the brackets in the heading of this document. A copy of the guidance and received comments are available for public examination in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the guidance at *http://www.fda.gov/cber/guidelines.htm*, *http://www.fda.gov/cder/guidance/index.htm*, or *http://www.fda.gov/ohrms/dockets/default.htm*.

Dated: September 26, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–16436 Filed 10–4–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 300

[TD 9288]

RIN 1545–BF68

User Fees Relating to Enrollment

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains amendments to the regulations relating to user fees for the special enrollment examination to become an enrolled agent, the application for enrollment of enrolled agents, and the renewal of this enrollment. The charging of user fees is authorized by the Independent Offices Appropriations Act (IOAA) of 1952.

DATES: *Effective Date:* November 6, 2006.

Applicablity Date: For date of applicability, see § 300.0(c).

FOR FURTHER INFORMATION CONTACT: Concerning cost methodology, Eva Williams, (202) 622–6400; concerning the regulations, Matthew Cooper, (202) 622–4940 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document amends the regulations relating to user fees for the special enrollment examination to become an enrolled agent, the application for enrollment of enrolled agents, and the renewal of this enrollment. The charging of user fees is authorized by the IOAA of 1952, which is codified at 31 U.S.C. 9701.

The IOAA of 1952 authorizes agencies to prescribe regulations that establish charges for services provided by the agency. The charges must be fair and be based on the costs to the government, the value of the service to the recipient, the public policy or interest served, and other relevant facts. The IOAA of 1952 provides that regulations implementing user fees are subject to policies prescribed by the President, which are currently set forth in OMB Circular A–25, 58 FR 38142 (July 15, 1993) (the OMB Circular).

The OMB Circular encourages user fees for government-provided services that confer benefits on identifiable recipients over and above those benefits received by the general public. Under the OMB Circular, an agency that seeks to impose a user fee for Government-provided services must calculate its full cost of providing those services. In general, a user fee should be set at an amount in order for the agency to recover the cost of providing the special service, unless the Office of Management and Budget grants an exception.

On August 29, 2006, a notice of proposed rulemaking (REG–145154–05) was published in the **Federal Register**. Approximately 40 written comments responding to the proposed regulations were received. A public hearing was held on September 29, 2006, but there were no requests to speak at the hearing. After consideration of the comments, the proposed regulations are adopted by this Treasury decision.

Enrolled Agent Program

Section 330 of Title 31 of the United States Code authorizes the Secretary of the Treasury to regulate practice before the Treasury Department. Pursuant to section 330 of Title 31, the Secretary has published regulations governing practice before the IRS in 31 CFR part 10 and reprinted them as Treasury Department Circular No. 230 (Circular 230). These regulations are administered by the IRS Office of Professional Responsibility (OPR).

Section 10.3 of Circular 230 generally authorizes attorneys, certified public accountants, enrolled agents and enrolled actuaries to practice before the IRS. An enrolled agent is defined as an individual enrolled as an agent pursuant to the provisions of Circular 230. The provisions of Circular 230 provide that an individual desiring to become an enrolled agent is eligible for enrollment through either the successful passing of a written examination or through demonstration of sufficient expertise in tax administration based on former employment with the IRS. Specifically, § 10.4(a) authorizes the Director of OPR to grant enrollment to an applicant who demonstrates special competence in tax matters by passing a written examination administered by, or administered under the oversight of, the Director of OPR and who has not engaged in any conduct that would justify the censure, suspension, or disbarment of any practitioner under the provisions of Circular 230. Accordingly, every year OPR develops and administers a Special Enrollment Examination (SEE) that is given to all applicants desiring to become enrolled agents so that they can practice before the IRS. The IRS charged applicants a user fee of $55 ($45 if taking the examination in parts) in order to take the 2005 SEE.

Section 10.4(b) authorizes the Director of OPR to grant enrollment for former IRS employees if the former employee meets certain requirements, including length of employment with the IRS and substantive tax expertise. Application for enrollment based on former employment with the IRS must be made within three years from the date of separation from such employment.

Once eligible for enrollment, by either passing the examination or because of former employment with the IRS, an applicant must file an application for enrollment on Form 23, ''Application for Enrollment to Practice before the Internal Revenue Service,'' with the Director of OPR. As part of the application for enrollment process, the applicant must enclose a check or money order payable to the IRS in the amount set forth on Form 23, which constitutes a fee charged to each applicant for enrollment. The fee is nonrefundable regardless of whether the applicant is granted enrollment. The current user fee for enrollment on the Form 23 (Rev. February 2005) is $80. The Director of OPR will act upon an application for enrollment and issue an enrollment card to each individual whose application for enrollment to practice before the IRS is approved.

Pursuant to § 10.6(d), each individual, once enrolled, is required to renew the enrollment every three years to maintain an active enrollment to practice before the IRS. In order to qualify for renewal, an applicant must certify the completion of the continuing professional education requirements set forth in § 10.6(e) of Circular 230. A nonrefundable user fee of $80 is currently charged for each application for renewal of enrollment filed with the Director of OPR on Form 8554, ''Application for Renewal of Enrollment to Practice Before the Internal Revenue Service.''

Contracting Out of Special Enrollment Examination

OPR has recently contracted out certain functions pertaining to the SEE to a private contractor. The contractor will furnish the resources, facilities, and services necessary to administer the entire SEE program, which includes examination development, administration of SEE, notification to IRS of candidates who took the examination, and the results of the examination. The contractor will receive payment for its services by charging a fee to examination applicants. OPR will, nonetheless, still maintain an oversight role with respect to the SEE. The contractor will collect a user fee on behalf of the IRS based on the full costs incurred by the IRS. These final regulations only establish a user fee with respect to the government costs for overseeing the SEE and do not include any fee that the contractor may charge for its services. Accordingly, while the user fee imposed pursuant to these regulations is less than the user fee that applicants were charged in 2005, the total fee that applicants will be charged is greater. The IRS estimates that the efficiencies resulting from using a contractor will reduce the total fees that would otherwise be charged by the IRS in order to recover the full cost of the IRS administering all aspects of the SEE. Further information about the contracting out of the SEE can be found at *http://www.irs.gov/taxpros/agents/index.html.*

Summary of Comments

The final regulations establish an $11 per part user fee for the SEE. The final regulations establish separate $125 user fees for the enrollment and renewal of enrollment process. Most of the comments on the proposed regulations did not favor the higher fees. These comments focused on the increased economic burden on enrolled agents resulting from the higher fees. Several comments also stated that the Request for Proposal (RFP) for the examination implied that the IRS would collect its fee from the amount that the contractor is charging for its services. One comment requested that the IRS publicly release the costing methodology and the schedule for reevaluating the user fees, as well as provide a clarification of the ''Special Analyses'' section of the preamble. For the following reasons, these final regulations follow the proposed regulations without change.

The OMB Circular requires the IRS to calculate and recover its full cost of providing services under the enrolled agent program. In accordance with the OMB Circular, these final regulations increase the fees to bring them in line with actual costs based upon a recent review of the enrolled agent program. The IRS is in compliance with the OMB Circular in its methodology for computation of the actual cost and will follow the OMB Circular's direction providing for a biennial reevaluation of the fees.

The IRS has determined that the full cost to the IRS of overseeing the SEE is $11 per part per applicant. This revised user fee reflects the change in IRS costs of administering the examination program as a result of contracting out of the examination to a private contractor. For the first examination cycle (October 5, 2006 to December 1, 2006), the contractor is not collecting any user fee on behalf of the IRS. In future years, consistent with the RFP, the contractor will collect the user fee based on the full costs incurred by the IRS in overseeing the examination, which is separate and distinct from the fee that the contractor is charging for its services.

The IRS has determined that the full cost of administering the enrollment and renenrollment process is $125 per enrolled agent. Before this final regulation, the most recent increase in user fees for the enrollment and renewal of enrollment process was in September 1995.

The Chief Counsel for Advocacy of the Small Business Administration (SBA) commented that the certification in the proposed regulations regarding

the economic impact on small entities in the ''Special Analyses'' section of the preamble could be clearer. Specifically, the SBA requested that the certification identify the number of enrolled agents and the appropriate North American Industry Classification System (NAICS) codes for enrolled agents, estimate the percent of enrolled agents that are operating as or employed by small entities based upon the small business size standards established by the SBA, and further explain why the increased fees are not economically significant. The ''Special Analyses'' section of the final regulations adopts these recommended changes.

Special Analyses

It has been determined that this final rule is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. This certification is based on the information that follows. This final rule affects enrolled agents, of which there are currently 45,261 active. The economic impact of these regulations on any small entity would result from a small entity, including a sole proprietor, being required to pay a fee prescribed by these regulations in order to obtain a particular service. The appropriate NAICS codes for enrolled agents relate to tax preparation services (NAICS code 541213) and other accounting services (NAICS code 541219). Entities identified under these codes are considered small under the SBA size standards (13 CFR 121.201) if their annual revenue is less than $6.5 million or $7.5 million respectively. The IRS estimates that 99 percent of enrolled agents are operating as or employed by small entities. Therefore, the IRS has determined that this final rule will affect a substantial number of small entities. The dollar amounts of the increases in fees are not, however, substantial enough to have a significant economic impact on any entity subject to the fees. The amounts of the fees are commensurate with, if not less than, the amount of fees charged for other professional examination and enrollment fees. Persons who elect to take the examination and apply for enrollment or renewal of enrollment also receive benefits from obtaining the enrolled agent designation. The Chief Counsel for Advocacy of the Small Business Administration submitted comments on the regulation, which are discussed elsewhere in this preamble.

Drafting Information

The principal author of these regulations is Matthew S. Cooper of the Office of the Associate Chief Counsel (Procedure & Administration), Administrative Provisions & Judicial Practice Division.

List of Subjects in 26 CFR Part 300

Reporting and recordkeeping requirements, User fees.

Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR part 300 is amended as follows:

PART 300—USER FEES

■ **Paragraph 1.** The authority citation for part 300 continues to read in part as follows:

Authority: 31 U.S.C. 9701.

■ **Par. 2.** Section 300.0 is amended as follows:

■ 1. Paragraphs (b)(4), (b)(5), and (b)(6) are added.

■ 2. Paragraph (c) is revised.

The additions and revision read as follows:

§ 300.0 User fees; in general.

* * * * *

(b) * * *

(4) Taking the special enrollment examination to become an enrolled agent.

(5) Enrolling an enrolled agent.

(6) Renewing the enrollment of an enrolled agent.

(c) *Effective date.* This part 300 is applicable March 16, 1995, except that the user fee for processing offers in compromise is applicable November 1, 2003, and the user fee for the special enrollment examination, enrollment, and renewal of enrollment for enrolled agents is applicable November 6, 2006.

■ **Par. 3.** Section 300.4 is added to read as follows:

§ 300.4 Special enrollment examination fee.

(a) *Applicability.* This section applies to the special enrollment examination to become an enrolled agent pursuant to 31 CFR 10.4(a).

(b) *Fee.* The fee for taking the special enrollment examination is $11 per part, which is the government cost for overseeing the examination and does not include any fees charged by the examination administrator.

(c) *Person liable for the fee.* The person liable for the special enrollment examination fee is the applicant taking the examination.

■ **Par. 4.** Section 300.5 is added to read as follows:

§ 300.5 Enrollment of enrolled agent fee.

(a) *Applicability.* This section applies to the initial enrollment of enrolled agents with the IRS Office of Professional Responsibility pursuant to 31 CFR 10.5(b).

(b) *Fee.* The fee for initially enrolling as an enrolled agent with the IRS Office of Professional Responsibility is $125.

(c) *Person liable for the fee.* The person liable for the enrollment fee is the applicant filing for enrollment as an enrolled agent with the IRS Office of Professional Responsibility.

■ **Par. 5.** Section 300.6 is added to read as follows:

§ 300.6 Renewal of enrollment of enrolled agent fee.

(a) *Applicability.* This section applies to the renewal of enrollment of enrolled agents with the IRS Office of Professional Responsibility pursuant to 31 CFR 10.6(d)(6).

(b) *Fee.* The fee for renewal of enrollment as an enrolled agent with the IRS Office of Professional Responsibility is $125.

(c) *Person liable for the fee.* The person liable for the renewal of enrollment fee is the person renewing their enrollment as an enrolled agent with the IRS Office of Professional Responsibility.

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

Approved: October 2, 2006,

Eric Solomon,

Acting Deputy Assistant Secretary for Tax Policy.

[FR Doc. 06–8525 Filed 10–3–06; 10:00 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Parts 594, 595, and 597

Global Terrorism Sanctions Regulations; Terrorism Sanctions Regulations; Foreign Terrorist Organizations Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendment.

SUMMARY: The Office of Foreign Assets Control of the U.S. Department of the Treasury (''OFAC'') is revising the Global Terrorism Sanctions Regulations, the Terrorism Sanctions Regulations, and the Foreign Terrorist Organizations Sanctions Regulations to authorize in-kind donations of medical devices and

medical services by U.S. nongovernmental organizations to the Palestinian Authority Ministry of Health.

DATES: *Effective Date:* July 6, 2006.

FOR FURTHER INFORMATION CONTACT: Assistant Director of Compliance, Outreach & Implementation, tel.: 202/622–2490, Assistant Director of Licensing, tel.: 202/622–2480, Assistant Director of Policy, tel.: 202/622–4855, or Chief Counsel, tel.: 202/622–2410, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220 (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning the Office of Foreign Assets Control (''OFAC'') are available from OFAC's Web site (*http://www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, tel.: (202) 622–0077.

Background

The Office of Foreign Assets Control (''OFAC'') administers three sanctions programs with respect to terrorists and terrorist organizations. The Terrorism Sanctions Regulations, 31 CFR part 595 (''TSR''), implement Executive Order 12947 of January 23, 1995, in which the President declared a national emergency with respect to ''grave acts of violence committed by foreign terrorists that disrupt the Middle East peace process * * *'' The Global Terrorism Sanctions Regulations, 31 CFR part 594 (''GTSR''), implement Executive Order 13224 of September 23, 2001, in which the President declared an emergency more generally with respect to ''grave acts of terrorism and threats of terrorism committed by foreign terrorists * * *'' The Foreign Terrorist Organizations Sanctions Regulations, 31 CFR part 597 (''FTOSR''), implement provisions of the Antiterrorism and Effective Death Penalty Act of 1996.

HAMAS is a target of each of these sanctions programs, resulting in the blocking of any property and interests in property of HAMAS that are in the United States or hereafter come within the United States, or that are in or hereafter come within the possession or control of a United States person. These restrictions prohibit U.S. persons from dealing in property or interests in property of HAMAS. After the January 26, 2006 parliamentary elections in the West Bank and Gaza, HAMAS members formed the majority party within the Palestinian Legislative Council. In addition, HAMAS currently holds positions of authority within the government, including the position of Prime Minister. OFAC determined that, as a result of these elections, HAMAS has a property interest in the transactions of the Palestinian Authority. Accordingly, pursuant to the TSR, the GTSR, and the FTOSR, U.S. persons are prohibited from engaging in transactions with the Palestinian Authority unless authorized.

Consistent with current foreign policy, OFAC issued six general licenses on April 12, 2006, authorizing U.S. persons to engage in certain transactions in which the Palestinian Authority may have an interest. One of those general licenses authorized in-kind donations of medicine by U.S. nongovernmental organizations to the Palestinian Authority Ministry of Health, provided that such donations were strictly for distribution in the West Bank or Gaza and not intended for resale. Based on foreign policy considerations, OFAC is expanding this license, effective July 6, 2006, to allow U.S. nongovernmental organizations to make in-kind donations to the Palestinian Authority Ministry of Health of medical services and medical devices, which include medical supplies, in addition to donations of medicine, provided that such donations are strictly for distribution in the West Bank or Gaza and not intended for resale.

Public Participation

Because the amendment of 31 CFR parts 594, 595, and 597 involves a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information related to 31 CFR parts 594, 595, and 597 are contained in 31 CFR part 501 (the ''Reporting, Procedures and Penalties Regulations''). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505–0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects

31 CFR Part 594

Administrative practice and procedure, Banks, Banking, Penalties, Reporting and recordkeeping requirements, Terrorism.

31 CFR Part 595

Administrative practice and procedure, Banks, Banking, Currency, Foreign investments in United States, Penalties, Reporting and recordkeeping requirements, Securities, Terrorism.

31 CFR Part 597

Administrative practice and procedure, Banks, Banking, Currency, Foreign investments in United States, Penalties, Reporting and recordkeeping requirements, Securities, Terrorism.

■ For the reasons set forth in the preamble, the Office of Foreign Assets Control amends 31 CFR parts 594, 595, and 597 as follows:

PART 594—GLOBAL TERRORISM SANCTIONS REGULATIONS

■ 1. The authority citation for part 594 continues to read as follows:

Authority: 3 U.S.C. 301; 22 U.S.C. 287c; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); E.O. 13224, 66 FR 49079, September 25, 2001; E.O. 13268, 67 FR 44751, July 3, 2002; 3 CFR, 2002 Comp., p. 240; E.O. 13284, 64 FR 4075, January 28, 2003.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

■ 2. Revise § 594.515 to read as follows:

§ 594.515 In-kind donations of medicine, medical devices, and medical services.

(a) Effective July 6, 2006, nongovernmental organizations that are U.S. persons are authorized to provide in-kind donations of medicine, medical devices, and medical services to the Palestinian Authority Ministry of Health, provided that such donations are strictly for distribution in the West Bank or Gaza and not intended for resale, and provided further that no payment pursuant to this license may involve a debit to an account of the Palestinian Authority on the books of a U.S. financial institution or to any account blocked pursuant to this part.

(b) For the purposes of this section only, the term medical device has the meaning given the term ''device'' in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321), including medical supplies, but does not include any item listed on the Commerce Control List in the Export

Administration Regulations, 15 CFR part 774, supplement no. 1.

Note to paragraph (b): Nongovernmental organizations that are interested in providing items listed on the Commerce Control List to the Palestinian Authority Ministry of Health must apply for a specific license from the Office of Foreign Assets Control.

PART 595—TERRORISM SANCTIONS REGULATIONS

■ 1. The authority citation for part 595 continues to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); E.O. 12947, 60 FR 5079; 3 CFR, 1995 Comp., p. 319.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

■ 2. Revise § 595.513 to read as follows:

§ 595.513 In-kind donations of medicine, medical devices, and medical services.

(a) Effective July 6, 2006, nongovernmental organizations that are U.S. persons are authorized to provide in-kind donations of medicine, medical devices, and medical services to the Palestinian Authority Ministry of Health, provided that such donations are strictly for distribution in the West Bank or Gaza and not intended for resale, and provided further that no payment pursuant to this license may involve a debit to an account of the Palestinian Authority on the books of a U.S. financial institution or to any account blocked pursuant to this part.

(b) For the purposes of this section only, the term medical device has the meaning given the term ''device'' in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321), including medical supplies, but does not include any item listed on the Commerce Control List in the Export Administration Regulations, 15 CFR part 774, supplement no. 1.

Note to paragraph (b): Nongovernmental organizations that are interested in providing items listed on the Commerce Control List to the Palestinian Authority Ministry of Health must apply for a specific license from the Office of Foreign Assets Control.

PART 597—FOREIGN TERRORIST ORGANIZATIONS SANCTIONS REGULATIONS

■ 1. The authority citation for part 597 continues to read as follows:

Authority: 31 U.S.C. 321(b); Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 104–132, 110 Stat. 1214, 1248–53 (8 U.S.C. 1189, 18 U.S.C. 2339B).

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

■ 2. Revise § 597.511 to read as follows:

§ 597.511 In-kind donations of medicine, medical devices, and medical services.

(a) Effective July 6, 2006, U.S. financial institutions are authorized to conduct all transactions ordinarily incident to the provision by nongovernmental organizations that are U.S. persons of in-kind donations of medicine, medical devices, and medical services to the Palestinian Authority Ministry of Health, provided that such donations are strictly for distribution in the West Bank or Gaza and not intended for resale, and provided further that no payment pursuant to this license may involve a debit to an account of the Palestinian Authority on the books of a U.S. financial institution or to any account blocked pursuant to this part.

(b) For the purposes of this section only, the term medical device has the meaning given the term ''device'' in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321), including medical supplies, but does not include any item listed on the Commerce Control List in the Export Administration Regulations, 15 CFR part 774, supplement no. 1.

(c) U.S. financial institutions are authorized to conduct all transactions ordinarily incident to the provision by nongovernmental organizations that are U.S. persons of in-kind donations of medical devices listed on the Commerce Control List to the Palestinian Authority Ministry of Health, provided that

(1) Such donation is licensed by OFAC; and

(2) Such donation is authorized under or pursuant to the Export Administration Regulations.

(d) The retention and reporting provisions of § 597.201 shall not apply with respect to transactions authorized by paragraphs (a) and (c) of this section.

Dated: September 6, 2006.

Adam J. Szubin,

Acting Director, Office of Foreign Assets Control.

[FR Doc. E6–16409 Filed 10–4–06; 8:45 am]

BILLING CODE 4811–37–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD08–06–035]

Drawbridge Operation Regulations; Gulf Intracoastal Waterway, Harvey, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Harvey Canal Railroad Bascule Bridge across the Harvey Canal, mile 0.2 (Gulf Intracoastal Canal, mile 0.2 west of Harvey Lock, near Gretna, Jefferson Parish, Louisiana. This deviation provides for the bridge to remain closed to navigation for 60 consecutive hours to conduct scheduled maintenance to the drawbridge.

DATES: This deviation is effective from 6 p.m. on Friday, October 13, 2006 until 6 a.m. on Monday, October 16, 2006.

ADDRESSES: Materials referred to in this document are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, room 1313, 500 Poydras Street, New Orleans, Louisiana 70130–3310 between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 671–2128. The Bridge Administration Branch of the Eighth Coast Guard District maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: David Frank, Bridge Administration Branch, telephone (504) 671–2129.

SUPPLEMENTARY INFORMATION: The New Orleans and Gulf Coast Railway Company has requested a temporary deviation in order to perform necessary maintenance on the rail line of the Harvey Canal Railroad Bascule Bridge across the Harvey Canal, mile 0.2 (Gulf Intracoastal Canal, mile 0.2 west of Harvey Lock, near Gretna, Jefferson Parish, Louisiana. The maintenance is essential for the continued safe operation of the draw span of the railroad bridge. This temporary deviation will allow the bridge to remain in the closed-to-navigation position from 6 p.m. on Friday, October 13, 2006 until 6 a.m. on Monday, October 16, 2006.

The bridge has a vertical clearance of 9 feet above mean high water in the

closed-to-navigation position and 75 feet above mean high water in the open-to-navigation position. Navigation on the waterway consists mainly of tugs with tows. Mariners may use the Gulf Intracoastal Waterway (Algiers Alternate Route) to avoid unnecessary delays.

The Coast Guard has coordinated the closure with waterway users, industry, and other Coast Guard units. It has been determined that this closure will not have a significant effect on vessel traffic.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: September 15, 2006.

Marcus Redford,

Bridge Administrator.

[FR Doc. E6–16428 Filed 10–4–06; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 59

[EPA–HQ–OAR–2006–0672; FRL–8228–4]

Consumer and Commercial Products, Group II: Control Techniques Guidelines in Lieu of Regulations for Flexible Packaging Printing Materials, Lithographic Printing Materials, Letterpress Printing Materials, Industrial Cleaning Solvents, and Flat Wood Paneling Coatings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final determination and availability of final control techniques guidelines.

SUMMARY: Pursuant to section 183(e)(3)(C) of the Clean Air Act (CAA), EPA has determined that control technique guideline (CTG) documents will be substantially as effective as national regulations in reducing emissions of volatile organic compounds (VOC) in ozone national ambient air quality standard (NAAQS) nonattainment areas from the following Group II product categories: Lithographic printing materials, letterpress printing materials, flexible packaging printing materials, flat wood paneling coatings, and industrial cleaning solvents. EPA is taking final action to list these product categories pursuant to CAA section 183(e). Based on this determination, EPA is issuing final CTGs in lieu of national regulations for the control of VOC emissions from each of these product categories. These CTGs provide guidance to the States concerning EPA(s recommendations for reasonably available control technology (RACT)-level controls for the product categories.

DATES: This final action is effective on October 5, 2006.

ADDRESSES: EPA has established the following dockets for these actions: Consumer and Commercial Products, Group II—Determination to Issue Control Techniques Guidelines in Lieu of Regulations, Docket No. EPA–HQ–OAR–2006–0672; Consumer and Commercial Products—Lithographic Printing Materials and Letterpress Printing Materials, Docket No. EPA–HQ–OAR–2006–0536; Consumer and Commercial Products—Flexible Packaging Printing Materials, Docket No. EPA–HQ–OAR–2006–0537; Consumer and Commercial Products—Industrial Cleaning Solvents, Docket No. EPA–HQ–OAR–2006–0535; and Consumer and Commercial Products—Flat Wood Paneling Coatings, Docket No. EPA–HQ–OAR–2006–0538.

All documents in the dockets are listed on the *http://www.regulations.gov* indexes. Although listed in the indexes, some information is not publicly available (e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute.) Certain other materials, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at Docket No. EPA–HQ–OAR–2006–0672, Docket No. EPA–HQ–OAR–2006–0535, Docket No. EPA–HQ–OAR–2006–0536, Docket No. EPA–HQ–OAR–2006–0537, and/or Docket No. EPA–HQ–OAR–2006–0538, EPA Docket Center, 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.

Note: The EPA Docket Center suffered damage due to flooding during the last week of June 2006. The Docket Center is continuing to operate. However, during the cleanup, there will be temporary changes to Docket Center telephone numbers, addresses, and hours of operation for people who wish to visit the Public Reading Room to view documents. Consult EPA's **Federal Register** notice at 71 FR 38147 (July 5, 2006) or the EPA Web site at *www.epa.gov/epahome/dockets.htm* for current information on docket operations, locations and telephone numbers. The Docket Center(s mailing address for U.S. mail and the procedure for submitting comments to *www.regulations.gov* are not affected by the flooding and will remain the same.

FOR FURTHER INFORMATION CONTACT: For information concerning the CAA section 183(e) consumer and commercial products program, contact Mr. Bruce Moore, U.S. EPA, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Natural Resources and Commerce Group (E143–03), Research Triangle Park, North Carolina 27711, telephone number: (919) 541–5460, fax number (919) 541–3470, e-mail address: *moore.bruce@epa.gov.* For further information on technical issues concerning the final determination and final CTG for lithographic printing materials and letterpress printing materials, contact: Mr. Dave Salman, U.S. EPA, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Coatings and Chemicals Group (E143–01), Research Triangle Park, North Carolina 27711, telephone number: (919) 541–0859, e-mail address: *salman.dave@epa.gov.* For further information on technical issues concerning the final determination and final CTG for flexible packaging printing materials, contact: Ms. Paula Hirtz, U.S. EPA, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Coatings and Chemicals Group (E143–01, Research Triangle Park, North Carolina 27711, telephone number: (919) 541–2618, e-mail address: *hirtz.paula@epa.gov.* For further information on technical issues concerning the final determination and final CTG for flat wood paneling coatings, contact: Mr. Lynn Dail, U.S. EPA, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Natural Resources and Commerce Group (E143–03), Research Triangle Park, North Carolina 27711, telephone number: (919) 541–2363, e-mail address: *dail.lynn@epa.gov.* For further information on technical issues concerning the final determination and final CTG for industrial cleaning solvents, contact: Dr. Mohamed Serageldin, U.S. EPA, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Natural Resources and Commerce Group (E143–03), Research Triangle Park, North Carolina 27711, telephone number: (919) 541–2379, e-mail address: *serageldin.mohamed@epa.gov.*

SUPPLEMENTARY INFORMATION:

Organization of This Document. The following outline is provided to aid in locating information in the preamble.

I. General Information
A. Entities Potentially Affected by This Action
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IV. Responses to Significant Comments on EPA's Decision To Take Final Action To List Product Categories Under CAA Section 183(e)
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VI. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review
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G. Executive Order: 13045: Protection of Children From Environmental Health and Safety Risks
H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act
J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
K. Congressional Review Act

I. General Information

A. Entities Potentially Affected by This Action

The categories and entities potentially affected by this action include:

Category	NAICS code [1]	Examples of affected entities
Flexible packaging printing materials.	322221, 326112, 322223, 3265111, 322224, 322225, 332999.	Facilities that use rotogravure or flexographic processes to print materials such as bags, pouches, labels, liners, and wraps using paper, plastic film, aluminum foil, metalized or coated paper or film, or any combination of these materials.
Lithographic printing materials	323110	Facilities engaged in lithographic printing on individual sheets or continuous rolls of substrate material.
Letterpress printing materials	323119	Facilities engaged in letterpress printing on individual sheets or continuous rolls of substrate material.
Industrial cleaning solvents	Various [2]	Facilities using industrial cleaning solvents in cleaning activities associated with manufacturing, repair, and service operations across a wide variety of industry sectors.
Flat wood paneling coatings	321211, 321212, 321219, 321999	Flat wood paneling coating facilities that apply protective, decorative, or functional material to any interior, exterior, or hardboard panel product.

[1] North American Industry Classification System.
[2] Industrial cleaning solvents are used in various manufacturing, repair, and service operations that span many industry sectors. A detailed list of affected industries and their respective NAICS codes are presented in the docket for the final CTG for industrial cleaning solvents.

B. World Wide Web (WWW)

In addition to being available in the docket, an electronic copy of this final action will also be available on the Worldwide Web (WWW) through the Technology Transfer Network (TTN). Following signature, a copy of the final action will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at the following address: *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 CAA, judicial review of EPA's final determination is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by December 4, 2006. Under section 307(d)(7)(B) of the CAA, only an objection to the final determination that was raised with reasonable specificity during the period for public comment can be raised during judicial review.

II. Background Information and Final Determination

A. The Ozone Problem

Ground-level ozone, a major component of smog, is formed in the atmosphere by reactions of VOC and oxides of nitrogen in the presence of sunlight. The formation of ground-level ozone is a complex process that is affected by many variables.

Exposure to sufficient concentrations of ground-level ozone is associated with a wide variety of human health effects, agricultural crop loss, and damage to forests and ecosystems. Acute respiratory symptoms can be induced by short-term exposures (observed in some studies at concentrations as low as 0.12 parts per million (ppm)). Other studies have shown effects on exercise performance while individuals are engaged in moderate or heavy exertion, and by prolonged exposures to ozone (observed at concentrations as low as 0.08 ppm), typically while individuals are engaged in moderate exertion. Other health effects seen in studies of ambient exposures include increased airway responsiveness, increased susceptibility to respiratory infection, increased hospital admissions and emergency room visits, and pulmonary inflammation. Groups at increased risk of experiencing elevated exposures include active children, outdoor workers, and others who regularly engage in outdoor activities. Those with preexisting respiratory disease may be more susceptible to ozone exposure. Currently available information also suggests that long-term exposures to sufficiently elevated ozone levels may cause chronic health effects (e.g., structural damage to lung tissue and accelerated decline in baseline lung function).

B. Statutory and Regulatory Background

Under CAA section 183(e), EPA conducted a study of VOC emissions from the use of consumer and commercial products to assess their potential to contribute to levels of ozone that violate the NAAQS for ozone, and to establish criteria for regulating VOC emissions from these products. Section 183(e) of the CAA directs EPA to list for regulation those categories of products that account for at least 80 percent of the VOC emissions, on a reactivity-adjusted basis, from consumer and commercial products in areas that violate the NAAQS for ozone (i.e., ozone

nonattainment areas), and to divide the list of categories to be regulated into four groups. EPA published the initial list in the **Federal Register** on March 23, 1995 (60 FR 15264). In that notice, EPA stated that it may amend the list of products for regulation, and the groups of product categories, in order to achieve an effective regulatory program in accordance with the Agency's discretion under CAA section 183(e). EPA has revised the list several times. See 70 FR 69759, November, 17, 2005; 64 FR 13422, March 18, 1999. Most recently, in May 2006, EPA revised the list to add one product category, portable fuel containers, and to remove one product category, petroleum dry cleaning solvents. See 71 FR 28320, May 16, 2006. As a result of these revisions, Group II of the list now comprises the five product categories that are the subject of this action.[1]

Any regulations issued under section CAA 183(e) must be based on ''best available controls'' (BAC). CAA section 183(e)(1)(A) defines BAC as ''the degree of emissions reduction that the Administrator determines, on the basis of technological and economic feasibility, health, environmental, and energy impacts, is achievable through the application of the most effective equipment, measures, processes, methods, systems or techniques, including chemical reformulation, product or feedstock substitution, repackaging, and directions for use, consumption, storage, or disposal.'' CAA section 183(e) also provides EPA with authority to use any system or systems of regulation that EPA determines is the most appropriate for the product category. Under these provisions, EPA has previously issued ''national'' regulations for architectural and industrial maintenance coatings, autobody refinishing coatings and consumer products.[2]

CAA section 183(e)(3)(C) further provides that EPA may issue a CTG in lieu of a national regulation for a product category where the EPA determines that the CTG will be ''substantially as effective as regulations'' in reducing emissions of VOC in ozone nonattainment areas. The statute does not specify how EPA is to make this determination, but does provide a fundamental distinction between national regulations and CTGs. Specifically, for national regulations, CAA section 183(e) defines regulated entities as:

> (i) * * * manufacturers, processors, wholesale distributors, or importers of consumer or commercial products for sale or distribution in interstate commerce in the United States; or (ii) manufacturers, processors, wholesale distributors, or importers that supply the entities listed under clause (i) with such products for sale or distribution in interstate commerce in the United States.

Thus, under CAA section 183(e), a regulation for consumer or commercial products is limited to the measures applicable to manufacturers, processors, distributors, or importers of the solvents, materials, or products supplied to the consumer or industry. CAA section 183(e) does not authorize EPA to issue regulations that would directly regulate end-users of these products. By contrast, CTG are guidance documents that recommend RACT measures that States can adopt and apply to the end users of products. This dichotomy (i.e., that EPA cannot directly regulate end-users under CAA section 183(e), but can address end-users through a CTG) created by Congress is relevant to EPA's evaluation of the relative merits of a national regulation versus a CTG.

C. Significance of Control Technique Guidelines

CAA section 172(c)(1) provides that State implementation plans (SIP) for nonattainment areas must include ''reasonably available control measures'', including RACT, for sources of emissions. Section 182(b)(2) provides that States must revise their ozone SIP to include RACT for VOC sources covered by any CTG document issued after November 15, 1990, and prior to the date of attainment. Those ozone nonattainment areas that are subject to CAA section 172(c)(1) and submit an attainment demonstration seeking more than 5 years from the date of designation to attain must also meet the requirements of CAA section 182(b)(2) and revise their ozone SIP in response to any CTG issued after November 15, 1990, and prior to the date of attainment. Other ozone nonattainment areas subject to CAA section 172(c)(1) may take action in response to this guidance, as necessary to attain the NAAQS. For the specific requirements, see 40 CFR 51.912.

EPA defines RACT as ''the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility'' (44 FR 53761, September 17, 1979). In subsequent **Federal Register** notices, EPA has addressed how States can meet the RACT requirements of the CAA. Significantly, RACT for a particular industry is determined on a case-by-case basis, considering issues of technological and economic feasibility.

EPA provides States with guidance concerning what types of controls could constitute RACT for a given source category through issuance of a CTG. The recommendations in the CTG are based on available data and information and may not apply to a particular situation based upon the circumstances. States can follow the CTG and adopt State regulations to implement the recommendations contained therein, or they can adopt alternative approaches. In either event, States must submit their RACT rules to EPA for review and approval as part of the SIP process. EPA will evaluate the rules and determine, through notice and comment rulemaking in the SIP process, whether they meet the RACT requirements of the CAA and EPA's regulations. To the extent a State adopts any of the recommendations in a CTG into its State RACT rules, interested parties can raise questions and objections about the substance of the guidance and the appropriateness of the application of the guidance to a particular situation during the development of the State rules and EPA's SIP approval process.

We encourage States in developing their RACT rules to consider carefully the facts and circumstances of the particular sources in their States because, as noted above, RACT is determined on a case-by-case basis, considering issues of technological and economic feasibility. For example, a State may decide not to require increased control efficiency at facilities that are already well controlled, if the additional emission reductions would not be cost-effective. States may also want to consider reactivity-based approaches, as appropriate, in developing their RACT regulations.[3] Finally, if States consider requiring more stringent VOC content limits than those recommended in the final CTGs, States may also wish to consider averaging, as appropriate. In general, the RACT requirement is applied on a short-term basis up to 24 hours.[4] However,

[1] Pursuant to the Court's order in *Sierra Club* v. *EPA, 1:01–CV–01597–PLF (D.C. Cir., March 31, 2006), EPA must take final action on the product categories in Group II by September 30, 2006.*

[2] See 63 FR 48792 (September 11, 1998).

[3] ''Interim Guidance on Control of Volatile Organic Compounds in Ozone State Implementation Plans,'' 70 FR 54046 (September 13, 2005).

[4] See, e.g. 52 FR 45108 (November 24, 1987), col. 2, ''Compliance Periods.'' ''VOC rules should describe explicitly the compliance timeframe associated with each emission limit (e.g., instantaneous or daily). However, where rules are

Continued

EPA guidance permits averaging times longer than 24 hours under certain conditions.[5] EPA's ''Economic Incentive Policy'' [6] provides guidance on use of long-term averages with regard to RACT and generally provides for averaging times of no greater than 30 days. Thus, if the appropriate conditions are present, States may consider the use of averaging in conjunction with more stringent limits. Because of the nature of averaging, however, we would expect that any State RACT Rules that allow for averaging also include appropriate recordkeeping and reporting requirements.

By this action, we are issuing four final CTGs that cover the five product categories in Group II of the CAA section 183(e) list. We have consolidated lithographic printing materials and letterpress printing materials into one CTG document. These CTGs are guidance to the States and provide recommendations only. A State can develop its own strategy for what constitutes RACT for each of the Group II product categories, and EPA will review that strategy in the context of the SIP process and determine whether it meets the RACT requirements of the CAA and its implementing regulations.

Finally, CAA section 182(b)(2) provides that a CTG issued after 1990 specify the date by which a State must submit a SIP revision in response to the CTG. In the final CTGs at issue here, EPA provides that States should submit their SIP revisions within 1 year of the date that the CTGs are finalized.

III. Summary of Changes to the Final CTGs

Based on information received during the public comment period, we made several substantive changes to the lithographic printing materials and letterpress printing materials CTG and the flexible packaging printing materials CTG. In addition, based on public comment, we incorporated an option into the industrial cleaning solvents CTG on which we had requested comments at proposal. Although we made some minor clarifying changes to the flat wood paneling coatings CTG, no changes were made regarding EPA's recommendations concerning the nature or applicability of control measures for that product category. Significant changes are described below.

A. Lithographic Printing Materials and Letterpress Printing Materials

Several significant changes were made to the draft CTG for offset lithographic printing and letterpress printing as a result of comments received during the comment period. Each of the changes is discussed briefly below.

(1) Cleaning

The scope of the recommendations for cleaning has been clarified to include blanket wash, roller wash, plate cleaner, metering roller cleaner, impression cylinder cleaner, rubber rejuvenator and other cleaners used for cleaning a press, press parts or to remove dried ink from areas around a press; and to exclude cleaners used to clean electronic components of a press, cleaning in pre-press (*e.g.*, platemaking) or post-press (*e.g.*, binding) operations, use of janitorial supplies (*e.g.*, detergents or floor cleaners) to clean areas around a press, and cleaning done in parts washers or cold cleaners. We also agree with commenters that in order to carry out all of these cleaning tasks, some cleaning materials with VOC composite greater than 10 millimeters (mm) mercury (Hg) at 20° C may be required. Many of the cleaning tasks that cannot be carried out with low VOC composite vapor pressure cleaning materials can be carried out with reduced VOC content cleaning materials. We have, therefore, added a recommendation for cleaning materials which contain 70 weight percent or less VOC. A small number of cleaning tasks cannot be carried out with low VOC composite vapor pressure cleaning materials or reduced VOC content cleaning materials. We have, therefore, added a recommendation to exclude 110 gallons per year of cleaning materials which meet neither the low VOC composite vapor pressure recommendation nor the lower VOC content recommendation.

(2) Fountain Solution

The recommendations for fountain solution have been clarified as applying to the on-press (as-applied) fountain solution, not to the fountain solution concentrate. We also agree with commenters that for certain small presses, the recommended VOC (alcohol or alcohol substitute) content levels would yield a small emission reduction relative to the cost of achieving that reduction (*e.g.*, changing and maintaining rollers). We have, therefore, modified our recommendations for fountain solution to exclude sheet-fed presses with sheet size 11x17 inches or smaller and to exclude any press with total fountain solution reservoir of less than 1 gallon.

(3) Heatset Dryers

The draft CTG recommended controlling emissions from heatset dryers at facilities with potential to emit from all dryers combined, prior to control, of at least 25 tons per year (tpy) of VOC from heatset inks and carryover of VOC from other materials. We agree with commenters that this applicability threshold is more appropriately expressed on a per press basis. We also believe that it is simpler and sufficient to make this applicability determination based solely on the emissions from the heatset inks. In the final CTG, we therefore recommend controlling emissions from each heatset dryer with potential to emit, prior to controls, of at least 25 tpy of VOC (petroleum ink oils) from heatset inks. We recommend providing printers with the option of using an enforceable limitation on potential emissions to keep an individual press below this 25 tpy potential to emit threshold. Add-on controls for heatset presses with potential to emit below 25 tpy may be too costly for the emission reduction that would be achieved. We also recommend excluding heatset presses used for book printing and excluding heatset presses with maximum web width of 22 inches or less. Add-on controls for such heatset presses may be too costly for the emission reduction that would be achieved.

The draft CTG recommended 90 percent control device efficiency for control devices first installed before March 14, 1995, and 95 percent control device efficiency for control devices first installed on or after March 14, 1995. We agree with commenters that control devices first installed on or after March 14, 1995 may, for a variety of reasons, not be achieving 95 percent control device efficiency, and that a retroactive 95 percent control device efficiency recommendation for the control devices is not appropriate. In the final CTG, we therefore recommend that 95 percent control device efficiency for brand new control devices installed after the effective date of a new or revised State or local regulation adopted after publication of the CTG.

(4) Applicability

The draft CTG recommended general applicability levels of 6.8 kilograms per day (kg/day) (15 pounds per day (lb/day)) of VOC before consideration of controls for offset lithographic printing

silent on compliance time, EPA will interpret it as instantaneous.''

[5] Memorandum from John O'Connor, Acting Director of the Office of Air Quality Planning and Standards, January 20, 1984, ''Averaging Times for Compliance with VOC Emission Limits-SIP Revision Policy.''

[6] ''Improving Air Quality with Economic Incentive Programs, January 2001,'' available at *http://www.epa.gov/region07/programs/artd/air/policy/search.htm.*

and 6.8 kg/day (15 lb/day) of VOC before consideration of controls for letterpress printing. These recommended general applicability levels were relevant to the draft CTG recommendations for controlling emissions from cleaning and fountain solution.

The draft CTG recommended higher applicability levels for controlling emissions from heatset dryers. The final CTG recommendations for controlling emissions from heatset dryers, including recommended applicability criteria, are presented in the discussion of heatset dryers above.

The final CTG recommends these same general applicability levels for cleaning and fountain solution with the addition of several exclusions. The reasons for the recommended exclusions are presented in the discussions of cleaning and fountain solution above.

The final CTG recommendations for cleaning apply to offset lithographic printing facilities emitting 15 lb/day or more before consideration of controls from all covered offset lithographic printing and cleaning activities at the facility with an exclusion provided for use of 110 gallons per year of offset lithographic cleaning materials which meet neither the low VOC composite vapor pressure recommendation nor the lower VOC content recommendation. The final CTG recommendations for cleaning also apply to letterpress printing facilities emitting 15 lb/day or more before consideration of controls from all covered letterpress printing and cleaning activities with an exclusion provided for use of 110 gallons per year of letterpress cleaning materials which meet neither the low VOC composite vapor pressure recommendation nor the lower VOC content recommendation. Further, the final CTG recommendations for fountain solution apply to offset lithographic printing facilities emitting 15 lb/day or more before consideration of controls from all covered offset lithographic printing and cleaning activities at the facility with an exclusion provided for sheet-fed presses with sheet size 11x17 inches or smaller and an exclusion provided for any press with total fountain solution reservoir of less than 1 gallon. State and local agencies have discretion to consider these applicability levels, equivalent applicability levels expressed on a monthly basis (*e.g.*, 450 pounds per month (lb/month)), equivalent applicability levels expressed on a 12-month rolling basis (*e.g.*, 3 tons per 12-month rolling period), or other applicability levels for their regulations.

B. Flexible Packaging Printing Materials

Four significant changes were made to the draft flexible packaging printing CTG as a result of comments received during the comment period. These include: (1) Removing the recommended VOC composite vapor pressure limit for cleaning solvents; (2) changing the recommended applicability threshold for controlling VOC emissions from inks, coatings and adhesives from 25 tpy per facility to 25 tpy per press; (3) providing additional overall control efficiency recommendations ranging from 65 to 80 percent and changing the installation date of the add-on air pollution control device (APCD) from the March 1995 date to the effective date of state rule; and (4) changing the recommended low VOC compliance option limits from 0.5 kg VOC/kg solids applied and 0.10 kg VOC/kg material applied to 0.8 kg VOC/kg solids applied and 0.16 kg VOC/kg material applied. Each of the changes is discussed briefly below.

(1) VOC Composite Vapor Pressure of Cleaning Solvents

We removed the recommended VOC composite vapor pressure limit for cleaning solvents. This change was made based on additional information provided by the commenters related to the vapor pressure of cleaning solvents typically used in the industry that have vapor pressures above the suggested 25 mm Hg (20° C) limit and for which material substitution is not feasible. Within the industry, there are controlled cleaning operations where cleaning is automated, enclosed, and vented to an APCD, and vapor pressure limits are not necessary. Use of recycled solvents for cleaning is also typical in the industry; solvent mixture components and the corresponding vapor pressure vary frequently. EPA supports industry's use of recycled solvents for cleaning and supports minimal usage of effective solvents and accordingly, for this additional reason, we have removed the vapor pressure limit. The recommendations for cleaning operations in the final CTG include the work practice recommendations from the draft CTG.

(2) Applicability Threshold for Controlling Emissions From Inks, Coatings, and Adhesives

We changed the recommended 25 tpy per facility VOC applicability threshold for controlling ink, coating and adhesive emissions to 25 tpy per press. As suggested by several commenters, EPA has reevaluated this threshold. Rather than basing the annual threshold on all printing operations at the facility, the recommended applicability threshold has been revised to apply to each press. We believe an applicability threshold for control of these emissions on a press-by-press basis is the most appropriate way to assess the reasonableness of controlling emissions from inks, coatings and adhesives.

We have not changed the recommended general applicability level of 6.8 kg/day (15 lb/day) of VOC before consideration of controls for flexible packaging printing. This recommended general applicability level is relevant only to the recommendations for controlling emissions from cleaning.

The final CTG work practice recommendations for cleaning apply to flexible packaging printing facilities emitting 15 lb/day or more actual emissions before consideration of controls from all covered flexible packaging printing and cleaning activities at the facility. Since work practices are carried out on a facility-wide basis, we believe it is most appropriate for the applicability of work practices to be determined on a facility-wide basis. State and local agencies have discretion to consider this recommended applicability level, an equivalent applicability level expressed on a monthly basis (*e.g.*, 450 lb/month), an equivalent applicability level expressed on a 12-month rolling basis (*e.g.*, 3 tons per 12-month rolling period), or other applicability levels for the cleaning requirements in their regulations.

(3) Control Efficiency Recommendations

We provided additional overall control efficiency recommendations ranging from 65 to 80 percent and changed the installation date of the APCD from the March 1995 date to the effective date of an applicable State rule. The recommendations in the draft CTG included control levels based on the installation date of the press. These control levels included overall control levels that reflected increased capture efficiencies and increased control device efficiencies. The commenters' concern that new presses may be installed at a facility but may be vented to existing control devices is valid, and EPA agrees that additional consideration be made regarding the installation date of the APCD. EPA has added recommendations for control levels related to the add-on APCD installation date that are based on new control devices installed after the effective date of the State RACT rule.

(4) Low VOC Compliance Option

We changed the recommended low VOC compliance option limits of 0.5 kg VOC/kg solids applied to 0.8 kg VOC/kg solids applied and 0.10 kg VOC/kg material applied to 0.16 kg VOC/kg material applied. EPA reanalyzed these limits based on comments and revised the recommended limits to more readily reflect the overall control efficiency recommendations in the final CTG.

C. Industrial Cleaning Solvents

In the draft industrial cleaning solvents CTG, we had solicited comments on possible use of a composite vapor pressure limit (for example, 8 mmHg at 20° C) either as: (1) A replacement for 50 g/l VOC content limit entirely; or (2) an alternative limit that may be used in lieu of the 50 g/l VOC content limit for specific operations as determined by the State or local agency. We included in the final CTG the vapor pressure limit of 8 mm Hg at 20° C for cleaning solvents as an additional control option for the States to consider. This change was made based on comments received indicating that a number of States have used low vapor pressure cleaning solvents as a means of controlling cleaning emissions when aqueous solvents could not be used. Also, this vapor pressure limit would allow the use of higher VOC content solvents for specific cleaning applications.

IV. Responses to Significant Comments on EPA's Decision To Take Final Action To List Product Categories Under CAA Section 183(e)

A few commenters on the proposal questioned whether certain product categories are properly on the CAA section 183(e) list of products for regulation. As EPA has stated in the past, the list of products for regulation is not itself a final Agency action and it is, therefore, appropriate to comment upon the inclusion of the product category on the list at the time EPA takes action to address the product, whether through issuance of a national regulation or through issuance of a CTG. However, the issues raised by the commenters concerned whether EPA had erred by including the product on the list of product categories for regulation because of incorrect estimates of the total amount of VOC emissions from the product category at the time of the initial listing exercise or subsequently.

As explained in more detail in the Response to Comments document for this action, EPA believes that these products are appropriate for regulation under CAA section 183(e). The Agency based the listing on reasonable estimates of the total VOC emissions as of the base year. The total VOC emissions were only one factor that EPA considered in the initial listing decision. Even if the Agency overestimated the total VOC emissions from this category, that would not alter the Agency's decision that this category is suitable for regulation, and would only affect whether EPA has identified sufficient categories to list those that emitted at least 80 percent of the VOC emissions as required by the statute. EPA believes that the overarching purpose of CAA section 183(e) is to achieve reasonable VOC emission reductions from consumer and commercial products because of their aggregate impact on ozone nonattainment. Thus, the statute contemplates that EPA will regulate many categories of products, including some that might be relatively small components of the emissions inventory.

V. Responses to Significant Comments on EPA's Determination

With the exception of one commenter, every other commenter that addressed EPA's proposed CAA section 183(e)(3)(C) determination that CTGs will be substantially as effective as national regulations in reducing emissions of VOC in ozone nonattainment areas from the five Group II consumer and commercial product categories agreed with the determination. Two commenters stated that the CTG approach provides flexibility to local air quality districts and enables them to more readily address local air quality issues. One commenter supported EPA's decision to issue CTGs rather than promulgating national rules, and agreed that the CTG approach will result in additional VOC emission reductions over the rule approach. Another commenter further stated that the proposed CTGs utilize cost effective approaches to VOC control that will help States achieve the ambient ozone standards. EPA appreciates the commenters' support of its CAA section 183(e)(3)(C) determination.

One commenter disagreed with the proposed CTG approach, stating, ''a national rule designed to limit potential VOC emissions from industrial solvents is preferred, given that such a rule would not impose direct regulatory burdens on end users such as dealerships.''

The commenter explained that automobile dealerships use solvents for: (1) Parts cleaners, in conjunction with mechanical service and repair; (2) surface preparation, in conjunction with autobody repair; (3) spray gun cleaning, in conjunction with autobody refinishing; and (4) various spray applications using refillable or non-refillable containers, in conjunction with mechanical service and repair and autobody operations.

In further support for its position that EPA should pursue a rulemaking for industrial solvents, the commenter stated that ''EPA presently is considering automobile refinish air toxics controls that may impact the use of surface preparation and gun cleaning solvents,'' used by automobile and truck dealerships. The commenter suggested that before moving forward with a CTG that covers, among other things, controls VOC emissions from autobody cleaning solvents, EPA should review potential controls under consideration in the air toxics proceeding. The commenter further stated that if EPA regulates automobile refinish cleaning solvents, a national rule should be used to regulate the VOC content of the cleaning solvents themselves, thereby avoiding any unnecessary and burdensome regulation of end users.

In summary, the commenter urged EPA to issue a national rule that: (1) Only regulates parts cleaner solvent formulations with greater than 5 percent VOC, by weight; and

(2) sets a composite vapor pressure limit of 8 mm Hg for such solvent formulations.

We disagree with the commenter. The commenter's primary argument supporting a national rule regulating the VOC content of cleaning solvents is that a national rule ''would not impose direct regulatory burdens on end users such as dealerships.'' The commenter is correct that a regulation issued pursuant to section 183(e) would not regulate end-users because such entities do not qualify as ''regulated entities'' within the meaning of section 183(e)(1)(C). The burden on the end-user is, however, not the test for evaluating the reasonableness of EPA's proposed section 183(e)(3)(C) determination that CTGs will be substantially as effective as regulations in reducing VOC emissions in ozone nonattainment areas from the five Group II product categories. Were that the case, EPA could never pursue the CTG approach, which is expressly contemplated by section 183(e)(3)(C), because CTGs apply to end-users.

As explained in the proposed rule, the statute does not specify how EPA is to make the determination under section 183(e)(3)(C) that a CTG will be substantially as effective as a national rule in reducing VOC emissions in ozone nonattainment areas. EPA,

therefore, has discretion in identifying factors relevant to making this determination. EPA identified in the proposed rule several factors that it considered in making its proposed section 183(e)(3)(C) determination. The commenter neither references these factors, nor challenges EPA's application of the factors to the Group II product categories. Although the commenter suggests requirements for a national rule, it does not address the arguments presented in the proposal, explaining why regulation of solvent manufacturers is not effective in reducing VOC emissions. The commenter's blanket assertion that it would prefer an approach that does not result in a ''direct regulatory burden on end-users'' does not constitute a basis for changing EPA's determination regarding the five Group II product categories.

Furthermore, the commenter's concern that the CTG results in a ''direct regulatory burden'' mischaracterizes the nature of a CTG. A CTG is a guidance document that provides recommendations to State and local pollution control agencies to consider in determining RACT for a particular product category. As explained in the proposal and in the draft CTGs, State and local pollution control agencies are not required to follow EPA's RACT recommendations contained in the CTG. Instead, they are free to implement other technically-sound approaches that are consistent with the CAA and its implementing regulations. Thus, it is not the CTG itself that has the direct regulatory burden, but rather it is the regulations that States may develop in response to the CTG that might impose any such burden. To the extent a State adopts any of the recommendations in the CTG, interested parties can always raise questions and objections about the substance of the CTG during the development of the State rules or during EPA's SIP approval process, both of which provide for public notice and comment. The commenter's assertion that the CTG imposes direct regulatory burdens is thus misplaced.

Finally, that EPA, in the future, intends to develop an air toxics rule for automobile refinishing provides no basis for changing our determination that CTGs for the Group II product categories will be substantially as effective at reducing VOC emissions in ozone nonattainment areas as national regulations. EPA assumes that the commenter is referring to the area source automobile refinishing category that is currently listed pursuant to section 112(c)(3), but it is not entirely clear from the comment the precise ''air toxics'' rule to which the commenter is referring. EPA has not yet proposed a rule under CAA section 112 for automobile refinishing. A future rule addressing hazardous air pollutants does not provide a basis for reversing the proposed section 183(e)(3)(C) determination. Moreover, to the extent an interested facility is concerned about a potentially duplicative regulatory requirement, it can raise that issue during the State RACT rulemaking process, as States have discretion to make their own determination as to what constitutes RACT in their particular nonattainment area based on the facts and circumstances of the category. EPA will review that determination in the SIP approval process.

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 a regulatory action is ''significant'' and, therefore, subject to Office of Management and Budget (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.

OMB has determined that this action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the Executive Order.

B. Paperwork Reduction Act

This action does not contain any information collection requirements and therefore is not subject to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

C. Regulatory Flexibility Act

The Regulatory Flexibility Act 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 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.

After considering the economic impacts of this final action on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities because it imposes no regulatory requirements. In this notice, EPA is taking final action to list the five Group II consumer and commercial product categories for purposes of CAA section 183(e). This listing action alone does not impose any regulatory requirements. In this notice, EPA is also taking final action on its determination that a CTG will be substantially as effective as a national regulation in achieving VOC emission reductions in ozone nonattainment areas from the five Group II product categories. In the determination, EPA has concluded that it is not appropriate to issue Federal regulations under CAA section 183(e) to regulate VOC emissions from the five Group II product categories. Instead, EPA has concluded that it is appropriate to issue guidance in the form of CTGs that provide recommendations to States concerning potential methods to achieve needed VOC emission reductions in ozone nonattainment areas from the Group II product categories. This determination does not impose any regulatory requirements.

In addition to today's final action, EPA is issuing CTGs for the five Group II product categories. The CTGs are guidance and thus the requirements of the RFA do not apply. In any event, EPA does not directly regulate any small entities through the issuance of a CTG.

EPA issues CTGs to provide States guidance in developing their own regulations for obtaining VOC emission reductions from affected sources within certain nonattainment areas. EPA's issuance of a CTG does trigger an obligation on the part of the States to issue State regulations, but States are not obligated to issue regulations that adopt the recommendations in the Agency's CTG. States may follow the recommendations provided in the CTG or they can adopt other technically-sound approaches that are consistent with the CAA and EPA's implementing regulations. The ultimate determination of whether a State regulation meets the RACT requirements of the CAA is determined through notice and comment rulemaking in the Agency's action on each State's SIP. Thus, States retain discretion in determining to what degree to follow the RACT recommendations contained in the CTGs.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) (UMRA), establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under UMRA section 202, 2 U.S.C. 1532, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with a ''Federal mandate'' that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year.

A ''Federal mandate'' is defined under section 421(6), 2 U.S.C. 658(6), to include a ''Federal intergovernmental mandate'' and a ''Federal private sector mandate.'' A ''Federal intergovernmental mandate,'' in turn, is defined to include a regulation that ''would impose an enforceable duty upon State, local, or tribal governments,'' section 421(5)(A)(i), 2 U.S.C. 658(5)(A)(i), except for, among other things, a duty that is ''a condition of Federal assistance,'' section 421(5)(A)(i)(I). A ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector,'' with certain exceptions, section 421(7)(A), 2 U.S.C. 658(7)(A).

EPA has determined that the listing action and the final determination that a CTG will be substantially as effective as a regulation for the Group II product categories do not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, or tribal governments, in the aggregate, or the private sector in any one year. Thus, this final action is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, we have determined that the listing action and the final determination contain no regulatory requirements that might significantly or uniquely affect small governments because they contain no regulatory requirements that apply to such governments or impose obligations upon them. Therefore, this action is not subject to the requirements of section 203 of UMRA.

As noted above, the CTGs for the Group II product categories are guidance and thus the requirements of the UMRA do not apply. The CTGs do not impose any legally binding requirements on any entity and consequently do not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, or tribal governments, in the aggregate, or the private sector in any one year.

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.''

The listing action, the final determination that CTGs are substantially as effective as regulations for these product categories, and the final CTGs do not have federalism implications. They do 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. The CAA establishes the relationship between the Federal Government and the States, and this action does not impact that relationship. Thus, Executive Order 13132 does not apply to the final determination and final CTGs.

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 9, 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.''

The listing action, the final determination that CTGs will be substantially as effective as regulations to achieve VOC emission reductions from these product categories, and the final CTGs do not have tribal implications as defined by Executive Order 13175. They do not have a substantial direct effect on one or more Indian tribes, in that the listing action, the final determination, and the final CTGs impose no regulatory burdens on tribes. Furthermore, the listing action, the final determination, and the final CTGs do not affect the relationship or distribution of power and responsibilities between the Federal government and Indian tribes. The CAA and the Tribal Authority Rule establish the relationship of the Federal government and tribes in implementing the CAA. Because listing action, the final determination, and the final CTGs do not have tribal implications, Executive Order 13175 does not apply.

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

Executive Order 13045, ''Protection of Children from Environmental Health 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, Section 5–501 of the Executive Order directs the Agency to 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 listing action, the final determination, and the final CTGs are not subject to Executive Order 13045 because they are not economically significant regulatory actions as defined by Executive Order 12866. In addition, EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health and safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulations. The listing action, the final determination, and the final CTGs are not subject to Executive

Order 13045 because they do not include regulatory requirements based on health or safety risks.

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

This final 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 (NTTAA) of 1995 (Public Law No. 104–113; Section 12(d), 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in their regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impractical. VOC are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. NTTAA directs EPA to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable VCS.

The listing action, the final determination that CTGs will be substantially as effective as regulations to achieve VOC emission reductions, and the final CTGs do not involve technical standards and therefore the NTTAA does not apply.

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

Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,'' provides for Federal agencies to consider the impact of programs, policies, and activities on minority populations and low-income populations, including tribes.

EPA believes that the listing action, the final determination, and the final CTGs should not raise any environmental justice issues. The purpose of section 183(e) is to obtain VOC emission reductions to assist in the attainment of the ozone NAAQS. The health and environmental risks associated with ozone were considered in the establishment of the ozone NAAQS. The level is designed to be protective of the public with an adequate margin of safety. EPA's listing of the products, determination that CTGs are substantially as effective as regulations, and final CTGs, are actions intended to help States achieve the NAAQS in the most appropriate fashion.

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. EPA will submit a report containing this notice 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 notice in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. The final action is not a ''major rule'' as defined by 5 U.S.C. 804(2). The final rule will be effective October 5, 2006.

List of Subjects in 40 CFR Part 59

Environmental protection, Air pollution control, Confidential business information, Labeling, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 29, 2006.

Stephen L. Johnson,

Administrator.

■ For the reasons stated in the preamble, title 40, chapter I, part 59 of the Code of Federal Regulations is amended as follows:

PART 59—[AMENDED]

■ 1. The authority citation for 40 CFR part 59 continues to read as follows:

Authority: 42 U.S.C. 7511b(e).

■ 2. Subpart A is added to read as follows:

Subpart A—General

§ 59.1 Final determinations under section 183(e)(3)(C) of the Clean Air Act.

This section identifies the consumer and commercial product categories for which EPA has determined that control technique guidelines (CTGs) will be substantially as effective as regulations in reducing volatile organic compound (VOC) emissions in ozone nonattainment areas:

(a) Wood furniture coatings;
(b) Aerospace coatings;
(c) Shipbuilding and repair coatings;
(d) Lithographic printing materials;
(e) Letterpress printing materials;
(f) Flexible packaging printing materials;
(g) Flat wood paneling coatings; and
(h) Industrial cleaning solvents.

[FR Doc. E6–16485 Filed 10–4–06; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 060216044–6044–01; I.D. 100206B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pelagic Shelf Rockfish in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; opening.

SUMMARY: NMFS is opening directed fishing for pelagic shelf rockfish in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to fully use the 2006 total allowable catch (TAC) of pelagic shelf rockfish specified for the Central Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), October 2, 2006, through 2400 hrs, A.l.t., December 31, 2006.

Comments must be received at the following address no later than 4:30 p.m., A.l.t., October 17, 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 *dusky@noaa.gov* and include in the subject line of the e-mail comment the document identifier: cgpsrro (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.

NMFS closed the directed fishery for pelagic shelf rockfish in the Central Regulatory Area of the GOA under § 679.20(d)(1)(iii) on July 21, 2006 (71 FR 42061, July 25, 2006).

The 2006 TAC of pelagic shelf rockfish in the Central Regulatory Area of the GOA is 3,262 metric tons (mt) as established by the 2006 and 2007 harvest specifications for groundfish of the GOA (71 FR 10870, March 3, 2006). NMFS has determined that approximately 1,694 metric tons of pelagic shelf rockfish remain in the TAC. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C) and (a)(2)(iii)(D), and to fully utilize the 2006 TAC of pelagic shelf rockfish in the Central Regulatory Area, NMFS is terminating the previous closure and is reopening directed fishing for pelagic shelf rockfish in the Central Regulatory Area of the GOA.

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 pelagic shelf rockfish in the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 29, 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 pelagic shelf rockfish fishery in the Central Regulatory Area of 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 17, 2006.

This action is required by § 679.20 and § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: October 2, 2006.

James P. Burgess,

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

[FR Doc. 06–8511 Filed 10–2–06; 2:11 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 71, No. 193
Thursday, October 5, 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.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25988; Directorate Identifier 2006–NM–113–AD]

RIN 2120–AA64

Airworthiness Directives; Dassault Model Mystere-Falcon 50 and 900 Airplanes and Falcon 900EX Airplanes, and Model Falcon 2000 and Falcon 2000EX Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Dassault Model Mystere-Falcon 50 and 900 airplanes and Falcon 900EX airplanes, and Model Falcon 2000 and Falcon 2000EX airplanes. This proposed AD would require an inspection of the identification plates of the outboard slats to determine the type of identification plates and the P/Ns. For certain airplanes, this proposed AD would also require a revision to the Limitations and Normal Procedures sections of the airplane flight manual to provide procedures for operation in icing conditions; and replacement of the anti-icing manifold with an anti-icing manifold of the correct type design if necessary. For certain airplanes, this proposed AD would also require related investigative and corrective actions if necessary. This proposed AD results from a finding that the outboard slats for Model Mystere-Falcon 50 airplanes have been erroneously authorized, in limited cases, as interchangeable for use on Model Mystere-Falcon 900 airplanes and Falcon 900EX airplanes, and Model Falcon 2000 and Falcon 2000EX airplanes. We are proposing this AD to prevent failure of the anti-icing manifold of the outboard slats, which could result in loss of control of the airplane.

DATES: We must receive comments on this proposed AD by November 6, 2006.

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

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL–401, Washington, DC 20590.
- Fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606, for service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2006–25988; Directorate Identifier 2006–NM–113–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov*.

Examining the Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the Docket Management System receives them.

Discussion

The European Aviation Safety Agency (EASA), which is the airworthiness authority for the European Union, notified us that an unsafe condition may exist on certain Dassault Model Mystere-Falcon 50 and 900 airplanes and Falcon 900EX airplanes, and Model Falcon 2000 and Falcon 2000EX airplanes. The EASA advises that the outboard slats for Model Mystere-Falcon 50 airplanes have been erroneously authorized, in limited cases, as interchangeable for use on Model Mystere-Falcon 900 airplanes and Falcon 900EX airplanes, and on Model Falcon 2000 and Falcon 2000EX airplanes. The outboard slats for all five of these airplane models are aerodynamically identical on many points; they have the same external shape and are mechanically interchangeable. However, the hot air anti-icing systems of the outboard slats on the Model Mystere-Falcon 50 airplanes are different from those on the other four airplane models. Therefore, the outboard slats of the Model Mystere-Falcon 50 airplanes are not functionally equivalent. Exchange of outboard slats among the five affected models could have occurred after airplane delivery, resulting in installation of outboard slats having anti-icing manifolds of the incorrect type design. Repairs also could

have led to installation of anti-icing manifolds of the incorrect type design. Failure of the anti-icing manifolds of the outboard slats, if not corrected, could result in loss of control of the airplane.

Relevant Service Information

Dassault has issued the service bulletins identified in the following table.

Dassault Service Bulletin—	Dated—	For model—
F2000–331	January 30, 2006	Falcon 2000 airplanes.
F2000EX–91	January 30, 2006	Falcon 2000EX airplanes.
F50–475	January 30, 2006	Mystere-Falcon 50 airplanes.
F50–478	January 30, 2006	Mystere-Falcon 50 airplanes.
F900–370	January 30, 2006	Mystere-Falcon 900 airplanes.
F900EX–273	January 30, 2006	Falcon 900EX airplanes.

Dassault Service Bulletin F50–475 describes the following procedures:

- Checking the airplane logbook to determine if any outboard slat has been replaced.
- If one or more outboard slats has been replaced after June 1986 or if the airplane records are incomplete, the service bulletin specifies inspecting the identification plates of the outboard slats to determine the type of identification plates installed and the inscribed P/Ns.
- If a ''type 3'' identification plate is installed and mentions ''REP,'' ''WILMINGTON,'' ''LITTLE ROCK,'' or any other repair station, or if all plates found raise any doubt as to whether the slat is in conformity with the airplane's type design, the service bulletin specifies performing a ''go-no-go'' diameter check of the air distribution holes of the manifold using a 0.08-inch (2-mm) drill bit shank.
- If the drill bit shank can be inserted through the air distribution holes of the manifold, if a ''type 1'' identification plate is installed and inscribed with P/Ns FGFB134XX or FGFB144XX, or if a slat has multiple identification plates and the vertical field of the most recent plate is inscribed with ''F900'' or ''MF900,'' the service bulletin specifies accomplishing Dassault Service Bulletin F50–478 within 1,530 flight hours; and, before further flight, incorporating Dassault Temporary Change (TC) 61, dated January 27, 2006, into the Dassault Mystere-Falcon 50 Airplane Flight Manual (AFM), DTM 813, or incorporating Dassault TC 75, dated January 27, 2006, into the Dassault Mystere-Falcon 50EX AFM, FM813EX, as applicable.
- Recording compliance with applicable part of the service bulletin and reporting certain information to airplane manufacturer.

Dassault Service Bulletin F50–478 describes procedures for replacing the anti-icing manifold with an anti-icing manifold of the correct type design.

Dassault TC 61, dated January 27, 2006, to the Dassault Mystere-Falcon 50 AFM, DTM 813; and Dassault TC 75, dated January 27, 2006, to the Dassault Mystere-Falcon 50EX AFM, FM813EX, provide procedures for operation in icing conditions.

Dassault Service Bulletins F900–370, F900EX–273, F2000–331, and F2000EX–91 describe procedures for checking the airplane logbook to determine if any outboard slat has been replaced. If one or more outboard slats has been replaced or if the airplane records are incomplete, the service bulletins also describe procedures for inspecting the identification plates of the outboard slats to determine the type of identification plates installed and the inscribed P/Ns and, if necessary, accomplishing related investigative and corrective actions. The service bulletins specify accomplishing the related investigative action if a ''type 3'' identification plate is installed and mentions ''REP,'' ''WILMINGTON,'' ''LITTLE ROCK,'' or any other repair station, or if all plates found raise any doubt as whether the slat is in conformity with the airplane's type design. The related investigative action includes performing a ''go-no-go'' diameter check of the air distribution holes of the manifold using a 0.08-inch (2-mm) drill bit shank. The service bulletins specify accomplishing the corrective action if the drill bit shank cannot be inserted through the air distribution holes of the manifold, if a ''type 1'' identification plate is installed and inscribed with P/Ns F50B134XX or F50B144XX, or if a slat has multiple identification plates and the vertical field of the most recent plate is inscribed with ''F50B'' or ''MF50.'' The corrective action includes modifying the manifold by enlarging all 80 air distribution holes. If certain types of identification plates are installed and inscribed with certain P/Ns, or after the corrective action is accomplished, the service bulletins also specify recording compliance with the service bulletin and reporting certain information to airplane manufacturer.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The EASA mandated the service information and issued airworthiness directive 2006–0037, dated February 1, 2006, to ensure the continued airworthiness of these airplanes in the European Union.

FAA's Determination and Requirements of the Proposed AD

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. As described in FAA Order 8100.14A, ''Interim Procedures for Working with the European Community on Airworthiness Certification and Continued Airworthiness,'' dated August 12, 2005, the EASA has kept the FAA informed of the situation described above. We have examined the EASA's findings, evaluated all pertinent information, and determined that we need to issue an AD for airplanes of this type design that are certificated for operation in the United States.

Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as discussed under ''Difference Between the Proposed AD and Service Bulletins.''

Difference Between the Proposed AD and Service Bulletins

Dassault Service Bulletins F50–475, F900–370, F900EX–273, F2000–331, and F2000EX–91 recommend first checking the airplane logbook to determine if any outboard slat has been replaced and then, if necessary, inspecting the identification plates of the outboard slats to determine the type of identification plates installed and the inscribed P/Ns. Instead, this proposed AD would first require the inspection of the identification plates of the outboard

slats. However, this proposed AD would also allow a review of the airplane maintenance records in lieu of this inspection if the type of identification plate and the P/Ns of the outboard slats can be determined conclusively from that review.

Costs of Compliance

This proposed AD would affect about 637 airplanes of U.S. registry. The proposed inspection would take about 2 work hours per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $101,920, or $160 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Dassault Aviation: Docket No. FAA–2006–25988; Directorate Identifier 2006–NM–113–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by November 6, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the airplanes identified in Table 1 of this AD, certificated in any category.

TABLE 1.—APPLICABILITY

Dassault model—	Serial Nos.—
Mystere-Falcon 50 airplanes	2 through 344 inclusive.
Mystere-Falcon 900 airplanes	1 through 202 inclusive.
Falcon 900EX airplanes	1 through 96 inclusive and 98 through 154 inclusive.
Falcon 2000 airplanes	1 through 223 inclusive.
Falcon 2000EX airplanes	1 through 69 inclusive.

Unsafe Condition

(d) This AD results from a finding that the outboard slats for Model Mystere-Falcon 50 airplanes have been erroneously authorized, in limited cases, as interchangeable for use on Model Mystere-Falcon 900 airplanes and Falcon 900EX airplanes, and Model Falcon 2000 and Falcon 2000EX airplanes. We are issuing this AD to prevent failure of the anti-icing manifold of the outboard slats, which could result in loss of control of the airplane.

Compliance

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

Service Bulletin References

(f) The term ''service bulletin,'' as used in this AD, means the Accomplishment Instructions of the service bulletins identified in Table 2 of this AD, as applicable. Although the service bulletins referenced in Table 2 of this AD specify to submit certain information to the manufacturer, this AD does not include that requirement.

TABLE 2.—SERVICE BULLETINS

Dassault Service Bulletin—	Dated—	For model—	For the actions specified in—
F50–475	January 30, 2006	Mystere-Falcon 50 airplanes	Paragraph (g) of this AD.
F50–478	January 30, 2006	Mystere-Falcon 50 airplanes	Paragraph (g)(2) of this AD.
F900–370	January 30, 2006	Mystere-Falcon 900 airplanes	Paragraph (h) of this AD.
F900EX–273	January 30, 2006	Falcon 900EX airplanes	Paragraph (h) of this AD.
F2000–331	January 30, 2006	Falcon 2000 airplanes	Paragraph (h) of this AD.
F2000EX–91	January 30, 2006	Falcon 2000EX airplanes	Paragraph (h) of this AD.

Inspection and Corrective Actions for Model Mystere-Falcon 50 Airplanes

(g) For Model Mystere-Falcon 50 airplanes: Within 330 flight hours or 7 months after the effective date of this AD, whichever occurs first, inspect the identification plates of the outboard slats to determine the type of identification plates and the part numbers (P/Ns), in accordance with the applicable service bulletin. A review of airplane maintenance records is acceptable in lieu of the inspection if the type of identification plate and the P/Ns of the outboard slats can be determined conclusively from that review. If a ''type 3'' identification plate is installed and mentions ''REP,'' ''WILMINGTON,'' ''LITTLE ROCK,'' or any other repair station, or if the conformity of the slat with the airplane's type design cannot be positively confirmed, before further flight, do a ''go-no-go'' diameter check of the air distribution holes of the manifold using a drill bit shank, in accordance with the applicable service bulletin. If the drill bit shank can be inserted through the air distribution holes of the manifold, or if a ''type 1'' identification plate is installed and inscribed with P/N FGFB134XX or P/N FGFB144XX, or if a slat has multiple identification plates and the vertical field of the most recent plate is inscribed with ''F900'' or ''MF900,'' do the actions specified in paragraphs (g)(1) and (g)(2) of this AD.

(1) Before further flight after the inspection required by paragraph (g) of this AD: Revise the Limitations and Normal Procedures sections of the Dassault Mystere-Falcon 50 Airplane Flight Manual (AFM), DTM 813, to include the information in Dassault Temporary Change (TC) 61, dated January 27, 2006, as specified in the TC; or revise the Limitations and Normal Procedures sections of the Dassault Mystere-Falcon 50EX AFM, FM813EX, to include the information in Dassault TC 75, dated January 27, 2006, as specified in the TC; as applicable. These TCs introduce procedures for operation in icing conditions. Operate the airplane according to the limitations and procedures in the applicable TC.

Note 1: This may be done by inserting a copy of TC 61 or TC 75 in the AFM, as applicable. When the TC has been included in the general revisions of the AFM, the general revisions may be inserted in the AFM, provided that the relevant information in the general revision is identical to that in TC 61 or TC 75, as applicable.

(2) Within 1,530 flight hours after accomplishing the inspection required by paragraph (g) of this AD: Replace the anti-icing manifold with an anti-icing manifold of the correct type design, by accomplishing all of the actions specified in the applicable service bulletin, except as provided by paragraph (f) of this AD. Accomplishing the replacement terminates the requirements of paragraph (g)(1) of this AD. After the replacement has been done, the AFM limitation required by paragraph (g)(1) of this AD may be removed from the AFM.

Inspection and Replacement for Certain Airplanes

(h) For Model Mystere-Falcon 900 airplanes and Falcon 900EX airplanes, and Model Falcon 2000 and Falcon 2000EX airplanes: Within 330 flight hours or 7 months after the effective date of this AD, whichever occurs first, inspect the identification plates of the outboard slats to determine the type of identification plates and the P/Ns, and do all related investigative and corrective actions, by accomplishing all of the actions specified in the service bulletin, as applicable, except as provided by paragraph (f) of this AD. Do all applicable related investigative and corrective actions before further flight. A review of airplane maintenance records is acceptable in lieu of the inspection if the type of identification plate and the P/Ns of the outboard slats can be determined conclusively from that review.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Related Information

(j) European Aviation Safety Agency (EASA) airworthiness directive 2006–0037, dated February 1, 2006, also addresses the subject of this AD.

Issued in Renton, Washington, on September 28, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–16452 Filed 10–4–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–25762; Airspace Docket No. 06–AAL–25]

Proposed Revision of Class E Airspace; Homer, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to revise Class E airspace at Homer, AK. Four new Standard Instrument Approach Procedures (SIAPs) are being developed for the Homer Airport. Adoption of this proposal would result in revising Class E airspace upward from 700 feet (ft.) and 1,200 ft. above the surface at Homer, AK.

DATES: Comments must be received on or before November 20, 2006.

ADDRESSES: Send comments on the proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2006–25762/Airspace Docket No. 06–AAL–25, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation Nassif Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Manager, Safety, Alaska Flight Service Operations, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov.* Internet address: *http://www.alaska.faa.gov/at.*

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2006–25762/Airspace Docket No. 06–AAL–25.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The

proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of Notice of Proposed Rulemakings (NPRMs)

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the Superintendent of Document's Web page at *http://www.access.gpo.gov/nara*.

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591 or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to the Code of Federal Regulations (14 CFR part 71), which would revise Class E airspace at Homer, AK. The intended effect of this proposal is to revise Class E airspace upward from 700 ft. and 1,200 ft. above the surface to contain Instrument Flight Rules (IFR) operations at Homer, AK.

The FAA Instrument Flight Procedures Production and Maintenance Branch has developed four new SIAPs for the Homer Airport. The new approaches are (1) Area Navigation (Global Positioning System) (RNAV (GPS)) Z Runway (RWY) 03, Original, (2) RNAV (GPS) Z RWY 21, Original, (3) RNAV (GPS) Y RWY 03, Original and (4) RNAV (GPS) Y RWY 21, Original. This action would revise Class E controlled airspace extending upward from 700 ft. and 1,200 ft. above the surface near the Homer Airport. Some of the necessary airspace lies over an area more than 12 miles offshore designated as Offshore Airspace, and is named Woody Island Low and Control 1487L. That Offshore Airspace action will be addressed in a separate pending rulemaking case. This domestic airspace action has no jurisdiction more than 12 miles offshore. The proposed airspace is sufficient in size to contain aircraft executing instrument procedures at the Homer Airport.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9P, *Airspace Designations and Reporting Points*, dated September 1, 2006, and effective September 15, 2006, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it proposes to create Class E airspace sufficient in size to contain aircraft executing instrument procedures at Homer Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9P, *Airspace Designations and Reporting Points*, dated September 1, 2006, and effective September 15, 2006, is to be amended as follows:

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E2 Homer, AK [Revised]

Homer Airport, AK
(Lat. 59°38′44″ N., long. 151°28′36″ W.)

Within a 4.2-mile radius of the Homer Airport and within 1.9 miles either side of the 034°(M)/055°(T) bearing from the Homer airport to 7.2-miles northeast of the Homer airport, and within 2.4-miles north and 4.2-miles south of the Kachemak NDB 214°(M)/235°(T) radial extending from the Kachemak NDB to 8.3-miles southwest the Kachemak NDB. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Supplement Alaska (Airport/Facility Directory).

AAL AK E5 Homer, AK [Revised]

Homer Airport, AK
(Lat. 59°38′44″ N., long. 151°28′36″ W.)
Kachemak NDB
(Lat. 59°38′29″ N., long. 151°30′01″ W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of the Homer Airport and within 4 miles either side of the 034°(M)/055°(T) bearing from the Homer airport to 12-miles northeast of the Homer airport, and within 8-miles north and 4.2-miles south of the Kachemak NDB 214°(M)/235°(T) bearing extending from the Kachemak NDB to 16 miles southwest of the Kachemak NDB; and that airspace extending upward from 1,200

feet above the surface within a 73-mile radius of the Homer Airport.

* * * * *

Issued in Anchorage, AK, on September 26, 2006.

Anthony M. Wylie,

Director, Alaska Flight Service Information Office.

[FR Doc. E6–16509 Filed 10–4–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–25826; Airspace Docket No. 06–AAL–28]

Proposed Revision of Class E Airspace; Tok Junction, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to revise Class E airspace at Tok Junction, AK. One new Standard Instrument Approach Procedure (SIAP) is being developed for the Tok Junction Airport. Adoption of this proposal would result in revising Class E airspace upward from 700 feet (ft.) and 1,200 ft. above the surface at Tok Junction, AK.

DATES: Comments must be received on or before November 20, 2006.

ADDRESSES: Send comments on the proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2006–25826/ Airspace Docket No. 06–AAL–28, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation Nassif Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Manager, Safety, Alaska Flight Service Operations, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov.* Internet address: *http://www.alaska.faa.gov/at.*

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2006–25826/Airspace Docket No. 06–AAL–28.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of Notice of Proposed Rulemakings (NPRMs)

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov* or the Superintendent of Document's web page at *http://www.access.gpo.gov/nara.*

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591 or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to the Code of Federal Regulations (14 CFR part 71), which would revise Class E airspace at Tok Junction, AK. The intended effect of this proposal is to revise Class E airspace upward from 700 ft. and 1,200 ft. above the surface to contain Instrument Flight Rules (IFR) operations at Tok Junction, AK.

The FAA Instrument Flight Procedures Production and Maintenance Branch has produced one new SIAP for the Tok Junction Airport. The new approach is the Area Navigation (Global Positioning System) (RNAV (GPS)) A, Original. This action would revise Class E controlled airspace extending upward from 700 ft. and 1,200 ft. above the surface near the Tok Junction Airport. The proposed airspace is sufficient in size to contain aircraft executing instrument procedures at the Tok Junction Airport.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9P, *Airspace Designations and Reporting Points*, dated September 1, 2006, and effective September 15, 2006, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it proposes to create Class E airspace sufficient in size to contain aircraft executing instrument procedures at Tok Junction Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9P, *Airspace Designations and Reporting Points*, dated September 1, 2006, and effective September 15, 2006, is to be amended as follows:

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Tok Junction, AK [Revised]

Tok Junction Airport, AK
(Lat. 63°19′46″ N., long. 142°57′13″ W.)

That airspace extending upward from 700 feet above the surface within a 6.9-mile radius of the Tok Junction Airport; and that airspace extending upward from 1,200 feet above the surface within a 64.8-mile radius of the Tok Junction Airport, excluding that airspace east of 141°00′00″ W longitude.

* * * * *

Issued in Anchorage, AK, on September 26, 2006.

Anthony M. Wylie,

Director, Alaska Flight Service Information Office.

[FR Doc. E6–16495 Filed 10–4–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–25763; Airspace Docket No. 06–AAL–26]

Proposed Revision of Class E Airspace; Kodiak, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to revise Class E airspace at Kodiak, AK. The FAA Instrument Flight Procedures Production and Maintenance Branch staff have noticed that a section of uncontrolled airspace north of Kodiak should be controlled airspace. Adoption of this proposal would result in revising Class E airspace upward from 1,200 ft. above the surface at Kodiak, AK.

DATES: Comments must be received on or before November 20, 2006.

ADDRESSES: Send comments on the proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2006–25763/ Airspace Docket No. 06–AAL–26, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation Nassif Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Manager, Safety, Alaska Flight Service Operations, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov.* Internet address: *http://www.alaska.faa.gov/at.*

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2006–25763/Airspace Docket No. 06–AAL–26.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of Notice of Proposed Rulemakings (NPRMs)

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov* or the Superintendent of Document's web page at *http://www.access.gpo.gov/nara.*

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591 or by calling (202) 267–8783. Communications must identify both docket numbers for this

notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to the Code of Federal Regulations (14 CFR part 71), which would revise Class E airspace at Kodiak, AK. The intended effect of this proposal is to revise Class E airspace upward from 1,200 ft. above the surface to contain Instrument Flight Rules (IFR) operations at Kodiak, AK.

The FAA Instrument Flight Procedures Production and Maintenance Branch has noticed that a section of uncontrolled airspace north of the Kodiak Airport should be controlled airspace. This action would revise Class E controlled airspace extending upward from 1,200 ft. above the surface near the Kodiak Airport to correct this situation. The proposed airspace is sufficient in size to contain aircraft executing instrument procedures at the Kodiak Airport.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9P, *Airspace Designations and Reporting Points*, dated September 1, 2006, and effective September 15, 2006, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it proposes to create Class E airspace sufficient in size to contain aircraft executing instrument procedures at Kodiak Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9P, *Airspace Designations and Reporting Points,* dated September 1, 2006, and effective September 15, 2006, is to be amended as follows:

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Kodiak, AK [Revised]

Kodiak Airport, AK
(Lat. 57°45′00″ N., long. 152°29′38″ W.)

Kodiak VORTAC
(Lat. 57°46′30″ N., long. 152°20′23″ W.)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of the Kodiak Airport, and within 5 miles south and 9 miles north of the 050°(M)/070°(T) radial of the Kodiak VORTAC extending from the 6.8-mile radius to 17 miles northeast of the Kodiak VORTAC and within 8 miles north and 4 miles south of the Kodiak Localizer front course extending from 6.8-mile radius to 20.3 miles east of the Kodiak airport and within 14 miles of the Kodiak VORTAC extending from the 338(M)/358°(T) radial clockwise to the 087°(M)/107°(T) radial; and that airspace extending upward from 1,200 feet above the surface within lat. 57°57′06″ N., long. 152°45′00″ W. to lat. 57°55′00″ N., long. 152°28′00″ W. to lat. 57°53′00″ N., long. 152°27′06″ W. to point of beginning and within 27 miles of the Kodiak VORTAC extending from the 003(M)/023°(T) radial clockwise to the 068°(M)/088°(T) radial and within 8 miles north and 5 miles south of the Kodiak Localizer front course extending from the Kodiak airport to 32 miles east of the Kodiak airport; and that airspace extending upward from 3,500 feet above the surface within 4 miles either side of the 352((M)°012°(T) radial of the Kodiak VORTAC to 40 miles north of the Kodiak VORTAC.

* * * * *

Issued in Anchorage, AK, on September 26, 2006.

Anthony M. Wylie,

Director, Alaska Flight Service Information Office.

[FR Doc. E6–16494 Filed 10–4–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–25825; Airspace Docket No. 06–AAL–27]

Proposed Revision of Class E Airspace; St. Michael, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to revise Class E airspace at St. Michael, AK. One amended Standard Instrument Approach Procedure (SIAP) is being developed for the St. Michael Airport. Adoption of this proposal would result in revising Class E airspace upward from 700 feet (ft.) and 1,200 ft. above the surface at St. Michael, AK.

DATES: Comments must be received on or before November 20, 2006.

ADDRESSES: Send comments on the proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2006–25825/ Airspace Docket No. 06–AAL–27, at the beginning of your comments. You may

also submit comments on the Internet at *http://dms.dot.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Manager, Safety, Alaska Flight Service Operations, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov*. Internet address: *http://www.alaska.faa.gov/at*.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2006–25825/Airspace Docket No. 06–AAL–27.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of Notice of Proposed Rulemakings (NPRMs)

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Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591 or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to the Code of Federal Regulations (14 CFR part 71), which would revise Class E airspace at St. Michael, AK. The intended effect of this proposal is to revise Class E airspace upward from 700 ft. and 1,200 ft. above the surface to contain Instrument Flight Rules (IFR) operations at St. Michael, AK.

The FAA Instrument Flight Procedures Production and Maintenance Branch has amended one SIAP for the St. Michael Airport. The amended approach is the Area Navigation (Global Positioning System) (RNAV (GPS)) Runway (RWY) 20, Amendment 1. This action would revise Class E controlled airspace extending upward from 700 ft. and 1,200 ft. above the surface near the St. Michael Airport. Some of the necessary airspace lies over an area more than 12 miles offshore designated as Offshore Airspace, and is named Norton Sound Low. That Offshore Airspace action will be addressed in a separate pending rulemaking case. This domestic airspace action has no jurisdiction more than 12 miles offshore. The proposed airspace is sufficient in size to contain aircraft executing instrument procedures at the St. Michael Airport.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9P, *Airspace Designations and Reporting Points*, dated September 1, 2006, and effective September 15, 2006, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it proposes to create Class E airspace sufficient in size to contain aircraft executing instrument procedures at St. Michael Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9P, *Airspace Designations and Reporting Points*, dated September 1, 2006, and effective September 15, 2006, is to be amended as follows:

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 St. Michael, AK [Revised]

St. Michael Airport, AK
(Lat. 63°29′24″ N., long. 162°06′37″ W.)

That airspace extending upward from 700 feet above the surface within an 8.4-mile radius of the St. Michael Airport; and that airspace extending upward from 1,200 feet above the surface within a 73-mile radius of the St. Michael Airport.

* * * * *

Issued in Anchorage, AK, on September 26, 2006.

Anthony M. Wylie,

Director, Alaska Flight Service Information Office.

[FR Doc. E6–16493 Filed 10–4–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–24748; Airspace Docket No. 06–AAL–15]

Proposed Revision of Class E Airspace; Perryville, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to revise Class E airspace at Perryville, AK. A new Standard Instrument Approach Procedures (SIAP) and a Standard Instrument Departure Procedure (SID) are being developed for the Perryville Airport. Adoption of this proposal would result in revising Class E airspace upward from 700 feet (ft.) and 1,200 ft. above the surface at Perryville, AK.

DATES: Comments must be received on or before November 20, 2006.

ADDRESSES: Send comments on the proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2006–24748/ Airspace Docket No. 06–AAL–15, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation Nassif Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Manager, Safety, Alaska Flight Service Operations, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov*. Internet address: *http://www.alaska.faa.gov/at*.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2006–24748/Airspace Docket No. 06–AAL–15.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of Notice of Proposed Rulemakings (NPRMs)

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the Superintendent of Document's Web page at *http://www.access.gpo.gov/nara*.

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591 or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to the Code of Federal Regulations (14 CFR part 71), which would revise Class E airspace at Perryville, AK. The intended effect of this proposal is to revise Class E airspace upward from 700 ft. and 1,200 ft. above the surface to contain Instrument Flight Rules (IFR) operations at Perryville, AK.

The FAA Instrument Flight Procedures Production and Maintenance Branch has developed a new SIAP and a new SID for the Perryville Airport. The new approach is Area Navigation (Global Positioning System) (RNAV (GPS)) Runway (RWY) 02, Original. The SID is the CILAC TWO. This action would revise Class E controlled airspace extending upward from 700 ft. and 1,200 ft. above the surface near the Perryville Airport. Some of the necessary airspace lies over an area more than 12 miles offshore designated as Offshore Airspace, and is named Norton Sound Low, Control 1234L and Woody Island Low. That

Offshore Airspace action will be addressed in a separate pending rulemaking case. This domestic airspace action has no jurisdiction more than 12 miles offshore. The proposed airspace is sufficient in size to contain aircraft executing instrument procedures at the Perryville Airport.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9P, *Airspace Designations and Reporting Points,* dated September 1, 2006, and effective September 15, 2006, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it proposes to create Class E airspace sufficient in size to contain aircraft executing instrument procedures at the Perryville Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9P, *Airspace Designations and Reporting Points,* dated September 1, 2006, and effective September 15, 2006, is to be amended as follows:

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Perryville, AK [Revised]

Perryville Airport, AK
(Lat. 55°54′24″ N., long. 159°09′39″ W.)

That airspace extending upward from 700 feet above the surface within a 14.7-mile radius of the Perryville Airport; and that airspace extending upward from 1,200 feet above the surface within a 81.2-mile radius of Perryville Airport.

* * * * *

Issued in Anchorage, AK, on September 26, 2006.

Anthony M. Wylie,

Director, Alaska Flight Service Information Office.

[FR Doc. E6–16512 Filed 10–4–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–24675; Airspace Docket No. 06–AAL–14]

Proposed Revision of Class E Airspace; Hooper Bay, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to revise Class E airspace at Hooper Bay, AK. Two new Standard Instrument Approach Procedures (SIAPs) are being developed for the Hooper Bay Airport. Adoption of this proposal would result in revising Class E airspace upward from 700 feet (ft.) and 1,200 ft. above the surface at Hooper Bay, AK.

DATES: Comments must be received on or before November 20, 2006.

ADDRESSES: Send comments on the proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2006–24675/ Airspace Docket No. 06–AAL–14, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation Nassif Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Manager, Safety, Alaska Flight Service Operations, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov.* Internet address: *http://www.alaska.faa.gov/at.*

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those

comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2006–24675/Airspace Docket No. 06–AAL–14.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of Notice of Proposed Rulemakings (NPRMs)

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Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591 or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to the Code of Federal Regulations (14 CFR part 71), which would revise Class E airspace at Hooper Bay, AK. The intended effect of this proposal is to revise Class E airspace upward from 700 ft. and 1,200 ft. above the surface to contain Instrument Flight Rules (IFR) operations at Hooper Bay, AK.

The FAA Instrument Flight Procedures Production and Maintenance Branch has developed two new SIAPs for the Hooper Bay Airport. The new approaches are (1) Area Navigation (Global Positioning System) (RNAV (GPS)) Runway (RWY) 05, Original and (2) RNAV (GPS) RWY 23, Original. This action would revise Class E controlled airspace extending upward from 700 ft. and 1,200 ft. above the surface near the Hooper Bay Airport. Some of the necessary airspace lies over an area more than 12 miles offshore designated as Offshore Airspace, and is named Norton Sound Low. That Offshore Airspace action will be addressed in a separate pending rulemaking case. This domestic airspace action has no jurisdiction more than 12 miles offshore. The proposed airspace is sufficient in size to contain aircraft executing instrument procedures at the Hooper Bay Airport.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1,200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9P, *Airspace Designations and Reporting Points*, dated September 1, 2006, and effective September 15, 2006, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it proposes to create Class E airspace sufficient in size to contain aircraft executing instrument procedures at Hooper Bay Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71— DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9P, *Airspace Designations and Reporting Points*, dated September 1, 2006, and effective September 15, 2006, is to be amended as follows:

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Hooper Bay, AK [Revised]

Hooper Bay Airport, AK
(Lat. 61°31′26″ N., long. 166°08′48″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Hooper Bay Airport; and that airspace extending upward from 1,200 feet above the surface within a 45-mile radius of Hooper Bay Airport.

* * * * *

Issued in Anchorage, AK, on September 26, 2006.

Anthony M. Wylie,

Director, Alaska Flight Service Information Office.

[FR Doc. E6–16515 Filed 10–4–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 060707188–6188–01]

RIN 0648–AT18

Consideration of Marine Reserves and Marine Conservation Areas Within the Channel Islands National Marine Sanctuary

AGENCY: National Marine Sanctuary Program (NMSP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Proposed rule; correction.

SUMMARY: On August 11, 2006, NOAA published a proposed rule in the **Federal Register** to establish marine reserves and marine conservation areas within the Channel Islands National Marine Sanctuary (Sanctuary). The preamble of that rule contained inconsistent or inaccurate figures denoting the current size of the Sanctuary that need to be corrected. This document corrects and clarifies those figures.

DATES: The deadline for submitting comments on the proposed rule and hearing dates remains October 10, 2006.

ADDRESSES: Copies of the draft environmental impact statement, regulatory impact review, and initial regulatory flexibility analyses may still be obtained from NOAA's Channel Islands National Marine Sanctuary Web site at *http://channelislands.noaa.gov/* or by writing to Sean Hastings, Resource Protection Coordinator, Channel Islands National Marine Sanctuary, 113 Harbor Way, Suite 150, Santa Barbara, CA 93109; e-mail: *Sean.Hastings@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Sean Hastings, (805) 884–1472; e-mail: *Sean.Hastings@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Need for Correction

On August 11, 2006 (71 FR 46134), NOAA published a proposed rule to establish a network of marine zones within the Sanctuary. The proposed rule contained three inconsistent or inaccurate figures denoting the current size of the Sanctuary and the increase in total area of the Sanctuary that would result from the proposed rule. These descriptions appear in the preamble to that proposed rule and do not affect the substance of the regulatory text or modify NOAA's proposal in any substantive way.

The first reference that needs to be corrected appears in the **SUMMARY** section of the proposed rule (page 46135; first column), where the current size of the Sanctuary is cited as ''approximately 1268 square nautical miles.'' When NOAA issued final regulations for the Sanctuary on October 2, 1980, the area of the Sanctuary was estimated to be approximately 1252.5 square nautical miles (45 FR 65198). NOAA updated the estimate to approximately 1243 square nautical miles using more accurate information and the North American Datum 1983. In a separate proposed rule issued earlier this year, NOAA proposed, among other things, to update the legal description of the Sanctuary boundary to reflect this change (71 FR 29096; May 19, 2006). This update does not constitute a change in the geographic area of the Sanctuary, but rather an improved estimate of its size. For these reasons, the current size of the Sanctuary should be cited as ''approximately 1243 square nautical miles.''

The second reference that needs to be clarified appears in the **SUPPLEMENTARY INFORMATION** section of the proposed rule on page 46135 (second column), where NOAA cites ''1,252.5 square nautical miles'' as the current size of the Sanctuary. For the reason discussed above, the proposed rule should have cited the current size of the Sanctuary as ''approximately 1243 square nautical miles.''

The third reference that needs to be clarified appears in the **SUPPLEMENTARY INFORMATION** section of the proposed rule on page 46138 (third column), where NOAA cites ''1252 square nautical miles'' as the current size of the Sanctuary and ''16 square nautical miles'' as the increase in area that would result from the proposed rule. For the reasons described above, the proposed rule should have cited the current size of the Sanctuary as ''approximately 1243 square nautical miles.'' Similarly, the increase in the size of the Sanctuary that would result from the proposed rule should be cited as ''approximately 25 square nautical miles'' instead of ''16 square nautical miles.'' This increase in the difference between the proposed Sanctuary size and the current Sanctuary size is a product of the smaller size estimate of 1,243 square nautical miles and does not result from an increase in the proposed area that would be added to the Sanctuary by the proposed rule.

The draft environmental impact statement associated with the proposed rule, entitled ''Draft Environmental Impact Statement for the Consideration of Marine Reserves and Marine Conservation Areas'' (71 FR 46220; August 11, 2006), also uses both ''1,243'' and ''1252'' square nautical miles to approximate the current size of the Sanctuary. As discussed above, when discussing the current size of the Sanctuary in general terms, those references should be ''approximately 1243 square nautical miles.'' Similarly, references to the difference between the current size of the Sanctuary and its expanded size under the proposed rule should be cited as ''approximately 25 square nautical miles.''

Dated: September 26, 2006.

Elizabeth R. Scheffler,

Assistant Administrator for Management, Ocean Services and Coastal Zone Management.

[FR Doc. 06–8491 Filed 10–4–06; 8:45 am]

BILLING CODE 3510–NK–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 35 and 37

[Docket Nos. RM05–25–000 and RM05–17–000]

Preventing Undue Discrimination and Preference in Transmission Service

September 28, 2006.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Proposed rule: notice of agenda for technical conference.

SUMMARY: Commission staff proposes to convene a technical conference to discuss issues raised in the Notice of Proposed Rulemaking (NOPR) issued in this proceeding. Preventing Undue Discrimination and Preference in Transmission Service, 71 FR 32636 (June 6, 2006). This notice establishes the agenda and procedures for the technical conference to be held on Thursday, October 12, 2006, from 9 a.m. to 4 p.m. (EDT) at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in the Commission Meeting Room. All interested persons are invited to attend, and registration is not required. This will be a staff conference, but Commissioners may attend.

DATES: Commission staff will hold a technical conference on October 12, 2006.

FOR FURTHER INFORMATION CONTACT: Daniel Hedberg, Office of Energy Markets and Reliability, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426,

(202) 502–6243, *daniel.hedberg@ferc.gov* or Kathleen Barrón, Office of the General Counsel—Energy Markets, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6461, *kathleen.barron@ferc.gov*.

SUPPLEMENTARY INFORMATION:

Notice of Agenda and Procedures for Technical Conference

This notice establishes the agenda and procedures for the technical conference to be held on Thursday, October 12, 2006, to discuss issues raised in the Notice of Proposed Rulemaking (NOPR) issued in this proceeding. Preventing Undue Discrimination and Preference in Transmission Service, 71 FR 32636 (June 6, 2006), FERC Stats. & Regs. ¶ 32603 (2006). The technical conference will be held from 9 a.m. to 4 p.m. (EDT) at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in the Commission Meeting Room.[1] All interested persons are invited to attend, and registration is not required. This will be a staff conference, but Commissioners may attend.

The agenda for this conference is attached. In order to allot sufficient time for questions and responses, each speaker will be provided with five minutes for prepared remarks. Due to the limitation of time, slides and graphic displays (i.e, PowerPoint ® presentations) will not be permitted during the conference. Presenters who want to distribute copies of their prepared remarks or handouts should bring 100 double-sided copies to the technical conference. Presenters who wish to include comments, presentations, or handouts in the record for this proceeding should file their comments with the Commission. Comments may either be filed on paper or electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov*.

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 *http://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. Visit *http://www.CapitolConnection.org* or contact Danelle Perkowski or David Reininger at the Capitol Connection at 703–993–3100 for information about this service.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–208–1659 (TTY), or send a fax to 202–208–2106 with the required accommodations.

For more information about this conference, please contact: Daniel Hedberg, Office of Energy Markets and Reliability, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6243, *daniel.hedberg@ferc.gov* or Kathleen Barrón, Office of the General Counsel—Energy Markets, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6461, *kathleen.barron@ferc.gov*.

Magalie R. Salas,

Secretary.

Agenda for OATT Reform Technical Conference, October 12, 2006

9 a.m.–9:15 a.m.—Opening Comments and Introductions.

9:15 a.m.–11:45 a.m.—Issues Relating to Coordinated, Open and Transparent Transmission Planning.

• Presentations by Panelists:

Verne Ingersoll, Director of Regional Planning, System Planning & Operations Department, Progress Energy, Inc.

Sandra Johnson, Director, Transmission Asset Management, Xcel Energy, Inc.

Jay Loock, Director, Technical Services, Western Electricity Coordinating Council.

Pete Wybierala, Director, Transmission Planning, NRG Energy, Inc. On behalf of the Electric Power Supply Association (EPSA).

James Yancey Kerr, II, Commissioner, North Carolina Utilities Commission; First Vice President, National Association of Regulatory Utility Commissioners (NARUC); Member, NARUC Electricity Committee.

Michael J. Kormos, Senior Vice President, Reliability Services, PJM Interconnection L.L.C.

Joel deJesus, Assistant General Counsel, National Grid.

Terry J. Wolf, Manager of Transmission Services, Missouri River Energy Services, on behalf of Transmission Access Policy Study Group (TAPS).

Will Kaul, Vice President, Transmission, Great River Energy, on behalf of National Rural Electric Cooperative Association (NRECA).

• Panel discussion topics include related issues raised in the NOPR, as well as the following:

1. What is the appropriate geographic scope for an effective planning region or subregion?

2. Are there specific criteria that can be developed to define the scope and frequency of the congestion studies proposed in the NOPR?

3. Is an independent consultant necessary to facilitate planning?

4. What are some effective mechanisms for safeguarding confidentiality while permitting meaningful access to transmission information?

5. How should the planning obligation be coordinated with state processes?

6. If an open season requirement is added for large new transmission projects, what conditions or limitations should be associated with it?

7. Can the proposed regional planning requirement achieve its goals if the participants in the regional planning process have not achieved agreement among themselves on appropriate cost-allocation issues? If not, what can be done to encourage the development of such cost allocation agreements among regional planning participants?

8. What is the appropriate role for demand response in planning?

11:45 a.m.–12:30 p.m.—Lunch.

12:30 p.m.–1:45 p.m.—Discussion of ATC-related Reforms.

• Presentations by Panelists:

William (Bill) Lohrman, Managing Director, Prague Power, LLC, on Behalf of North American Electric Reliability Council (NERC).

Rae McQuade, President, North American Energy Standards Board (NAESB).

Steven Naumann, Vice President, Wholesale Market Development, Exelon Corporation, on behalf of Edison Electric Institute (EEI).

Michael Smith, Vice President, Regulatory and Legislative Affairs, Constellation Energy Commodities Group.

Edward N. (Nick) Henery, Director of Reliability, American Public Power Association (APPA).

Jerry Smith, Alliance Partnership Manager, Arizona Public Service.

• Panel discussion topics include related issues raised in the NOPR, as well as the following:

1. What are the challenges that NERC/NAESB and the industry face in the effort to enhance the consistency of certain definitions, data, modeling assumptions and components of the ATC calculation? Which of these

[1] The initial notice setting the date of this technical conference was issued on September 7, 2006. 71 FR 54053 (2006).

elements are most critical to make consistent? Is a focus on comparability of ATC calculation and transparency more important than consistency of ATC calculation?

2. What is a reasonable timeline to achieve the consistency goal?

3. Are there common standards and modeling assumptions that can be developed to calculate TRM and CBM?

4. What are the most critical data to be exchanged among transmission providers to ensure that all are performing ATC calculations most accurately? How should that data be exchanged, what protocols should be used, and what forum should develop the protocols?

5. What is the most important data to make transparent? Regarding the Commission's proposal to require a narrative explanation for changes in monthly or yearly ATC, are there modifications that would achieve the Commission's transparency goals without imposing an undue burden on transmission providers? What ATC information posted in narrative form will be most beneficial?

6. Regarding the proposal to enhance OASIS postings, what are some industry tools/best practices that can be utilized to assist with this effort?

1:45 p.m.–2 p.m.—Break.

2 p.m.–4 p.m.—The Commission's Proposals Regarding Redispatch and Conditional Firm Service.

• Presentations by Panelists (* Tentative Panelist):

Don Furman, PPM Energy, on behalf of American Wind Energy Association (AWEA).

Patricia Alexander, Consultant/Energy, Dickstein Shapiro LLP, on Behalf of Electric Power Supply Association (EPSA).

John Lucas, Transmission Services Director, Southern Company Services, Inc.

Lauren Nichols-Kinas, Bonneville Power Administration (BPA).

Anthony Taylor, Director of Transmission, Williams Power Company, Inc.

*Natalie McIntire, Senior Policy Associate, Renewable Northwest Project.

• Panel discussion topics include related issues raised in the NOPR, as well as the following:

1. Are there improvements to the revised redispatch provision in the pro forma OATT (section 13.5) that are necessary to facilitate redispatch?

2. Would customers be willing to pay for the actual costs of redispatch in addition to the embedded costs of transmission to secure previously unavailable long-term transmission rights? How can the Commission best remove discretion in calculating these costs and create a method for verifying them?

3. What tools are available to allow redispatch to occur using resources other than those owned by the transmission provider?

4. Should curtailments under conditional firm service be specified based on a number of hours per month, when certain transmission constraints or elements bind, when certain load levels are present, or some other factor? How would these different methods be studied and implemented? Which method is preferable from the perspective of the potential conditional firm transmission customers, the network customers and the transmission providers?

5. What curtailment priority should be assigned to conditional firm service? Would this require changes to NERC curtailment protocols? How should changes between firm and non-firm service be handled in real-time systems? Would changes need to be made to e-tags or OASIS?

6. Should conditional firm service be offered indefinitely, or only as a bridge product until transmission upgrades are complete?

[FR Doc. E6–16442 Filed 10–4–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 292

RIN 1076–AE81

Gaming on Trust Lands Acquired After October 17, 1988

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Indian Affairs proposes to establish procedures that an Indian tribe must follow in seeking to conduct gaming on lands acquired after October 17, 1988. The Indian Gaming Regulatory Act allows Indian tribes to conduct class II and class III gaming activities on land acquired after October 17, 1988, only if the land meets certain exceptions. This proposed rule establishes a process for submitting and considering applications from Indian tribes seeking to conduct class II or class III gaming activities on lands acquired in trust after October 17, 1988.

DATES: Comments must be received on or before December 4, 2006.

ADDRESSES: You may submit comments, identified by the number 1076–AE–81, by any of the following methods:

• *Federal rulemaking portal: http://www.regulations.gov* Follow the instructions for submitting comments.

• *Fax:* 202–273–3153.

• *Mail:* Mr. George Skibine, Director, Office of Indian Gaming Management, Office of the Deputy Assistant Secretary—Policy and Economic Development, 1849 C Street, NW., Mail Stop 3657–MIB, Washington, DC 20240.

• *Hand delivery:* Office of Indian Gaming Management, Office of the Deputy Assistant Secretary—Policy and Economic Development, 1849 C Street, NW, Room 3657-MIB, Washington, DC, from 9 a.m. to 4 p.m., Monday through Friday.

Comments on the information collection in this rule are separate from comments on the rule. If you wish to comment on the information collection, you may send a facsimile to (202) 395–6566. You may also e-mail comments to: *OIRA_DOCKET@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: George Skibine, Director, Office of Indian Gaming Management, (202) 219–4066.

SUPPLEMENTARY INFORMATION: The authority to issue this document is vested in the Secretary of the Interior by 5 U.S.C. 301 and 25 U.S.C. 2, 9, and 2710. The Secretary has delegated this authority to the Principal Deputy Assistant Secretary—Indian Affairs by part 209 of the Departmental Manual.

Background

The Indian Gaming Regulatory Act (IGRA), 25 U.S.C. 2701–2721, was signed into law on October 17, 1988. Section 20 of IGRA, 25 U.S.C. 2719, prohibits gaming on lands that the Secretary of the Interior acquires in trust for an Indian tribe after October 17, 1988, unless the land qualifies under at least one of the exceptions contained in that section. If none of the exceptions in Section 20 applies, Section 20(b)(1)(A) of IGRA provides that gaming can still occur on the lands if:

(1) The Secretary consults with the Indian tribe and appropriate State and local officials, including officials of other nearby tribes;

(2) After consultation, the Secretary determines that a gaming establishment on newly acquired (trust) lands would be in the best interest of the Indian tribe and its members, and would not be detrimental to the surrounding community; and

(3) The Governor of the State in which the gaming activity is to be conducted concurs in the Secretary's determination.

On September 28, 1994, the Bureau of Indian Affairs (BIA) issued to all Regional Directors a Checklist for Gaming Acquisitions and Two-Part Determinations Under Section 20 of the Indian Gaming Regulatory Act. This Checklist was revised and replaced on February 18, 1997. On November 9, 2001, an October 2001 Checklist was issued revising the February 18, 1997 Checklist to include gaming related acquisitions. On March 7, 2005 a new Checklist was issued to all Regional Directors replacing the October 2001 Checklist.

The proposed regulations implement Section 20 of the Indian Gaming Regulatory Act (IGRA) by articulating standards that the Department will follow in interpreting the various exceptions to the gaming prohibition on after-acquired trust lands contained in Section 20 of IGRA. Subpart A of the draft proposed regulations define key terms contained in Section 20 or used in the regulation. Subpart B delineates how the Department will interpret the ''settlement of a land claim'' exception contained in Section 20(b)(1)(B)(i) of IGRA. This subpart clarifies that, in almost all instances, Congress must enact the settlement into law before the land can qualify under the exception. Subpart B also delineates what criteria must be met for a parcel of land to qualify under the ''initial reservation'' exception contained in Section 20 (b)(1)(B)(ii) of IGRA. The proposed regulation sets forth that the tribe must have present and historical connections to the land, and that the land must be proclaimed to be a new reservation pursuant to 25 U.S.C. 467 before the land can qualify under this exception. Finally, Subpart B articulates what criteria must be met for a parcel of land to qualify under the ''restored land for a restored tribe'' exception contained Section 20 (b)(1)(B)(iii) of IGRA. The proposed regulation sets forth the criteria for a tribe to qualify as a ''restored tribe'' and articulates the requirement for the parcel to qualify as ''restored lands.'' Essentially, the regulation requires the tribe to have modern connections to the land, historical connections to the area where the land is located, and requires a temporal connection between the acquisition of the land and the tribe's restoration. Subpart C sets forth how the Department will evaluate tribal applications for a two-part Secretarial Determination under Section 20(b)(1) of IGRA. Under this exception, gaming can occur on off-reservation trust lands if the Secretary, after consultation with appropriate State and local officials, including officials of nearby tribes, makes a determination that a gaming establishment would be in the best interest of the tribe and its members and would not be detrimental to the surrounding community. The Governor of the State must concur in any Secretarial two-part determination. The proposed regulation sets forth how consultation with local officials and nearby tribes will be conducted and articulates the factors the Department will consider in making the two-part determination. The proposed regulation also gives the State Governor up to one year to concur in a Secretarial two-part determination, with an additional 180 days extension at the request of either the Governor or the applicant tribe.

Previous Rulemaking Activity

On September 14, 2000, we published proposed regulations in the **Federal Register** (65 FR 55471) to establish procedures that an Indian tribe must follow in seeking a Secretarial Determination that a gaming establishment would be in the best interest of the Indian tribe and its members and would not be detrimental to the surrounding community. The comment period closed on November 13, 2000. On December 27, 2001 (66 FR 66847), we reopened the comment period to allow consideration of comments received after November 13, 2000, and to allow additional time for comment on the proposed rule. The comment period ended on March 27, 2002. On January 28, 2002 we published a notice in the **Federal Register** (67 FR 3846) to correct the Effective Date section which incorrectly stated that the deadline for receipt of comments was February 25, 2002 and was corrected to read ''Comments must be received on or before March 27, 2002.'' No further action was taken to publish the final rule.

We are publishing a new proposed rule because we have determined that the rule should address not only the exception contained in Section 20(b)(1)(A) of IGRA (Secretarial Determination), but also the other exceptions contained in Section 20, in order to explain to the public how the Department interprets these exceptions.

Procedural Requirements

Regulatory Planning and Review (Executive Order 12866)

This document has been determined not to be a significant regulatory action and is not subject to review by the Office of Management and Budget (OMB).

(a) This rule will not have an annual economic effect of $100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. The annual number of requests and applications to conduct gaming on trust lands under the exceptions or two-part determination of IGRA have been small. Since IGRA was enacted, approximately two applications per year qualify and have been approved to operate a gaming establishment on trust land under the general exceptions and only three positive two-part determinations have successfully qualified to operate a gaming establishment on trust land under the exception to the gaming prohibition in Section 20 (b)(1)(A) of IGRA.

(b) This rule will not create serious inconsistencies or otherwise interfere with an action taken or planned by another Federal agency. The Department of the Interior (DOI), BIA is the only governmental agency that makes the determination whether to take land into trust for Indian tribes.

(c) This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. This rule sets out the procedures and criteria for the submission of an application from an Indian tribe seeking to conduct class II or class III gaming activities on land acquired by the Secretary of the Interior under Section 20 of the IGRA.

(d) OMB has determined that this rule will not raise novel legal or policy issues. For this reason, OMB review is not required under Executive Order 12866.

Regulatory Flexibility Act

The Department of the Interior certifies that this document 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.*). Indian tribes are not considered to be small entities for the purposes of this Act.

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 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 government or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required because only Indian tribes may conduct gaming activities on land acquired after October 17, 1988, only if the land meets the exceptions in Section 20 of IGRA.

Takings Implication Assessment (Executive Order 12630)

In accordance with Executive Order 12630, the Department has determined that this rule does not have significant takings implications. The rule does not pertain to the ''taking'' of private property interests, nor does it impact private property. A takings implication assessment is not required.

Federalism (Executive Order 13132)

In accordance with Executive Order 13121, the Department has determined that this rule does not have significant Federalism implications because it does not substantially and directly affect the relationship between the Federal and State governments and does not impose costs on States or localities. A Federalism Assessment is not required.

Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Does not unduly burden the judicial system;

(b) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(c) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards. The rule does not preempt any statute.

National Environmental Policy Act

The Department has determined that this rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required under the National Environmental Policy Act of 1969.

Paperwork Reduction Act

The information collection has been reviewed and cleared by the Office of Information and Regulatory Affairs, Office of Management and Budget under the Paperwork Reduction Act of 1995, as amended. The collection has been assigned the tracking number of OMB Control Number 1076–0158. The clearance expires November 30, 2006.

The collection of information is unique for each tribe even though each submission addresses the requirements found in § 292.16.

All information is collected in the tribe's application. Respondents submit information in order to obtain a benefit. Each response is estimated to take 1,000 hours to review instructions, search existing data sources, gather and maintain necessary data, and prepare in format for submission. We anticipate that two responses will be submitted annually for an annual burden of 2,000 hours.

Submit comments on the proposed information collection to Attention: Desk Officer for the Department of the Interior, Office of Information and Regulatory Affairs, OMB by facsimile at (202) 395–6566 or by e-mail to *OIRA_DOCKET@omb.eop.gov.* You should also send comments to the BIA official as found in the **ADDRESSES** section. The BIA solicits comments in order to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the BIA, including whether the information will have practical utility;

(2) Evaluate the BIA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond.

OMB is required to make a decision between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, your comment to OMB has the best chance of being considered if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to BIA on the proposed rule.

Consultation With Indian tribes (Executive Order 13175)

Under the criteria in Executive Order 13175, we have conducted consultation meetings with tribal leaders regarding the proposed regulations in the following locations: Uncasville, Connecticut on March 30, 2006; Albuquerque, New Mexico on April 5, 2006; Sacramento, California on April 18, 2006 and Minneapolis, Minnesota on April 20, 2006. A notice of the consultation meetings was published in the **Federal Register** on April 11, 2006 (71 FR 18350). In addition, a draft regulation was sent to all tribal leaders in the lower 48 states on March 15, 2006, seeking comments on the draft regulation. Numerous comments were received by the Department. The Department revised the draft regulation in response to written comments and oral comments received at the consultation meetings. No action is taken under this rule unless a tribe submits an application to acquire land under Section 20 of IGRA.

Effects on the Nation's Energy Supply (Executive Order 13211)

This rule does not have a significant effect on the nation's energy supply, distribution, or use as defined by Executive Order 13211.

Data Quality Act

In developing this rule, we did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106–554).

Clarity of This Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- Be logically organized;
- Use the active voice to address readers directly;
- Use clear language rather than jargon;
- Be divided into short sections and sentences; and
- Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments as instructed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the specific sections that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Public Comment Solicitation

If you wish to comment on the rule, please see the different methods listed in the **ADDRESSES** section; we cannot accept comments via the Internet at this time. Our practice is to make comments,

including names and home addresses of respondents, available for public review during the hours listed in the **ADDRESSES** section. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

List of Subjects in 25 CFR Part 290

Indians—Business and finance, Indians—gaming.

Dated: September 18, 2006.

Michael D. Olsen,

Principal Deputy Assistant Secretary—Indian Affairs.

For reasons stated in the preamble, the Bureau of Indian Affairs proposes to add Part 292 to Chapter I of Title 25 of the Code of Federal Regulations as follows:

PART 292—GAMING ON TRUST LANDS ACQUIRED AFTER OCTOBER 17, 1988

Subpart A—General Provisions

Sec.
292.1 What is the purpose of this part?
292.2 How are key terms defined in this part?
292.3 When can a tribe conduct gaming activities on trust lands?

Subpart B—Exceptions to Prohibition on Gaming on After-Acquired Trust Lands

292.4 What criteria must trust land meet for gaming to be allowed under the exceptions listed in 25 U.S.C. 2719(a) of IGRA?

''Settlement of a Land Claim'' Exception

292.5 What must be demonstrated to meet the ''settlement of a land claim'' exception?

''Initial Reservation'' Exception

292.6 What must be demonstrated to meet the ''initial reservation'' exception?

''Restored Lands'' Exception

292.7 What must be demonstrated to meet the ''restored lands'' exception?
292.8 How does a tribe qualify as having been Federally recognized?
292.9 How does a tribe show that it lost its government-to-government relationship?
292.10 How does a tribe qualify as having been restored to Federal recognition?
292.11 What are ''restored lands''?
292.12 How does a tribe establish its connection to the land?

Subpart C—Secretarial Determination and Governor's Concurrence

292.13 When can a tribe conduct gaming activities on lands that do not qualify under one of the exceptions?
292.14 Where must a tribe file an application for a Secretarial Determination?
292.15 May a tribe request a Secretarial Determination for lands not yet held in trust?

Application Contents

292.16 What must an application for a Secretarial Determination contain?
292.17 How must an application describe the benefits of a proposed gaming establishment to the tribe and its members?
292.18 What information must an application contain on detrimental impacts to the surrounding community?

Consultation

292.19 How will the Regional Director conduct the consultation process?
292.20 What information must the consultation letter include?

Evaluation and Concurrence

292.21 How will the Secretary evaluate a proposed gaming establishment?
292.22 How does the Secretary request the Governor's concurrence?
292.23 Can the public review the application for a Secretarial Determination?

Information Collection

292.24 Do information collections in this part have Office of Management and Budget approval?

Authority: 5 U.S.C. 301, 25 U.S.C. 2, 9, 2719, 43 U.S.C. 1457.

Subpart A—General Provisions

§ 292.1 What is the purpose of this part?

This part contains procedures that the Department of the Interior will use to determine whether class II or class III gaming can occur on land acquired in trust for an Indian tribe after October 17, 1988.

§ 292.2 How are key terms defined in this part?

For purposes of this part, all terms have the same meaning as set forth in the definitional section of the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. 2703. In addition, the following terms have the meanings given in this section.

Appropriate State and Local Officials means the Governor of the State and appropriate officials of units of local government within 25 miles of the site of the proposed gaming establishment.

BIA means Bureau of Indian Affairs.

Contiguous means two parcels of land having a common boundary. For example, it includes parcels divided by non-navigable waters or a public road or right-of-way.

Federal recognition or Federally recognized means the recognition by the Secretary that an Indian tribe has a government-to-government relationship with the United States and is eligible for the special programs and services provided by the United States to Indians because of their status as Indians, and evidenced by inclusion of the tribe on the list of recognized tribes published by the Secretary under 25 U.S.C. 479a–1.

Former Reservation means lands that are within the jurisdiction of an Oklahoma Indian tribe and that are within the boundaries of the last reservation for that tribe in Oklahoma established by treaty, Executive Order, or Secretarial Order.

IGRA means the Indian Gaming Regulatory Act of 1988, as amended and codified at 25 U.S.C. 2701–2721.

Land claim means any claim by an Indian tribe:

(1) Arising from a Federal common law, statutory or treaty-based restraint against alienation of Indian land; and

(2) Made against an individual person or entity (either private, public, or governmental).

Legislative termination means Federal legislation that specifically terminates or prohibits the government-to-government relationship with an Indian tribe or that otherwise specifically denies the tribe [and/or its members] access to or eligibility for government services.

Nearby Indian tribe means an Indian tribe with tribal Indian lands, as defined in 25 U.S.C. 2703(4) of IGRA, located within a 25-mile radius of the location of the proposed gaming establishment, or, if the tribe is landless, within a 25-mile radius of its government headquarters.

Regional Director means the official in charge of the BIA Regional Office responsible for all BIA activities within the geographical area where the proposed gaming establishment is to be located.

Reservation means that area of land which has been set aside or which has been acknowledged as having been set aside by the United States for the use of the tribe, the exterior boundaries of which are more particularly defined in a final treaty, agreement, Executive Order, Federal statute, Secretarial Order or Proclamation, judicial determination,

or court-approved stipulated entry of judgment to which the United States is a party.

Secretary means the Secretary of the Interior or an authorized representative.

Secretarial Determination means a two-part determination that a gaming establishment on newly acquired lands:

(1) Would be in the best interest of the Indian tribe and its members; and

(2) Would not be detrimental to the surrounding community.

Surrounding community means local governments and nearby Indian tribes located within 25 miles of the site of the proposed gaming establishments.

Tribe means an Indian tribe.

§ 292.3 When can a tribe conduct gaming activities on trust lands?

This section implements Section 20 of IGRA (25 U.S.C. 2719). A tribe may conduct class II or class III gaming activities on land acquired by the Secretary in trust for the benefit of a tribe after October 17, 1988, only if:

(a) The land meets the criteria or exceptions in Subpart B; or

(b) The Secretary makes a determination under Subpart C of this part and the Governor of the State in which the gaming activity is to be conducted concurs in that determination.

Subpart B—Exceptions to Prohibition on Gaming on After-Acquired Trust Lands

§ 292.4 What criteria must trust land meet for gaming to be allowed under the exceptions listed in 25 U.S.C. 2719(a) of IGRA?

(a) For class II or class III gaming to be allowed on trust or restricted fee land under section 2719(a)(1) of IGRA, the land must either:

(1) Be located within or contiguous to the boundaries of the reservation of the tribe on October 17, 1988; or

(2) Meet the requirements of paragraph (b) of this section.

(b) For land to be eligible under this paragraph, it must belong to a tribe that had no reservation on October 17, 1988, and must be located:

(1) Within the boundaries of the tribe's former reservation;

(2) Contiguous to other land held in trust or restricted status by the United States for the tribe in Oklahoma; or

(3) In a state other than Oklahoma and within the tribe's last recognized reservation within the State or States within which the tribe is now located.

"Settlement of a Land Claim" Exception

§ 292.5 What must be demonstrated to meet the "settlement of a land claim" exception?

This section contains criteria for meeting the requirements of IGRA Section 20(b)(1)(B)(i).

(a) Gaming may be conducted on lands covered by this section only when the land has been acquired in trust as part of the settlement of a land claim that either:

(1) Has been filed in Federal court and has not been dismissed on substantive grounds; or

(2) Is included on the Department's list of potential pre-1966 claims published under the Indian Claims Limitation Act of 1982 (Pub. L. 97–394, 28 U.S.C. 2415) and meets the criteria in paragraph (b) of this section.

(b) To be eligible under paragraph (a)(2) of this section, land must be covered by a settlement that either:

(1) States that the tribe is relinquishing its legal claim to some or all of the lands as part of the settlement, results in the alienation or transfer of title to tribal lands within the meaning of 25 U.S.C. 177, and has been enacted into law by the United States Congress; or,

(2) Returns to the tribe lands identical to the lands claimed by the tribe, does not involve an alienation or transfer of title to tribal lands that is prohibited under 25 U.S.C. 177, and is either:

(i) Duly executed by the parties and entered as a final order of a Federal court of competent jurisdiction; or

(ii) Settled by an agreement executed by the State in which the lands claimed by the tribe are located.

"Initial Reservation" Exception

§ 292.6 What must be demonstrated to meet the "initial reservation" exception?

This section contains criteria for meeting the requirements of IGRA Section 20(b)(1)(B)(ii). Under this section, gaming may be conducted only when all of the following conditions are met:

(a) The tribe has been acknowledged (Federally recognized) through the administrative process under 25 CFR Part 83;

(b) A majority of the tribe's members reside within 50 miles of the location of the land or the tribe's government headquarters are located within 25 miles of the location of the land;

(c) The land is located within an area where the tribe has significant historical and cultural connections;

(d) The land has been proclaimed to be a reservation under 25 U.S.C. 467; and

(e) This reservation is the first proclaimed reservation of the tribe following acknowledgment.

"Restored Lands" Exception

§ 292.7 What must be demonstrated to meet the "restored lands" exception?

This section contains criteria for meeting the requirements of IGRA Section 20(b)(1)(B)(iii), called the "restored lands" exception. The term "restored lands" is defined in § 292.11. Gaming may only occur under this section when all of the following criteria have been met:

(a) The tribe at one time was Federally recognized, as evidenced by its meeting the criteria in § 292.8;

(b) The tribe at some later time lost its government-to-government relationship by one of the means specified in § 292.9; and

(c) At a time after termination, the Tribe was restored to Federal recognition by one of the means specified in § 292.10.

§ 292.8 How does a tribe qualify as having been Federally recognized?

For a tribe to qualify as having been at one time Federally recognized for purposes of § 292.7, at least one of the following must be true:

(a) The United States at one time entered into treaty negotiations with the tribe;

(b) The Department determined that the tribe could organize under the Indian Reorganization Act or the Oklahoma Indian Welfare Act;

(c) Congress enacted legislation specific to, or including, the tribe indicating that a government-to-government relationship existed;

(d) The United States at one time acquired land for the tribe's benefit; or

(e) Some other evidence demonstrates the existence of a government-to-government relationship between the tribe and the Federal Government.

§ 292.9 How does a tribe show that it lost its government-to-government relationship?

For a tribe to qualify for purposes of § 292.7, it must have lost its government-to-government relationship by one of the following means:

(a) Legislative termination; or

(b) Termination demonstrated by historical written documentation from the Departments of the Interior or Justice. The documents must show that the Executive Branch no longer recognized the government-to-government relationship with the tribe or its members.

§ 292.10 How does a tribe qualify as having been restored to Federal recognition?

For a tribe to qualify as having been restored to Federal recognition for purposes of § 292.7, the tribe must show at least one of the following:

(a) Congressional enactment of legislation recognizing, acknowledging, or restoring the government-to-government relationship between the United States and the tribal government (required for tribes terminated by Congressional action);

(b) Recognition through the administrative Federal Acknowledgment Process under 25 CFR 83.8; or

(c) A judicial determination or court-approved stipulated entry of judgment that:

(1) Was entered into by the United States; and

(2) Provides that the tribe's government-to-government relationship with the United States was never legally terminated despite action by the Executive Branch purporting to terminate the relationship with the tribe or its members.

§ 292.11 What are ''restored lands?''

For lands to qualify as ''restored lands'' for purposes of § 292.7, it must be demonstrated that:

(a) The legislation restoring the government-to-government relationship between the United States and the tribe requires or authorizes the Secretary to take land into trust within a specific geographical area and the lands are within the specific geographical area; or

(b) If there is no restoration legislation, or if the restoration legislation does not provide geographic parameters for the restoration of lands, the tribe has a modern connection and a significant historical connection to the land and there is a temporal connection between the date of the acquisition of the land and the date of the Tribe's restoration; and

(c) If the tribe is acknowledged under 25 CFR 83.8, it does not already have an initial reservation proclaimed after October 17, 1988.

§ 292.12 How does a tribe establish its connection to the land?

To establish a connection to the land for purposes of § 292.11, the tribe must meet the criteria in paragraphs (a), (b), and (c) of this section.

(a) A modern connection is established if a majority of the tribe's members reside within 50 miles of the land or if the tribe's government headquarters are located within 25 miles of the land.

(b) A significant historical connection to the land can be established if:

(1) The land is located within the boundaries of the tribe's last reservation reserved to the tribe by a ratified or unratified treaty; or

(2) The land is located in an area to which the tribe has significant documented historical connections, significant weight being given to historical connections documented by official records of the Bureau of Indian Affairs or the Department of the Interior, or by the Indian Claims Commission, other Federal court, or congressional findings.

(c) A reasonable temporal connection between the date of the acquisition of the land and the date of the tribe's restoration is established if:

(1) The land is the first land that the tribe has acquired since the tribe was restored to Federal recognition; or

(2) The tribe submitted an application to take the land into trust within 25 years after the tribe was restored to Federal recognition.

Subpart C—Secretarial Determination and Governor's Concurrence

§ 292.13 When can a tribe conduct gaming activities on lands that do not qualify under one of the exceptions?

A tribe can conduct gaming on land covered by this part that does not meet the criteria in Subpart B only after all of the following occur:

(a) The tribe asks the Secretary in writing to make a Secretarial Determination that a gaming establishment on land subject to this part is in the best interest of the tribe and its members and not detrimental to the surrounding community;

(b) The Secretary consults with the tribe and appropriate State and local officials, including officials of other nearby tribes;

(c) The Secretary makes a determination that a gaming establishment on newly acquired lands would be in the best interest of the tribe and its members and would not be detrimental to the surrounding community; and

(d) The Governor of the State in which the gaming activity is to be conducted concurs in the Secretary's Determination (25 U.S.C. 2719(b)(1)(A)).

§ 292.14 Where must a tribe file an application for a Secretarial Determination?

A tribe must file its application for a Secretarial Determination with the Regional Director of the BIA Regional Office having responsibility over the land where the gaming establishment is to be located.

§ 292.15 May a tribe apply for a Secretarial Determination for lands not yet held in trust?

Yes. A tribe can apply for a two-part Secretarial Determination under § 292.13 for land not yet held in trust. The tribe must file its application for a two-part Secretarial Determination at the same time that it applies under 25 CFR Part 151 to have the land taken into trust.

Application Contents

§ 292.16 What must an application for a Secretarial Determination contain?

An application requesting a Secretarial Determination under § 292.13 must include the following information:

(a) The full name, address, and telephone number of the tribe submitting the application;

(b) A description of the location of the land, including a legal description supported by a survey or other document;

(c) Proof of identity of present ownership and title status of the land;

(d) Distance of the land from the tribe's reservation or trust lands, if any, and tribal government headquarters;

(e) Information required by § 292.17 to assist the Secretary in determining whether the proposed gaming establishment will be in the best interest of the tribe and its members;

(f) Information required by § 292.18 to assist the Secretary in determining whether the proposed gaming establishment will not be detrimental to the surrounding community;

(g) The authorizing resolution from the tribe submitting the application;

(h) The tribe's gaming ordinance or resolution approved by the National Indian Gaming Commission in accordance with 25 U.S.C. 2710, if any;

(i) The tribe's organic documents, if any;

(j) The tribe's class III gaming compact with the State where the gaming establishment is to be located, if one has been negotiated; and

(k) Any existing or proposed management contract required to be approved by the National Indian Gaming Commission under 25 U.S.C. 2711 and 25 CFR Part 533.

§ 292.17 How must an application describe the benefits of a proposed gaming establishment to the tribe and its members?

To satisfy the requirements of § 292.16(e), an application must contain:

(a) Projections of class II and class III gaming income statements, balance sheets, fixed assets accounting, and cash flow statements for the gaming entity and the tribe;

(b) Projected tribal employment, job training, and career development;

(c) Projected benefits to the tribe and its members from tourism;

(d) Projected benefits to the tribe and its members from the proposed uses of the increased tribal income;

(e) Projected benefits to the relationship between the tribe and non-Indian communities;

(f) Possible adverse impacts on the tribe and its members and plans for addressing those impacts;

(g) Distance of the land from the location where the tribe maintains core governmental functions;

(h) Evidence that the tribe owns the land in fee or holds an option to acquire the land at the sole discretion of the tribe, or holds other contractual rights to cause the lands to be transferred directly to the United States;

(i) Evidence of historical connections, if any, to the land; and

(j) Any other information that may provide a basis for a Secretarial Determination that the gaming establishment would be in the best interest of the tribe and its members, including copies of any:

(1) Consulting agreements relating to the proposed gaming establishment;

(2) Financial and loan agreements relating to the proposed gaming establishment; and

(3) Other agreements relative to the purchase, acquisition, construction, or financing of the proposed gaming facility, or the acquisition of the land where the facility will be located.

§ 292.18 What information must an application contain on detrimental impacts to the surrounding community?

To satisfy the requirements of § 292.16(f), an application must contain the following information on detrimental impacts of the proposed gaming establishment:

(a) Information regarding environmental impacts and plans for mitigating adverse impacts, including information that allows the Secretary to comply with the requirements of the National Environmental Policy Act (NEPA); e.g., an Environmental Assessment (EA) or an Environmental Impact Statement (EIS);

(b) Reasonably anticipated impacts on the social structure, infrastructure, services, housing, community character, and land use patterns of the surrounding community;

(c) Impacts on the economic development, income, and employment of the surrounding community;

(d) Costs of impacts to the surrounding community and identification of sources of revenue to mitigate them;

(e) Proposed programs, if any, for compulsive gamblers and the sources of funding; and

(f) Any other information that may provide a basis for a Secretarial Determination that the gaming would not be detrimental to the surrounding community, including memoranda of understanding and inter-governmental agreements with affected local governments.

Consultation

§ 292.19 How will the Regional Director conduct the consultation process?

(a) The Regional Director will send a letter that meets the requirements in § 292.20 and that solicits comments within a 60-day period to each of the following:

(1) Appropriate State and local officials; and

(2) Officials of nearby tribes.

(b) Upon written request, the Regional Director may extend the 60-day comment period for an additional 30 days.

(c) After the close of the consultation period, the Regional Director must:

(1) Submit a copy of the consultation comments to the applicant tribe;

(2) Allow the tribe to address or resolve any issues raised in the responses to the consultation letters;

(d) The applicant tribe must submit written comments, if any, to the Regional Director within 60 days of receipt of the consultation comments; and

(e) On written request from the applicant tribe, the Regional Director may extend the 60-day comment period in paragraph (d) of this section for an additional 30 days.

§ 292.20 What information must the consultation letter include?

(a) The consultation letter required by § 292.19(a) must:

(1) Describe or show the location of the proposed gaming establishment;

(2) Provide information on the proposed scope of gaming; and

(3) Include other information that may be relevant to a specific proposal, such as the size of the proposed gaming establishment, if known.

(b) The consultation letter must request recipients to submit comments on the following areas within 60 days of receiving the letter:

(1) Information regarding environmental impacts on the surrounding community and plans for mitigating adverse impacts;

(2) Reasonably anticipated impacts on the social structure, infrastructure, services, housing, community character, and land use patterns of the surrounding community;

(3) Impact on the economic development, income, and employment of the surrounding community;

(4) Costs of impacts to the surrounding community and identification of sources of revenue to mitigate them;

(5) Proposed programs, if any, for compulsive gamblers and the sources of funding; and

(6) Any other information that may provide a basis for a Secretarial Determination that the proposed gaming establishment is not detrimental to the surrounding community.

Evaluation and Concurrence

§ 292.21 How will the Secretary evaluate a proposed gaming establishment?

(a) The Secretary will consider all the information submitted under § 292.17 in evaluating whether the proposed gaming establishment is in the best interest of the tribe and its members.

(b) The Secretary will consider all the information submitted or developed under § 292.18 and all the documentation received under § 292.19 in evaluating whether the proposed gaming establishment would not be detrimental to the surrounding community.

(c) If the Secretary makes an unfavorable Secretarial Determination, the Secretary will inform the tribe that its application has been disapproved, and set forth the reasons for the disapproval.

(d) If the Secretary makes a favorable Secretarial Determination, the Secretary will proceed under § 292.22.

§ 292.22 How does the Secretary request the Governor's concurrence?

(a) If the Secretary makes a favorable Secretarial Determination, the Secretary will send to the Governor of the State:

(1) A written notification of the Secretarial Determination and Findings of Fact supporting the determination;

(2) A copy of the entire application record; and

(3) A request for the Governor's concurrence in the Secretarial Determination.

(b) If the Governor does not affirmatively concur with the Secretarial Determination:

(1) The land may not be used for gaming;

(2) If the land is already held in trust, the applicant tribe may use it for other purposes; and

(3) If the land is proposed for trust status, it may be taken into trust for non-gaming uses after consideration of a revised application.

(c) If the Governor does not respond to the Secretary's request for

concurrence in the Secretarial Determination within one year of the date of the request, the Secretary may, at the request of the applicant tribe or the Governor, grant an extension of up to 180 days.

(d) If no extension is granted or if the Governor does not respond during the extension period, the applicant tribe will be notified in writing that the Secretarial Determination is no longer valid and that its application is no longer under consideration.

§ 292.23 Can the public review the application for a Secretarial Determination?

Subject to restrictions on disclosure required by the Freedom of Information Act (5 U.S.C. 552), the Privacy Act (5 U.S.C. 552a), and the Trade Secrets Act (18 U.S.C. 1905), the tribe's application and all supporting documents will be available for review at the local BIA agency or Regional Office having administrative jurisdiction over the land.

Information Collection

§ 292.24 Do information collections in this part have Office of Management and Budget approval?

The information collection requirements in §§ 292.16, 292.17, and 292.18 have been approved by the Office of Management and Budget (OMB). The information collection control number is 1076–0158. A Federal agency may not collect or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control.

[FR Doc. E6–16490 Filed 10–4–06; 8:45 am]

BILLING CODE 4310–4N–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD05–06–089]

RIN 1625–AA09

Drawbridge Operation Regulations; Lewes and Rehoboth Canal, Mispillion River, DE

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the drawbridge operation regulations of three Delaware Department of Transportation (DelDOT) bridges: The Savannah Road/SR 18 Bridge, at mile 1.7, in Lewes, the SR 14A Bridge, at mile 6.7, in Rehoboth, and the S14 Bridge, at mile 11.0, across Mispillion River at Milford, DE. This proposal would allow the bridges to open on signal if 24 hours advance notice is given. This proposal would provide longer advance notification for vessel openings from 2 hours to 24 hours while still providing for the reasonable needs of navigation.

DATES: Comments and related material must reach the Coast Guard on or before November 20, 2006.

ADDRESSES: You may mail comments and related material to Commander (dpb), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704–5004. The Fifth Coast Guard District maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Commander (dpb), Fifth Coast Guard District between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Waverly W. Gregory, Jr., Bridge Administrator, Fifth Coast Guard District, at (757) 398–6222.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking CGD05–06–089, indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like a return receipt, please enclose a stamped, self-addressed postcard or envelope. We will consider all submittals received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Commander (obr), Fifth Coast Guard District at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

Delaware Department of Transportation (DelDOT), who owns and operates the Savannah Road/SR 18 Bridge, at mile 1.7, in Lewes, the SR 14A Bridge, at mile 6.7, in Rehoboth, and the S14 Bridge, at mile 11.0, across Mispillion River at Milford, requested longer advance notification for vessel openings from 2 hours to 24 hours for the following reasons:

Lewes and Rehoboth Canal

In the closed-to-navigation position, the Savannah Road/SR 18 Bridge, at mile 1.7, in Lewes and the SR 14A Bridge, at mile 6.7, in Rehoboth, have vertical clearances of 15 feet and 16 feet, above mean high water, respectively. The existing operating regulations for these drawbridges are set out in 33 CFR 117.239, which requires the bridges to open on signal from May 1 through October 31 from 7 a.m. to 8 p.m. and from 8 p.m. to 7 a.m. if at least two hours notice is given. From November 1 through April 30, the draws shall open if at least 24 hours notice given.

DelDOT provided information to the Coast Guard about the conditions and reduced operational capabilities of the draw spans. Due to the infrequency of requests for vessel openings of the drawbridge for the past 10 years, DelDOT requested to change the current operating regulations by requiring the draw spans to open on signal if at least 24 hours notice is given year-round.

Mispillion River

The S14 Bridge, at mile 11.0 in at Milford, has a vertical clearance of five feet, above mean high water, in the closed-to-navigation position. The existing regulation is listed at 33 CFR 117.241, which requires the bridge to open on signal if at least two hours notice is given. Due to the infrequency of requests for vessel openings of the drawbridge for the past 10 years, DelDOT requested to change the current operating regulations by requiring the draw spans to open on signal if at least 24 hours notice is given year-round.

Discussion of Proposed Rule

Lewes and Rehoboth Canal

The Coast Guard proposes to revise 33 CFR 117.239, which governs the Delaware highway bridges, at miles 1.7 and 6.7, both at Rehoboth. The bridge names, the statute mile points and the localities in the paragraph would be changed from the ''Delaware highway bridges miles 2.0 and 7.0 both at Rehoboth'' to the ''Savannah Road/SR18 Bridge, at mile 1.7, in Lewes'' and the ''SR 14A Bridge, at mile 6.7, in

Rehoboth''. These changes will accurately reflect the proper information for these drawbridges.

The current paragraph would be divided into paragraphs (a) and (b). Paragraph (a) would contain the proposed rule for the Savannah Road/ SR 18 Bridge, at mile 1.7, in Lewes and would state that the draw shall open on signal if at least 24 hours notice is given.

Paragraph (b) would contain the proposed rule for the SR 14A Bridge, at mile 6.7, in Rehoboth. The proposal would require the drawbridge to open on signal if at least 24 hours notice is given.

Mispillion River

The Coast Guard proposes to amend 33 CFR 117.241, which governs the S14 Bridge, at mile 11.0, at Milford by revising the paragraph to read that the draw shall open on signal if at least 24 hours notice is given.

Text modifications to be consistent with other proposed changes would be made in these paragraphs, as appropriate.

Regulatory Evaluation

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

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. We reached this conclusion based on the fact that the proposed changes have only a minimal impact on maritime traffic transiting the bridge. Mariners can plan their trips in accordance with the proposed scheduled bridge openings, to minimize delays.

Small Entities

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

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

This proposed rule would not have a significant economic impact on a substantial number of small entities because the rule only adds minimal restrictions to the movement of navigation, and mariners who plan their transits in accordance with the proposed scheduled bridge openings can minimize delay.

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

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Waverly W. Gregory, Jr., Bridge Administrator, Fifth Coast Guard District, and (757) 398–6222. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.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 made a preliminary determination 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, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (32)(e) of the Instruction, from further environmental documentation. Under figure 2–1, paragraph (32)(e), of the Instruction, an ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. Revise § 117.239 to read as follows:

§ 117.239 Lewes and Rehoboth Canal.

(a) The draw of the Savannah Road/SR 18 Bridge, at mile 1.7, in Lewes shall open on signal if at least 24 hours notice is given.

(b) The draw of the SR 14A Bridge, at mile 6.7, in Rehoboth shall open on signal if at least 24 hours notice is given.

3. Revise § 117.241 to read as follows:

§ 117.241 Mispillion River.

The draw of the S14 Bridge, at mile 11.0, at Milford shall open on signal if at least 24 hours notice is given.

Dated: September 18, 2006.

L.L. Hereth,

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

[FR Doc. E6–16427 Filed 10–4–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 060925247–6247–01; I.D. 091106B]

RIN 0648–AU84

Atlantic Highly Migratory Species; Atlantic Commercial Shark Management Measures

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

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule would establish the 2007 first trimester season quotas for large coastal sharks (LCS), small coastal sharks (SCS), and pelagic sharks. The proposed rule also would modify the existing mid-Atlantic shark closed area in 2007. In addition, this rule proposes the opening and closing dates for the LCS fishery based on adjustments to the trimester quotas. The intended effect of these proposed actions is to provide advance notice of quotas and season dates for the Atlantic commercial shark fishery and address over- and underharvests that occurred in the Atlantic shark fishery in the first trimester of 2006.

DATES: Written comments will be accepted until November 1, 2006.

Public hearings will be held from 6–8 p.m. on each of the following dates: October 19, 23, and 25.

ADDRESSES: Written comments on the proposed rule may be submitted to Michael Clark, Highly Migratory Species Management Division via:

- E-mail: *SF1.091106B@noaa.gov*.
- Mail: 1315 East-West Highway, Silver Spring, MD 20910. Please mark on the outside of the envelope ''Comments on Proposed Rule for 2007 1st Trimester Season Lengths and Quotas.''
- Fax: 301–713–1917.
- Federal e-Rulemaking portal: *http://www.regulations.gov*. Include in the subject line the following identifier: I.D. 091106B.

The hearing locations are:

1. October 19, 2006 from 6–8 p.m. City of Madeira Beach, 300 Municipal Drive, Madeira Beach, FL 33708.
2. October 23, 2006 from 6–8 p.m. Town Hall, 407 Budleigh Street, Manteo, NC 27954.
3. October 25, 2006 from 6–8 p.m. Comfort Inn and Suites Port Canaveral Area, 3901 N. Atlantic Avenue, Cocoa Beach, FL 32931.

Copies of the draft Environmental Assessment (EA) and other relevant document are available from the HMS website (*http://www.nmfs.noaa.gov/sfa/hms/*), or by contacting Michael Clark (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Michael Clark or Karyl Brewster-Geisz by phone: 301–713–2347 or by fax: 301–713–1917.

SUPPLEMENTARY INFORMATION:

Background

The Atlantic shark fishery is managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). NMFS recently finalized a Consolidated Highly Migratory Species Fishery Management Plan (HMS FMP) that consolidated and replaced previous FMPs for Atlantic Billfish and Atlantic Tunas, Swordfish, and Sharks. The HMS FMP is implemented by regulations at 50 CFR part 635.

Currently, the Atlantic shark annual quotas, with the exception of pelagic sharks, are split among three regions based on historic landings (1999 - 2003). Consistent with 50 CFR 635.27(b)(1)(iii) and (iv), the annual LCS quota (1,017 mt dw) is split among the three regions as follows: 52 percent to the Gulf of Mexico, 41 percent to the South Atlantic, and 7 percent to the North Atlantic. The annual SCS quota (454 mt dw) is split among the three regions as follows: 10 percent to the Gulf of Mexico, 87 percent to the South Atlantic, and 3 percent to the North Atlantic.

The regional quotas for LCS and SCS were divided equally between the

trimester seasons in the South Atlantic and the Gulf of Mexico, and according to historical landings of 4, 88, and 8 percent for LCS, and 1, 9, and 90 percent for SCS in the first, second, and third trimester seasons, respectively, in the North Atlantic. The quotas were divided in this manner because sharks are available throughout much of the year in the Gulf of Mexico and South Atlantic regions, but primarily during the summer months in the North Atlantic region. Dividing the quotas equally among the three trimester seasons in the South Atlantic also result in a greater proportion of the quota being made available during August and September when the mid-Atlantic shark closure is no longer in effect.

Consistent with 50 CFR 635.27(b)(1)(iii) and (vi), any over- or underharvest in a given region from the 2006 first trimester season will be carried over to the 2007 first trimester season in that region.

First Trimester 2006 Landings

Shark landings data for the first trimester of 2006 are provided in Table 1. As a result of the over- and underharvests that occurred in the first trimester season of 2006, NMFS analyzed alternatives to adjust the 2007 first trimester seasons and quotas for the LCS fishery.

Quota Adjustments in the LCS Fishery

The Agency conducted an Environmental Assessment (EA) to analyze five alternatives for adjusting regional trimester LCS quotas and other management measures based on the over- and underharvests that occurred in the LCS fisheries in the South Atlantic and Gulf of Mexico regions, respectively, during the 2006 first trimester season.

These measures are necessary to ensure that over- and underharvests from 2006 are accounted for and any impacts are analyzed. The base quotas established in Amendment 1 to the FMP for Atlantic Tunas, Swordfish, and Sharks and maintained in the Consolidated HMS FMP would not be affected by this rulemaking. Rather, the base quotas would be changed via an amendment to the FMP. These measures are necessary to ensure that over- and underharvests from 2006 are accounted for and any impacts are analyzed. The Agency is preparing, in a separate action, an amendment to the 2006 Consolidated HMS FMP to implement management measures that address the results of recent stock assessments, including the need for rebuilding plans and other modifications to the management program. Therefore, the Agency is not proposing any modifications to fishing seasons or quotas beyond the first trimester of 2007, at this time.

The current regulations (status quo, alternative 1) state that NMFS will adjust the next year's fishing season (2007) and quotas for LCS to reflect actual landings during the previous fishing season (2006) in any particular region. Due to the excessive landings (230 percent of quota) of LCS reported in the South Atlantic region during the first trimester of 2006, the status quo alternative would not allow for any available quota in that region for LCS in the first trimester of 2007. This alternative would not modify the regional quotas or the mid-Atlantic shark closed area. Quotas and season lengths are provided in Table 1.

The current regulations at 50 CFR 635.27(b)(1)(vi)(A) and (b)(2) allow for the transfer of up to 10 percent of a region's annual quota between two regions that have a corresponding under- and overharvest. Thus, NMFS also considered alternative 2, which would transfer up to 10 percent of the Gulf of Mexico region's annual quota to the South Atlantic region. This amount of quota would not be sufficient to account for the overharvest experienced by the South Atlantic region during the first trimester of 2006.

The preferred alternative (alternative 3) would close the South Atlantic region to LCS fishing during the first trimester of 2007 and open the mid-Atlantic shark closed area in July 2007, subject to availability of quota for the second trimester of 2007. This alternative would result in a closure of the South Atlantic region for approximately six months (January-June 2007). Negative ecological impacts of re-opening the closed area are not expected to be significant because the re-opening would be allowed for only one month during one year. Unless action were taken to open the closure in the upcoming amendment to the HMS FMP, the area would be closed from January 1 to July 31, in 2008 and subsequent years. Economic and social impacts of re-opening the mid-Atlantic shark closed area would likely be positive relative to the status quo as fishermen in this area would have additional fishing opportunities during the month of July.

Alternative 4 would open the mid-Atlantic shark closed area from January 1, 2007, through July 31, 2007. The opportunity to land LCS in this area during this time period would be contingent on the availability of quota for the first and second trimesters of 2007. This alternative was not selected because LCS quota would not likely be available for the first trimester of 2007, therefore, the closed area would not be opened until the second trimester (July 2007), similar to the preferred alternative. Furthermore, if quota were made available by combining this alternative with alternative 5, negative ecological impacts may be more extensive because the overharvest that occurred in 2006 would not be addressed. A permanent removal of the closure was not analyzed because such an action would require an FMP amendment to ensure consistency with the current rebuilding plan for sandbar sharks. An upcoming FMP amendment will implement measures to address the 2006 stock assessments for the LCS complex and dusky, sandbar, and blacktip sharks and will also review the mid-Atlantic shark closed area, among other measures, in light of more recent information.

Lastly, alternative 5 would transfer the entire underharvest from the Gulf of Mexico region (119.7 mt dw) to the South Atlantic region. Once overharvests from 2006 are addressed, this alternative would provide a quota of 74.3 mt dw, resulting in a three-week fishing season for the South Atlantic region during the first trimester of 2007. A season of three weeks would be estimated to harvest 85 percent of the quota, including 33 percent that is harvested after the seasonal closure. Keeping the season open for four weeks would result in a 2 percent overharvest during the first trimester. Transferring this quota to the South Atlantic region results in 176.1 mt dw of LCS quota and a proposed seasonal closure of April 15, 2007, for the Gulf of Mexico region. Keeping the season open until April 30, 2007, would result in a 9 percent overharvest, including 0.85 percent being harvested after the seasonal closure. The North Atlantic region would have the same fishing seasons and quotas as the preferred alternative.

Combining alternative 5, which would transfer the Gulf of Mexico region's underharvest to the South Atlantic region with alternative 4, which would open the mid Atlantic shark fishery closure in January 2007, would result in negative ecological impacts and positive social and economic benefits.

The preferred alternative (alternative 3) was selected to account for the overharvest experienced by the South Atlantic region during the first trimester of 2006, while providing participants in this region with a one-time additional fishing opportunity in the month of July 2007. The ability to fish during the month of July 2007, depending on

available quota, should not result in significant negative ecological impacts due to the limited nature of the opening (one month in one year). In addition, this alternative may offset some of the negative economic impacts of not being able to target LCS for the first six months of 2007 as a result of the first trimester closure. Furthermore, this opening may address perceived inequity between fishery participants in the vicinity of the mid-Atlantic shark closed area with those in other portions of the South Atlantic region.

Proposed Quotas for First Trimester 2007

Pursuant to Amendment 1 to the FMP for Atlantic Tunas, Swordfish, and Sharks, and the Final Consolidated HMS FMP, the 2007 annual base landings quotas are 1,017 mt dw (2,242,078 lb dw) for LCS and 454 mt dw (1,000,888.4 lb dw) for SCS. The 2007 quota levels for pelagic, blue, and porbeagle sharks are 488 mt dw (1,075,844.8 lb dw), 273 mt dw (601,855.8 lb dw), and 92 mt dw (202,823.2 lb dw), respectively. This proposed rule does not propose any changes to these overall base landings quotas. Table 1 describes the proposed quotas for LCS, SCS, and pelagic sharks for the various regions (if applicable) for the first trimester of 2007 adjusted for over- and underharvests that occurred during the first trimester of 2006.

Existing regulations do not allow underharvests of pelagic sharks to be carried forward to the next fishing management period. As of August 2006, approximately 20.3 mt dw had been reported landed in the 2006 first trimester fishing season in total for pelagic, blue, and porbeagle sharks combined. Thus, the pelagic shark quota does not need to be reduced consistent with the current regulations 50 CFR 635.27(b)(1)(iv). The 2007 first trimester season quotas for pelagic, blue, and porbeagle sharks are proposed to be 162.7 mt dw (358,688 lb dw), 91 mt dw (200,619 lb dw), and 30.7 mt dw (67,681 lb dw), respectively.

Proposed Fishing Season Notification and Quotas for the First Trimester Season 2007

The first trimester fishing season of the 2007 fishing year for SCS, pelagic sharks, blue sharks, and porbeagle sharks in the northwestern Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea, is proposed to open on January 1, 2007 (Table 1). When quotas are projected to be reached for the SCS, pelagic, blue, or porbeagle sharks, the Assistant Administrator (AA) will file notification of closures at the Office of the Federal Register at least 14 days before the effective date, consistent with 50 CFR 635.28(b)(2).

Pursuant to 50 CFR 635.5(b)(1), shark dealers must report any sharks received twice a month. More specifically, sharks received between the first and 15th of every month must be reported to NMFS by the 25th of that same month and those received between the 16th and the end of the month must be reported to NMFS by the 10th of the following month. Thus, in order to provide consistency and predictability in managing the fishery, NMFS proposes to close the Federal LCS fishery on either the 15th or the end of any given month.

Proposed Opening and Closing Dates and Quotas

Proposed opening and closing dates for the 2007 first trimester season, by region and species group, are provided in Table 1.

TABLE 1. PROPOSED SEASONS AND QUOTAS FOR LCS, SCS, AND PELAGIC SHARKS FOR THE FIRST TRIMESTER OF 2007.

All quotas and landings are dressed weight, in metric tons, unless specified otherwise.

Species Group (Annual Quota)	Region (Allocation)	2006 1st Tri. Quota	2006 1st Tri. Landings	2007 1st Tri. Quota	+/− Under/Over Harvest	2007 Proposed Quota	Proposed Season
Large Coastal Sharks (1,017)	Gulf of Mexico (52 %)	176.1	103.1	176.1	+119.7	295.8 (692,157 lb dw)	Jan. 1 - April 30, 2007
	South Atlantic (41 %)	141.3	326.1	137.6	−184.3	−46.7 (−102,955 lb dw)	Closed
	North Atlantic (7 %)	5.3	0.3	2.8	+5.0	7.8 (17,196 lb dw)	Jan. 1 - April 30, 2007
Small Coastal Sharks (454)	Gulf of Mexico (10 %)	14.8	5.0	15.1	+9.8	24.9 (54,894 lb dw)	Jan. 1, 2007 - To be determined
	South Atlantic (87 %)	284.6	42.1	131.5	+242.5	374.0 (824,520 lb dw)	
	North Atlantic (3 %)	18.7	0.1	0.1	+18.6	18.7 (41,226 lb dw)	
Blue Sharks (273)	No regional quotas	91.0	20.3	91.0	Not applicable	91.0 (200,618 lb dw)	Jan. 1, 2007 - To be determined
Porbeagle sharks (92)		30.7		30.7		30.7 (67,681 lb dw)	
Pelagic Sharks other than Porbeagle or blue (488)		162.7		162.7		162.7 (358,688 lb dw)	

Request for Comments

Comments on this proposed rule may be submitted at public hearings, via email, mail, or fax. NMFS will hold three public hearings to receive comments from fishery participants and other members of the public regarding these proposed alternatives. These hearings will be physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to

Michael Clark at (301) 713–2347 at least 5 days prior to the hearing date. For individuals unable to attend a hearing, NMFS also solicits written comments on this proposed rule (see **DATES** and **ADDRESSES**).

Classification

NMFS has preliminarily determined that this action is consistent with section 304(b)(1) of the Magnuson-Stevens Fishery Conservation and Management Act, including the National Standards, and other applicable law.

An EA has been prepared that describes the impact on the human environment that would result from implementation of alternative management measures that may adjust LCS quotas in the first trimester of 2007 based on over- and underharvests in the South Atlantic and Gulf of Mexico regions, respectively. Based on the EA, Regulatory Impact Review (RIR), and Initial Regulatory Flexibility Analysis (IRFA) under the Regulatory Flexibility Act, and review of the National Environmental Policy Act (NEPA) criteria for significant effects (40 CFR Part 1508.27) and NMFS criteria for significance evaluated above (NAO 216–6 Section 6.02), no significant effect on the quality of the human environment is anticipated from this action.

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

In compliance with Section 603 of the Regulatory Flexibility Act, an Initial Regulatory Flexibility Analysis was prepared for this rule. The IRFA analyzes the anticipated economic impacts of the preferred actions and any significant alternatives to the proposed rule that could minimize economic impacts on small entities. A summary of the IRFA is below. The full IRFA and analysis of economic and ecological impacts, are available from NMFS (see **ADDRESSES**).

In compliance with Section 603 (b)(1) and (2) of the Regulatory Flexibility Act, the purpose of this proposed rulemaking is, consistent with the Magnuson-Stevens Act, to adjust the LCS and SCS regional and trimester quotas and propose season lengths for LCS, SCS, and pelagic sharks for the first trimester of 2007 based on under- and overharvests that occurred during the first trimester of 2006. This rule does not change the overall base quotas.

Section 603 (b)(3) requires Agencies to provide an estimate of the number of small entities to which the rule would apply. This rule could directly affect commercial shark fishermen and dealers on the Atlantic Ocean in the United States. There are approximately 552 (240 directed and 312 incidental) shark permit holders and 336 commercial shark dealers that would be affected by this proposed rule. All of these permit holders and dealers are considered small entities according to the Small Business Administration's standard for defining a small entity. Other small entities involved in HMS fisheries such as processors, bait houses, and gear manufacturers might be indirectly affected by the proposed regulations.

This proposed rule does not contain any new reporting, recordkeeping, or other compliance requirements (5 U.S.C. 603 (b)(4)). Similarly, this proposed rule would not conflict, duplicate, or overlap with other relevant Federal rules (5 U.S.C. 603(b)(5)).

One of the requirements of an IRFA, under Section 603 of the Regulatory Flexibility Act, is to describe any alternatives to the proposed rule that accomplish the stated objectives and that minimize any significant economic impacts (5 U.S.C. 603 (c)). Additionally, the Regulatory Flexibility Act (5 U.S.C. 603 (c)(1)-(4)) lists four categories for alternatives that must be considered. These categories are: (1) establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) use of performance rather than design standards; and (4) exemptions from coverage for small entities.

In order to meet the objectives of this proposed rule, consistent with Magunson-Stevens Act and the Endangered Species Act (ESA), NMFS cannot exempt small entities or change the reporting requirements only for small entities. Thus, there are no alternatives discussed that fall under the first and fourth categories described above. In addition, none of the alternatives considered would result in additional reporting or compliance requirements (category two above). NMFS does not know of any performance or design standards that would satisfy the aforementioned objectives of this rulemaking while, concurrently, complying with the Magnuson-Stevens Act. As described below, NMFS analyzed five different alternatives in this proposed rulemaking and provides justification for selection of the preferred alternative to achieve the desired objective.

The alternatives included: status quo (alternative 1), transferring 10 percent of the Gulf of Mexico region annual quota to the South Atlantic (alternative 2), closing the South Atlantic region during the first trimester of 2007 and opening the mid Atlantic shark closed area in July 2007 (alternative 3), removing the mid-Atlantic shark closed area (alternative 4), and transferring the entire Gulf of Mexico region underharvest to the South Atlantic region (alternative 5). Closing the South Atlantic region during the first trimester and opening the mid Atlantic shark closed area in July is the preferred alternative (alternative 3).

Alternative 1 is considered the status quo alternative since it would maintain existing procedures for addressing regional trimester over- and underharvests when establishing the regional quotas and seasons for the first trimester of 2007 and it would also maintain the existing mid-Atlantic shark closure. The Gulf of Mexico and North Atlantic regions would maintain similar economic levels as previous years because those regions are proposed to be open, with ample quota, throughout the entire first trimester 2007. This alternative is not preferred, as it would result in negative economic impacts for the South Atlantic region, compared to the preferred alternative.

By itself, the status quo alternative does not create any new economic burdens on the shark commercial industry. Regardless, the unexpected magnitude of the 2006 first trimester overharvest would result in no commercial fishing for LCS in the entire South Atlantic region from January 1 to July 31, 2007, and there would be no fishing with bottom longline (BLL) gear permitted in the Mid-Atlantic shark closure until August 1, 2007.

If not for the overharvest in 2006, the first trimester quota available would have been 137.6 mt of LCS. Using a median ex-vessel price of $0.51 for LCS and $12.61 for shark fin reported HMS Dealer reports from 2002 to 2005 for the South Atlantic and adjusted for inflation, the value of this harvest would have been approximately $146,976 for LCS fresh (95 percent of the quota weight) and $191,266 for shark fins (based on the 5 percent shark fin to carcass regulation). Therefore, the 2006 overharvest is estimated to have an estimated direct revenue impact on South Atlantic commercial shark fishing activity of approximately $338,242. There will also be continued economic hardship compared to the preferred alternative for fishing operations using BLL gear that are dependant on LCS in the vicinity of the Mid-Atlantic shark closure since they would not be permitted to fish until August 1, 2007. However, it should be noted that fishermen received revenue sooner

under the 2006 first trimester overharvest than they normally would have received. However, a closure during the first trimester of 2007 would result in disrupted revenue flows and negative economic impacts. Using the median ex-vessel prices for the first trimester of 2006 of $0.45 and $14.00 for LCS flesh and shark fins, respectively, the estimated revenue for the first trimester in 2006 from the 184.3 mt in overharvest was $458,116.

Maintaining the Mid-Atlantic shark closed area would result in no fishing with BLL gear permitted in the mid-Atlantic shark closure until August 1, 2007. This could impact some of the vessels dependant on fishing with BLL gear in this region.

Alternative 2 would adjust the South Atlantic regional LCS quota for the first trimester by transferring up to 10 percent of the 2006 first trimester quota from the Gulf of Mexico. This would likely result in the same economic effects as the status quo alternative, since the transferred amount is not likely to be sufficient to allow for an LCS season in the first trimester in the South Atlantic region while still allowing for a full season in the Gulf of Mexico region. Before implementing this alternative, it would be necessary to review the annual regional landings for 2006 for both regions before determining whether the South Atlantic and Gulf of Mexico regions have corresponding annual over- and underharvests, respectively. This alternative is not preferred, as it would result in negative economic impacts for the South Atlantic region, similar to alternative 1 (status quo), compared to the preferred alternative.

Alternative 3, the preferred alternative, would close the entire South Atlantic region for LCS during the first trimester of 2007 and open the entire area including the mid-Atlantic shark closed area region in July 2007, pending availability of quota. This alternative could minimize the economic costs associated with the South Atlantic overharvest. As described above for Alternative 1, the 2006 overharvest is estimated to have an estimated direct revenue impact on South Atlantic commercial shark fishing activity of approximately $338,242. In 2005, 46 vessels reported landings in the South Atlantic region, indicating that the LCS closure could result in a loss of revenue of approximately $7,353/vessel. However, this alternative might provide an additional month of fishing opportunities for vessels that may not be able to participate in the South Atlantic fishery during the first six months of 2007. Compared to pre-closure landings (2002–2004), landings in 2005 of LCS decreased by 13.9 mt dw which may have been a result of the closed area. This additional month of access to the mid-Atlantic shark closed area region during the month of July is estimated to potentially result in an additional $34,188 in gross shark revenues based on the difference in landings that may occur as a result of reopening the mid-Atlantic shark closed area.

Alternative 4 would open the mid-Atlantic shark closed area on January 1, 2007, through July 31, 2007, dependant on available quota for LCS during the first and second trimester seasons of 2007. Given the preliminary landings data as of August 24, 2006, it is likely quota will not be available. Therefore, it is likely that this alternative would result in economic impacts identical to Alternative 3. The impacts of this alternative would be similar to the preferred alternative or the status quo alternative as lack of available quota would prevent fishing in the South Atlantic region during the first trimester. This alternative is not preferred because the preferred alternative achieves similar objectives, yet ensures that the ecological benefits of maintaining the mid-Atlantic shark closed area are maintained through June of 2007. Furthermore, if fishing were allowed in the first trimester of 2007 by transferring quota from the Gulf of Mexico region (alternative 5) this alternative would result in negative ecological impacts because it does not account for the overharvest that occurred in 2006.

Alternative 5 would distribute a portion of the LCS underharvest from the Gulf of Mexico's landings from the first trimester of 2006 to the South Atlantic first trimester of 2007 thus providing a first trimester season for 2007 in the South Atlantic. Transferring all of the Gulf of Mexico region's under harvest to the South Atlantic could provide for 74.3 mt dw of quota that would provide for an approximately 3-week long season. This 3-week season would generate approximately $182,641 (95 percent at $0.51/lb dw LCS and 5 percent at $12.61/lb dw shark fins) in revenue in the South Atlantic region. However, the estimated revenue generated during the 3-week season would still be about $155,601 less than the potential revenue associated with the annual quota allocation. This alternative was not selected as it would not account for the overharvest experienced in the South Atlantic region during the first trimester of 2006, resulting in additional fishing mortality in 2007 and negative ecological impacts as a consequence. Furthermore, the potential exists for the South Atlantic region to exceed its 2007 first trimester quota, exacerbating future potential economic and ecological impacts as a result.

Overall, underharvests from 2006 that would be transferred to the first trimester season quota for 2007 under this alternative may result in economic benefits for the Gulf of Mexico that may potentially offset some of the negative economic impacts to the South Atlantic region. Increases in possible revenue as a result of transferring the underharvests are only potential amounts that may or may not be realized. If revenues are not realized then there would be no economic impact because the fishermen did not receive any benefit from the transfer of underharvests. If revenues are realized, it may result in a positive economic impacts.

These proposed regulations are not expected to increase endangered species or marine mammal interaction rates. A Biological Opinion (BiOp) issued October 29, 2003, concluded that the continued operation of the Atlantic shark fisheries was not likely to jeopardize the continued existence of any listed species under NMFS purview. An analysis of the anticipated incidental takes of sea turtles (primarily loggerhead and leatherback sea turtles) and smalltooth sawfish resulted in a ''non-jeopardy'' determination in the BiOp. This proposed rule would adjust LCS quotas for the first trimester of 2007 based on over- and underharvests that occurred in the first trimester of 2006. Furthermore, this proposed rule would not alter fishing practices or fishing effort significantly and therefore should not have any further impacts on endangered species or marine mammals beyond those considered in the October 29, 2003, BiOp for Atlantic shark fisheries. Between 1994–2004, there have been 5 loggerhead sea turtles observed caught on BLL gear in the mid-Atlantic shark closed area, two of which were released alive. Only one of these interactions occurred during the moth of July (1998). Re-opening the mid-Atlantic shark closure in July would likely have slightly negative ecological impacts because the likelihood of interactions with protected resources and other bycatch would be increased due to the displacement of fishing effort to an area that had been previously closed. The modification to the mid-Atlantic shark closure area is not expected to significantly impact interactions with protected resources, because the South Atlantic region would be closed to targeted LCS fishing from January through June of 2007.

The preferred alternative of opening the mid-Atlantic shark closed area in July 2007, dependent upon available quota, would likely increase fishing mortality of juvenile sandbar sharks. This area is considered an Habitat Area of Particular Concern (HAPC) for sandbar sharks. However, the impacts on Essential Fish Habitat (EFH), and specifically, the HAPC are considered to be negligible because of the short duration of the opening. A status quo alternative was considered that would have reduced ecological impacts on the HAPC and EFH in general, however, that alternative would result in more extensive negative social and economic impacts because the South Atlantic region will be closed for the first seven months of 2007, rather than six months as preferred.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: September 28, 2006.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR part 635 is proposed to be amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

1. The authority citation for part 635 continues to read as follows:

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

2. In § 635.21, paragraph (d)(1) is revised to read asfollows:

§ 635.21 Gear operation and deployment restrictions.

* * * * *

(d) * * *

(1) If bottom longline gear is on board a vessel issued a permit under this part, persons on board that vessel may not fish or deploy any type of fishing gear in the mid-Atlantic shark closed area from January 1 through July 31 each calendar year, except that in 2007 the mid-Atlantic shark closed area will be closed from January 1 through June 30 and may open in July, contingent upon available quota.

* * * * *

[FR Doc. E6–16408 Filed 10–4–06; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 71, No. 193

Thursday, October 5, 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.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2006–0087]

General Conference Committee of the National Poultry Improvement Plan; Solicitation for Membership

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of solicitation for membership.

SUMMARY: We are giving notice that the Secretary of Agriculture is soliciting nominations for the election of regional membership and a member-at-large for the General Conference Committee of the National Poultry Improvement Plan.

DATES: Consideration will be given to nominations received on or before November 20, 2006.

ADDRESSES: Nominations should be addressed to Mr. Andrew R. Rhorer, Senior Coordinator, National Poultry Improvement Plan, VS, APHIS, 1498 Klondike Road, Suite 101, Conyers, GA 30094–5104.

FOR FURTHER INFORMATION CONTACT: Mr. Andrew R. Rhorer at the above address or telephone (770) 922–3496.

SUPPLEMENTARY INFORMATION: The General Conference Committee (the Committee) of the National Poultry Improvement Plan (NPIP) is the Secretary's Advisory Committee on poultry health. The Committee serves as a forum for the study of problems relating to poultry health and, as necessary, makes specific recommendations to the Secretary concerning ways the U.S. Department of Agriculture may assist the industry in addressing these problems. The Committee assists the Department in planning, organizing, and conducting the Biennial Conference of the NPIP. The Committee recommends whether new proposals should be considered by the delegates to the Biennial Conference and serves as a direct liaison between the NPIP and the United States Animal Health Association.

Terms will expire for current regional members of the Committee and a member-at-large in September 2006. We are soliciting nominations from interested organizations and individuals to replace members on the Committee for the East North Central Region (Illinois, Indiana, Michigan, Ohio, and Wisconsin), the North Atlantic Region (Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont), the South Atlantic Region (Delaware, Florida, Georgia, Maryland, North Carolina, South Carolina, Virginia, and West Virginia), and the Western Region (Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington, and Wyoming), as well as a member-at-large. There must be at least two nominees for each position. To ensure the recommendations of the Committee have taken into account the needs of the diverse groups served by the Department, membership should include, to the extent practicable, individuals with demonstrated ability to represent underrepresented groups (minorities, women, and persons with disabilities). At least one nominee from each of the four regions must be from such an underrepresented group. The voting will be by secret ballot of official delegates from the respective region, and the results will be recorded. The member-at-large will represent all of the regions.

Done in Washington, DC, this 29th day of September 2006.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E6–16458 Filed 10–4–06; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2006–0097]

General Conference Committee of the National Poultry Improvement Plan; Reestablishment

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of reestablishment.

SUMMARY: We are giving notice that the Secretary of Agriculture has reestablished the General Conference Committee of the National Poultry Improvement Plan (Committee) for a 2-year period. The Secretary of Agriculture has determined that the Committee is necessary and in the public interest.

FOR FURTHER INFORMATION CONTACT: Mr. Andrew Rhorer, Senior Coordinator, National Poultry Improvement Plan, VS, APHIS, USDA, Suite 101, 1498 Klondike Road, Conyers, GA 30094; (770) 922–3496.

SUPPLEMENTARY INFORMATION: The purpose of the General Conference Committee of the National Poultry Improvement Plan (Committee) is to maintain and ensure industry involvement in Federal administration of matters pertaining to poultry health.

The Committee Chairperson and the Vice Chairperson shall be elected by the Committee from among its members. There are seven members on the Committee. This Committee differs somewhat from other advisory committees in the selection process and composition of its membership. The poultry industry elects the members of the Committee. The members represent six geographic areas with one member-at-large. The membership is not subject to the U.S. Department of Agriculture's review. A formal request for nominations for membership is published in the **Federal Register**.

Done in Washington, DC, this 29th day of September 2006.

Boyd K. Rutherford,

Assistant Secretary for Administration.

[FR Doc. E6–16463 Filed 10–4–06; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and opportunity for public comment.

Pursuant to Section 251 of the Trade Act of 1974 (19 U.S.C. 2341 *et seq.*), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. EDA has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE FOR THE PERIOD SEPTEMBER 9, 2006 THROUGH SEPTEMBER 29, 2006

Firm	Address	Date petition accepted	Product
Boehringer Laboratories, Inc.	500 E. Washington Street, Norristown, PA 19401.	9/6/06	Medical instruments, surgical appliances and supplies.
BMCO Architectural Millwork, Ltd.	2727 Coombsville, Dallas, TX 75212	9/6/06	Custom millwork, including kitchen cabinets, doors, moldings and windows.
Alpha Electronics International, Inc.	767 Edgewood Avenue, Wood Dale, IL 60191.	9/6/06	Plastic printed circuit board design, fabrication and complete turn-key manufacturing.
Austin-Westran, LLC	602 East Blackhawk Drive, Byron, IL 61010.	9/18/06	Metal trailer support legs for original equipment manufacturers of semi trailers, for transportation fleets and for service parts markets.
FXP Marketing International, Inc. dba Novelcrafts Manufacturing Company, Inc.	5309 Rogue River Highway, Rogue River, OR 97537.	9/18/06	Wire display racks.
Mrs. Wheat's Fabulous Foods, Inc.	4532 Marais Street, New Orleans, LA 70117.	9/18/06	Meat pies.
R&D Tool & Engineering Co.	1009 Browning Street, Lee's Summit, MO 64084.	9/18/06	Precision molds for packaging industry.
American Ink Jet Corporation	13 Alexander Road, Billerica, MA 01821	9/18/06	Inks for the inkjet printer industry.
Judy Havelka Enterprises, Inc.	4913 Airport Freeway, Fort Worth, TX 76117.	9/28/06	Botanicals, perfume oils and candles.
GSC Chipotle Texas Ltd.	101 Port of Entry Road, P.O. Box 158, Ft. Hancock, TX 79839.	9/28/06	Anaheim peppers.
Westerbeke Corporation	150 John Hancock Road, Taunton, MA 02780.	9/28/06	Marine engines and air-conditioning products.
Pastry House, Inc. (The)	94 Kean Street, West Babylon, NY 11704.	9/28/06	Baked goods.
Reynolds & Reynolds Electronics, Inc.	521 E. Fourth Street, Bethlehem, PA 18015.	9/28/06	Electric emergency energy equipment for elevators.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Office of Chief Counsel, Room 7005, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice. Please follow the procedures set forth in Section 315.9 of EDA's final rule (71 FR 56704) for procedures for requesting a public hearing. The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: September 29, 2006.

Barry Bird,

Chief Counsel.

[FR Doc. E6–16451 Filed 10–4–06; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of Issuance of an Amended Export Trade Certificate of Review, Application No. 84–17A12.

SUMMARY: On September 28, 2006, The U.S. Department of Commerce issued an amended Export Trade Certificate of Review to Northwest Fruit Exporters (''NFE'').

FOR FURTHER INFORMATION CONTACT: Jeffrey C. Anspacher, Director, Export Trading Company Affairs, International Trade Administration, (202) 482–5131 (this is not a toll-free number) or E-mail at *oetca@ita.doc.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. Sections 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR part 325 (2004).

Export Trading Company Affairs (''ETCA'') is issuing this notice pursuant to 15 CFR 325.6(b), which requires the U.S. Department of Commerce to publish a summary of the certification in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of

the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate: The original NFE Certificate (No. 84–00012) was issued on June 11, 1984 (49 FR 24581, June 14, 1984), and last amended on December 2, 2005 (70 FR 73731, December 13, 2005).

NFE's Export Trade Certificate of Review has been amended to:

1. Add each of the following companies as a new ''Member'' of the Certificate within the meaning of section 325.2(1) of the Regulations (15 C.F.R. 325.2(1)): Fox Orchards, Mattawa, Washington; Prentice Packing & Storage, Inc., Yakima, Washington; and Yakima Fresh, Yakima, Washington;

2. Delete the following companies as ''Members'' of the Certificate: Bardin Farms Corp., Monitor, Washington; Bertha's Marketing Inc., Wenatchee, Washington; Bolinger & Sons, Wenatchee, Washington; Cervantes Packing and Storage, L.L.C., Sunnyside, Washington; SST Growers and Packers L.L.C., Granger, Washington; and Yakima-Roche Fruit Sales L.L.C., Yakima, Washington; and

3. Change the listing of the following ''Member'': Sage Marketing L.L.C., Yakima Washington to the new listing Sage Fruit Company, L.L.C., Yakima, Washington.

The effective date of the amended certificate is June 30, 2006. A copy of the amended certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4100, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: September 28, 2006.

Jeffrey Anspacher,

Director, Export Trading Company Affairs.

[FR Doc. E6–16410 Filed 10–4–06; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No. 060920244–6244–01]

Solicitation of Applications for United States Destination Web Site Research, Development, Implementation and Marketing

AGENCY: International Trade Administration (ITA), Department of Commerce (DOC).

ACTION: Notice and request for applications.

SUMMARY: The International Trade Administration's (ITA) Office of Travel and Tourism Industries (OTTI) announces the availability of funds for a cooperative agreement for the purpose of providing content and information, through a newly designed and implemented Web site, or by enhancing an existing Web site, on the United States as a premier destination to international inbound travelers from five key markets: United Kingdom, Japan, Canada, Mexico, and Germany. It is envisioned that the award recipient will use funding to conduct market research for each country on the site's international target audience. It is envisioned that this Web site will be the benchmark U.S. travel and tourism information portal for international travelers to the United States. The Web site will encompass information on all components of the U.S. travel and tourism industry, which include, but is not limited to, destinations, attractions, natural resources, dining and lodging facilities, and transportation companies.

ITA will make one award, in the form of a cooperative agreement, in the amount of approximately $3,600,000.

DATES: Applications must be received by 4 p.m. eastern Daylight Saving Time on November 14, 2006. Applications received after the closing date and time will not be considered.

ADDRESSES: Proposals must be submitted to International Trade Administration, Office of Travel and Tourism Industries, U.S. Department of Commerce, HCHB 1003, Washington, DC 20230 attn: Julie Heizer or via e-mail to: *julie.heizer@mail.doc.gov.* The full funding opportunity announcement and the application kit for this request for applications are available at *http://grants.gov,* or by contacting Brian Beall on 202–482–5634 or Julie Heizer on 202–482–4904.

FOR FURTHER INFORMATION CONTACT: Interested parties who are unable to access information via Internet or who have questions may contact Mr. Brian Beall by mail (see **ADDRESSES**), by phone at 202–482–5634, by fax at 202–482–4279 or via e-mail at *Brian.Beall@mail.doc.gov,* or Ms. Julie Heizer by mail (see **ADDRESSES**), by phone at 202–482–4904, by fax at 202–482–2997, or via e-mail at *julie.heizer@mail.doc.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access: The full funding opportunity announcement is available at *http://grants.gov* or by contacting Brian Beall, see **FOR FURTHER INFORMATION CONTACT**.

Funding Availability: In fiscal year 2007, approximately $3,600,000 will be available through this announcement for a two-year award period. ITA envisions one award.

Statutory Authority: Pursuant to Section 210 of Public Law 108–7, and Public Law 109–108.

Program Information: The International Trade Administration (ITA) is soliciting applications from organizations to design and implement a consumer Web site (or enhancement to an existing site), which is based on primary and secondary consumer research, that provides content and information on the United States as a premier destination to international inbound travelers. The overall objective of the Web site is to represent the United States as a travel and tourism destination by increasing awareness and positive perception from five identified markets. The five markets represent the largest originating countries for inbound international travelers to the United States and include the United Kingdom, Japan, Canada, Mexico, and Germany.

It is envisioned that this Web site will be the benchmark U.S. travel and tourism information portal for international travelers to the United States. The Web site will encompass information on all components of the U.S. travel and tourism industry. This will include, but is not limited to, destinations, attractions, natural resources, dining and lodging facilities, and transportation companies.

The Web site will provide accurate and timely information regarding the United States as a travel and tourism destination and deliver a coordinated message that communicates the diversity of the American travel product. It will reflect the brand value of the United States, as determined through consumer market research in the target markets, and benefit all regions of the country.

Funding provided by the ITA cooperative agreement is intended to serve the four distinct functions of research, development, implementation, and marketing. Prior to the implementation of the Web site, the grantee will use funding to conduct in-depth market research for each country on the site's international target audience. This will provide insight into the Internet usage habits of the Web site's identified consumers. Through initial market research, the grantee will familiarize itself with consumer demographics and psychographics in the identified international target markets.

Because the funding provided by the cooperative agreement is for a specified period of time only, each applicant must include a detailed plan to maintain and

market the Web site once Federal monies are no longer available. Cooperative marketing partnerships are encouraged as one means by which to generate the resources to sustain the Web site into the future once the cooperative agreement period with the Department expires, as well as during the grant period.

Eligibility: Eligible applicants for the program include all for-profit or non-profit, U.S. corporations, associations, organizations, and Native American Tribal Governments (Federally recognized) and state and local Governments.

Award Period: The recipient will have two years from the date listed on the Financial Assistance Award form, CD–450 to expend all funds.

Type of Funding Instrument: Cooperative Agreement.

Cost Share/Matching Requirements: The amount of Federal funds awarded for this cooperative agreement will be approximately $3,600,000 to be disbursed over a two-year period. It is a requisite that the grantee match at least 25% of the awarded Federal funds. The total of the awarded Federal funds plus the amount of the grantee's match will be the project cost. The cost share must be provided by either the applicant or by a third party in the form of cash or in-kind contributions and they must be spent on eligible expenses and are required to be from eligible sources. Applicants must verify and demonstrate in their applications that matching funds are available during the time period of the agreement as the matching funds are required to complete the project.

Intergovernmental Review: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

Evaluation and Selection Procedures: After receiving the applications, ITA will screen each one to determine the applicant's eligibility to receive an award. After receiving all eligible applications, a review panel composed of at least three (3) ITA and Industry Representative(s) will individually review the applications applying the Evaluation Criteria below, score them, and forward a ranking to the Deputy Assistant Secretary for Services (DAS). There will be no consensus advice provided by the evaluation panel. From the ranked applications forwarded by the selection panel, the DAS selects the application that will receive funding. In making her decision, the DAS will consider the review panel's evaluations and take into consideration the review panel's ranking. The DAS may deviate from the selection panel's ranked recommendation only based on the following factors: (1) Funding Priorities (see below) and (2) the availability of funds.

Evaluation Criteria: ITA is interested in projects that demonstrate the possibility of both significant results during the award period and lasting benefits extending beyond the award period. All eligible and complete applications will be evaluated based on the following criteria and maximum point allowances. Failure to address any one of the following criteria by the application deadline will result in an application being determined incomplete and the application will not be considered. The total points available are 100.

1. *Quality of Work Plan (30%):* The evaluation of work plan quality will be based on whether the proposal demonstrates a sound plan that will meet the objectives in a timely and efficient manner. The evaluation will take into consideration how well the steps for executing the plan are defined, the soundness of the proposed steps, the likelihood that they will achieve the intended result, and the soundness and realism of the proposed milestones/timelines. Applicants that propose to enhance an existing website will be evaluated on the same criteria. Factors to be considered include:

(a) The soundness of the research methodology for all markets, to include: Primary and secondary consumer research that tests brand identity for the United States as a travel destination; cultural differences present in individual markets with respect to language and receipt of brand messages; and technical proficiencies and preferences.

(b) The Web site's development and implementation, to include: The overall concept for Web site: the applicant's team past experience in developing and launching international websites in multiple languages; scalability (*i.e.*, the ability to maintain a Web site's availability, reliability, and performance as the amount of simultaneous Web traffic, or load, demands of the host server increases); expandability; approach for correcting faults; improving performance or adapting to changed environments; and content (to include approach for ensuring information is accurate and updated regularly).

(c) The proposed marketing approach for all markets, to include: Past performance and buying power of the identified media company(s) in all markets; the soundness of the approach; and the ability to leverage media buying dollars.

(d) The metrics proposed to evaluate performance, to include: Unique visitors; the part of site that is being visited; the number of linking sites; the identities of referring sites; the number and extent of joint promotions; and data provided by Internet consumer surveys to gauge user satisfaction with areas such as, but not limited to, usability, content, and functionality. All data provided should include performance analysis and insight, both of which would assist in making adjustments, if appropriate.

(e) The proposed timelines and milestones for the website's required research, development, design, implementation, marketing, and success measurement.

(f) The plan for securing and reflecting input from the U.S. Department of Commerce in the development of brand identify, Web site look and feel, policy regarding content and on-going content review and revisions.

2. *Management Plan, Capabilities and Experience, and Personnel Qualifications (40%):* The quality of the management plan, the qualifications of the proposed personnel, and the applicant's capabilities and past performance relevant to this project will be evaluated in terms of:

(a) The overall organizational capabilities and experience of the applicant and its identified partners.

(b) An assessment of the relevancy and adequacy of the number, qualifications, past experience and staffing mix, and proposed roles for staff that will be involved (note that resumes for proposed personnel will facilitate in the evaluation of the relevancy, competency and experience of proposed staff).

(c) The management control approach, progress measurements, reporting system, and the project plan that reflects milestones and deliverables needed to meet the objectives of the project.

(d) The ability to mobilize industry partners for content, offers, and future investment.

(e) The demonstration of prior experience managing international marketing campaigns that promote travel and tourism and previous experience with multi-language execution.

(f) An assessment of the applicants' previous performance/experience and success with similar programs, including an assessment of previous website design, development, and implementation.

(g) An assessment of the applicant's previous performance/experience with primary and secondary consumer market research.

3. *Budget and Sustainability (30%):* The factors of budget and sustainability include the reasonableness of the itemized budget for project activities, the amount of cost share/matching requirements that is available, the applicant's plan to maintain the Web site after the award period, and the probability that the project can be continued on a self-sustained basis after the completion of the cooperative agreement.

The three criteria together constitute the application score. The total possible points are 100.

Funding Priorities: Preference may be given to applications during the selection process which address the following:

1. Applicants with the ability to expand the positive affects of the Web site to industries that directly benefit from increased travel to the United States. These include, but are not limited to, retail, sports, and entertainment.

2. Knowledge and understanding of the U.S. and global travel and tourism industry and its direct and indirect sectors.

3. Applicants that provide more than 25 percent cost share/match.

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements: The Department of Commerce Pre-Award Notification for Grants and Cooperative Agreements contained in the **Federal Register** notice of December 30, 2004 (69 FR 78389) are applicable to this solicitation.

Paperwork Reduction Act: This document contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The use of Standard Forms 424, 424A, 424B, SF–LLL and CD 346 have been approved by the Office of Management and Budget (OMB) under the respective control numbers 0348–0043, 0348–0044, 0348–0040, 0348–0046, and 0605–0001. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

Executive Order 12866: This notice has been determined to be not significant for purposes of Executive Order 12866.

Executive Order 13132 (Federalism): It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

Administrative Procedure Act/ Regulatory Flexibility Act: Prior notice and an opportunity for public comments are not required by the Administrative Procedure Act or any other law for this notice concerning grants, benefits, and contracts (5 U.S.C. 553(a)(2)). Because notice and opportunity for comments are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements for the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) are inapplicable. Therefore, a regulatory flexibility analysis has not been done.

Dated: September 29, 2006.

Helen N. Marano,

Director, Office of Travel & Tourism Industries.

[FR Doc. E6–16491 Filed 10–4–06; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

Minority Business Development Agency

[Docket No. 000724217–6248–14]

Solicitation of Applications for the Minority Business Enterprise Center (MBEC); (Formerly Minority Business Development Center (MBDC))

AGENCY: Minority Business Development Agency, Department of Commerce.

ACTION: Notice; re-open competition solicitation.

SUMMARY: The Minority Business Development Agency publishes this notice to re-open the competitive solicitation for the Minority Business Enterprise Center program for the Louisiana MBEC, covering the geographic service area of the State of Louisiana, and the Detroit MBEC, covering the geographic service area of the State of Michigan.

DATES: The new deadline for the receipt of proposals is October 18, 2006 for both electronic and paper applications.

ADDRESSES: The address for submitting Proposals electronically is: *http://www.grants.gov/.* (Electronic submission is encouraged). Paper submissions should be sent to:

If Mailed: If the application is mailed/shipped overnight by the applicant or its representative, one (1) signed original plus two copies of the application must be submitted. Completed application packages must be mailed to: Office of Business Development—MBEC Program, Office of Executive Secretariat, Herbert C. Hoover Building, Room 5063, Minority Business Development Agency, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230 (Between Pennsylvania and Constitution Avenues).

U.S. Department of Commerce delivery policies for Federal Express, UPS and DHL overnight services require the packages to be sent to the address above.

If Hand-Delivered: U.S. Department of Commerce, Minority Business Development Agency, Office of Business Development—MBEC Program (Extension 1940), Herbert C. Hoover Building, Room 1874, Entrance No. 10, 15th Street, NW., Washington, DC (Between Pennsylvania and Constitution Avenues).

U.S. Department of Commerce hand-delivery policies state that Federal Express, UPS and DHL overnight services submitted to the address above (Entrance No. 10) cannot be accepted. These policies should be taken into consideration when utilizing their services. MBDA will not accept applications that are submitted by the deadline, but are rejected due to Departmental hand-delivery policies. The applicant must adhere to these policies in order for his/her application to receive consideration for the award.

FOR FURTHER INFORMATION CONTACT: For further information, contact Efrain Gonzalez, Program Manager, at (202) 482–1940 or via e-mail at *egonzalez@mbda.gov.*

SUPPLEMENTARY INFORMATION: The Minority Business Development Agency publishes this notice to re-open the competitive solicitation for the Minority Business Enterprise Center program for the Louisiana MBEC, covering the geographic service area of the State of Louisiana, and the Detroit MBEC, covering the geographic service area of the State of Michigan. This program was originally solicited in the **Federal Register** on June 26, 2006 (71 FR 42351). The original deadline for receipt of proposals was 5 p.m., Eastern Daylight Time, on September 20, 2006. MBDA re-opens the solicitation period to provide the public additional time to submit proposals for Louisiana MBEC, covering the geographic service area of the State of Louisiana, and the Detroit MBEC, covering the geographic service area of the State of Michigan. MBDA is re-opening the solicitation period for these two locations as no timely applications were received for these areas under the requirements of the original competition. The new deadline for the receipt of proposals for the Louisiana

and Detroit MBECs is 5 p.m. EDT, October 18, 2006, for both electronic and paper applications. Applicants who submitted or attempted to submit applications under the original competition for these two geographic service areas should consider re-submitting their applications during this period of re-opened competition to ensure that their applications are complete. All applications that are submitted between September 20, 2006 and October 18, 2006, will be considered timely. All other requirements for this solicitation remain the same.

Limitation of Liability

Funding for programs listed in this notice is contingent upon the availability of Fiscal Year 2007 appropriations. Applicants are hereby given notice that funds have not yet been appropriated for the programs listed in this notice. In no event will MBDA or the Department of Commerce be responsible for proposal preparation costs if these programs fail to receive funding or are cancelled because of other agency priorities. Publication of this announcement does not oblige MBDA to award any specific project or to obligate any available funds.

Universal Identifier

Applicants should be aware that they are required to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number during the application process. See the October 30, 2002 **Federal Register**, Vol. 67, No. 210, pp. 66177B66178, for additional information. Organizations can receive a DUNS number at no cost by calling the dedicated toll-free DUNS Number request line at 1–866–705–5711 or via the Internet (*http://www.dunandbradstreet.com*).

Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of December 30, 2004 (69 FR 78389), are applicable to this solicitation.

Paperwork Reduction Act

This document contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The use of Standard Forms 424, 424A, 424B, SF–LLL, and CD–346 has been approved by the Office of Management and Budget (OMB) under the respective control numbers 0348–0043, 0348–0044, 0348–0040, 0348–0046, and 0605–0001. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

Executive Order 12866

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

Executive Order 13132 (Federalism)

It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

Administrative Procedure Act/ Regulatory Flexibility Act

Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act or any other law for rules concerning public property, loans, grants, benefits, and contracts (5 U.S.C. 553(a)(2)). Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) are inapplicable. Therefore, a regulatory flexibility analysis has not been prepared.

Dated: September 29, 2006.

Ronald N. Langston,

National Director, Minority Business Development Agency.

[FR Doc. E6–16503 Filed 10–4–06; 8:45 am]

BILLING CODE 3510–21–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 092706A]

Nominations to the Marine Fisheries Advisory Committee

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

ACTION: Notice; request for nominations.

SUMMARY: The Marine Fisheries Advisory Committee (MAFAC or Committee) is the only Federal advisory committee with the responsibility to advise the Secretary of Commerce (Secretary) on all matters concerning living marine resources that are the responsibility of the Department of Commerce. The Committee makes recommendations to the Secretary to assist in the development and implementation of Departmental regulations, policies and programs critical to the mission and goals of the NMFS. Nominations are encouraged from all interested parties involved with or representing interests affected by NMFS actions in managing living marine resources. Nominees should possess demonstrable expertise in a field related to the management of living marine resources and be able to fulfill the time commitments required for two annual meetings. Individuals serve for a term of three years for no more than two consecutive terms if re-appointed. NMFS is seeking qualified nominees to fill a vacancy and bring the Committee to its full compliment of 21 members.

DATES: Nominations must be postmarked on or before November 20, 2006.

ADDRESSES: Nominations should be sent to Laurel Bryant, Executive Director, MAFAC, Office of Constituent Services, NMFS, 1315 East-West Highway #9508, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Laurel Bryant, MAFAC Executive Director; (301) 713–2379 x171; e-mail: *Laurel.Bryant@noaa.gov*.

SUPPLEMENTARY INFORMATION: The establishment of MAFAC was approved by the Secretary on December 28, 1970, and initially chartered under the Federal Advisory Committee Act, 5, U.S.C. App.2, on February 17, 1971. The Committee meets twice a year with supplementary subcommittee meetings as determined necessary by the Secretary. No less that 15 and no more than 21 individuals may serve on the Committee. Membership is comprised of highly qualified individuals representing commercial and recreational fisheries interests, environmental organizations, academic institutions, governmental, tribal and consumer groups from a balance of geographical regions, including the Hawaiian, Pacific and the U.S. Virgin Islands.

A MAFAC member cannot be a Federal employee or a member of a Regional Fishery Management Council. Selected candidates must pass security checks and submit financial disclosure forms. Membership is voluntary, and except for reimbursable travel and related expenses, service is without pay.

Each submission should include the submitting person or organization's name and affiliation, a cover letter describing the nominee's qualifications and interest in serving on the Committee, a curriculum vitae and or resume of nominee, and no more than three supporting letters describing the

nominee's qualifications and interest in serving on the Committee. Self-nominations are acceptable. The following contact information should accompany each nominee's submission: name, address, phone number, fax number, and e-mail address (if available).

Nominations should be sent to (see **ADDRESSES**) and must be received by (see **DATES**). The full text of the Committee Charter and its current membership can be viewed at the NMFS's web page at *www.nmfs.noaa.gov/mafac.htm*.

Dated: October 2, 2006.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. E6–16486 Filed 10–4–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 090706B]

Incidental Takes of Marine Mammals During Specified Activities; Seismic Testing and Calibration in the Northern Gulf of Mexico, Fall 2006

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

ACTION: Notice; proposed incidental take authorization; request for comments.

SUMMARY: NMFS has received an application from the Lamont-Doherty Earth Observatory (L-DEO) for an Incidental Harassment Authorization (IHA) to take small numbers of marine mammals, by harassment, incidental to conducting an acoustic calibration and seismic testing program in the northern Gulf of Mexico in Fall, 2006. Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposed IHA for these activities.

DATES: Comments and information must be received no later than November 6, 2006.

ADDRESSES: Comments on the application should be addressed to Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225. The mailbox address for providing email comments is *PR1.090706B@noaa.gov*. NMFS is not responsible for e-mail comments sent to addresses other than the one provided here. Comments sent via e-mail, including all attachments, must not exceed a 10–megabyte file size.

A copy of the application containing a list of the references used in this document may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*.

Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Jolie Harrison, Office of Protected Resources, NMFS, (301) 713–2289, ext 166.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and that the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as:

> any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Section 101(a)(5)(D) establishes a 45–day time limit for NMFS review of an application followed by a 30–day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On June 2, 2006, NMFS received an application from L-DEO for the taking, by Level B harassment, of several species of marine mammals incidental to conducting, with research funding from the National Science Foundation (NSF), an acoustic calibration and seismic testing program in the northern Gulf of Mexico in Fall, 2006. This project will be conducted with L-DEO's new seismic vessel, the *R/V Marcus G. Langseth* (*Langseth*), which will deploy different configurations of airguns and a different bottom-mapping sonar than used previously by L-DEO. L-DEO requests that it be issued an IHA allowing Level B Harassment takes of marine mammals incidental to the planned seismic surveys in the Gulf of Mexico.

The primary purpose of the calibration program is to obtain measurement data to better understand the sound fields around various configurations of the 36–airgun array and the GI guns, during seismic operations in different water depths. The data will be used to verify and refine model-based estimates of ''safety radii'' for different configurations of the 36–airgun array and the GI guns that will be used during future seismic surveys to be conducted by L-DEO. Such data are important to better define the distances within which mitigation may be necessary in order to avoid exposing marine mammals to received sound levels above those believed to have adverse effects, as well as to develop a better general understanding of the impact of man-made acoustic sources on marine mammals.

Description of the Specified Activity

The *Langseth* is expected to depart Mobile, AL in late October 2006 (at the earliest) and will transit to the survey area in the northern Gulf of Mexico. The survey will encompass an area between 24oN. and 31oN. and between 83°W. and 96°W., which is within the Exclusive Economic Zone (EEZ) of the U.S.A. The proposed study will consist of three phases: (1) an initial testing/

shakedown phase, (2) measurements of the sounds produced by various airgun arrays to be used by the *Langseth* (calibration), and (3) a three-dimensional (3D) seismic testing phase. The entire survey, calibration and testing included, will take approximately 25 days and include approximately 1420 km (174 hours) of airgun operation. Measurements will be made during seismic operations in three categories of water depth: shallow (<100 m or <328 ft), intermediate/slope (100–1000 m or 328–3281 ft), and deep (>1000 m or >3281 ft). The vessel will transit to Miami after the study is completed. The exact dates of the activities will depend on logistics and weather conditions.

Vessel Specifications

The *Langseth* is owned by NSF and operated by L-DEO. The *Langseth* will tow the airgun array and, at times, up to four 6–km (3.7–mi) streamers containing hydrophones along predetermined lines. The *Langseth* will also deploy a floating spar buoy and a bottom-moored hydrophone array.

The *Langseth* has a length of 71.5 m (235 ft), a beam of 17.0 m (56 ft), and a maximum draft of 5.9 m (19 ft). The gross tonnage is 2925 and the *Langseth* can accommodate 55 people. The ship is powered by two Bergen BRG–6 engines each producing 3550 hp; the vessel also has an 800–hp bowthruster. The operation speed during seismic acquisition is typically 7.4–9.3 km/h (4–5 kt). When not towing seismic survey gear, the *Langseth* can cruise at 20–24 km/h (11–13 kt). The *Langseth* has a range of 25,000 km (13,500 nm).

Given the presence of the airgun array (and at times streamer(s)) behind the vessel, the turning rate of the ship while the gear is deployed is limited to five degrees per minute. Thus, the maneuverability of the vessel is limited during operations.

Acoustic Source Specifications

Airguns

The full airgun array on the *Langseth* consists of 36 airguns, with a total discharge volume of 6600 in^3. The array is made up of four identical linear arrays or strings, with 10 airguns on each string. For each operating string, nine airguns will be fired simultaneously, while the tenth is kept in reserve as a spare, to be turned on in case of failure of another airgun. The calibration phase will use the full 36–airgun array and subsets thereof. The subsets will consist of either 1 string (9 airguns, 1650 in^3) or 2 strings (18 airguns, 3300 in^3). In addition, sounds from a single 45 in^3 GI gun and 2 GI guns (210 in^3) will be measured. During the seismic testing phase, the 2–string array will be used at most times, although the full 36–airgun array may also be used.

The 36–airgun array will consist of a mixture of Bolt 1500LL and 1900LLX airguns, ranging in size from 40 to 360 in^3. The airguns will fire for a brief (0.1 s) pulse every 30 s and will be silent during the intervening periods. The airgun array will be towed approximately 50–100 m (164–328 ft) behind the seismic vessel at a depth of 6–12 m (20–39 ft). The dominant frequency component is 0–188 Hz.

The specifications of each source planned for use are described in Table 1.

	1 GI Gun	2 GI Guns	1 Single Airgun	9-Airgun Array (1 String)	18-Airgun Array (2 Strings)	36-Airgun Array (4 Strings)
Airgun Specifications						
Energy Source	One 45 in^3 GI Airgun	Two 105 in^3 GI Airguns	One 2000 psi Bolt Airgun	Nine 2000 psi Bolt Airguns of 40-360 in^3	Eighteen 2000 psi Bolt Airguns of 40-360 in^3	Thirty-six 2000 psi Bolt Airguns of 40-360 in^3
Air Discharge Volume (in^3)	45 in3	210 in^3	40 in^3	1650 in^3	3300 in^3	6600 in^3
Towing Depth of Source	2.5m	3m	6 m	6m	6m	6m or 12m
Source Output (dB re 1 miPa m) 0-pk (pk.pk)*	225.3 (230.7)	237 (243)		246 (253)	252 (259)	259 (265)
Proposed Approximate Airgun Use						
Calibration Phase						
Shallow Site (30-60m)	10km	10km		34km	34km	34km
Intermediate/Slope Site (475m)				34km	34km≤	34km
Deep Site (1500m)	10km	10km		45km	45km	45km
Testing Phase						
Shallow Site (<100m)			89km	24km	175km	58km
Intermediate/Slope (100-1000 m)			89km	24km	175km	58km
Deep (>1000 m)			89km	24km	175km	58km

Table 1. L-DEO airgun configurations and proposed approximate use for each configuration by depth and phase.
* The root mean square values (typically discussed in biological literature) for these sources will generally be about 10-15 dB lower than those reflected here

Multibeam Sonar

The ocean floor will be mapped with the 12–kHz Simrad EM120 MBB sonar. This sonar will be operated from the *Langseth* simultaneous with the airgun array during the seismic testing program, but will likely be operated on its own during the acoustic calibration study. The Simrad EM120 operates at 11.25–12.6 kHz and will be hull-mounted on the *Langseth*. The beamwidth is 1° fore-aft and 150° athwartship. The maximum source level is 242 dB re 1 μPa. The pressure level is expected to drop to 180 dB at a distance of 1 km or 0.5 nm (this distance is the maximum estimate for on-axis and with no defocusing); pressure level does not vary with water depth. Each ''ping'' consists of nine successive fan-shaped transmissions, each ensonifying a sector that extends 1° fore-aft and 16° in the cross-track direction. The transmission length varies with water depth; each of the nine transmissions is approximately 2 ms in shallow water, 5 ms at intermediate water depths, and 15 ms in deep water. The nine successive transmissions span an overall cross-track angular extent of about 150°, with 16 ms gaps between the pulses for successive sectors. A receiver in the overlap area between two sectors would receive two pulses separated by a 16–ms gap. The ''ping'' interval varies with water depth and ranges from 0.2 s in really shallow water, to approximately 5 s at 1000 m (3281 ft) and 20 s at 4000 m (13,124 ft).

Airgun Operations

Acoustic Calibration Study

Location of Sites – L-DEO will work together with Texas A&M University to choose the exact study sites at the three depths, however, the approximate locations are indicated in Figure 1 of L-DEO's application. Site locations will depend on currents, surface ducts, and concentrations of marine mammals. Sites will be chosen to avoid high currents with large vertical shear, as were encountered during the 2003 study. Conductivity/Temperature/Depth (CTDs) and Expendable Bathythermograph (XBTs) measurements will be taken at each site to confirm local water column properties. Near-surface ducts may play a significant role in the propagation of sound, so a deep site with and without a surface duct will be surveyed if practical. Areas with concentrations of marine mammals will be avoided.

L-DEO proposes to start with the shallow site, where the instrument redundancy will allow some flexibility in gain settings to ensure that signals will not be clipped. This information will be used to optimize gain settings at the slope and deep sites. The water depths at the three different depth sites are expected to be 30–60 m (98–197 ft) at the shallow site, approximately 475 m (1,558 ft) at the intermediate/slope site, and approximately1500 m (4922 ft) at the deep site. This phase of the study will take approximately 14 days.

Acoustic Measurements – The 2006 program is designed to document the received levels of the airgun sounds, relative to distance, during operation of the *Langseth*'s 36–airgun 4–string array and subsets thereof, and up to 2 GI guns. During the calibration study, three configurations (1, 2, and 4 strings in equal amounts) of the 36–airgun array will be measured in three different water depths (deep, intermediate/slope, and shallow). A single and two GI guns will be measured in deep and shallow water only. Measurements will be made at varying distances from the guns using suitable electronics installed in the spar buoy and a bottom-moored hydrophone array. In addition, one 6–km (3.7–mi) long hydrophone streamer will be used at times for calibrations of shallow-water safety radii. The hydrophones will be deployed and retrieved by the *Langseth*.

At each of the three sites, the *Langseth*, towing various configurations of the 36–airgun array at a depth of 6 m (20 ft), will travel toward the spar buoy and/or moored hydrophone array from a distance of approximately10–15 km (5.4–8.1 nm) away and will pass over the receiving system. The *Langseth* will then continue out to a distance of approximately 10–15 km beyond the hydrophones. The approximate 15 km distance will be used at the shallow and slope sites (total line length of 30 km or 16 nm), and the approximate 10 km distance will be used at the deep-water site (total line length of 20 km or 11 nm). Longer lines are planned at the shallow and slope sites than at the deep site because in 2003, received sound levels diminished below 160 dB re 1 μPa (rms) well within 10 km at the deep site, but not at the shallow site (Tolstoy *et al.*, 2004a,b). After completing the straight line, the airgun array will then be towed in a spiral fashion towards the hydrophones in order to measure received levels as a function of distance when the receiving hydrophones are to the side of the trackline. The spirals are designed such that the radius will decrease linearly with time.

At each site, the *Langseth* will make one straight line pass over the receiving hydrophones with the 36–airgun array, followed by the spiral pattern towards the hydrophones. At the deep site, two additional 20–km (11–nm) straight lines will be shot, for a total of three 20–km straight lines at that site: (a) with the airgun array at 6 m (20 ft) tow depth, (b) with the array at a tow depth of 12 m (39 ft), and (c) in waters with/without a surface duct [whichever was not the case in (a) and (b)]. In addition, two 10–km (5.4–nm) straight line passes will be made at the deep as well as the shallow-water sites; one pass at each site will be made with a single GI gun, and one pass will be made using 2 GI guns.

The total number of kilometers and hours of airgun shooting during the calibration phase of the project are indicated in Table 1. However, operations at each site will require approximately 36 hours, allowing for the time needed to deploy and recover the hydrophones as well as the time to shoot the survey. Although the lines will be longer for the slope and shallow sites, the deep site is likely to take the longest, because of the increased drop and surfacing time for the instruments plus the plans to shoot three 20 km (11 nm) lines.

Airguns will fire every 30 s, and operations are proposed to occur 24 hours per day to maximize effective and economic use of the limited ship time and to maximize the amount of calibration data collected. Operating airguns over 24–hour periods will also reduce the overall duration of airgun operations at each site, thus reducing the span of time when marine mammals in those areas will be exposed to airgun sounds.

Systematic Testing Phase

The exact site of the seismic testing phase has not yet been chosen, but is planned to range from shallow (approximately 30 m or 98 ft) to deep (>1000 m or 3281 ft) water and will fall within the general area described earlier. During the testing phase, the *Langseth* will deploy the 2–string 18–airgun array (and at times the 36–airgun array) as an energy source; a single 40 in3 airgun will be fired during turns. The *Langseth* will also deploy a receiving system consisting of up to four 6–km (3.7–mi) towed hydrophone streamers. There will be 200 m (656 ft) separation between adjacent pairs of the four streamers. As the airgun array is towed along the survey lines, the receiving system will receive the returning acoustic signals and transfer the data to the on-board processing system. The airgun array will be towed at a depth of 9 m (30 ft).

The testing phase will consist of a series of tracklines in a racetrack-type configuration. This racetrack will consist of 17 loops, with a total of 35

tracklines. Each trackline will be approximately 20 km (10.8 nm) long, for a total of approximately 700 km (378 nm) of shooting along tracklines. The spacing between adjacent tracklines will be 400 m (1312 ft). An additional 10 km (5.4 nm) of seismic will be shot during each turn between lines and during the ensuing run-in (the distance from the end of the turn to the start of the line during which the airgun array will be ramped up). In total, this will account for an additional 340 km (183 nm). Of this 340 km, approximately 73 km (39.4 nm) will consist of ramp ups, and 267 km (144.2 nm) will be shot with a 40 in^3 airgun during turns. These numbers are also presented in Table 1.

In total, 1040 km (562 nm) of seismic will be shot. The seismic testing program will take approximately 4 to 7 days.

Characteristics of Airgun Pulses

Discussion of the characteristics of airgun pulses has been provided in Appendix B of L-DEO's application and in previous **Federal Register** notices (see 69 FR 31792 (June 7, 2004) or 69 FR 34996 (June 23, 2004)). Reviewers are referred to those documents for additional information.

Safety Radii

To aid in determining at what point during exposure to seismic airguns (and other acoustic sources) marine mammals are harassed, pursuant to the MMPA, and in developing effective mitigation measures, NMFS applies certain acoustic thresholds. The distance from the sound source at which an animal would be exposed to these different received sound levels may be estimated and is typically referred to as a safety radii. These safety radii are specifically used to help NMFS estimate the number of marine mammals likely to be harassed by the proposed activity and in deciding how close a marine mammal may approach an operating sound source before the applicant will be required to power-down or shut down the sound source.

L-DEO has estimated the safety radii around their proposed operations using a model, but also by adjusting the model results based on empirical data gathered in the Gulf of Mexico in 2003. Additional information regarding how the safety radii were calculated and how the empirical measurements were used to correct the modeled numbers may be found in Section I and Appendix A of L-DEO's application. Using the modeled distances and various correction factors, Table 2 shows the distances at which three rms sound levels (190 dB, 180 dB, and 160 dB) are expected to be received from the various airgun configurations in shallow, intermediate, and deep water depths.

Source and Volume	Tow Depth (m)	Water Depth	Predicted RMS Radii (m)		
			190 dB	180 dB	160 dB
		Deep	9	25	236
Single GI gun	2.5	Intermediate/Slope	13.5	38	354
45 in^3		Shallow	113	185	645
		Deep	20	69	670
2 GI guns	3	Intermediate/Slope	30	104	1005
210 in^3		Shallow	294	511	1970
		Deep	12	36	360
Single Bolt	6	Intermediate/Slope	18	54	540
40 in^3		Shallow	150	267	983
1 string		Deep	200	650	6200
9 airguns	6	Intermediate/Slope	300	975	7880
1650 in^3		Shallow	1450	2360	8590
2 strings/ENT≤		Deep	250	820	6700
18 airguns	6	Intermediate/Slope	375	1230	7370
3300 in^3		Shallow	1820	3190	8930
4 strings		Deep	410	1320	8000
36 airguns	6	Intermediate/Slope	615	1980	8800
6600 in^3		Shallow	2980	5130	10670
4 strings		Deep	620	1980	12000
36 airguns	12	Intermediate/Slope	930	2970	13200
6600 in^3		Shallow	4500	7700	16000

Table 2. Modeled distances towhich sound levels 190,180, and 160 dB re 1uPa (rms) might be received in shallow (>100 m), intermediate/slope (100-1000 m), and deep (<1000 m) water from the various sources planned for use during the Gulf of Mexico study, fall 2006.

Description of Marine Mammals in the Activity Area

In the Gulf of Mexico, 28 cetacean species and one species of manatee are known to occur (Jefferson and Schiro, 1997; Wursig *et al.*, 2000; Table 3). In the U.S., manatees are managed by the U.S. Fish & Wildlife Service (USFWS), are unlikely to be encountered in or near the open waters of the Gulf of Mexico where seismic operations will occur, and are, therefore, not addressed further in this document. Most of these species of cetaceans occur in oceanic waters (>200 m or 656 ft deep) of the Gulf, whereas the continental shelf waters (<200 m) are primarily inhabited by bottlenose dolphins and Atlantic spotted dolphins (Mullin and Fulling 2004).

Species	Habitat	Occurrence in GOM	Abundance in GOM and/or North Atlantic	BEST		MAXIMUM	
				Estimated Exposures	Approx. % of Population	Est. Exposures Prop. IHA**	Approx. % of Population
Odontocetes							
Sperm whale	Usually pelagic and deep seas	Common	1349/13190 (add)	22	0.2	27	0.2
Pygmy sperm whale	Deeper waters off the shelf	Common	742/695 (add)	56	3.9		4.1
Dwarf sperm whale	Deeper waters off the shelf	Common					
Cuvier's beaked whale	Pelagic	Rare	159/3196 (add)	10	0.3	21	0.7
Sowerby's beaked whale	Pelagic	Extralimital	106/541 (add)	5	0.8	8	1.2
Gervais' beaked whale	Pelagic	Uncommon		5	0.8	8	1.2
Blainville's beaked whale	Pelagic	Rare		5	0.8	8	1.2
Rough-toothed dolphin	Mostly pelagic	Common	2223/274 (add)	58	2.3	92	3.7
Bottlenose dolphin	Cont. shelf, coastal and offshore	Common	25,320/2239/ 29774 (add)	773	1.3	1713	5.0
Pantropical spotted dolphin	Mainly pelagic	Common	91,321/13117 (add)	1282	1.2	1587	1.5
Atlantic spotted dolphin	Mainly coastal waters	Common	30,947/52279 (add)	876	1.1	1755	0.2
Spinner dolphin	Pelagic in Gulf of Mexico	Common	11,971	168	1.4	921	7.7
Clymene dolphin	Pelagic	Common	17,355/6086 (add)	244	1.0	311	1.3
Stripped dolphin	Off the continental shelf	Common	6505/61546 (add)	91	0.1	134	0.2
Short-beaked common dolphin	Cont. shelf and pelagic waters	Possible	30,768	0	0.0	0(5)**	<0.1
Long-beaked common dolphin	Coastal	Possible	N.A.	0	0.0	0(5)**	0.0
Praser's dolphin	Water>l000m	Common	726	10	1.4	60	8.3
Risso's dolphin	Waters 400-1000 m	Common	2169/29110 (add)	54	0.2	81	0.3
Mellon-headed whale	Oceanic	Common	3451	49	1.4	142	4.1
Pygmy killer whale	Oceanic	Uncommon	408	10	2.6	21	5.1
False killer whale	Pelagic	Uncommon	1038	14	1.4	28	2.7
Killer whale	Widely distributed	Uncommon	133/6600 (add)	3	<0.1	5	0.1
Short-finned pilot whale	Mostly pelagic	Common	2388/780000/ 14524	34	<0.1	98	<0.1
Long-finned pilot whale	Mostly pelagic	Possible	N.A.	0		0(5)**	

Species	Habitat	Occurrence in GOM	Abundance in GOM and/or North Atlantic	BEST		MAXIMUM	
				Estimated Exposures	Approx. % of Population	Est. Exposures Prop. IHA**	Approx. % of Population
Mysticetes							
North Atlantic right whale*	Coastal and shelf waters	Extralimital	291	0		0	
Humpback whale*	Mainly near-shore waters/banks	Rare	11,570/10400	0		0	
Minke whale	Coastal waters	Rare	149,000	0		0	
Bryde's whale	Pelagic and coastal	Uncommon	40/90000	1	2.5	2	5.0
Sei whale*	Primarily offshore, pelagic	Rare	12-13,000	0		0	
Fin whale*	Cont. slope, mostly pelagic	Rare	2814/47300	0		0	
Blue whale*	Coastal, shelf, and oceanic waters	Extralimital	308	0		0	
Pinnipeds							
Hooded seal	Coastal	Vagrant	400,000[z]	0		0(2)**	<0.1
Total				3770		7096	

Table 3. Abundance, preferred habitat, and commonness of the marine mammal species found in the survey area. The far right columns indicate the estimated number each species that will be exposed to 160 dB based on best and maximum density estimates. NMFS believes that, when mitigation measures are taken into consideration, the activity is likely to result in take of numbers of animals less than those indicated by the best column, however, L-DEO has asked for authorization of the maximum.
*Federally listed endangered,
** Parenthetical number indicates take authorization, though exposure estimate is 0

Seven species that may occur in the Gulf of Mexico are listed as endangered under provisions of the U.S. Endangered Species Act (ESA), including the sperm, North Atlantic right, humpback, sei, fin, and blue whale, as well as the West Indian manatee. However, of those species, only sperm whales are likely to be encountered. In addition to the 28 species known to occur in the Gulf of Mexico, another three species of cetaceans could potentially occur there: the long-finned pilot whale, the long-beaked common dolphin, and the short-beaked common dolphin (Table 3). Though any pinnipeds sighted in the study area would be extralimital, hooded seals have been reported in Florida and L-DEO has requested authorization for the take of 2 animals.

During the 2003 acoustical calibration study in the Gulf of Mexico from 28 May to 2 June, a total of seven visual sightings of marine mammals were documented from the *Maurice Ewing*; these included a total of approximately 38–40 individuals (LGL Ltd. 2003). In addition, three sea turtles were sighted. These totals include times when airguns were not operating as well as times when airguns were firing. Visual monitoring effort consisted of 60.9 hours of observations (all in daylight) along 891.5 km of vessel trackline on seven days, and passive acoustic monitoring (PAM) occurred for approximately 32 hours. Most of the monitoring effort (visual as well as acoustic) occurred when airguns were not operating, since airgun operations were limited during the 2003 study. No marine mammals were detected during acoustic monitoring. Marine mammal and sea turtle sightings and locations during the 2003 calibration study are summarized in Appendix C of L-DEOs application.

Detailed information regarding the status and distribution of these marine mammals may be found in sections III and IV of L-DEOs application.

Potential Effects of the Proposed Activity on Marine Mammals

Summary of Potential Effects of Airgun Sounds on Marine Mammals

The effects of sounds from airguns might include one or more of the following: tolerance, masking of natural sounds, behavioral disturbance, and at least in theory, temporary or permanent hearing impairment, or non-auditory physical or physiological effects (Richardson *et al.*, 1995). These effects are discussed below, but also in further detail in Appendix B of L-DEO's application.

The potential effects of airguns discussed below are presented without consideration of the mitigation measures that L-DEO has presented and that will be required by NMFS. When these measures are taken into account, it is unlikely that this project would result in temporary, or especially, permanent hearing impairment or any significant non-auditory physical or physiological effects.

Tolerance

Numerous studies have shown that pulsed sounds from airguns are often readily detectable in the water at distances of many kilometers. A summary of the characteristics of airgun pulses is provided in Appendix B of L-DEO's application. Studies have also shown that marine mammals at distances more than a few kilometers from operating seismic vessels often show no apparent response (tolerance) (Appendix B (e)). That is often true even in cases when the pulsed sounds must be readily audible to the animals based on measured received levels and the hearing sensitivity of that mammal group. Although various baleen whales, toothed whales, and (less frequently)

pinnipeds have been shown to react behaviorally to airgun pulses under some conditions, at other times mammals of all three types have shown no overt reactions. In general, pinnipeds, small odontocetes, and sea otters seem to be more tolerant of exposure to airgun pulses than are baleen whales. Pinnipeds and sea otters are not found in the Gulf of Mexico; small odontocetes of numerous species are the predominant marine mammals in the area.

Masking

Masking effects of pulsed sounds (even from large arrays of airguns) on marine mammal calls and other natural sounds are expected to be limited, although there are very few specific data of relevance. Some whales are known to continue calling in the presence of seismic pulses. Their calls can be heard between the seismic pulses (e.g., Richardson *et al.*, 1986; McDonald *et al.*, 1995; Greene *et al.*, 1999; Nieukirk *et al.*, 2004). Although there has been one report that sperm whales cease calling when exposed to pulses from a very distant seismic ship (Bowles *et al.*, 1994), a more recent study reports that sperm whales off northern Norway continued calling in the presence of seismic pulses (Madsen *et al.*, 2002). That has also been shown during recent work in the Gulf of Mexico (Tyack *et al.*, 2003). Masking effects of seismic pulses are expected to be negligible in the case of the smaller odontocete cetaceans, given the intermittent nature of seismic pulses. Also, the sounds important to small odontocetes are predominantly at much higher frequencies than are airgun sounds. Masking effects, in general, are discussed further in Appendix B (d).

Disturbance Reactions

Disturbance includes a variety of effects, including subtle changes in behavior, more conspicuous changes in activities, and displacement. Simple exposure to sound, or brief reactions that do not disrupt behavioral patterns in a potentially significant manner, do not constitute harassment or ''taking''. By potentially significant, we mean ''in a manner that might have deleterious effects to the well-being of individual marine mammals or their populations''. Reactions to sound, if any, depend on species, state of maturity, experience, current activity, reproductive state, time of day, and many other factors. If a marine mammal does react briefly to an underwater sound by minorly changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or the species as a whole. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on the animals could be significant.

There are many uncertainties in predicting the quantity and types of impacts of noise on marine mammals. As mentioned earlier in this document, NMFS applies acoustic criteria developed to help estimate the number of animals likely to be harassed by a particular sound source in a given area and for use in the development of shutdown zones for mitigation. The sound criteria used to estimate how many marine mammals might be disturbed to some biologically-important degree by a seismic program are based on behavioral observations during studies of several species. However, information is lacking for many species. Detailed studies have been done on humpback, gray, and bowhead whales, and on ringed seals. Less detailed data are available for some other species of baleen whales, sperm whales, small toothed whales, and sea otters.

Baleen Whales

Baleen whales generally tend to avoid operating airguns, but avoidance radii are quite variable. There is no specific information about reactions of Bryde's whales-the baleen whales most likely to be encountered in the Gulf of Mexico-to seismic pulses. Whales are often reported to show no overt reactions to pulses from large arrays of airguns at distances beyond a few kilometers, even though the airgun pulses remain well above ambient noise levels out to much longer distances. However, baleen whales exposed to strong noise pulses from airguns often react by deviating from their normal migration route and/or interrupting their feeding and moving away. In the case of the migrating gray and bowhead whales, the observed changes in behavior appeared to be of little or no biological consequence to the animals. They simply avoided the sound source by displacing their migration route to varying degrees, but within the natural boundaries of the migration corridors.

Studies of gray, bowhead, and humpback whales have determined that received levels of pulses in the 160–170 dB re 1 μPa rms range seem to cause obvious avoidance behavior in a substantial fraction of the animals exposed. In many areas, seismic pulses from large arrays of airguns diminish to those levels at distances ranging from 4.5 to 14.5 km (2.4–7.8 nm) from the source. A substantial proportion of the baleen whales within those distances may show avoidance or other strong disturbance reactions to the airgun array. Subtle behavioral changes sometimes become evident at somewhat lower received levels, and recent studies have shown that some species of baleen whales, notably bowhead and humpback whales, at times show strong avoidance at received levels lower than 160–170 dB re 1 μPa rms. Bowhead whales migrating west across the Alaskan Beaufort Sea in autumn, in particular, are unusually responsive. Substantial avoidance occurred out to distances of 20–30 km (11–16 nm) from a medium-sized airgun source, where received sound levels were on the order of 130 dB re 1 μPa rms (Miller *et al.*, 1999; Richardson *et al.*, 1999; see Appendix B (e)). More recent research on bowhead whales (Miller *et al.*, 2005), however, suggests that during the summer feeding season, bowheads are not nearly as sensitive to seismic sources, with onset of avoidance at the more typical level of 160–170 dB re 1 μPa rms.

Malme *et al.*, (1986, 1988) studied the responses of feeding eastern gray whales to pulses from a single 100 in3 airgun off St. Lawrence Island in the northern Bering Sea. They estimated, based on small sample sizes, that 50 percent of feeding gray whales ceased feeding at an average received pressure level of 173 dB re 1 μPa on an (approximate) rms basis, and that 10 percent of feeding whales interrupted feeding at received levels of 163 dB. Those findings were generally consistent with the results of experiments conducted on larger numbers of gray whales that were migrating along the California coast.

Blue, sei, fin, and minke whales have occasionally been reported in areas ensonified by airgun pulses. Sightings by observers on seismic vessels off the U.K. from 1997 to 2000 suggest that, at times of good sightability, numbers of rorquals seen are similar when airguns are shooting and not shooting (Stone 2003). Although individual species did not show any significant displacement in relation to seismic activity, all baleen whales combined were found to remain significantly further from the airguns during shooting compared with periods without shooting (Stone 2003).

Data on short-term reactions (or lack of reactions) of cetaceans to impulsive noises do not necessarily provide information about long-term effects. It is not known whether impulsive noises affect reproductive rate or distribution and habitat use in subsequent days or years. However, gray whales continued to migrate annually along the west coast of North America despite intermittent seismic exploration and much ship

traffic in that area for decades (Appendix A in Malme *et al.*, 1984). Bowhead whales continued to travel to the eastern Beaufort Sea each summer despite seismic exploration in their summer and autumn range for many years (Richardson *et al.*, 1987). Populations of both gray and bowhead whales grew substantially during this time. In any event, the brief exposures to sound pulses from the proposed airgun source are highly unlikely to result in prolonged effects.

Toothed Whales

Little systematic information is available about reactions of toothed whales to noise pulses. Few studies similar to the more extensive baleen whale/seismic pulse work summarized above and in Appendix B have been reported for toothed whales. However, systematic work on sperm whales is underway (Tyack *et al.*, 2003), and there is an increasing amount of information about responses of various odontocetes to seismic surveys based on monitoring studies (e.g., Stone, 2003; Haley and Koski, 2004; Smultea *et al.*, 2004; Holst *et al.*, 2005a,b; MacLean and Koski, 2005).

Seismic operators sometimes see dolphins and other small toothed whales near operating airgun arrays, but in general there seems to be a tendency for most delphinids to show some limited avoidance of seismic vessels operating large airgun systems. However, some dolphins seem to be attracted to the seismic vessel and floats, and some ride the bow wave of the seismic vessel even when large arrays of airguns are firing. Nonetheless, there have been indications that small toothed whales sometimes move away, or maintain a somewhat greater distance from the vessel, when a large array of airguns is operating than when it is silent (e.g., Goold, 1996a,b,c; Calambokidis and Osmek, 1998; Stone, 2003). In most cases the avoidance radii for delphinids appear to be small, on the order of 1 km (0.5 nm) or less. However, aerial surveys during seismic operations in the southeastern Beaufort Sea recorded much lower sighting rates of beluga whales within 10–20 km (5–11 nm) of an active seismic vessel. These results were consistent with the low number of beluga sightings reported by observers aboard the seismic vessel, suggesting that some belugas might be avoiding the seismic operations at distances of 10–20 km (Miller *et al.*, 2005).

Captive bottlenose dolphins and beluga whales exhibit changes in behavior when exposed to strong pulsed sounds similar in duration to those typically used in seismic surveys (Finneran *et al.*, 2000, 2002; Finneran and Schlundt 2004). The animals tolerated high received levels of sound before exhibiting aversive behaviors. For pooled data at 3, 10, and 20 kHz, sound exposure levels during sessions with 25, 50, and 75 percent altered behavior were 180, 190, and 199 dB re 1 μPa^2 . s, respectively (Finneran and Schlundt, 2004).

Pinnipeds

No pinnipeds are expected to be encountered in the Gulf of Mexico, and thus it is most likely that none will be affected by the proposed activity. At most, up to two extralimital hooded seals might be encountered and potentially be behaviorally disturbed or have a low-level physiological response to the seismic exposure.

Hearing Impairment and Other Physical Effects

Temporary or permanent hearing impairment is a possibility when marine mammals are exposed to very strong sounds, but there has been no specific documentation of this for marine mammals exposed to sequences of airgun pulses. Current NMFS policy regarding exposure of marine mammals to high-level sounds is that cetaceans and pinnipeds exposed to impulsive sounds of 180 and 190 dB re 1 μPa (rms) or above, respectively, are considered to have been incidentally taken by Level A Harassment. These levels are precautionary.

Several aspects of the planned monitoring and mitigation measures for this project are designed to detect marine mammals occurring near the airguns, and to avoid exposing them to sound pulses that could potentially cause hearing impairment. In addition, many cetaceans are likely to show some avoidance of the area with high received levels of airgun sound. In those cases, the avoidance responses of the animals themselves will reduce or (most likely) avoid any possibility of hearing impairment.

Non-auditory physical effects might also occur in marine mammals exposed to strong underwater pulsed sound. Possible types of non-auditory physiological effects or injuries that theoretically might occur in mammals close to a strong sound source include stress, neurological effects, bubble formation, and other types of organ or tissue damage. It is possible that some marine mammal species (i.e., beaked whales) may be especially susceptible to injury and/or stranding when exposed to strong pulsed sounds. However, as discussed below, there is no definitive evidence that any of these effects occur even for marine mammals in close proximity to large arrays of airguns. It is unlikely that any effects of these types would occur during the present project given the brief duration of exposure of any given mammal, and the planned monitoring and mitigation measures (see below). The following subsections discuss in somewhat more detail the possibilities of TTS, permanent threshold shift (PTS), and non-auditory physical effects.

Temporary Threshold Shift (TTS)

TTS is the mildest form of hearing impairment that can occur during exposure to a strong sound (Kryter, 1985). While experiencing TTS, the hearing threshold rises and a sound must be stronger in order to be heard. TTS can last from minutes or hours to (in cases of strong TTS) days. For sound exposures at or somewhat above the TTS threshold, hearing sensitivity recovers rapidly after exposure to the noise ends. Few data on sound levels and durations necessary to elicit mild TTS have been obtained for marine mammals, and none of the published data concern TTS elicited by exposure to multiple pulses of sound.

For toothed whales exposed to single short pulses, the TTS threshold appears to be, to a first approximation, a function of the energy content of the pulse (Finneran *et al.*, 2002, 2005). Sound exposure level (SEL), which takes into account the duration of the sound, is the metric used to measure energy and uses the units dB re 1 μPa2 . s, as opposed to sound pressure level (SPL), which is the pressure metric used in the rest of this document (units - dB re 1 μPa). Given the available data, the received energy level of a single seismic pulse might need to be approximately 186 dB re 1 μPa^2 . s (i.e., 186 dB SEL or approximately 221–226 dB pk-pk) in order to produce brief, mild TTS. Exposure to several strong seismic pulses at received levels near 175–180 dB SEL might result in slight TTS in a small odontocete, assuming the TTS threshold is (to a first approximation) a function of the total received pulse energy. The distances from the *Langseth*'s airguns at which the received energy level would be expected to be 175 dB SEL are the distances shown in the 190 dB rms column in Table 2 (given that the rms level is approximately 15 dB higher than the SEL value for the same pulse). In deep water, where L DEO's model is directly applicable, seismic pulses with received energy levels 175 dB SEL (190 dB rms) are expected to be restricted to radii no more than 200–620 m (656–2034 ft)

around the airguns. The specific radius would depend on number of operating airguns (9–36) and their operating depth (6 vs. 12 m). The depth associated with the above radii ranges from about 125 m (410 ft) for a 9–airgun array to =500 m (=1640 ft) for the 36–airgun array. For an odontocete closer to the surface, the maximum radius with 175 dB SEL or 190 dB rms would be smaller. In intermediate-depth and shallow water, the 175 dB SEL or 190 dB rms radius would be larger.

For baleen whales, there are no data, direct or indirect, on levels or properties of sound that are required to induce TTS. However, no cases of TTS are expected given two considerations: (1) the low abundance of baleen whales in the planned study area, and (2) the strong likelihood that baleen whales would avoid the approaching airguns (or vessel) before being exposed to levels high enough for there to be any possibility of TTS.

In pinnipeds, TTS thresholds associated with exposure to brief pulses (single or multiple) of underwater sound have not been measured. Initial evidence from prolonged exposures suggested that some pinnipeds may incur TTS at somewhat lower received levels than do small odontocetes exposed for similar durations (Kastak *et al.*, 1999; Ketten *et al.*, 2001; cf. Au *et al.*, 2000). However, pinnipeds are not expected to occur in or near the planned study area.

Permanent Threshold Shift (PTS)

When PTS occurs, there is physical damage to the sound receptors in the ear. In some cases, there can be total or partial deafness, whereas in other cases, the animal has an impaired ability to hear sounds in specific frequency ranges.

There is no specific evidence that exposure to pulses of airgun sound can cause PTS in any marine mammal, even with large arrays of airguns. However, given the possibility that mammals close to an airgun array might incur TTS, there has been further speculation about the possibility that some individuals occurring very close to airguns might incur PTS. Single or occasional occurrences of mild TTS are not indicative of permanent auditory damage in terrestrial mammals. Relationships between TTS and PTS thresholds have not been studied in marine mammals, but are assumed to be similar to those in humans and other terrestrial mammals. PTS might occur at a received sound level at least several decibels above that inducing mild TTS if the animal were exposed to strong sound pulses with rapid rise.

Given the higher level of sound necessary to cause PTS as compared with TTS, it is even less likely that PTS could occur. In fact, even the levels immediately adjacent to the airguns may not be sufficient to induce PTS, especially because a mammal would not be exposed to more than one strong pulse unless it swam immediately alongside the airgun for a period longer than the inter-pulse interval. Baleen whales generally avoid the immediate area around operating seismic vessels. The planned monitoring and mitigation measures, including visual monitoring, PAM, power-downs, and shut downs of the airguns when mammals are seen within the ''safety radii'', will minimize the probability of exposure of marine mammals to sounds strong enough to induce PTS.

Non-auditory Physiological Effects

Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to strong underwater sound include stress, neurological effects, bubble formation, and other types of organ or tissue damage. However, studies examining such effects are very limited. If any such effects do occur, they probably would be limited to unusual situations when animals might be exposed at close range for unusually long periods. It is doubtful that any single marine mammal would be exposed to strong seismic sounds for sufficiently long that significant physiological stress would develop.

Until recently, it was assumed that diving marine mammals are not subject to the bends or air embolism. This possibility was first explored at a workshop (Gentry [ed.] 2002) held to discuss whether the stranding of beaked whales in the Bahamas in 2000 (Balcomb and Claridge 2001; NOAA and USN 2001) might have been related to bubble formation in tissues caused by exposure to noise from naval sonar. However, the opinions were inconclusive. Jepson *et al.* (2003) first suggested a possible link between mid-frequency sonar activity and acute and chronic tissue damage that results from the formation in vivo of gas bubbles, based on the beaked whale stranding in the Canary Islands in 2002 during naval exercises. Fernandez *et al.* (2005a) showed those beaked whales did indeed have gas bubble-associated lesions as well as fat embolisms. Fernandez *et al.* (2005b) also found evidence of fat embolism in three beaked whales that stranded 100 km (54 nm) north of the Canaries in 2004 during naval exercises. Examinations of several other stranded species have also revealed evidence of gas and fat embolisms (e.g., Arbelo *et al.*, 2005; Jepson *et al.*, 2005a; Mendez *et al.*, 2005). Most of the afflicted species were deep divers. There is speculation that gas and fat embolisms may occur if cetaceans ascend unusually quickly when exposed to aversive sounds, or if sound in the environment causes the destabilization of existing bubble nuclei (Potter, 2004; Arbelo *et al.*, 2005; Fernandez *et al.*, 2005a; Jepson *et al.*, 2005b). Even if gas and fat embolisms can occur during exposure to mid-frequency sonar, there is no evidence that that type of effect occurs in response to airgun sounds.

In general, little is known about the potential for seismic survey sounds to cause auditory impairment or other physical effects in marine mammals. Available data suggest that such effects, if they occur at all, would be limited to short distances and probably to projects involving large arrays of airguns. However, the available data do not allow for meaningful quantitative predictions of the numbers (if any) of marine mammals that might be affected in those ways. Marine mammals that show behavioral avoidance of seismic vessels, including most baleen whales and some odontocetes, are especially unlikely to incur auditory impairment or other physical effects. Also, the planned monitoring and mitigation measures include shut downs of the airguns, which will reduce any such effects that might otherwise occur.

Strandings and Mortality

Marine mammals close to underwater detonations of high explosive can be killed or severely injured, and the auditory organs are especially susceptible to injury (Ketten *et al.*, 1993; Ketten, 1995). Airgun pulses are less energetic and have slower rise times, and there is no proof that they can cause serious injury, death, or stranding even in the case of large airgun arrays. However, the association of mass strandings of beaked whales with naval exercises and, in one case, an L-DEO seismic survey, has raised the possibility that beaked whales exposed to strong pulsed sounds may be especially susceptible to injury and/or behavioral reactions that can lead to stranding.

Seismic pulses and mid-frequency sonar pulses are quite different. Sounds produced by airgun arrays are broadband with most of the energy below 1 kHz. Typical military mid-frequency sonars operate at frequencies of 2–10 kHz, generally with a relatively narrow bandwidth at any one time. Thus, it is not appropriate to assume that there is a direct connection between the effects of military sonar and seismic

surveys on marine mammals. However, evidence that sonar pulses can, in special circumstances, lead to physical damage and mortality (NOAA and USN 2001; Jepson *et al.*, 2003; Fernandez *et al.*, 2005a), even if only indirectly, suggests that caution is warranted when dealing with exposure of marine mammals to any high-intensity pulsed sound.

In May 1996, 12 Cuvier's beaked whales stranded along the coasts of Kyparissiakos Gulf in the Mediterranean Sea. That stranding was subsequently linked to the use of low- and medium-frequency active sonar by a North Atlantic Treaty Organization (NATO) research vessel in the region (Frantzis 1998). In March 2000, a population of Cuvier's beaked whales being studied in the Bahamas disappeared after a U.S. Navy task force using mid-frequency tactical sonars passed through the area; some beaked whales stranded (Balcomb and Claridge, 2001; NOAA and USN 2001). In September 2002, a total of 14 beaked whales of various species stranded coincident with naval exercises in the Canary Islands (Martel n.d.; Jepson *et al.*, 2003; Fernandez *et al.*, 2004). Some additional related incidents have also been reported, e.g., Southall *et al.* (2006).

Also in Sept. 2002, there was a stranding of two Cuvier's beaked whales in the Gulf of California, Mexico, when the L-DEO vessel Maurice Ewing was operating a 20 airgun, 8490 in3 airgun array in the general area. The link between the stranding and the seismic surveys was inconclusive and not based on any physical evidence (Hogarth, 2002; Yoder, 2002). Nonetheless, that plus the incidents involving beaked whale strandings near naval exercises suggests a need for caution in conducting seismic surveys in areas occupied by beaked whales. No injuries of beaked whales are anticipated during the proposed study, due to the proposed monitoring and mitigation measures.

Possible Effects of Multibeam Bathymetric (MBB) Sonar Signals

The Simrad EM120 12–kHz sonar will be operated from the source vessel at some times during the planned study. Sounds from the MBB sonar are very short pulses, occurring for 15 ms once every 5 to 20 s, depending on water depth. Most of the energy in the sound pulses emitted by this MBB sonar is at frequencies centered at 12 kHz. The beam is narrow (1°) in fore-aft extent and wide (150°) in the cross-track extent. Each ping consists of nine successive fan-shaped transmissions (segments) at different cross-track angles. Any given mammal at depth near the trackline would be in the main beam for only one or two of the nine segments. Also, marine mammals that encounter the Simrad EM120 are unlikely to be subjected to repeated pulses because of the narrow fore-aft width of the beam and will receive only limited amounts of pulse energy because of the short pulses. Animals close to the ship (where the beam is narrowest) are especially unlikely to be ensonified for more than one 15 ms pulse (or two pulses if in the overlap area). Similarly, Kremser *et al.* (2005) noted that the probability of a cetacean swimming through the area of exposure when an MBB sonar emits a pulse is small. The animal would have to pass the transducer at close range and be swimming at speeds similar to the vessel in order to be subjected to sound levels that could cause TTS.

Navy sonars that have been linked to avoidance reactions and stranding of cetaceans (1) generally have a longer pulse duration than the Simrad EM120, and (2) are often directed close to horizontally vs. downward for the Simrad EM120. The area of possible influence of the Simrad EM120 is much smaller-a narrow band below the source vessel. The duration of exposure for a given marine mammal can be much longer for a Navy sonar.

Because of the unlikelihood of an animal being exposed to more than one or two pulses and the low energy the animal would most likely be exposed to due to the short pulses, NMFS does not expect the operation of the MBB sonar to result in the harassment of any marine mammals.

Proposed Monitoring and Mitigation Measures

Monitoring

L-DEO proposes to sponsor marine mammal monitoring of its seismic program, in order to implement the planned mitigation measures and to satisfy the requirements of the IHA. The monitoring work described here has been planned as a self-contained project independent of any other related monitoring projects that may be occurring simultaneously in the same regions. L-DEO is prepared to discuss coordination of its monitoring program with any related work that might be done by other groups insofar as this is practical and desirable.

Vessel Based Monitoring

Vessel-based marine mammal observers (MMOs) will watch for marine mammals and turtles near the seismic source vessel during all daytime airgun operations and during any start ups of the airguns at night. Airgun operations will be suspended when marine mammals or turtles are observed within, or about to enter, designated safety radii where there is concern about effects on hearing or other physical effects. MMOs also will watch for marine mammals and turtles near the seismic vessel for at least 30 min prior to the planned start of airgun operations after an extended shut down of the airguns. When feasible, observations will also be made during daytime periods without seismic operations (e.g., during transits).

During seismic operations in the Gulf of Mexico, five observers will be based aboard the vessel. MMOs will be appointed by L-DEO with NMFS concurrence. At least one MMO, and when practical two MMOs, will watch for marine mammals and turtles near the seismic vessel during ongoing daytime operations and nighttime start ups of the airguns. Use of two simultaneous observers will increase the proportion of the animals present near the source vessel that are detected. MMO(s) will be on duty in shifts of duration no longer than 4 h. The crew will also be instructed to assist in detecting marine mammals and turtles and implementing mitigation requirements (if practical). Before the start of the seismic survey the crew will be given additional instruction in how to do so.

The *Langseth* is a suitable platform for marine mammal and turtle observations. When stationed on the observation platform, the eye level will be approximately 17.8 m (58.4 ft) above sea level, and the observer will have a good view around the entire vessel. However, neither the actual bow of the vessel nor the stern will be visible from the observation platform, although it will be possible to see the airguns. To monitor the areas immediately at the bow and stern of the vessel, two video cameras will be installed at the bow (one on the starboard and one on the port side), and a wide-angle camera will be installed at the stern. Real-time footage from these cameras will be played on the observation platform, so that the MMO(s) are able to monitor those areas. In addition a high-power video camera will be mounted on the observation platform to assist with species identification.

During daytime, the MMO(s) will scan the area around the vessel systematically with reticle binoculars (e.g., 7 50 Fujinon), Big-eye binoculars (25 150), and with the naked eye. At night, Night Vision Devices (NVDs) will be available (ITT F500 Series Generation 3 binocular-image intensifier or equivalent), when required. Laser

rangefinding binoculars (Leica LRF 1200 laser rangefinder or equivalent) will be available to assist with distance estimation. Those are useful in training observers to estimate distances visually, but are generally not useful in measuring distances to animals directly. MMOs will not be on duty during ongoing seismic operations at night. At night, bridge personnel will watch for marine mammals and turtles (insofar as practical at night) and will call for the airguns to be shut down if marine mammals or turtles are observed in or about to enter the safety radii. If the airguns are started up at night, two MMOs will watch for marine mammals and turtles near the source vessel for 30 min prior to start up of the airguns using NVDs, if the proper conditions for nighttime start up exist (see Mitigation below).

The vessel-based monitoring will provide data to estimate the numbers of marine mammals exposed to various received sound levels, to document any apparent disturbance reactions or lack thereof, and thus to estimate the numbers of mammals potentially ''taken'' by harassment. It will also provide the information needed in order to power down or shut down the airguns at times when mammals and turtles are present in or near the safety radii. When a sighting is made, the following information about the sighting will be recorded:

1. Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from seismic vessel, sighting cue, apparent reaction to the airguns or vessel (e.g., none, avoidance, approach, paralleling, etc.), and behavioral pace.

2. Time, location, heading, speed, activity of the vessel, sea state, visibility, and sun glare.

The data listed under (2) will also be recorded at the start and end of each observation watch, and during a watch whenever there is a change in one or more of the variables.

All observations and power-downs or shut downs will be recorded in a standardized format. Data will be entered into a custom database using a notebook computer. The accuracy of the data entry will be verified by computerized validity data checks as the data are entered and by subsequent manual checking of the database. These procedures will allow initial summaries of data to be prepared during and shortly after the field program, and will facilitate transfer of the data to statistical, graphical, or other programs for further processing and archiving.

Results from the vessel-based observations will provide:

1. The basis for real-time mitigation (airgun power-down or shut down).

2. Information needed to estimate the number of marine mammals potentially taken by harassment, which must be reported to NMFS.

3. Data on the occurrence, distribution, and activities of marine mammals and turtles in the area where the seismic study is conducted.

4. Information to compare the distance and distribution of marine mammals and turtles relative to the source vessel at times with and without seismic activity.

5. Data on the behavior and movement patterns of marine mammals and turtles seen at times with and without seismic activity.

Passive Acoustic Monitoring

Passive acoustic monitoring will take place to complement the visual monitoring program. Visual monitoring typically is less effective during periods of bad weather or at night, and even with good visibility, is unable to detect marine mammals when they are below the surface or beyond visual range. Acoustical monitoring can be used in addition to visual observations to improve detection, identification, localization, and tracking of cetaceans. The acoustic monitoring will serve to alert visual observers when vocalizing cetaceans are detected. It will be monitored in real time so that the visual observers can be advised when cetaceans are detected.

SEAMAP (Houston, TX) will be used as the primary acoustic monitoring system. This system was also used during previous L-DEO seismic cruises (e.g., Smultea *et al.*, 2004, 2005; Holst *et al.*, 2004a,b). The PAM system consists of hardware (i.e., the hydrophone) and software. The ''wet end'' of the SEAMAP system consists of a low-noise, towed hydrophone array that is connected to the vessel by a ''hairy'' faired cable. The array will be deployed from a winch located on the back deck. A deck cable will connect from the winch to the main computer lab where the acoustic station and signal conditioning and processing system will be located. The lead-in from the hydrophone array is approximately 400 m (1312 ft) long, and the active part of the hydrophone array is approximately 56 m (184 ft) long. The hydrophone array is typically towed at depths of less than 20 m or 66 ft.

The acoustical array will be monitored 24 hour per day while at the seismic survey area during airgun operations and during most periods when airguns are not operating. One MMO will monitor the acoustic detection system at any one time, by listening to the signals from two channels via headphones and/or speakers and watching the real-time spectrographic display for frequency ranges produced by cetaceans. MMOs monitoring the acoustical data will be on shift from 1–6 h. All MMOs are expected to rotate through the PAM position, although the most experienced with acoustics will be on PAM duty more frequently.

When a vocalization is detected, the acoustic MMO will contact the visual MMO immediately (so a power-down or shut down can be initiated, if required), and the information regarding the call will be entered into a database. The data to be entered include an acoustic encounter identification number, whether it was linked with a visual sighting, GMT date, GMT time when first and last heard and whenever any additional information was recorded, GPS position and water depth when first detected, species or species group (e.g., unidentified dolphin, sperm whale), types and nature of sounds heard (e.g., clicks, continuous, sporadic, whistles, creaks, burst pulses, strength of signal, etc.), and any other notable information. The acoustic detection can also be recorded onto the hard-drive for further analysis.

Mitigation

For the proposed study in the northern Gulf of Mexico, L-DEO will deploy an energy source of up to 36 airguns (6600 in^3). The airguns comprising the array will be spread out horizontally, so that the energy will be directed mostly downward. The directional nature of the array to be used in this project is an important mitigating factor. This directionality will result in reduced sound levels at any given horizontal distance than would be expected at that distance if the source were omnidirectional with the stated nominal source level.

Localized and temporally-variable areas of concentrated feeding or of special significance for marine mammals may occur within or near the planned area of operations during the season of operations. However, L-DEO will avoid conducting the proposed activities near important concentrations of marine mammals insofar as these can be identified in advance from other sources of information, or during the cruise.

Safety Radii

As noted earlier (Table 2), received sound levels were modeled by L-DEO

for various configurations of the 36–airgun array in relation to distance and direction from the airguns, and for a single and 2 GI guns. Correction factors based on empirical measurements were applied to estimate safety radii in shallow and intermediate-depth water. The distances from the airguns where sound levels of 190, 180, and 160 dB re 1 μPa (rms) are estimated to be received are shown Table 2. Also, the safety radii for a single (40 in3) airgun are given, as that source will be in operation when the 36–airgun array is powered down. Airguns will be powered down (or shut down if necessary) immediately when marine mammals or turtles are detected within or about to enter the appropriate radius: 180 dB (rms) for cetaceans and turtles, and 190 dB (rms) for pinnipeds, in the very unlikely event that pinnipeds are encountered.

Mitigation During Operations

Mitigation measures that will be required will include (1) speed or course alteration, provided that doing so will not compromise operational safety requirements, (2) power-down procedures, (3) shut-down procedures, (4) special shut-down procedures for any endangered baleen whales, (5) ramp-up procedures, (6) avoidance of areas with concentrations of marine mammal, and (7) shut down and notification of NMFS if an injured or dead marine mammal is found and is judged likely to have resulted from the operation of the airguns.

Speed or Course Alteration - If a marine mammal or sea turtle is detected outside the safety radius and, based on its position and the relative motion, is likely to enter the safety radius, the vessel's speed and/or direct course may be changed. This would be done if practicable while minimizing the effect to the planned science objectives. The activities and movements of the marine mammal or sea turtle (relative to the seismic vessel) will be closely monitored to determine whether the animal is approaching the applicable safety radius. If the animal appears likely to enter the safety radius, further mitigative actions will be taken, i.e., either further course alterations or a power-down or shut down of the airguns.

Power-down Procedures - A power-down involves decreasing the number of airguns in use such that the radius of the 180–dB (or 190–dB) zone is decreased to the extent that marine mammals or turtles are no longer in or about to enter the safety zone. A power-down may also occur when the vessel is moving from one seismic line to another (i.e., during a turn). During a power-down, one airgun will be operated. The continued operation of one airgun is intended to alert marine mammals and turtles to the presence of the seismic vessel in the area. In contrast, a shut down occurs when all airgun activity is suspended.

If a marine mammal or turtle is detected outside the safety zone but is likely to enter the safety radius, and if the vessel's speed and/or course cannot be changed to avoid having the animal enter the safety radius, the airguns will be powered down before the animal is within the safety radius. Likewise, if a mammal or turtle is already within the safety zone when first detected, the airguns will be powered down immediately. During a power-down of the airgun array, at least one airgun (e.g., 40 in^3) will be operated. If a marine mammal or turtle is detected within or near the smaller safety radius around that single airgun (Table 2), all airguns will be shut down (see next subsection).

Following a power-down, airgun activity will not resume until the marine mammal or turtle has cleared the safety zone. The animal will be considered to have cleared the safety zone if it: (1) is visually observed to have left the safety zone; or, (2) has not been seen within the zone for 15 min in the case of small odontocetes and pinnipeds; or, (3) has not been seen within the zone for 30 min in the case of mysticetes and large odontocetes, including sperm, pygmy sperm, dwarf sperm, and beaked whales; or, (4) the vessel has moved outside the safety zone for turtles.

During airgun operations following a power-down whose duration has exceeded specified limits, the airgun array will be ramped up gradually. Ramp-up procedures are described below.

Shut-down Procedures - During a power-down, the operating airgun will be shut down if a marine mammal or turtle approaches within the modeled safety radius for the then-operating source, typically a single 40 in^3 gun or a GI gun (Table 2). If a marine mammal or turtle is detected within or about to enter the appropriate safety radius around the small source in use during a power-down, airgun operations will be entirely shut down.

Airgun activity will not resume until the animal has cleared the safety zone, or until the MMO is confident that the marine mammal or turtle has left the vicinity of the vessel. Criteria for judging that the animal has cleared the safety zone will be as described in the preceding subsection.

Special Shut-down Provision for Highly Endangered Mysticetes - The airguns will be shut down (not just powered down) if an endangered mysticete is sighted anywhere near the vessel, even if the whale is located outside the safety radius. In this cruise, this provision would apply in the unlikely event of sighting any of the following whales: the North Atlantic right whale; the humpback whale; the sei whale; the fin whale; or the blue whale. This measure is planned because of the assumed greater effects of seismic surveys on mysticetes in general (as compared with other marine mammals).

Ramp-up Procedures - A ramp-up procedure will be followed when the airgun array begins operating after a specified-duration without airgun operations. It is proposed that, for the present cruise, this period would be approximately 10 min. This duration is based on provisions during previous L-DEO surveys and on the approximately 180–dB radius for the 4–string array in deep water in relation to the planned speed of the *Langseth* while shooting. Ramp up will begin with the smallest gun in the array. Airguns will be added in a sequence such that the source level of the array will increase in steps not exceeding approximately 6 dB per 5–min period over a total duration of 20–30 min. During ramp up, the safety zone for the full airgun array to be used will be maintained.

If the complete safety radius has not been visible for at least 30 min prior to the start of operations in either daylight or nighttime, ramp up will not commence unless at least one airgun has been operating during the interruption of seismic survey operations. That airgun will have a source level of more than 180 dB re 1 μPa . m (rms). It is likely that the airgun array will not be ramped up from a complete shut down at night or in thick fog (the array will definitely not be ramped up from a complete shut down at night in shallow water), because the outer part of the safety zone for the array will not be visible during those conditions. If one airgun has operated during a power-down period, ramp up to full power will be permissible at night or in poor visibility, on the assumption that marine mammals will be alerted to the approaching seismic vessel by the sounds from the single airgun and could move away if they choose. Ramp up of the airguns will not be initiated if a sea turtle or marine mammal is sighted within or near the applicable safety radii during the day or close to the vessel at night.

Avoidance of Areas with Concentrations of Marine Mammals - Beaked whales may be highly sensitive to sounds produced by airguns, based mainly on what is known about their

responses to other sound sources. Beaked whales tend to concentrate in continental slope areas, and especially in areas where there are submarine canyons on the slope. Therefore, L DEO will, if possible, avoid airgun operations over or near submarine canyons within the present study area. Also, if concentrations of beaked whales are observed at the slope site just prior to or during the airgun operations there, those operations will be moved to another location along the slope based on recommendations by the lead MMO aboard the *Langseth*. Furthermore, any areas where concentrations of sperm whales are known to be present will be avoided if possible.

Shutdown if Injured or Dead Whale is Found - In the unanticipated event that any cases of marine mammal injury or mortality are found and are judged likely to have resulted from these activities, L-DEO will cease operating seismic airguns and report the incident to the Office of Protected Resources, NMFS immediately.

Reporting

L-DEO will provide brief field reports on the progress of the project on a weekly basis.

A report will be submitted to NMFS within 90 days after the end of the cruise. The report will describe the operations that were conducted and the marine mammals and turtles that were detected near the operations. The report will be submitted to NMFS, providing full documentation of methods, results, and interpretation pertaining to all monitoring. The 90–day report will summarize the dates and locations of seismic operations, and all marine mammal and turtle sightings (dates, times, locations, activities, associated seismic survey activities). The report will also include estimates of the amount and nature of potential ''take'' of marine mammals by harassment or in other ways.

Estimated Take by Incidental Harassment

Because of the mitigation measures that will be required and the likelihood that some cetaceans will avoid the area around the operating airguns of their own accord, NMFS does not expect any marine mammals to approach the sound source close enough to be injured (Level A harassment). All anticipated takes would be ''takes by Level B harassment'', as described previously, involving temporary behavioral modifications or low level physiological effects.

Estimates of the numbers of marine mammals that might be affected during the proposed seismic program in the northern Gulf of Mexico are based on consideration of the number of marine mammals that might be disturbed appreciably by approximately 1420 km (767 nm) of seismic surveys during the Gulf of Mexico program. The numbers of animals estimated below do not take into consideration the implementation of mitigation measures and, therefore, probably overestimate the take to some degree. These estimates are calculated using density estimates of marine mammals and the total area around the source vessel that is ensonified to 160 dB or more (based on the calculated safety radii, discussed previously), the received sound level at which NMFS estimates marine mammals are behaviorally disturbed to an extent that rises to Level B Harassment. The basis for estimating the densities of marine mammals in the proposed study area is discussed in section VII of L-DEO's application and the estimates are listed in Table 3, in the same section.

The potential number of different individuals that might be exposed to received levels 160 dB re 1 μPa (rms) was calculated for each of the three water depth categories (<100 m or <328 ft, 100–1000 m or 328–3281 ft, and >1000 m or >3281 ft) by multiplying the expected species density, either ''mean'' (i.e., best estimate) or ''maximum'', for a particular water depth, times the anticipated minimum area to be ensonified during operations with each airgun array to be used in each water depth category.

The area expected to be ensonified was determined by entering the planned survey lines (including turns) into a MapInfo Geographic Information System (GIS), using the GIS to identify the relevant areas by ''drawing'' the applicable 160 dB buffer around each seismic line (depending on the water depth and array to be used), and then calculating the total area within the buffers. Areas where overlap occurred (due to closely spaced survey lines or repeat passes) were included only once to determine the minimum area expected to be ensonified.

Due to the spiral pattern of the calibration survey, and the fact that shots from each of the three subsets (1–string, 2–string, and 4–string) of the 36–airgun array will be fired in sequence 30 s apart, the 4–string array was used for area calculations during the calibration phase; the GI guns were considered separately. For the seismic testing survey, the three different airgun configurations that will operate (single 40 in^3 airgun; 2–string and 4–string array) were used to determine the area ensonified. The area for both of those phases was then summed, and a contingency factor of 15 percent was added, because of the initial seismic testing/shakedown phase, for which line-km effort is unknown at this time.

For the maximum estimates for oceanic species, the reported maximum densities were assumed to occur in intermediate and deep waters, and a density of zero was assumed for shallow waters. For species occurring in shallow water (as shown in Table 3), the maximum reported densities were used for intermediate and deep waters, whereas 2x the mean density was used for shallow water.

Applying the approach described above, approximately 9045 km^2 would be within the 160 dB isopleth on one or more occasions. However, this approach does not allow for turnover in the mammal populations in the study area during the course of the study. This might somewhat underestimate actual numbers of individuals exposed, although the conservative distances used to calculate the area may offset this. In addition, the approach assumes that no cetaceans move away or toward in response to increasing sound levels prior to the time the levels reach 160 dB. Another way of interpreting the estimates that follow is that they represent the number of individuals that are expected (in the absence of a seismic program) to occur in the waters that will be exposed to 160 dB re 1 μPa (rms).

To determine the mean number of times an individual might be exposed during the survey, the maximum area ensonified by sounds 160 dB during the survey was used. This area was determined by GIS, as described above, but instead of including all overlapping areas only once, the overlapping segments and areas with repeat coverage were added together. This maximum area was then multiplied by the appropriate species densities to determine the total number of exposures during the survey. The total number of exposures to sound levels 160 dB was then divided by the total number of individuals for each species. The mean number of times an individual may be exposed to levels 160 dB during the survey range from 3x (for two shallow-water species) to 4x.

The ''best estimate'' of the number of individual marine mammals that might be exposed, absent any mitigation measures, to seismic sounds with received levels 160 dB re 1 μPa (rms) is 3770 (Table 3). That total includes 22 endangered sperm whales, 25 beaked whales, and one Bryde's whale (Table 3). Pantropical spotted dolphins, Atlantic spotted dolphins, and bottlenose dolphins are expected to be

the most common species in the study area; the best estimates for those species, absent any mitigation, are 1282, 876, and 773, respectively (Table 3). Estimates for other species are lower.

The ''Maximum Estimate'' column in Table 3 shows estimates totaling 7082 individual marine mammals based on maximum densities, and taking into account an adjustment for small numbers of other species that might be encountered in the survey area, even though there were not recorded during previous surveys. These are the numbers for which ''take authorization'' is requested. NMFS does not expect the total number of marine mammal takes to be this high, however, it is appropriate to err on the cautious side to ensure that L-DEO is covered in the event that an unexpectedly large number of any particular species were exposed to >160 dB during the survey and, further, to ensure that this exposure would result in a negligible impact to the species or stock.

Based on numbers of animals encountered during L-DEO's 2003 cruise in the Gulf of Mexico, the likelihood of the successful implementation of the required mitigation measure, and the likelihood that some animals will avoid the area around the operating airguns, NMFS believes that L-DEOs airgun calibration and seismic testing program may result in the Level B harassment of some lower number of individual marine mammals than is indicated by the ''best estimates'' in Table 3. These best estimates compose no more than 3.9 percent of any given species population in the northern Gulf of Mexico, and NMFS has preliminarily determined that these numbers are small relative to the population sizes in the specified geographic area (Table 3). L-DEO has asked for authorization for take of their ''maximum estimate'' of numbers for each species, which includes the take of two hooded seals. Though NMFS believes that take of the maximum numbers is unlikely, we still find these numbers small (up to 8.3 percent of the Fraser's dolphin population and 7.7 percent of the spinner dolphin population, but less than 5 percent the others) relative to the population sizes.

Potential Effects on Habitat

The proposed airgun operations will not result in any permanent impact on habitats used by marine mammals or to the food sources they utilize. The main impact issue associated with the proposed activity will be temporarily elevated noise levels and the associated direct effects on marine mammals.

The actual area contacted temporarily by the bottom-moored hydrophone array will be an insignificant and very small fraction of the marine mammal habitat and the habitat of their food species in the area. The use of this equipment would result in no more than a negligible and highly localized short-term disturbance to sediments and benthic organisms. The area that might be disturbed is a very small fraction of the overall area.

One of the reasons for the adoption of airguns as the standard energy source for marine seismic surveys was that, unlike explosives, they do not result in any appreciable fish kill. However, the existing body of information relating to the impacts of seismic on marine fish and invertebrate species is very limited. The potential effects of exposure to seismic on fish and invertebrates can be considered in three categories: (1) Pathological, (2) physiological, and (3) behavioral. Pathological effects include lethal and sub-lethal damage to the animals, physiological effects include temporary primary and secondary stress responses, and behavioral effects refer to changes in exhibited behavior of the fish and invertebrates. The three categories are interrelated in complex ways. For example, it is possible that certain physiological and behavioral changes could potentially lead to the ultimate pathological effect on individual animals (i.e., mortality).

The available information on the impacts of seismic surveys on marine fish and invertebrates provides limited insight on the effects only at the individual level. Ultimately, the most important knowledge in this area relates to how significantly seismic affects animal populations. However, the few available data suggest that there may be physical impacts on eggs and on larval, juvenile, and adult stages at very close range. Considering typical source levels associated with airgun arrays, close proximity to the source would result in exposure to high energy levels. Whereas egg and larval stages are not able to escape such exposures, juveniles and adults most likely would avoid them. In the cases of eggs and larvae, it is likely that the numbers adversely affected by such exposure would be small in relation to natural mortality. The limited data regarding physiological impacts on fish and invertebrates indicate that these impacts are short-term and are most apparent after exposure at close range.

Exposure to seismic surveys may else cause changes in the distribution, migration patterns, and catchability of fish. There have been well-documented observations of fish and invertebrates exhibiting behaviors that appeared to be responses to exposure to seismic energy (i.e., startle response, change in swimming direction and speed, and change in vertical distribution), but the ultimate importance of those behaviors is unclear. Some studies indicate that such behavioral changes are very temporary, whereas others imply that fish might not resume pre-seismic behaviors or distributions for a number of days. There appears to be a great deal of inter- and intra-specific variability. In the case of finfish, three general types of behavioral responses have been identified: startle, alarm, and avoidance. The type of behavioral reaction appears to depend on many factors, including the type of behavior being exhibited before exposure, and proximity and energy level of the sound source. There is a need for more information on exactly what effects seismic sounds might have on the detailed behavior patterns of fish and invertebrates at different ranges.

During the proposed study, only a small fraction of the available habitat would be ensonified at any given time, and fish and invertebrate species would be expected to return to their pre-disturbance behavior once the seismic activity ceased. The proposed seismic survey is predicted to have negligible to low physical and behavioral effects on the various life stages of fish and invertebrates, because of its short duration and 1420 km (767 nm) extent. More detailed information on studies of potential impacts of sounds on fish and invertebrates is provided in Appendix D of L-DEO's application.

The effects of the planned activity on marine mammal habitats and food resources are expected to be negligible, as described above. A small minority of the marine mammals that are present near the proposed activity may be temporarily displaced as much as a few kilometers by the planned activity. Areas with concentrations of marine mammals will be avoided when specific study sites are selected immediately before the start of acoustic measurement activities in deep, intermediate, and shallow regions. In this manner, any major feeding area that might occur in the general vicinity of the project will be avoided. Therefore, the proposed activity is not expected to have any habitat-related effects that could cause significant or long-term consequences for individual marine mammals or their populations.

Negligible Impact Determination

NMFS has preliminarily determined, provided that the aforementioned mitigation and monitoring measures are

implemented, that the impact of conducting an acoustic calibration and seismic testing program in the Gulf of Mexico may result, at worst, in a temporary modification in behavior and/or low-level physiological effects (Level B Harassment) of small numbers of certain species of marine mammals. While behavioral and avoidance reactions may be made by these species in response to the resultant noise from the airguns, these behavioral changes are expected to have a negligible impact on the affected species and stocks of marine mammals.

While the number of potential incidental harassment takes will depend on the distribution and abundance of marine mammals in the area of seismic operations, the number of potential harassment takings is estimated to be relatively small in light of the population size (see Table 3). NMFS anticipates the actual take of individuals to be lower than the numbers depicted in the table, because those numbers do not reflect either the implementation of the mitigation numbers or the fact that some animals will avoid the sound at levels lower than those expected to result in harassment. Additionally, mitigation measures requires that the *Langseth* avoid any areas where marine mammals are concentrated.

In addition, no take by death and/or serious injury is anticipated, and the potential for temporary or permanent hearing impairment will be avoided through the incorporation of the required mitigation measures described in this document. This determination is supported by (1) the likelihood that, given sufficient notice through slow ship speed and ramp-up of the seismic array, marine mammals are expected to move away from a noise source that it is annoying prior to its becoming potentially injurious; (2) TTS is unlikely to occur, especially in odontocetes, until levels above 180 dB re 1 μPa are reached; (3) the fact that injurious levels of sound are only likely very close to the vessel; and (4) the likelihood that marine mammal detection ability by trained observers is close to 100 percent during daytime (in good weather) and remains high at night close to the vessel.

Endangered Species Act

Under section 7 of the ESA, the National Science Foundation (NSF) has begun consultation on this proposed seismic survey. NMFS will also consult on the issuance of an IHA under section 101(a)(5)(D) of the MMPA for this activity. Consultation will be concluded prior to a determination on the issuance of an IHA.

National Environmental Policy Act (NEPA)

In 2003, NSF prepared an Environmental Assessment (EA) for a marine seismic survey by the R/V *Maurice Ewing* in the Northern Gulf of Mexico. This EA addressed the potential effects of a different combination of airgun arrays, but with a higher total output (20 airguns, total volume 8580 in3) being operated in the same part of the ocean as is proposed for the *Langseth* in this application. NMFS will either adopt NSF's EA or prepare its own supplemental NEPA document before making a determination on the issuance of an IHA. NSF's EA has been posted on NMFS' website.

Preliminary Conclusions

Based on the preceding information, and provided that the proposed mitigation and monitoring are incorporated, NMFS has preliminarily concluded that the proposed activity will incidentally take, by Level B harassment only, small numbers of marine mammals. NMFS has further preliminarily determined that the proposed activity will have a negligible impact on the affected species or stocks of marine mammals.

Proposed Authorization

NMFS proposes to issue an IHA to L-DEO for an acoustic calibration and seismic testing program in the northern Gulf of Mexico in Fall, 2006 provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: September 27, 2006.

James H. Lecky,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–16412 Filed 10–4–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Publication of North American Datum of 1983 State Plane Coordinates in Feet in Idaho

AGENCY: National Geodetic Survey (NGS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration, Department of Commerce

ACTION: Notice.

SUMMARY: The National Geodetic Survey (NGS) will publish North American Datum of 1983 (NAD 83) State Plane Coordinate (SPC) grid values in both meters and U.S. Survey Feet (1 ft = 1200/3937 m) in Idaho, for all well-defined geodetic survey control monuments maintained by NGS in the National Spatial Reference System (NSRS) and computed from various geodetic positioning utilities. The adoption of this standard is implemented in accordance with NGS policy and a request from the Idaho Transportation Department, the Idaho Society of Professional Land Surveyors, and the Idaho Department of Administration GIS Coordinator.

DATES: Individuals or organizations wishing to submit comments on the Publication of North American Datum of 1983 State Plan Coordinates in feet in Idaho, should do by November 6, 2006.

ADDRESSES: Written comments should be sent to the attention of David Doyle, Chief Geodetic Surveyor, Office of the National Geodetic Survey, National Ocean Service (N/NGS2), 1315 East-West Highway, Silver Spring, MD, 20910; fax 301–7313–4324, or via e-mail *Dave.Doyle@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to David Doyle, Chief Geodetic Surveyor, National Geodetic Survey (N/NGS2), 1315 East-West Highway, Silver Spring, MD, 20910; Phone: (301) 713–3178.

SUPPLEMENTARY INFORMATION:

Abstract

In 1991, NGS adopted a policy that defines the conditions under which NAD 83 State Plane Coordinates (SPCs) would be published in feet in addition to meters. As outlined in that policy, each State or territory must adopt NAD 83 legislation (typically referenced as Codes, Laws or Statutes), which specifically defines a conversion to either U.S. Survey or International Feet as defined by the U.S. Bureau of Standards in Federal Register notice 59–5442. To date, 48 States have adopted the NAD 83 legislation however, for various reasons, only 33 included a specific definition of the relationship between meters and feet. This lack of uniformity has led to confusion and misuse of SPCs as provided in various NGS products, services and tools, and created errors in mapping, charting and surveying programs in numerous States due to inconsistent coordinate conversions.

Dated: September 29, 2006.

David B. Zilkoski,

Director, Office of National Geodetic Survey, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 06–8512 Filed 10–4–06; 8:45 am]

BILLING CODE 3510–JE–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Publication of North American Datum of 1983 State Plane Coordinates in Feet in Iowa

AGENCY: National Geodetic Survey (NGS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The National Geodetic Survey (NGS) will publish North American Datum of 1983 (NAD 83) State Plane Coordinate (SPC) grid values in both meters and U.S. Survey Feet (1 ft = 1200/3937 m) in Iowa, for all well-defined geodetic survey control monuments maintained by NGS in the National Spatial Reference System (NSRS) and computed from various geodetic positioning utilities. The adoption of this standard is implemented in accordance with NGS policy and a request from the Iowa Transportation Department and the Iowa Society of Land Surveyors.

DATES: Individuals or organizations wishing to submit comments on the Publication of North American Datum of 1983 State Plane Coordinates in feet in Iowa, should do so by November 6, 2006.

ADDRESSES: Written comments should be sent to the attention of David Doyle, Chief Geodetic Surveyor, Office of the National Geodetic Survey, National Ocean Service (N/NGS2), 1315 East-West Highway, Silver Spring, MD, 20910; fax 301–713–4324, or via e-mail *Dave.Doyle@noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to David Doyle, Chief Geodetic Surveyor, National Geodetic Survey (N/NGS2), 1315 East-West Highway, Silver Spring, MD, 20910; Phone: (301) 713–3178.

SUPPLEMENTARY INFORMATION:

Abstract

In 1991, NGS adopted a policy that defines the conditions under which NAD 83 State Plane Coordinates (SPCs) would be published in feet in addition to meters. As outlined in that policy, each State or territory must adopt NAD 83 legislation (typically referenced as Codes, Laws or Statutes), which specifically defines a conversion to either U.S. Survey or International Feet as defined by the U.S. Bureau of Standards in **Federal Register** Notice 59–5442. To date, 48 States have adopted the NAD 83 legislation, however, for various reasons, only 33 included a specific definition of the relationship between meters and feet. This lack of uniformity has led to confusion and misuse of SPCs as provided in various NGS products, services and tools, and created errors in mapping, charting and surveying programs in numerous States due to inconsistent coordinate conversions.

Dated: September 29, 2006.

David B. Zilkoski,

Director, Office of National Geodetic Survey, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 06–8513 Filed 10–4–06; 8:45 am]

BILLING CODE 3510–JE–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 092606I]

Endangered Species; File No. 1540

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

ACTION: Notice; receipt of application for modification of a scientific research permit.

SUMMARY: Notice is hereby given that South Carolina Department of Natural Resources (SCDNR), Marine Resources Division, P.O. Box 12559, Charleston, SC 29422–2559, has requested a modification to scientific research Permit No. 1540.

DATES: Written, telefaxed, or e-mail comments must be received on or before November 6, 2006.

ADDRESSES: The modification request and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521; and

Southeast Region, NMFS, 263 13th Ave South, St. Petersburg, FL 33701; phone (727)824–5312; fax (727)824–5309.

Written comments or requests for a public hearing on this request should be submitted to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular modification request would be appropriate.

Comments may also be submitted by facsimile at (301)427–2521, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is *NMFS.Pr1Comments@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: File No. 1540.

FOR FURTHER INFORMATION CONTACT: Kate Swails or Patrick Opay, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject modification to Permit No. 1540, issued on February 6, 2006 (71 FR 7019) is requested under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

Permit No. 1540 currently authorizes the permit holder to study loggerhead (*Caretta caretta*), Kemp's ridley (*Lepidochelys kempii*), green (*Chelonia mydas*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) sea turtles. The purpose of the research is to continue to document in-water relative abundances, size distributions, sex ratios, genetic contributions, and the health of sea turtles in coastal waters in the southeastern U.S. SCDNR is authorized to capture 146 loggerhead, 48 Kemp's ridley, 15 green, 1 leatherback, and 3 hawksbill sea turtles, during the first year of the permit's five- year period. The permit authorizes research on up to 346 loggerhead, 48 Kemp's ridley, 15 green, 1 leatherback, and 3 hawksbill sea turtles annually for the remaining four years. Turtles are captured by trawls, handled, blood sampled, measured, flipper and Passive Integrated Transponder tagged, photographed, and released. A subsample of animals have barnacles and keratin removed from their shell, have cloacal samples taken, have laparoscopic and ultrasound exams, and have satellite transmitters attached. Up to 7 loggerhead and 1 leatherback captures could potentially result in accidental mortalities over the course of the entire permit. Additionally, up to 5 Kemp's ridley, green, or hawksbill sea turtles (combined total but no more than two of any given species) may potentially be taken as accidental mortalities over the course of the entire permit. The permit is issued for 5 years.

On March 31, 2006 notice was published (71 FR 16291) that the permit holder requested authorization to skin biopsy loggerhead sea turtles. In addition to skin biopsy the permit holder has since requested authorization for additional sampling and satellite tracking of loggerhead sea turtles. The permit modification would annually authorize an increase in the number of turtles undergoing ultrasound, cloacal swabbing, keratin scraping, and having satellite transmitters attached. The number of sea turtles captured would not change. The goal of the additional research would be to assess the potential diversity of diets and foraging habits and document over-wintering habitats of loggerheads.

Dated: September 28, 2006.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–16487 Filed 10–4–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Submission for OMB Review; Comment Request

The United States Patent and Trademark Office (USPTO) will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: United States Patent and Trademark Office (USPTO).

Title: Invention Promoters/Promotion Firms Complaints.

Form Number(s): PTO/SB/2048.

Agency Approval Number: 0651–0044.

Type of Request: Revision of a currently approved collection.

Burden: 38 hours annually.

Number of Respondents: 100 responses per year.

Avg. Hours Per Response: The USPTO estimates that it will take the public approximately 15 minutes (0.25 hours) to gather the necessary information, prepare the form, and submit a complaint to the USPTO and approximately 30 minutes (0.5 hours) for an invention promoter or promotion firm to prepare and submit a response to a complaint.

Needs and Uses: The Inventors' Rights Act of 1999 requires the USPTO to provide a forum for the publication of complaints concerning invention promoters and responses from the invention promoters to these complaints. An individual may submit a complaint to the USPTO, which will then forward the complaint to the identified invention promoter for response. The complaints and responses are published on the USPTO Web site. The public uses this information collection to submit a complaint to the USPTO regarding an invention promoter or to respond to a complaint. The USPTO uses this information to comply with its statutory duty to publish the complaint along with any response from the invention promoter. The USPTO does not investigate these complaints or participate in any legal proceedings against invention promoters or promotion firms.

Affected Public: Individuals or households, businesses or other for-profits, and not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by any of the following methods:

- *E-mail: Susan.Brown@uspto.gov.* Include ''0651–0044 copy request'' in the subject line of the message.
- *Fax:* 571–273–0112, marked to the attention of Susan Brown.
- *Mail:* Susan K. Brown, Records Officer, Office of the Chief Information Officer, Architecture, Engineering and Technical Services, Data Architecture and Services Division, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Written comments and recommendations for the proposed information collection should be sent on or before November 6, 2006 to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW., Washington, DC 20503.

Dated: September 28, 2006.

Susan K. Brown,

Records Officer, USPTO, Office of the Chief Information Officer, Architecture, Engineering and Technical Services, Data Architecture and Services Division.

[FR Doc. E6–16466 Filed 10–4–06; 8:45 am]

BILLING CODE 3510–16–P

COMMODITY FUTURES TRADING COMMISSION

Notice of Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10:30 a.m., Wednesday, October 25, 2006.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Rule Enforcement Review.

FOR FURTHER INFORMATION CONTACT: Eileen A. Donovan, 202–418–5100.

Eileen A. Donovan,

Acting Secretary of the Commission.

[FR Doc. 06–8533 Filed 10–3–06; 11:13 am]

BILLING CODE 6351–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Sunshine Act Notice

The President's Council on Service and Civic Participation gives notice of the following meeting:

DATE AND TIME: Wednesday, October 12, 2006, 2 p.m.–3:30 p.m.

PLACE: Rayburn House Office Building, Independence Ave.—between 1st Street, NW., and South Capitol Street; Gold Room; Washington, DC 20515.

STATUS: Open.

MATTERS TO BE CONSIDERED:

I. Opening Remarks and Welcome from Council Chair.

II. Swearing-in Ceremony of new Council Members.

III. Report on Council Activities.

IV. Students Engaged in Service Panel.

V. Presentation of President's Volunteer Service Awards.

VI. Consideration of Gulf Coast Resolution.

VII. Closing Remarks.

VIII. Adjournment.

ACCOMMODATIONS: Anyone who needs an interpreter or other accommodation should notify the Corporation's contact person by 5 p.m., Friday, October 7, 2006.

CONTACT PERSON FOR MORE INFORMATION: David Premo, Public Affairs Associate, Public Affairs, Corporation for National and Community Service, 10th Floor, Room 10302E, 1201 New York Avenue, NW., Washington, DC 20525. Phone (202) 606–6717. Fax (202) 606–3460. TDD: (202) 606–3472. E-mail: *dpremo@cns.gov.*

Dated: October 2, 2006.

Frank R. Trinity,

General Counsel.

[FR Doc. 06–8534 Filed 10–3–06; 11:58 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 06–72]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/DBO/CFM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 06–72 with attached transmittal and policy justifications.

Dated: September 28, 2006.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

SEP 2 7 2006
In reply refer to:
I-06/012160

The Honorable J. Dennis Hastert
Speaker of the House of Representatives
Washington, DC 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 06-72, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to Iraq for defense articles and services estimated to cost $142 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

JEFFREY B. KOHLER
LIEUTENANT GENERAL, USAF
DIRECTOR

Enclosures:
1. **Transmittal**
2. **Policy Justification**

Same ltr to:

House	Senate
Committee on International Relations	Committee on Foreign Relations
Committee on Armed Services	Committee on Armed Services
Committee on Appropriations	Committee on Appropriations

Transmittal No. 06-72

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) Prospective Purchaser: Iraq

(ii) Total Estimated Value:

Major Defense Equipment*	$ 42 million
Other	$100 million
TOTAL	$142 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: one AN/FPS-117 or TPS-77 Long Range Air Traffic Control Radar, support equipment, management support, spare and repair parts, supply support, training, publications and technical data, U.S. Government and contractor technical assistance and other related elements of logistics support.

(iv) Military Department: Air Force (QAA)

(v) Prior Related Cases, if any: none

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: none

(viii) Date Report Delivered to Congress: SEP 2 7 2006

*** as defined in Section 47(6) of the Arms Export Control Act.**

POLICY JUSTIFICATION

Iraq – AN/FPS-117 or TPS-77 Long Range Air Traffic Control Radar

The Government of Iraq has requested a possible sale of one AN/FPS-117 or TPS-77 Long Range Air Traffic Control Radar, support equipment, management support, spare and repair parts, supply support, training, publications and technical data, U.S. Government and contractor technical assistance and other related elements of logistics support. The estimated cost is $142 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country. This proposed sale directly supports the Iraqi government and serves the interests of the Iraqi people and the United States.

This proposed sale will enhance the foreign policy and national security objectives of the United States by enhancing Iraq's capacity to support U.S. Government efforts in Operation Iraqi Freedom (OIF), as well as supporting Iraq's legitimate need for military independence.

The proposed sale of this radar will provide more responsive and timely information for air defense operations. This radar will contribute to the modernization of obsolete radars in Iraq's air defense radar system.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be: Lockheed-Martin Aeronautics Company of Syracuse, New York. There are no known offset agreements proposed in connection with this potential sale.

The number of U.S. Government personnel and contractor representatives required in-country to support the program will be determined in joint negotiations as the program proceeds through the development and production phases

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 06–8502 Filed 10–4–06; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 06–73]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/DBO/CFM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 06–73 with attached transmittal and policy justification.

Dated: September 28, 2006.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

SEP 2 7 2006

In reply refer to:
I-06/012162

The Honorable J. Dennis Hastert
Speaker of the House of Representatives
Washington, DC 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 06-73, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to Iraq for defense articles and services estimated to cost $900 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

JEFFREY B. KOHLER
LIEUTENANT GENERAL, USAF
DIRECTOR

Enclosures:
1. **Transmittal**
2. **Policy Justification**

Transmittal No. 06-73

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) Prospective Purchaser: Iraq

(ii) Total Estimated Value:

Major Defense Equipment*	$800 million
Other	$100 million
TOTAL	$900 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: The Government of Iraq has requested a possible sale of:

24 King Air 350ER for Intelligence/Surveillance/Reconnaissance role with L-3 Wescam MX-15 Electro Optics/Infrared (EO/IR) system, plus 1 of the following Synthetic Aperture Radar(SAR/ISAR)/Inverse Synthetic:
APS-134 Sea Vue or APS-143 Ocean Eye or RDR-1700 or Lynx II (APY-8) or APS144 or APY-12 Phoenix

24 Data Link Systems (T-Series Model-U or T-Series Model-N or ADL850 or TCDL or BMT-85)

24 King Air 350ER or PZL M-18 Skytruck Aircraft for light transport role

48 AAR-47 Missile Warning Systems

48 ALE-47 Countermeasures Dispensing Systems

6,000 M-206 Flare Cartridges

50 Global Positioning System (GPS) and Embedded GPS/Inertial Navigation Systems (INS)

(iv) Military Department: Air Force (SAA)

(v) Prior Related Cases, if any: none

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: none

(viii) Date Report Delivered to Congress: SEP 27 2006

*** as defined in Section 47(6) of the Arms Export Control Act.**

POLICY JUSTIFICATION

Iraq - King Air 360ER for Intelligence/Surveillance/Reconnaissance

The Government of Iraq has requested a possible sale of:

24	King Air 350ER for Intelligence/Surveillance/Reconnaissance role with L-3 Wescam MX-15 Electro Optics/Infrared (EO/IR) system, plus 1 of the following Synthetic Aperture Radar(SAR/ISAR)/Inverse Synthetic: APS-134 Sea Vue or APS-143 Ocean Eye or RDR-1700 or Lynx II (APY-8) or APS144 or APY-12 Phoenix
24	Data Link Systems (T-Series Model-U or T-Series Model-N or ADL850 or TCDL or BMT-85)
24	King Air 350ER or PZL M-18 Skytruck Aircraft for light transport role
48	AAR-47 Missile Warning Systems
48	ALE-47 Countermeasures Dispensing Systems
6,000	M-206 Flare Cartridges
50	Global Positioning System (GPS) and Embedded GPS/Inertial Navigation Systems (INS)

Also included: support equipment, management support, spare and repair parts, supply support, training, personnel training and training equipment, publications and technical data, U.S. Government and contractor technical assistance and other related elements of logistics support. The estimated cost is $900 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country. This proposed sale directly supports the Iraqi government and serves the interests of the Iraqi people and the United States.

This proposed sale will enhance the foreign policy and national security objectives of the United States by enhancing Iraq's capacity to support U.S. Government efforts in Operation Iraqi Freedom (OIF), as well as supporting Iraq's legitimate need for military independence.

These Intelligence/Surveillance/Reconnaissance and light transportation aircraft will provide the ability to survey the battlespace, provide valuable intelligence, and mobilize troops and carry equipment to the fight. Furthermore, they will help Iraq monitor and defend its borders, eliminating the need for a key U.S. provided capability.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The principal contractors will be:

BAE Advanced Systems	**Greenlawn, New York**
Raytheon Company	**Lexington, Massachusetts**
Lockheed-Martin & Skytruck Companies	**Naples, Florida**
Honeywell	**Morristown, New Jersey**

There are no known offset agreements proposed in connection with this potential sale.

The number of U.S. Government personnel and contractor representatives required in-country to support the program will be determined in joint negotiations as the program proceeds through the development and production phases

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 06–8503 Filed 10–4–06; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 06–70]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notifications. This is published to fulfill the requirements of section of 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/DBO/CFM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 06–70 with attached transmittal and policy justifications.

Dated: September 28, 2006.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–M

DEFENSE SECURITY COOPERATION AGENCY
WASHINGTON, DC 20301-2800

27 SEP 2006

In reply refer to:
I-06/011668

The Honorable J. Dennis Hastert
Speaker of the House of Representatives
Washington, DC 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 06-70, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to United Kingdom for defense articles and services estimated to cost $77 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

Richard J. Millies
Deputy Director

Enclosures:
1. **Transmittal**
2. **Policy Justification**
3. **Sensitivity of Technology**

Same ltr to:

House	Senate
Committee on International Relations	Committee on Foreign Relations
Committee on Armed Services	Committee on Armed Services
Committee on Appropriations	Committee on Appropriations

Transmittal No. 06-70

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) **Prospective Purchaser:** United Kingdom

(ii) **Total Estimated Value:**

Major Defense Equipment*	$36 million
Other	$41 million
TOTAL	$77 million

(iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:** two MQ-9 Unmanned Aerial Vehicle (UAV) aircraft, one Ground Control Station, two Multi-Spectral Targeting Systems, one Mobile Ground Control Station, two Lynx Synthetic Aperture Radar (airborne), Ku-Band Communications spares, Lynx Synthetic Aperture Radar Spares, engineering support, test equipment, ground support, operational flight test support, communications equipment, technical assistance, personnel training/equipment, spare and repair parts, and other related elements of logistics support.

(iv) **Military Department:** Air Force (SMI)

(v) **Prior Related Cases, if any:** none

(vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** none

(vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** See Annex attached

(viii) **Date Report Delivered to Congress:** 27 SEP 2006

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

United Kingdom – MQ-9 Unmanned Aerial Vehicle Aircrafts

The Government of United Kingdom has requested a possible sale of two MQ-9 Unmanned Aerial Vehicle (UAV) aircraft, one Ground Control Station, two Multi-Spectral Targeting Systems, one Mobile Ground Control Station, two Lynx Synthetic Aperture Radar (airborne), Ku-Band Communications spares, Lynx Synthetic Aperture Radar Spares, engineering support, test equipment, ground support, operational flight test support, communications equipment, technical assistance, personnel training/equipment, spare and repair parts, and other related elements of logistics support. The estimated cost is $77 million.

United Kingdom is a major political and economic power in NATO and the Atlantic and a key democratic partner of the United States (U.S.) in ensuring peace and stability in this region and around the world.

The United Kingdom requests these capabilities to provide for the defense of deployed troops, regional security, and interoperability with the United States. This program will increase the United Kingdom's ability to contribute to future NATO, coalition, and anti-terrorism operations that the U.S. may undertake. The United Kingdom is a staunch supporter of the U.S. in Iraq and Afghanistan, and the Global War on Terror. United Kingdom troops are deployed in support of IRAQI FREEDOM and ENDURING FREEDOM, where U.S. assets currently provide this proposed capability. By acquiring this capability, the United Kingdom will be able to provide the same level of protection for its own forces and those of the United States.

The proposed sale of this equipment and support will not affect the basic military balance in the region. The United Kingdom will have no difficulty absorbing these aircraft into its armed forces.

The principal contractors will be:

General Atomics Aeronautical Systems	San Diego, California
Raytheon Space and Airborne Systems	El Segundo, California
General Atomics Lynx Systems	San Diego, California

There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any U.S. Government or contractor representatives to the United Kingdom.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 06-70

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. The MQ-9 Unmanned Aerial Vehicle Aircraft is Unclassified. The highest level of classified information required for training, operation, and maintenance is Secret. The MQ-9 is a long-endurance, high-altitude, remotely operated aircraft that can be used for surveillance, military reconnaissance, and targeting missions. Real-time missions are flown under the control of a pilot in a Ground Control Station (GCS). A data link is maintained that uplinks control commands and downlinks video with telemetry data. The data link can be a C-Band Line-of-Sight (LOS) communication or Ku–Band Over-the-Horizon Satellite Communication (SATCOM). Autonomous missions are preprogrammed by pilots in the GCS and are flown under the control of an onboard suite of redundant computers and sensors. Payload imagery and data are downlinked to a GCS. A pilot initiates autonomous missions once the aircraft is airborne and lands the aircraft when the mission is completed. Pilots can change preprogrammed mission parameters as often as required. The aircraft can also be handed off to other strategically placed ground- or sea-based Ground Control Stations. The MQ-9 is designed to carry 800 pounds of internal payload with maximum fuel and can carry multiple mission payloads aloft. The MQ-9 will be configured for the following payloads: Electro-Optical/Infrared (EO/IR), Synthetic Aperture Radar (SAR), Electronic Support Measures (ESM), Signals Intelligence (SIGINT), laser designators, and weapons. The United Kingdom intends to use the MQ-9 as an ISR asset and does not plan to employ a weapons package at this time, however; it may do so in the future if necessary to support coalition operations. The MQ-9 systems will include the following components:

a. The Ground Control Station (GCS) can be either fixed or mobile. The fixed GCS is enclosed in a customer-specified shelter. It incorporates workstations that allow operators to control and monitor the aircraft, as well as record and exploit downlinked payload data. The mobile GCS allows operators to perform the same functions and is contained on a mobile trailer. Workstations in either GCS can be tailored to meet customer requirements. The GCS and technical data/documents are Unclassified.

b. The General Atomics AN/APY-8 Synthetic Aperture Radar/Ground Moving Target Indicator (SAR/GMTI) system provides all-weather surveillance, tracking and targeting for military and commercial customers from manned and unmanned vehicles. The AN/APY-8 operates in the Ku band, using an offset-fed dish antenna mounted on a three-axis stabilized gimbal. It has a large field of regard: 5-60 degrees in depression, ± (45-135) degrees in squint in SAR mode, and ± (0-175) degrees in squint in GMTI mode. The AN/APY-8 has 0.3 to 3 meter resolution in stripmap mode and can image up to a 10-km wide swath (at 3 meter resolution). Swaths from multiple passes are combined for wide-area surveillance. The AN/APY-8 SAR/GMTI radar system and technical data/documents are Unclassified.

c. The Raytheon Multi-Spectral Targeting System (MTS-B) is a multi-use infrared (IR), electro-optical (EO), and laser detecting ranging-tracking set, developed and produced for use by the U. S. Air Force in Predator B. This advanced EO and IR system provides long-range surveillance, high altitude, target acquisition, tracking, range finding, and laser designation for the HELLFIRE missile and for all tri-service and NATO laser-guided munitions.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

[FR Doc. 06–8504 Filed 10–4–06; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 06–65]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/DBO/CFM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 06–65 with attached transmittal and policy justification. Sensitivity of Technology, and Section 484 of the FAA.

Dated: September 28, 2006.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

In reply refer to:
I-06/010955

The Honorable J. Dennis Hastert
Speaker of the House of Representatives
Washington, DC 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 06-65, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance to Colombia for defense articles and services estimated to cost $303 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

You will also find attached a determination as required by Section 484(a)(2) of the Foreign Assistance Act of 1961, as amended.

Sincerely,

Richard J. Millies
Deputy Director

Enclosures:
1. **Transmittal**
2. **Policy Justification**
3. **Sensitivity of Technology**
4. **Section 484(a)(2)**

Same ltr to:

House	Senate
Committee on International Relations	Committee on Foreign Relations
Committee on Armed Services	Committee on Armed Services
Committee on Appropriations	Committee on Appropriations

Transmittal No. 06-65

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) Prospective Purchaser: Colombia

(ii) Total Estimated Value:

Major Defense Equipment*	$300 million
Other	$ 3 million
TOTAL	$303 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: 15 UH-60L BLACK HAWK helicopters with engines, spare and repair parts, tools and support equipment, publications and technical data, personnel training and training equipment, U.S. Government and contractor technical assistance and other related elements of logistics support.

(iv) Military Department: Army (VBR)

(v) Prior Related Cases, if any: numerous FMS cases pertaining to BLACK HAWK Helicopters

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex attached

(viii) Date Report Delivered to Congress:

*** as defined in Section 47(6) of the Arms Export Control Act.**

POLICY JUSTIFICATION

Colombia - UH-60L BLACK HAWK HELICOPTERS

The Government of Colombia has requested a possible sale of 15 UH-60L BLACK HAWK helicopters with engines, spare and repair parts, tools and support equipment, publications and technical data, personnel training and training equipment, U.S. Government and contractor technical assistance and other related elements of logistics support. The estimated cost is $303 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country that has been and continues to be an important partner in the war on drugs.

Colombia needs these helicopters to fulfill its strategic commitments within the region, for its self-defense and to continue its counter narco-terrorist mission. These helicopters will be used continue Colombia's unified campaign against narcotics trafficking and terrorist organizations. The proposed sale will upgrade its anti-personnel and day/night mission capability, provide for the defense of vital installations, and provide close air support for ground forces. Colombia, which already has UH-60 model helicopters in its inventory, will have no difficulty absorbing these additional aircraft.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The principal contractors will be: Sikorsky Aircraft Corporation of Stratford, Connecticut and General Electric of Lynn, Massachusetts. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government and contractor representatives to Colombia.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 06-65

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. The UH-60L BLACK HAWK helicopters contain communications and identification equipment, navigation equipment, aircraft survivability equipment, displays and sensors. The airframe itself does not contain sensitive technology. The highest levels of classified information required to be released for training, operation and maintenance of the BLACK HAWK helicopters is Unclassified. The highest level that could be revealed through reverse engineering or testing of the end item is Secret.

2. The UH-60L BLACK HAWK helicopters will include the following pertinent equipment listed below, either installed on the aircraft or included in the sale:

a. The Hover InfraRed (IR) Suppression System (HIRSS) and Improved HIRSS and Forward Looking Infrared (FLIR) systems are Unclassified. The FLIR is optional.

b. The 200 Gallon Internal Auxiliary Fuel Tank Kits provide extra range fuel capabilities and allow the helicopter to transport and dispense aviation fuel to aircraft or tactical vehicles at forward landing zones. The tank kits that allow for rapid mission changes are is Unclassified. The tank kits are optional.

c. The Six-Man Pole and Litter Mission Kit provides search and rescue capabilities and can be used in a wide range of rescue operations, including tactical, Hazmat and disaster preparation. The kit is Unclassified and considered optional.

d. The AN/ARC-232 Starblazer Airborne Very High Frequency/Ultra High Frequency Multi-band Communications System (Exportable version) supports the requirement for an airborne, multi-band, multi-mission, anti-jam, voice and data network-capable communication system in one small lightweight package qualified to military standards. The system is Unclassified and can be procured without the

e. The AN/ARC-201E Single Channel Ground/Airborne Subsystem Radio (Exportable) is a tactical airborne radio subsystem that provides secure, anti-jam voice and data communication. There are no releasability issues. The system is Unclassified.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware or software in this proposed sale, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advance capabilities.

DETERMINATION

Pursuant to § 484 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2261) (the "Act"), the International Narcotics Control Corrections Act of 1994, Executive Order 12163, as amended, and in accordance with State Department Delegation of Authority Number 293, I hereby waive the application of § 484(a)(1) of the Act (which requires that the United States retain title to aircraft made available to a foreign country primarily for narcotics-related purposes), for the sale of fifteen UH-60L BLACK HAWK helicopters with engines, spare and repair parts, tools and support equipment, publications and technical data, personnel training and training equipment, U.S. Government and contractor technical assistance and other related elements of logistics support to the Government of Colombia because retention of title to the aircraft would be contrary to the national interest of the United States.

This waiver shall be reported to Congress immediately in accordance with the procedures applicable to reprogramming notifications under § 634A of the Act as required by § 484(a)(2)(ii) of the Act.

SEP 25 2006
Date

Robert Joseph
Under Secretary of State
for Arms Control and International Security

[FR Doc. 06–8505 Filed 10–4–06; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 06–64]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/DBO/CFM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 06–64 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: September 28, 2006.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–M

DEFENSE SECURITY COOPERATION AGENCY
WASHINGTON, DC 20301-2800

SEP 27 2006
In reply refer to:
I-06/010952

The Honorable J. Dennis Hastert
Speaker of the House of Representatives
Washington, DC 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 06-64, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance to Netherlands for defense articles and services estimated to cost $652 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

JEFFREY B. KOHLER
LIEUTENANT GENERAL, USAF
DIRECTOR

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Same ltr to:

House
Committee on International Relations
Committee on Armed Services
Committee on Appropriations

Senate
Committee on Foreign Relations
Committee on Armed Services
Committee on Appropriations

Transmittal No. 06-64

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) **Prospective Purchaser:** The Netherlands

(ii) **Total Estimated Value:**

Major Defense Equipment*	$520 million
Other	$132 million
TOTAL	$652 million

(iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:** up to 9 CH-47F CHINOOK Cargo Helicopters to include the Common Architecture Avionics System (CAAS) cockpit and up to 18 55-L-714A turbine engines (two per helicopter), upgrade of 11 CH-47D CHINOOK Cargo Helicopters to the newer CH-47F configuration to include the CAAS cockpit, mission equipment, communication and navigation equipment, ground support equipment, special tools and test equipment, management support, modification kits, support equipment, spare and repair parts, supply support, training, publications and technical data, U.S. Government Quality Assurance Team, United States (U.S.) Government and contractor technical assistance and other related elements of logistics support.

(iv) **Military Department:** Army (WYZ)

(v) **Prior Related Cases, if any:** none

(vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** none

(vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** See Annex attached.

(viii) **Date Report Delivered to Congress:** SEP 27 2006

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

The Netherlands – CH-47F CHINOOK Helicopters

The Government of the Netherlands has requested a possible sale of up to 9 CH-47F CHINOOK Cargo Helicopters to include the Common Architecture Avionics System (CAAS) cockpit and up to 18 55-L-714A turbine engines (two per helicopter), upgrade of 11 CH-47D CHINOOK Cargo Helicopters to the newer CH-47F configuration to include the CAAS cockpit, mission equipment, communication and navigation equipment, ground support equipment, special tools and test equipment, management support, modification kits, support equipment, spare and repair parts, supply support, training, publications and technical data, U.S. Government Quality Assurance Team, United States (U.S.) Government and contractor technical assistance and other related elements of logistics support. The estimated cost is $652 million.

This proposed sale contributes to the foreign policy and national security objectives of the U.S. by improving the military capabilities of the Netherlands and enhancing standardization and interoperability with U.S. forces. The Netherlands is a NATO ally and an active U.S. partner in the Global War on Terror (GWOT) that has supplied forces to conduct operations in both Operation Iraqi Freedom and Operation Enduring Freedom and is currently on the ground in Afghanistan as part of the NATO International Security Assistance Force (ISAF).

The Netherlands needs these helicopters to enhance its CH-47 fleet capabilities. Having the same aircraft configuration as the U.S. would greatly contribute to its military capability making it a more capable and sustainable coalition force to support the GWOT. The Netherlands has the ability to use and maintain these aircraft as evidenced by their operating previous CH-47 configurations. The Netherlands will have no difficulty absorbing these aircraft into its armed forces.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The principal contractors will be: The Boeing Company of Ridley Park, Pennsylvania and Honeywell, Incorporated of Phoenix, Arizona. The purchaser intends to negotiate an offset agreement, details of which are undetermined and will be defined in negotiations between the purchaser and contractor.

Implementation of this sale also will potentially require the assignment of two U.S. Contractor Field Service Representatives to the Netherlands for up to three years. A team of contractors will be required to provide technical assistance during the upgrade of the aircraft. Up to six U.S. Government representatives will travel to The Netherlands for eight trips to participate in program support and technical reviews.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 06-64

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. The CH-47F is a Cargo Helicopter, remanufactured from CH-47D aircraft or newly manufactured aircraft with Common Avionics Architecture System (CAAS) cockpit, which provides aircraft system, flight, mission, and communication management systems. The CAAS includes five multifunction displays, two general purposed processor units, two control display units and two data concentrator units. The Navigation System will have two Embedded GPS/INS, two Digital Advanced Flight Control Systems (DAFCS), one ARN-149 Automatic Direction Finder, one ARN-147 (VOR/ILS marker Beacon System), one ARN-153 TACAN, two air data computers, and one Radar Altimeter system.

a. The AN/ARC-164 Have Quick II variant radio is the U.S. Air Force and U.S. Army standard avionics radio. The AN/ARC-164 provides effective, proven anti-jam Ultra High Frequency (UHF) voice communication. Performance capabilities, vulnerabilities and weaknesses, Electric Countermeasures/Electric Counter-Countermeasures (ECM/ECCM) capabilities and frequencies, and operational characteristics and data are classified Secret.

b. The AN/ARC-201D Single Channel Ground and Airborne Radio System (SINCGARS) is a tactical airborne radio subsystem that provides secure, anti-jam voice and data communication. The enhanced Data Modes (EDM) of the radio employs a Reed-Solomon Forward Error Correction (FEC) technique that provides enhanced bit-error-rate performance. The EDM Packet Data Mode supports packet data transfer from the air airborne host computer to another airborne platform or the ground-based equivalent SINCGARS system. Performance capabilities, ECM/ECCM specifications and Engineering Change Orders (ECOs) are classified Secret.

c. The AN/ARC-231 is an airborne VHF/UHF LOS and DAMA SATCOM3 communication system. This system supports the DoD requirements for airborne, multi-band, multi-mission, secure anti-jam voice, data and imagery. It provides network-capable communications in a compact radio set. This is accomplished using DoD MIL-STD software/ waveforms to ensure maximum interoperability across joint force operations.

d. The AN/ARC-220 is a High Frequency (HF) radio that provides secure and non-secure voice and data communications with automatic link establishment (ALE). The system will provide communications between aircraft flying nap-of-the-earth (NOE) profiles, other aircraft, and ground radios. The radio system will provide aircraft with the capability for continuous and reliable, secure and non-secure communications at non-line-of-sight (NLOS) distances. The radio incorporates the latest state-of-the-art breakthroughs to include ALE and electronic counter-countermeasures (ECCM). The ground configuration of the HF radio is designated as the AN/VRC-100(V)1. The hardware, software, performance capabilities, Engineering Change Orders (ECOs), vulnerabilities and weaknesses, ECM/ECCM performance, and system vulnerabilities and weaknesses are classified Secret.

e. The TSEC KY-58 voice security equipment is used with the FM Command Radio to provide secure two-way communication. It is communication security (COMSEC) equipment that has sensitive technology and is classified Confidential if software fill is installed.

f. The TSEC KY-100 voice security equipment is used with the FM Command Radio to provide secure two-way communication. It is COMSEC Equipment that has sensitive technology and is classified Secret if software fill is installed.

g. AN/APR-39 Series Radar detecting set (RDS) are sensitive items and classified Secret if the Unit Data Module has threat data software installed. It uses a digital processor and alphanumeric display to provide warning of radar directed air defense threat systems. The system is capable of detecting all pulse radar normally associated with hostile surface-to-air missiles, airborne intercepts and anti-aircraft weapon systems. The software for this system determines the classification. Normally a customer has specific software developed to meet its requirements.

2. The ramifications of this technology getting into the hands of an adversary are severe. Software such as the Emitters Information Display (EID) software of the APR-39 system could provide an adversary with critical information on how our Army Survivability Equipment (ASE) systems detect threats and what threats we are attempting to defeat. The same is true for the Identification Friend or Foe (IFF) systems, which allow us to know if an aircraft is friendly or a threat. Should a fill device or crypto asset (KY-58 or KY 100) with the accompanying radio system become compromised it would enable an adversary to intercept our communications, both verbal and encrypted.

[FR Doc. 06–8506 Filed 10–4–06; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 06–54]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/DBO/CFM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 06–54 with attached transmittal, policy justification, Sensitivity of Technology, and Section 620C(d).

Dated: September 28, 2006.

C.R. Choate,

Alternate OSF Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

27 SEP 2006

In reply refer to:
I-06/009229

The Honorable J. Dennis Hastert
Speaker of the House of Representatives
Washington, DC 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 06-54, concerning the Department of the Army's proposed Letters(s) of Offer and Acceptance to Greece for defense articles and services estimated to cost 66 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

You will also find attached a certification as required by Section 620C(d) of the Foreign Assistance Act of 1961, as amended, that this action is consistent with the principles set forth in subsection 620C(b) of that Act as codified in section 2373 of title 22, United States Code.

Sincerely,

Richard J. Millies
Deputy Director

Enclosures:
1. **Transmittal**
2. **Policy Justification**
3. **Sensitivity of Technology**
4. **Section 620C(d)**

Same ltr to:

House	Senate
Committee on International Relations	Committee on Foreign Relations
Committee on Armed Services	Committee on Armed Services
Committee on Appropriations	Committee on Appropriations

Transmittal No. 06-54

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) **Prospective Purchaser:** Greece

(ii) **Total Estimated Value:**

Major Defense Equipment*	$62 million
Other	$ 4 million
TOTAL	$66 million

(iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:** 633 AGM-114K1 HEAT HELLFIRE II missiles, 24 AGM-114M1 Blast Fragmentation Warhead Missiles, 3 M36E HELLFIRE II Training missiles, 3 M34 HELLFIRE Drill missiles, publications, technical support, and related elements of logistics support.

(iv) **Military Department:** Army (XNQ)

(v) **Prior Related Cases, if any:**

FMS case XIE -	$ 14 million-	29Sep99
FMS case JAS -	$106 million-	5Aug93
FMS case XDU -	$268 million-	24Nov91

(vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** none

(vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** See Annex attached.

(viii) **Date Report Delivered to Congress:** 27 SEP 2006

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Greece – AGM-114 HELLIFIRE Missiles

The Government of Greece has requested a possible sale of 633 AGM-114K1 HEAT HELLFIRE II missiles, 24 AGM-114M1 Blast Fragmentation Warhead Missiles, 3 M36E HELLFIRE II Training missiles, 3 M34 HELLFIRE Drill missiles, publications, technical support, and related elements of logistics support. The estimated cost is $66 million.

This proposed sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Greece and further weapon system standardization and interoperability with U.S. forces.

Greece needs these missiles in order to defend its own borders and to remain militarily viable in the region. The proposed sale of HELLFIRE missiles will greatly improve Greece's defense posture. The missiles will be provided in accordance with, and subject to the limitation on use and transfer provided under the Arms Export Control Act, as amended, as embodied in the Letter of Offer and Acceptance.

Greece, which already has HELLFIRE missiles in its inventory, will have no difficulty absorbing the additional missiles.

This proposed sale will not adversely affect either the military balance in the region or U.S. efforts to encourage a negotiated settlement of the Cyprus questions.

The prime contractor will be HELLFIRE Systems Limited Liability Company of Orlando, Florida. The purchaser has requested offsets; agreements are undetermined and will be defined in negotiations between the purchaser and contractor.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Greece.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 06-54

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. **The highest level for release of the HELLFIRE II is Secret, based upon the software. The highest level of classified information that could be disclosed by a proposed sale or by testing of the end item is Secret; the highest level that must be disclosed for production, maintenance, or training is Confidential. Vulnerability data, countermeasures, vulnerability/susceptibility analyses, and threat definitions are classified Secret or Confidential. Reverse engineering could reveal confidential information. Susceptibility of HELLFIRE II to diversion or exploitation is considered low risk. Components of the system are also considered highly resistant to reverse engineering.**

2. **The Government of Greece is expected to afford all system related information and technologies the same degree of protection given to it by the United States.**

CERTIFICATION PURSUANT TO § 620C(d) OF THE FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED

Pursuant to § 620C(d) of the Foreign Assistance Act of 1961, as amended (the Act), Executive Order 12163 and State Department Delegation of Authority No. 145, I hereby certify that the sale of defense articles and defense services, to include 633 AGM-114K1 HEAT HELLFIRE II missiles, 24 AGM-114M1 Blast Fragmentation Warhead Missiles, 3 M36E HELLFIRE II Training missiles, 3 M34 HELLFIRE Drill missiles and other related elements of program support to the Government of Greece is consistent with the principles set forth in § 620C(b) of the Act.

This certification will be made part of the notification to Congress in accordance with § 36(b) of the Arms Export Control Act, as amended, regarding the proposed sale of the above-named articles and services and is based on the justification accompanying said notification, of which said justification constitutes a full explanation.

Robert Joseph
Under Secretary of State
for Arms Control and
International Security

[FR Doc. 06–8507 Filed 10–4–06; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 06–52]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/DBO/CFM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 06–52 with attached transmittal and policy justification.

Dated: September 28, 2006.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

27 SEP 2006

In reply refer to:
I-06/009133

The Honorable J. Dennis Hastert
Speaker of the House of Representatives
Washington, DC 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 06-52, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance to Saudi Arabia for defense articles and services estimated to cost $84 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

Richard J. Millies
Deputy Director

Enclosures:
1. **Transmittal**
2. **Policy Justification**

Same ltr to:

House	Senate
Committee on International Relations	Committee on Foreign Relations
Committee on Armed Services	Committee on Armed Services
Committee on Appropriations	Committee on Appropriations

Transmittal No. 06-52

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) Prospective Purchaser: Saudi Arabia

(ii) Total Estimated Value:

Major Defense Equipment*	$41 million
Other	$43 million
TOTAL	$84 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: for the continuation of the United States supported effort to modernize the Saudi Arabian National Guard (SANG) by providing Major Defense Equipment (MDE) and non-MDE items:

552 AN/VRC-90E Single Channel Ground and Airborne Radio Systems (SINCGARS) Vehicular Single Long-Range Radio Systems; 225 AN/VRC-92E SINCGARS Vehicular Single Long-Range Radio Systems Dual Long Range; 1,214 AN/PRC-119 E SINCGARS Man-pack Single Long-Range Radio Systems and vehicular installation kits, communications management system computers, antennas, programmable fill devices, support equipment; publications and technical data; personnel training and training equipment; contractor engineering and technical support services and other related elements of logistics support.

(iv) Military Department: Army (ZAC, Amendment 35)

(v) Prior Related Cases, if any: numerous cases dating back to 1973

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: none

(viii) Date Report Delivered to Congress: 27 SEP 2006

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Saudi Arabia - Continued Assistance in the Modernization of the SANG

The Government of Saudi Arabia has requested a possible sale for the continuation of the United States supported effort to modernize the Saudi Arabian National Guard (SANG) by providing Major Defense Equipment (MDE) and non-MDE items:

552 AN/VRC-90E Single Channel Ground and Airborne Radio Systems (SINCGARS) Vehicular Single Long-Range Radio Systems; 225 AN/VRC-92E SINCGARS Vehicular Single Long-Range Radio Systems Dual Long Range; 1,214 AN/PRC-119 E SINCGARS Man-pack Single Long-Range Radio Systems Man-pack and vehicular installation kits, communications management system computers, antennas, programmable fill devices, support equipment; publications and technical data; personnel training and training equipment; contractor engineering and technical support services and other related elements of logistics support. The estimated cost is $84 million.

The proposed sale coupled with the training, assistance, and advice provided by the United States (U.S.) Government through the Office of the Program Manager SANG will serve to make a key regional ally and partner in the Global War on Terror more capable of defeating those who would threaten regional stability and less reliant on the deployment of U.S. combat forces to maintain or restore stability in the Middle East.

The SANG needs these defense articles so that it can effectively conduct security and counter-terrorism operations. The continuation of services under the SANG Modernization Program is an evolution of the SANG as an effective defensive force with the advice, assistance, and training of the U.S. Army. The Modernization Program ensures necessary training, logistics, support, doctrine development and force integration for the continuing expansion and use of their weapon systems. These services will remain the cornerstone of an effort to upgrade and enhance the infrastructure of the SANG organization.

The proposed sale will also provide SANG with additional command, control, and communications equipment needed to operate in a secure communications environment that will facilitate the performance of its mission within Saudi Arabia. It is consistent with the National Command Authority's intent for stability in the Central Command Area of Operation. The radios will provide the critical VHF and HF links necessary for a large fast moving force and integration with the SINCGARS radios SANG already has fielded in its Light Armored Vehicle and Light Infantry Brigades.

(C) The proposed sale of this equipment and support will not affect the basic military balance in the region. Saudi Arabia is capable of absorbing and maintaining this additional MDE equipment in its inventory.

The principal contractors will be:

ITT Aerospace/Communications	Fort Wayne, Indiana
Harris Corporation	Rochester, New York
Northrop Grumman Corporation	Linthicum, Maryland

There are no known offset agreements proposed in connection with this potential sale.

At present, there are approximately 250 U.S. Government personnel and 630 contractor representatives in country supporting the SANG modernization program.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 06–8508 Filed 10–4–06; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 06–33]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/DBO/CFM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 06–33 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: September 28, 2006.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

27 SEP 2006

In reply refer to:
I-06/005300

The Honorable J. Dennis Hastert
Speaker of the House of Representatives
Washington, DC 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 06-33, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance to Finland for defense articles and services estimated to cost $300 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

Richard J. Millies
Deputy Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Same ltr to:

House	Senate
Committee on International Relations	Committee on Foreign Relations
Committee on Armed Services	Committee on Armed Services
Committee on Appropriations	Committee on Appropriations

Transmittal No. 06-33

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) Prospective Purchaser: Finland

(ii) Total Estimated Value:

Major Defense Equipment*	$ 75 million
Other	$ 225 million
TOTAL	$ 300 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: the third phase of the F/A-18 Mid-Life Upgrade (MLU) Program, consisting of F/A-18C/D Fleet Retrofit Kits of the following systems:

67 AN/APG-73 Expand 4/5 Upgrades,
3 AN/RT-1851 Radio Transmitters,
5 Multifunctional Information Display Systems (MIDS/LVT),
10 Advanced Tactical Forward Looking Infrared Radar (ATFLIR),
4 AN/ALR-67V(3) Radar Warning Receivers,
5 AN/AYK-14 Mission Computer Upgrades,
2 GBU-31 Joint Direct Attack Munitions (JDAM),
2 AGM-154A Joint Stand Off Weapons (JSOW),
1 AGM-84K Stand-Off Land Attack Missile/Expanded Response (SLAM-ER), and
1 AGM-88E Advanced Anti-Radiation Guided Missile (AARGM).

The proposed program support includes recorders, receivers, devices, systems, APX-111 Combined Interrogator Transponders Mode S, component improvement program, spare and repair parts, support and test equipment, publications and technical data, personnel training and equipment, U.S. Government and contractor engineering and other related elements of logistics and program management support.

(iv) Military Department: Navy (LBD)

(v) Prior Related Cases, if any:
FMS case LBC - $127 million - 1Jan04
FMS case LBB - $ 63 million - 4Aug01

* as defined in Section 47(6) of the Arms Export Control Act.

(vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** none

(vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** none

(viii) **Date Report Delivered to Congress:** 27 SEP 2006

POLICY JUSTIFICATION

Finland – F/A-18 Mid-Life Upgrade Program

The Government of Finland has requested a possible sale for the third phase of the F/A-18 Mid-Life Upgrade (MLU) Program, consisting of F/A-18C/D Fleet Retrofit Kits of the following systems:

67 AN/APG-73 Expand 4/5 Upgrades,
3 AN/RT-1851 Radio Transmitters,
5 Multifunctional Information Display Systems (MIDS/LVT),
10 Advanced Tactical Forward Looking Infrared Radar (ATFLIR),
4 AN/ALR-67V(3) Radar Warning Receivers,
5 AN/AYK-14 Mission Computer Upgrades,
2 GBU-31 Joint Direct Attack Munitions (JDAM),
2 AGM-154A Joint Stand Off Weapons (JSOW),
1 AGM-84K Stand-Off Land Attack Missile/Expanded Response (SLAM-ER), and
1 AGM-88E Advanced Anti-Radiation Guided Missiles (AARGM).

The proposed program support includes recorders, receivers, devices, systems, APX-111 Combined Interrogator Transponders Mode S, components improvement program, spare and repair parts, support and test equipment, publications and technical data, personnel training and equipment, U.S. Government and contractor engineering and other related elements of logistics and program management support. The estimated cost is $300 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been, and continues to be, an important force for political stability and economic progress in Europe.

The Finnish Air Force (FAF) intends to purchase the MLU Program equipment to enhance survivability, communications connectivity, and extend the useful life of its F/A-18 fighter aircraft. It has extensive experience operating the F/A-18 aircraft and should have no difficulties incorporating the upgraded capabilities into its forces. The FAF needs this upgrade to keep pace with high tech advances in sensors, weaponry, and communications.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be The Boeing Company of St. Louis, Missouri. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require the assignment of a few U.S. Government or contractor representatives to travel to Finland for approximately four

months. They will provide technical support during the preparation, equipment installation/testing, and checkout.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 06-33

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. The third phase of the F/A-18 Mid-Life Upgrade (MLU) Program consisting of F/A-18C/D Fleet Retrofit Kits will include the following classified or sensitive components and weapons:

a. The AN/ARC-210 Radio (RT-1851 or RT-1745A), including Single Channel Ground and Airborne Radio Systems (SINCGARS), FM Immunity, 8.33 KHz channel spacing, Variable Message Format (VMF), HAVEQUICK and Embedded Secure Voice capabilities. The AN/ARC-210 transceiver can be operated as a normal non-Electronic Counter Countermeasures (ECM) type VHF/UHF radio system. Addition of various types of ECCM module subassemblies enables the AN/ARC-210 Communications System to operate in SATCOM and jam-resistant modes.

b. The Multifunctional Information Distribution System (MIDS) Low Volume Terminal (LVT) is a secure data and voice communication network using the Link-16 architecture. The system provides enhanced situational awareness, positive identification of participants within the network, secure fighter-to-fighter connectivity, secure voice capability, and ARN-118 TACAN functionality. It provides three major functions: Air Control, Wide Area Surveillance, and Fighter-to-Fighter. The MIDS LVT can be used to transfer data in Air-to-Air, Air-to-Surface, and Air-to-Ground scenarios. MIDS LVT is classified confidential. The MIDS Enhanced Interference Blanking Units (EIBU) provides validation and verification of equipment and concept. EIBU enhances input/output signal capacity of the MIDS LVT and addresses parts obsolescence.

c. The Global Positioning System (GPS) upgrade to include MAGR 2000 with Selective Availability Anti-Spoofing Module (SAASM) and Complementary Navigation Message (CNM) for use with GPS guided munitions. Employment of GPS Smart weapons requires the use of the CNM and Precise Position Service (PPS). The requirement is to upgrade to the PPS GPS system to provide CNM to GPS Guided Weapons. GPS and Navigation Systems (GNS) act as the Center to coordinate military efforts. GNS offers the most advanced military GPS user equipment available, including avionics, high anti-jam systems, integrated GPS/INS navigators, and high

performance Selective Availability Anti-Spoof Module (SAASM) receivers. The MAGR 2000 design is a GPS Receiver Applications Module (GRAM) based upon system architecture that is modular in design and incorporates modern electronics. The MAGR 2000 is a form, fit, and function backward compatible replacement of the MAGR, and provides enhancements to include improved acquisition and GPS solution performance, all-in-view GPS satellite tracking, and GPS integrity. The use of the SAASM security architecture significantly enhances the combatant commander's ability to use GPS precise positioning, velocity and time, in all environments. Complementary Navigation Message contains navigation message data demodulated from the GPS satellite signals that has been stripped of parity and packed together. All countries authorized PPS equipment can buy GPS receivers that output the CNM. MAGR 2000 includes CNM. The configuration requested is compatible for use in F/A-18 aircraft.

d. The AN/APG-73 Radar System is classified Secret. The APG-73 Radar will be upgraded to include Expand 4/5 Air-to-Ground Modes and displays. The radar provides the F/A-18 aircraft with all-weather, multi-mission capability for performing air-to-air and air-to-ground targeting and attack. Air-to-air modes provide the capability for all-aspect target detection, long-range search and track, automatic target acquisition, and tracking of multiple targets. Air-to-surface attack modes provide high-resolution ground mapping navigation, weapon delivery, and sensor cueing. The Expand 4/5 Radar Upgrade (RUG II) technology will allow Higher Resolution Air-to-Ground Synthetic Aperture Radar maps to be displayed in the cockpit. The system component hardware (Antenna, Transmitter, Radar Data Processor, and Power Supply) is Unclassified. The Receiver-Exciter hardware is Confidential.

e. The existing AYK-14 Mission Computer faces severe obsolescence and throughput issue. The redesign will replace all Subsystem Replaceable Assemblies (SRA) with a single, modernized SRA. This new technology will drive an update to the existing Military standards for Avionics communications (MIL-STD-1553C).

f. The upgrade of the ALR-67V(2) Radar Warning Receiver (RWR) to the ALR-67V(3) RWR provides increased sensitivity, dual polarity wave detection, and microwave wavelength detection in order to more thoroughly cover and detect the variety of newer waveforms that modern aircraft, ships and ground sites emit.

g. The Airborne Self-Protection Jammer (ASPJ) system software will be upgraded to be compatible with ALR-67V(3).

h. The Joint Mission Planning System (JMPS) will provide mission planning capability for support of military aviation operations. It will also provide support for unit-level mission planning for all phases of military flight operations and have the

capability to provide necessary mission data for the aircrew. JMPS will support the downloading of data to electronic data transfer devices for transfer to aircraft and weapon systems. A JMPS for a specific aircraft type will consist of basic planning tools called the Joint Mission Planning Environment (JMPE) mated with a Unique Planning Component (UPC) provided by the aircraft program. In addition, UPCs will be required for specific weapons, communication devices, and moving map displays in order for proper Mission Planning.

i. The Solid State Recorder (SSR) capabilities incorporated into the F-18C/D aircraft as both a replacement to the existing Cockpit Video Recording System (CVRS) as well as adding capability to capture and store Electro-optical/Infrared (EO/IR) Imagery. Use of SSR technology will overcome numerous obsolescence issues with the existing CVRS, provides greater memory capacity, and allows for future network centric operations such as real-time/near real-time imagery in/out of cockpit.

j. The AN/ASQ-228 Advance Targeting Forward-Looking Infrared (ATFLIR) is a multi-sensor, electro-optical targeting pod incorporating infrared, low-light television camera, laser rangefinder/target designator, and laser spot tracker. It is used to provide navigation and targeting for military aircraft in adverse weather and using precision-guided weapons such as laser-guided bombs.

k. The LITENING is a targeting pod integrated and mounted externally to the aircraft. The targeting pod contains a high-resolution, forward-looking infrared sensor (FLIR) that displays an infrared image of the target to the aircrew; it has a wide field of view search capability and a narrow field of view acquisition/targeting capability of battlefield-sized targets. The pod contains a charged coupled device (CCD-TV) camera used to obtain target imagery in the visible portion of the electromagnetic spectrum. An on-gimbal inertial navigation sensor has established line-of-sight and automatic bore sighting capability. The pod is equipped with a laser designator for precise delivery of laser-guided munitions. A laser rangefinder provides information for various avionics systems, for example, navigation updates, weapon deliveries and target updates. It includes an automatic target tracker to provide fully automatic stabilized target tracking at altitudes, airspeeds and slant ranges consistent with tactical weapon delivery maneuvers. These features simplify the functions of target detection and recognition and permit attack of targets with precision-guided weapons on a single pass.

l. The Joint Direct Attack Munition (JDAM) GBU-31is a weapon with high accuracy, all-weather, autonomous, conventional bombing capability. JDAM will upgrade the existing inventory of general purpose and penetration unitary bombs, and a product improvement may add a terminal seeker to improve accuracy. JDAM can be launched from approximately 15 miles from the target and each is independently targeted.

m. The Standoff Land Attack Missile/Expanded Response (SLAM-ER) is an air-launched, day/night, adverse weather, over-the-horizon, precision strike missile. SLAM-ER provides an effective, long range, precision strike option for both pre-planned and Target-of-Opportunity attack missions against land and maneuvering ship targets, and other moving targets. SLAM-ER contains a highly accurate, GPS-aided guidance system; an imaging infrared seeker and two-way data link with the AWW-13 Advanced Data Link pod for Man-In-The-Loop (MITL) control; improved missile aerodynamic performance characteristics that allow both long range and flexible terminal attack profiles; and an ordnance section with good penetrating power and lethality. Advanced features on SLAM-ER include Automatic Target Acquisition (ATA). This function improves target acquisition in cluttered scenes, overcomes most IR countermeasures, and mitigates the effects of environmentally degraded conditions. The SLAM-ER is classified Confidential, individual components (guidance, seeker, radome, warhead, and other components) are all classified Confidential; technical data and other documentation are classified up to Secret.

n. The AGM-154A Joint Standoff Weapon (JSOW) is a low observable, 1000 lb. class, INS/GPS-guided, family of air-to-ground glide weapons. JSOW consists of a common airframe and avionics that provides for a modular payload assembly to attack stationary and moving massed light-armored and armored vehicle columns, surface-to-air targets and personnel. JSOW provides combat forces with all weather, day/night, multiple kills per pass, launch and leave, and standoff capability. JSOW A contains BLU-97 Combined Effects submunitions effective against light armored vehicles, soft targets and personnel. The JSOW All Up Round is Unclassified, major components and subsystems are classified up to Secret; and technical data and other documentation are to Secret.

o. The AGM-88E Advanced Anti-Radiation Guided Missile (AARGM) Project is a dual-mode guidance section on a HARM airframe. The AARGM technology program is designed with a Dual-mode (passive Anti-Radiation Homing/active Millimeter Wave radar) missile and can engage and destroy enemy air defenses in the event that these systems "shut-down" or employ other countermeasures.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

[FR Doc. 06–8509 Filed 10–4–06; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Chief of Naval Operations (CNO) Executive Panel

AGENCY: Department of the Navy, DoD.

ACTION: Notice of closed meeting.

SUMMARY: The CNO Executive Panel will form consensus advice for the final report on the findings and recommendations of the Strategic Communications Subcommittee to the CNO. The meeting will consist of discussions of Navy strategic communications and its relationship to other DoD and U.S. Government efforts.

DATES: The meeting will be held on October 17, 2006, from 2:30 p.m. to 4 p.m.

ADDRESSES: The meeting will be held in the Center for Naval Analysis Corporation Boardroom at 4825 Mark Center Drive, Alexandria, VA 22311–1846.

FOR FURTHER INFORMATION CONTACT: LCDR Kelvin Upson, CNO Executive Panel, 4825 Mark Center Drive, Alexandria, VA 22311, telephone 703–681–4924.

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), these matters constitute classified information that is specifically authorized by Executive Order to be kept secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive Order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of this meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

Dated: September 30, 2006.

M.A. Harvison,

Lieutenant Commander, Judge Advocate Generals Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E6–16449 Filed 10–4–06; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Board of Advisors (BOA) to the President, Naval Postgraduate School (NPS)

AGENCY: Department of the Navy, DoD.

ACTION: Notice of open meeting.

SUMMARY: The purpose of the meeting is to elicit the advice of the board on the Naval Service's Postgraduate Education Program and the collaborative exchange and partnership between NPS and the Air Force Institute of Technology. The board examines the effectiveness with which the NPS is accomplishing its mission. To this end, the board will inquire into the curricula; instruction; physical equipment; administration; state of morale of the student body, faculty, and staff; fiscal affairs; and any other matters relating to the operation of the NPS as the board considers pertinent. This meeting will be open to the public.

DATES: The meeting will be held on Tuesday, October 17, 2006, from 8 a.m. to 4 p.m. and on Wednesday, October 18, 2006, from 8 a.m. to 12 p.m. All written comments regarding the NPS BOA should be received by October 6, 2006, and be directed to President, Naval Postgraduate School (Attn: Jaye Panza), 1 University Circle, Monterey, CA 93943–5000 or by fax 831–656–3145.

ADDRESSES: The meeting will be held at the Navy Memorial and Heritage Center, 701 Pennsylvania Ave., NW., Washington DC.

FOR FURTHER INFORMATION CONTACT: Jaye Panza, Naval Postgraduate School, Monterey, CA 93943–5000, telephone number 831–656–2514.

Dated: September 30, 2006.

M.A. Harvison,

Lieutenant Commander, Judge Advocate Generals Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E6–16447 Filed 10–4–06; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

Availability of the Bonneville Purchasing Instructions (BPI) and Bonneville Financial Assistance Instructions (BFAI)

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of document availability.

SUMMARY: Copies of the Bonneville Purchasing Instructions (BPI), which contain the policy and establish the procedures that BPA uses in the solicitation, award, and administration of its purchases of goods and services, including construction, are available in printed form for $30, or without charge at the following Internet address: *http://www.bpa.gov/corporate/business/.*

Copies of the Bonneville Financial Assistance Instructions (BFAI), which contain the policy and establish the procedures that BPA uses in the solicitation, award, and administration of financial assistance instruments (principally grants and cooperative agreements), are available in printed form for $15 each, or available without charge at the following Internet address: *http://www.bpa.gov/corporate/business/.*

ADDRESSES: Unbound copies of the BPI or BFAI may be obtained by sending a check for the proper amount to the Head of the Contracting Activity, Routing CK–4, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208–3621.

FOR FURTHER INFORMATION CONTACT: Manager, Communications, 1–800–622–4519.

SUPPLEMENTARY INFORMATION: BPA was established in 1937 as a Federal Power Marketing Agency in the Pacific Northwest. BPA operations are financed from power revenues rather than annual appropriations. BPA's purchasing operations are conducted under 16 U.S.C. 832 *et seq.* and related statutes. Pursuant to these special authorities, the BPI is promulgated as a statement of purchasing policy and as a body of interpretative regulations governing the conduct of BPA purchasing activities. It is significantly different from the Federal Acquisition Regulation, and reflects BPA's private sector approach to purchasing the goods and services that it requires. BPA's financial assistance operations are conducted under 16 U.S.C. 839 *et seq.* and 16 U.S.C. 839 *et seq.* The BFAI express BPA's financial assistance policy. The BFAI also comprise BPA's rules governing implementation of the principles provided in the following OMB circulars:

A–21 Cost Principles for Educational Institutions.

A–87 Cost Principles for State, Local and Indian Tribal Governments.

A–102 Grants and Cooperative Agreements with State and Local Governments.

A–110 Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations.

A–122 Cost Principles for Non-Profit Organizations.

A–133 Audits of States, Local Governments and Non-Profit Organizations.

BPA's solicitations and contracts include notice of applicability and availability of the BPI and the BFAI, as appropriate, for the information of offerors on particular purchases or financial assistance transactions.

Issued in Portland, Oregon, on September 25, 2006.

Damian J. Kelly,

Manager, Supply Chain Policy and Governance.

[FR Doc. E6–16459 Filed 10–4–06; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL01–19–008 and EL02–16–008]

H.Q. Energy Services (U.S.), Inc. v. New York Independent System Operator, Inc.; PSEG Energy Resources & Trade LLC v. New York Independent System Operator, Inc.; Notice of Compliance Filing

September 28, 2006.

Take notice that on September 15, 2006, Consolidated Edison Company of New York, Inc., New York State Electric & Gas Corporation, Niagara Mohawk Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation, and the New York Independent System Operator, Inc. (NYSIO) filed a joint refund report which sets forth the payments collected and refunded by the NYSIO, pursuant to the Commission's Order issued July 12, 2006.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on October 6, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–16415 Filed 10–4–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[CP06–462–000]

Honeoye Storage Corporation; Notice of Request Under Blanket Authorization

September 28, 2006.

Take notice that on September 20, 2006, Honeoye Storage Corporation (Honeoye), 4511 Egypt Road, Canandaigua, New York 14424, filed in Docket No. CP06–462–000, a request pursuant to Sections 157.205 and 157.214 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for authorization to increase its cushion gas capacity in its storage facility in Ontario County, New York, under Honeoye's blanket certificate issued in Docket No. CP00–95–000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@gerc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Honeoye seeks the authority to increase it cushion gas capacity by 469,206 MMcf. All other authorized conditions will remain the same including the maximum reservoir pressure and maximum working gas capacity. Honeoye does not propose to construct any new facilities. Moreover, Honeoye does not require any activities that involve ground disturbance or changes to operational air or noise requirements.

Any questions regarding this application should be directed to David A. T. Donohue, Honeoye Storage Corporation, 535 Boylston Street, 12th Floor, Boston, Massachusetts 02116, or call (617) 536–0202.

Any person or the Commission's Staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and, pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. E6–16417 Filed 10–4–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL06–106–000]

Occidental Chemical Corporation; Carville Energy LLC; Notice of Filing

September 28, 2006.

Take notice that on September 18, 2006, Occidental Chemical Corporation and Carville Energy LLC filed a Petition for Enforcement, pursuant to Section 210(h) of the Public Utility Regulatory Policies Act of 1978 (PURPA), requesting the Commission to exercise its authority and initiate enforcement action against the Louisiana Public Service Commission to ensure that PURPA regulations are properly and lawfully implemented in Louisiana.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on October 9, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–16416 Filed 10–4–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2630–004]

PacifiCorp, Oregon; Notice of Availability of Final Environmental Assessment

September 28, 2006.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for a new license for the Prospect Nos. 1, 2, and 4 Hydroelectric Project, located on the Rogue River, Middle Fork Rogue River, and Red Blanket Creek in Jackson County, Oregon, and has prepared a Final Environmental Assessment (Final EA) for the project. The Final EA contains the staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the Final EA is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

For further information, contact Nicholas Jayjack at (202) 502–6073.

Magalie R. Salas,

Secretary.

[FR Doc. E6–16414 Filed 10–4–06; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[Docket ID Numbers EPA–HQ–OECA–2006–0705–07, 0709, 0711–13, 0718–26, 0736–38, 0749–52, 0770 and 0775–78; FRL–8228–3]

Agency Information Collection Activities: Request for Comments on Twenty-Eight Proposed Information Collection Requests (ICRs)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following twenty-eight (28) existing, approved, continuing Information Collection Requests (ICRs) to the Office of Management and Budget (OMB) for the purpose of renewing the ICRs. Before submitting the ICRs to OMB for review and approval, EPA is soliciting comments on specific aspects of the information collections as described under **SUPPLEMENTARY INFORMATION**.

DATES: Comments must be submitted on or before December 4, 2006.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier service. Follow the detailed instructions as provided under **SUPPLEMENTARY INFORMATION**, section A.

FOR FURTHER INFORMATION CONTACT: The contact individuals for each ICR are listed under **SUPPLEMENTARY INFORMATION**, section II. C.

SUPPLEMENTARY INFORMATION:

I.A. How Can I Access the Docket and/or Submit Comments?

1. Docket Access Instructions

EPA has established a public docket for the ICRs listed in the **SUPPLEMENTARY INFORMATION**, section II. B. The docket is available for online viewing at *http://www.regulations.gov*, or in person viewing at the Enforcement and Compliance Docket and Information Center (ECDIC), in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket and Information Center (ECDIC) docket is (202) 566–1752.

Use *http://www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. When in the system, select ''search,'' then key in the docket ID number identified in this document.

2. Instructions for Submitting Comments

Submit your comments by one of the following methods:

1. *Electronic Submission:* Access *http://www.regulations.gov* and follow the online instructions for submitting comments.
2. *E-mail: docket.oeca@epa.gov*
3. *Fax:* (202) 566–1511
4. *Mail:* Enforcement and Compliance Docket and Information Center (ECDIC), Environmental Protection Agency, EPA Docket Center (EPA/DC), Mailcode: 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.
5. *Hand Delivery:* Enforcement and Compliance Docket and Information Center (ECDIC), Environmental

Protection Agency, EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. Deliveries are only accepted during the Docket Center's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Direct your comments to the specific docket listed in **SUPPLEMENTARY INFORMATION**, section II. B, and reference the OMB Control Number for the ICR. It is EPA's policy that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

B. What information is EPA particularly interested in?

Pursuant to section 3506(c)(2)(A) of the Paperwork Reduction Act (PRA), EPA is soliciting comments and information to enable it to:

(1) Evaluate whether the proposed collections of information are 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 estimates of the burdens of the proposed collections of information.

(3) Enhance the quality, utility, and clarity of the information to be collected.

(4) Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies or other forms of information technology, e.g., permitting electronic submission of responses.

C. What should I consider when I prepare my comments for EPA?

You may find the following suggestions helpful for preparing comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under **DATES**.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. ICRs To Be Renewed

A. For All ICRs

The Agency computed the burden for each of the recordkeeping and reporting requirements applicable to the industry for the currently approved ICRs listed in this notice. Where applicable, the Agency identified specific tasks and made assumptions, while being consistent with the concept of the PRA.

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 to; 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 which have subsequently changed; 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.

The listed ICRs address Clean Air Act information collection requirements in standards (*i.e.*, regulations) which have mandatory recordkeeping and reporting requirements. Records collected under the New Source Performance Standards (NSPS) must be retained by the owner or operator for at least two years and the records collected under the National Emission Standards for Hazardous Air Pollutants (NESHAP) must be retained by the owner or operator for at least five years. In general, the required collections consist of emissions data and other information deemed not to be private.

In the absence of such information collection requirements, enforcement personnel would be unable to determine whether the standards are being met on a continuous basis as required by the Clean Air Act.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the Agency displays a currently valid OMB control number. The OMB control numbers for EPA's regulations under Title 40 of the Code of Federal Regulations are published in the **Federal Register**, or on the related collection instrument or form. The display of OMB control numbers for certain EPA regulations is consolidated at 40 CFR part 9.

B. What information collection activity or ICR does this apply to?

In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following twenty-eight existing, approved, continuing Information Collection Requests (ICRs) to the Office of Management and Budget (OMB):

(1) Docket ID Number: EPA–HQ–OECA–2006–0718

Title: NESHAP for the Manufacture of Amino/Phenolic Resins (40 CFR Part 63, Subpart OOO)

ICR Numbers: EPA ICR Number 1869.05, OMB Control Number 2060–0434

ICR Status: This ICR is scheduled to expire on May 31, 2007.

(2) Docket ID Number: EPA–HQ–OECA–2006–0737

Title: NESHAP for Magnetic Tape Manufacturing Operations (40 CFR Part 63, Subpart EE)

ICR Numbers: EPA ICR Number 1678.06, OMB Control Number 2060–0326

ICR Status: This ICR is scheduled to expire on May 31, 2007.

(3) Docket ID Number: EPA–HQ–OECA–2006–0719

Title: NESHAP for Phosphoric Acid Manufacturing and Phosphate Fertilizers Production (40 CFR Part 63, Subparts AA and BB)

ICR Numbers: EPA ICR Number 1790.04, OMB Control Number 2060–0361

ICR Status: This ICR is scheduled to expire on May 31, 2007.

(4) Docket ID Number: EPA–HQ–OECA–2006–0720

Title: NESHAP for Off-Site Waste and Recovery Operations (40 CFR Part 63, Subpart DD)

ICR Numbers: EPA ICR Number 1717.05, OMB Control Number 2060–0313

ICR Status: This ICR is scheduled to expire on May 31, 2007.

(5) Docket ID Number: EPA–HQ–OECA–2006–0751

Title: NESHAP for Flexible Polyurethane Foam Product (40 CFR Part 63, Subpart III)

ICR Numbers: EPA ICR Number 1783.04, OMB Control Number 2060–0357

ICR Status: This ICR is scheduled to expire on June 30, 2007.

(6) Docket ID Number: EPA–HQ–OECA–2006–0712

Title: NSPS for Magnetic Tape Coating Facilities (40 CFR Part 60, Subpart SSS)

ICR Numbers: EPA ICR Number 1135.09, OMB Control Number 2060–0171

ICR Status: This ICR is scheduled to expire on June 30, 2007.

(7) Docket ID Number: EPA–HQ–OECA–2006–0750

Title: NESHAP for Gasoline Distribution Facilities (40 CFR Part 63, Subpart R)

ICR Numbers: EPA ICR Number 1659.06, OMB Control Number 2060–0325

ICR Status: This ICR is scheduled to expire on June 30, 2007.

(8) Docket ID Number: EPA–HQ–OECA–2006–0713

Title: NESHAP for Pharmaceuticals Production (40 CFR Part 63, Subpart GGG)

ICR Numbers: EPA ICR Number 1781.04, OMB Control Number 2060–0358

ICR Status: This ICR is scheduled to expire on June 30, 2007.

(9) Docket ID Number: EPA–HQ–OECA–2006–0776

Title: NESHAP for Stationary Combustion Turbines (40 CFR Part 63, Subpart YYYY)

ICR Numbers: EPA ICR Number 1967.03, OMB Control Number 2060–0540

ICR Status: This ICR is scheduled to expire on June 30, 2007.

(10) Docket ID Number: EPA–HQ–OECA–2006–0738

Title: NESHAP for Metal Can Manufacturing Surface Coating (40 CFR Part 63, Subpart KKKK)

ICR Numbers: EPA ICR Number 2079.03, OMB Control Number 2060–0541.

ICR Status: This ICR is scheduled to expire on June 30, 2007.

(11) Docket ID Number: EPA–HQ–OECA–2006–0721

Title: NESHAP for Mineral Wool Production (40 CFR Part 63, Subpart DDD)

ICR Numbers: EPA ICR Number 1799.04, OMB Control Number 2060–0362

ICR Status: This ICR is scheduled to expire on June 30, 2007.

(12) Docket ID Number: EPA–HQ–OECA–2006–0749

Title: NESHAP Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks (40 CFR Part 63, Subpart N)

ICR Numbers: EPA ICR Number 1611.06, OMB Control Number 2060–0327

ICR Status: This ICR is scheduled to expire on June 30, 2007.

(13) Docket ID Number: EPA–HQ–OECA–2006–0722

Title: NESHAP for Wood Furniture Manufacturing Operations (40 CFR Part 63, Subpart JJ)

ICR Numbers: EPA ICR Number 1716.05, OMB Control Number 2060–0324

ICR Status: This ICR is scheduled to expire on June 30, 2007.

(14) Docket ID Number: EPA–HQ–OECA–2006–0723

Title: NESHAP for Commercial Ethylene Oxide Sterilization and Fumigation Operations (40 CFR Part 63, Subpart O)

ICR Numbers: EPA ICR Number 1666.07, OMB Control Number 2060–0283

ICR Status: This ICR is scheduled to expire on June 30, 2007.

(15) Docket ID Number: EPA–HQ–OECA–2006–0706

Title: NSPS for Secondary Brass and Bronze Production, Primary Copper Smelters, Primary Zinc Smelters, Primary Lead Smelters, Primary Aluminum Reduction Plants and Ferroalloy Production Facilities (40 CFR Part 60, Subparts M, P, Q, R, S and Z)

ICR Numbers: EPA ICR Number 1604.08, OMB Control Number 2060–0110

ICR Status: This ICR is scheduled to expire on July 31, 2007.

(16) Docket ID Number: EPA–HQ–OECA–2006–0770

Title: NSPS for New Residential Wood Heaters (40 CFR Part 60, Subpart AAA)

ICR Numbers: EPA ICR Number 1176.08, OMB Control Number 2060–0161

ICR Status: This ICR is scheduled to expire on July 31, 2007.

(17) Docket ID Number: EPA–HQ–OECA–2006–0724

Title: NESHAP for Boat Manufacturing (40 CFR Part 63, Subpart VVVV)

ICR Numbers: EPA ICR Number 1966.03, OMB Control Number 2060–0546

ICR Status: This ICR is scheduled to expire on July 31, 2007.

(18) Docket ID Number: EPA–HQ–OECA–2006–0736

Title: NESHAP for Automobile and Light-duty Truck Surface Coating (40 CFR Part 63, Subpart IIII).

ICR Numbers: EPA ICR Number 2045.03, OMB Control Number 2060–0550

ICR Status: This ICR is scheduled to expire on August 31, 2007.

(19) Docket ID Number: EPA–HQ–OECA–2006–0778

Title: NESHAP for Industrial, Commercial, and Institutional Boilers and Process Heaters (40 CFR Part 63, Subpart DDDDD)

ICR Numbers: EPA ICR Number 2028.03, OMB Control Number 2060–0551

ICR Status: This ICR is scheduled to expire on August 31, 2007.

(20) Docket ID Number: EPA–HQ–OECA–2006–0725

Title: NESHAP for Plywood and Composite Products (40 CFR Parts 63, Subparts DDDD and 429)

ICR Numbers: EPA ICR Number 1984.03, OMB Control Number 2060–0552

ICR Status: This ICR is scheduled to expire on August 31, 2007.

(21) Docket ID Number: EPA–HQ–OECA–2006–0775

Title: NSPS for Stationary Gas Turbines (40 CFR Part 60, Subpart GG)

ICR Numbers: EPA ICR Number 1071.09, OMB Control Number 2060–028

ICR Status: This ICR is scheduled to expire on August 31, 2007.

(22) Docket ID Number: EPA–HQ–OECA–2006–0752

Title: NESHAP for Petroleum Refineries, Catalytic Cracking, Reforming and Sulfur Units (40 CFR Part 63, Subpart UUU)

ICR Numbers: EPA ICR Number 1844.02, OMB Control Number 2060–0554

ICR Status: This ICR is scheduled to expire on August 31, 2007.

(23) Docket ID Number: EPA–HQ–OECA–2006–0777

Title: NESHAP for Stationary Reciprocating Internal Combustion Engines (40 CFR Part 63, Subpart ZZZZ)

ICR Numbers: EPA ICR Number 1975.03, OMB Control Number 2060–0548

ICR Status: This ICR is scheduled to expire on August 31, 2007.

(24) Docket ID Number: EPA–HQ–OECA–2006–0711

Title: NSPS for Sewage Sludge Treatment Plants (40 CFR Part 60, Subpart O)

ICR Numbers: EPA ICR Number 1063.10, OMB Control Number 2060–0035

ICR Status: This ICR is scheduled to expire on September 30, 2007.

(25) Docket ID Number: EPA–HQ–OECA–2006–0705

Title: Air Emissions Standards for Tanks, Surface Impoundments and Containers (40 CFR Part 264, Subpart CC and 40 CFR Part 265, Subpart 265)

ICR Numbers: EPA ICR Number 1593.07, OMB Control Number 2060–0318

ICR Status: This ICR is scheduled to expire on September 30, 2007.

(26) Docket ID Number: EPA–HQ–OECA–2006–0726

Title: NESHAP for Aerospace Manufacturing and Rework (40 CFR Part 63, Subpart GG)

ICR Numbers: EPA ICR Number 1687.07, OMB Control Number 2060–0314

ICR Status: This ICR is scheduled to expire on September 30, 2007.

(27) Docket ID Number: EPA–HQ–OECA–2006–0709

Title: NSPS for Incinerators (40 CFR Part 60, Subpart E)

ICR Numbers: EPA ICR Number 1058.09, OMB Control Number 2060–0040

ICR Status: This ICR is scheduled to expire on September 30, 2007.

(28) Docket ID Number: EPA–HQ–OECA–2006–0707

Title: NSPS for the Graphic Arts Industry (40 CFR Part 60, Subpart QQ)

ICR Numbers: EPA ICR Number 0657.09, OMB Control Number 2060–0105

ICR Status: This ICR is scheduled to expire on September 30, 2007.

C. Contact Individuals for ICRs

(1) NESHAP for the Manufacture of Amino/Phenolic Resins (40 CFR Part 63, Subpart OOO); Learia Williams of the Office of Compliance at (202) 564–4113 or via e-mail to: *williams.learia@epa.gov*; EPA ICR Number 1869.05; OMB Control Number 2060–0434; expiration date May 31, 2007.

(2) NESHAP for Magnetic Tape Manufacturing Operations (40 CFR Part 63, Subpart EE); Len Lazarus of the Office of Compliance at (202) 564–6369 or via e-mail to: *lazarus.leonard@epa.gov*; EPA ICR Number 1678.06; OMB Control Number 2060–0326; expiration date May 31, 2007.

(3) NESHAP for Phosphoric Acid Manufacturing and Phosphate Fertilizers Production (40 CFR Part 63, Subparts AA and BB); Learia Williams of the Office of Compliance at (202) 564–4113 or via e-mail to: *williams.learia@epa.gov*; EPA ICR Number 1790.04; OMB Control Number 2060–0361; expiration date May 31, 2007.

(4) NESHAP for Off-Site Waste and Recovery Operations (40 CFR Part 63, Subpart DD); Learia Williams of the Office of Compliance at (202) 564–4113 or via e-mail to: *williams.learia@epa.gov*; EPA ICR Number 1717.05; OMB Control Number 2060–0313; expiration date May 31, 2007.

(5) NESHAP for Flexible Polyurethane Foam Product (40 CFR Part 63, Subpart III); contact María Malavé in the Office of Compliance at (202) 564–7027 or via e-mail to: *malave.maria@epa.gov*; EPA ICR Number 1783.04, OMB Control Number 2060–0357; expiration date June 30, 2007.

(6) NSPS for Magnetic Tape Coating Facilities (40 CFR Part 60, Subpart SSS); Robert C. Marshall, Jr. of the Office of Compliance at (202) 564–7021 or via e-mail to: *marshall.robert@epa.gov*; EPA ICR Number 1135.09; OMB Control Number 2060–0171; expiration date June 30, 2007.

(7) NESHAP for Gasoline Distribution Facilities (40 CFR Part 63, Subpart R); contact María Malavé in the Office of Compliance at (202) 564–7027 or via e-mail to: *malave.maria@epa.gov*; EPA ICR Number 1659.06, OMB Control Number 2060–0325; expiration date June 30, 2007.

(8) NESHAP for Pharmaceuticals Production (40 CFR Part 63, Subpart GGG); Marcia B. Mia of the Office of Compliance at 202–564–7042 (phone) or via e-mail to: *mia.marcia@epa.gov*; EPA ICR Number 1781.04; OMB Control Number 2060–0358; expiration date June 30, 2007.

(9) NESHAP for Stationary Combustion Turbines (40 CFR Part 63, Subpart YYYY); Gregory Fried of the Office of Compliance at (202) 564–7016 or via e-mail to: *fried.gregory@epa.gov*; EPA ICR Number 1967.03; OMB Control Number 2060–0540; expiration date June 30, 2007.

(10) NESHAP for Metal Can Manufacturing Surface Coating (40 CFR Part 63, Subpart KKKK); Len Lazarus of the Office of Compliance at (202) 564–6369 or via e-mail to: *lazarus.leonard@epa.gov*; EPA ICR Number 2079.03; OMB Control Number 2060–0541; expiration date June 30, 2007.

(11) NESHAP for Mineral Wool Production (40 CFR Part 63, Subpart DDD); Learia Williams of the Office of Compliance at (202) 564–4113 or via e-mail to: *williams.learia@epa.gov*; EPA ICR Number 1799.04; OMB Control Number 2060–0362; expiration date June 30, 2007.

(12) NESHAP Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks (40 CFR Part 63, Subpart N); contact María Malavé in the Office of Compliance at (202) 564–7027 or via e-mail to: *malave.maria@epa.gov*; EPA ICR Number 1611.06; OMB Control Number 2060–0327; expiration date June 30, 2007.

(13) NESHAP for Wood Furniture Manufacturing Operations (40 CFR Part

63, Subpart JJ); Learia Williams of the Office of Compliance at (202) 564–4113 or via e-mail to: *williams.learia@epa.gov*; EPA ICR Number 1716.05; OMB Control Number 2060–0324; expiration date June 30, 2007.

(14) NESHAP for Commercial Ethylene Oxide Sterilization and Fumigation Operations (40 CFR Part 63, Subpart O); Learia Williams of the Office of Compliance at (202) 564–4113 or via e-mail to: *williams.learia@epa.gov*; EPA ICR Number 1666.07; OMB Control Number 2060–0283; expiration date June 30, 2007.

(15) NSPS for Secondary Brass and Bronze Production, Primary Copper Smelters, Primary Zinc Smelters, Primary Lead Smelters, Primary Aluminum Reduction Plants and Ferroalloy Production Facilities (40 CFR Part 60, Subparts M, P, Q, R, S and Z); Robert C. Marshall, Jr. of the Office of Compliance at (202) 564–7021 or via e-mail to: *marshall.robert@epa.gov*; EPA ICR Number 1604.08; OMB Control Number 2060–0110; expiration date July 31, 2007.

(16) NSPS for New Residential Wood Heaters (40 CFR Part 60, Subpart AAA); John DuPree of the Office of Compliance at (202) 564–5950, or via e-mail to: *Dupree.john@epa.gov*; EPA ICR Number 1176.08; OMB Control Number 2060–0161; expiration date July 31, 2007.

(17) NESHAP for Boat Manufacturing (40 CFR Part 63, Subpart VVVV); Learia Williams of the Office of Compliance at (202) 564–4113 or via e-mail to: *williams.learia@epa.gov*; EPA ICR Number 1966.03; OMB Control Number 2060–0546; expiration date July 31, 2007.

(18) NESHAP for Automobile and Light-duty Truck Surface Coating (40 CFR Part 63, Subpart IIII); Len Lazarus of the Office of Compliance at (202) 564–6369 or via e-mail to: *lazarus.leonard@epa.gov*; EPA ICR Number 2045.03; OMB Control Number 2060–0550; expiration date August 31, 2007.

(19) NESHAP for Industrial, Commercial, and Institutional Boilers and Process Heaters (40 CFR Part 63, Subpart DDDDD); Gregory Fried of the Office of Compliance at (202) 564–7016 or via e-mail to: *fried.gregory@epa.gov*; EPA ICR Number 2028.03; OMB Control Number 2060–0551; expiration date August 31, 2007.

(20) NESHAP for Plywood and Composite Products (40 CFR Part 63, Subparts DDDD and 429); Learia Williams of the Office of Compliance at (202) 564–4113 or via e-mail to: *williams.learia@epa.gov*; EPA ICR Number 1984.03; OMB Control Number 2060–0552; expiration date August 31, 2007.

(21) NSPS for Stationary Gas Turbines (40 CFR Part 60, Subpart GG); Gregory Fried of the Office of Compliance at (202) 564–7016 or via e-mail to: *fried.gregory@epa.gov*; EPA ICR Number 1071.09; OMB Control Number 2060–0028; expiration date August 31, 2007.

(22) NESHAP for Petroleum Refineries, Catalytic Cracking, Reforming and Sulfur Units (40 CFR Part 63, Subpart UUU); contact María Malavé in the Office of Compliance at (202) 564–7027 or via e-mail to: *malave.maria@epa.gov*; EPA ICR Number 1844.02, OMB Control Number 2060–0554; expiration date August 31, 2007.

(23) NESHAP for Stationary Reciprocating Internal Combustion Engines (40 CFR Part 63, Subpart ZZZZ); Gregory Fried of the Office of Compliance at (202) 564–7016 or via e-mail to: *fried.gregory@epa.gov*; EPA ICR Number 1975.03; OMB Control Number 2060–0548; expiration date August 31, 2007.

(24) NSPS for Sewage Sludge Treatment Plants (40 CFR Part 60, Subpart O); Robert C. Marshall, Jr. of the Office of Compliance at (202) 564–7021 or via e-mail to: *marshall.robert@epa.gov*; EPA ICR Number 1063.10; OMB Control Number 2060–0035; expiration date September 31, 2007.

(25) Air Emissions Standards for Tanks, Surface Impoundments and Containers (40 CFR Part 264, Subpart CC and 40 CFR Part 265, Subpart 265); Robert C. Marshall, Jr. of the Office of Compliance at (202) 564–7021 or via e-mail to: *marshall.robert@epa.gov*; EPA ICR Number 1593.07; OMB Control Number 2060–0318; expiration date September 31, 2007.

(26) NESHAP for Aerospace Manufacturing and Rework (40 CFR Part 63, Subpart GG); Learia Williams of the Office of Compliance at (202) 564–4113 or via e-mail to: *williams.learia@epa.gov*; EPA ICR Number 1687.07; OMB Control Number 2060–0314; expiration date September 30, 2007.

(27) NSPS for Incinerators (40 CFR Part 60, Subpart E); Robert C. Marshall, Jr. of the Office of Compliance at (202) 564–7021 or via e-mail to: *marshall.robert@epa.gov*; EPA ICR Number 1058.09; OMB Control Number 2060–0040; expiration date September 31, 2007.

(28) NSPS for the Graphic Arts Industry (40 CFR Part 60, Subpart QQ); Robert C. Marshall, Jr. of the Office of Compliance at (202) 564–7021 or via e-mail to: *marshall.robert@epa.gov*; EPA ICR Number 0657.09; OMB Control Number 2060–0105; expiration date September 31, 2007.

D. Information for Individual ICRs

(1) NESHAP for the Manufacture of Amino/Phenolic Resins (40 CFR Part 63, Subpart OOO); Docket ID Number EPA–HQ–OECA–2006–0718, EPA ICR Number 1869.05; OMB Control Number 2060–0434; expiration date May 31, 2007.

Affected Entities: Entities potentially affected by this action are manufacturers of amino/phenolic resins.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for the Manufacture of Amino/Phenolic Resins (40 CFR Part 63, Subpart OOO) were proposed on December 14, 1998 and promulgated on January 20, 2000. The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A and any changes or additions to the General Provisions specified at 40 CFR part 63, subpart OOO.

Burden Statement: The following data has been extracted from the currently active ICR. The annual public reporting and recordkeeping burden for this collection of information is estimated to average 293 hours per response.

Respondents/Affected Entities: Manufacturers of amino/phenolic resins.

Estimated Number of Respondents: 40.

Frequency of Response: Initially, quarterly, semiannually.

Estimated Total Annual Hour Burden: 24,044.

Estimated Total Annual Cost: $16,000, which is comprised of no annualized capital/startup costs and O&M costs of $16,000.

(2) NESHAP for Magnetic Tape Manufacturing Operations (40 CFR Part 63, Subpart EE); EPA–OECA–2006–0336; EPA ICR Number 1678.06; OMB Control Number 2060–0326; expiration date May 31, 2007.

Affected Entities: Entities potentially affected by this action are magnetic tape manufacturing operations.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Magnetic Tape Manufacturing Operations were promulgated on December 15, 1994. The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 63, Subpart EE.

Burden Statement: The following data has been extracted from the currently active ICR. The annual public reporting

and recordkeeping burden for this collection of information is estimated to average 200 hours per response.

Respondents/Affected Entities: Magnetic tape manufacturing operations.

Estimated Number of Respondents: 6.

Frequency of Response: Initially, on-occasion and semiannually.

Estimated Total Annual Hour Burden: 3,395.

Estimated Total Annual Cost: $47,000, includes $11,000 annualized capital/startup and $36,000 annualized O&M costs.

(3) NESHAP for Phosphoric Acid Manufacturing and Phosphate Fertilizers Production (40 CFR Part 63, Subparts AA and BB); Docket ID Number EPA–HQ–OECA–2006–0719, EPA ICR Number 1790.04; OMB Control Number 2060–0361; expiration date May 31, 2007.

Affected Entities: Entities potentially affected by this action are phosphoric acid manufacturers and phosphate fertilizer production plants.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Phosphoric Acid Manufacture and Phosphate Fertilizers (40 CFR Part 63, Subpart AA & BB) were promulgated on December 29, 1992 and amended on December 17, 2001. The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A and any changes or additions to the General Provisions specified at 40 CFR part 63, subparts AA and BB.

Burden Statement: The following data has been extracted from the currently active ICR. The annual public reporting and recordkeeping burden for this collection of information is estimated to average 18 hours per response.

Respondents/Affected Entities: Phosphoric Acid Manufacturers and Phosphate Fertilizer Production Plants.

Estimated Number of Respondents: 12.

Frequency of Response: Initially, quarterly, semiannually and annually.

Estimated Total Annual Hour Burden: 1,526.

Estimated Total Annual Cost: $11,000, which is comprised of no annualized capital/startup costs and O&M costs of $11,000.

(4) NESHAP for Off-Site Waste and Recovery Operations (40 CFR Part 63, Subpart DD); Docket ID Number EPA–HQ–OECA–2006–0720, EPA ICR Number 1717.05; OMB Control Number 2060–0313; expiration date May 31, 2007.

Affected Entities: Entities potentially affected by this action are off-site waste and recovery operations.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Off-Site Waste and Recovery Operations (40 CFR Part 63, Subpart DD) were proposed on October 13, 1994 and promulgated on July 1, 1996. The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A and any changes or additions to the General Provisions specified at 40 CFR part 63, subpart DD.

Burden Statement: The following data has been extracted from the currently active ICR. The annual public reporting and recordkeeping burden for this collection of information is estimated to average 218 hours per response.

Respondents/Affected Entities: Off-site waste and recovery operations.

Estimated Number of Respondents: 236.

Frequency of Response: On-occasion and semiannually.

Estimated Total Annual Hour Burden: 154,306.

Estimated Total Annual Cost: $5,000, which is comprised of no annualized capital/startup costs and O&M costs of $5,000.

(5) NESHAP for Flexible Polyurethane Foam Product (40 CFR Part 63, Subpart III), Docket ID Number EPA–HQ–OECA–2006–0751, EPA ICR Number 1783.04, OMB Control Number 2060–0357, expiration date June 30, 2007.

Affected Entities: Entities potentially affected by this action are flexible polyurethane foam production facilities.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP), for the regulations published at 40 CFR part 63, subpart III, were proposed on December 27, 1996 and promulgated on October 7, 1998. The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart III.

Burden Statement: The following data has been extracted from the currently active ICR. The annual public reporting and recordkeeping burden for this collection of information is estimated to average 43 hours per response.

Respondents/Affected Entities: Flexible polyurethane foam production facilities.

Estimated Number of Respondents: 132.

Frequency of Response: Initially, semiannually and annually.

Estimated Total Annual Hour Burden: 9,047 hours.

Estimated Total Annual Cost: There are no capital/startup costs and operation or O&M costs associated with this ICR.

(6) NSPS for Magnetic Tape Coating Facilities (40 CFR Part 60, Subpart SSS); Docket ID Number EPA–HQ–OECA–2006–0712; EPA ICR Number 1135.09; OMB Control Number 2060–0171; expiration date June 30, 2007.

Affected Entities: Entities potentially affected by this action are magnetic tape coating facilities.

Abstract: The New Source Performance Standards (NSPS) for XYZ industry were promulgated on October 3, 1988. The affected entities are subject to the General Provisions of NSPS at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart SSS.

Burden Statement: The following data has been extracted from the currently active ICR. The annual public reporting and recordkeeping burden for this collection of information is estimated to average 88 hours per response.

Respondents/Affected Entities: Magnetic Tape Coating Facilities.

Estimated Number of Respondents: 6.

Frequency of Response: Initially, on-occasion, quarterly and semiannually.

Estimated Total Annual Hour Burden: 2,017.

Estimated Total Annual Cost: $87,000 which is comprised of annualized capital/startup costs of $34,000 and O&M costs of $53,000.

(7) NESHAP for Gasoline Distribution Facilities (40 CFR Part 63, Subpart R), Docket ID Number EPA–HQ–OECA–2006–0750, EPA ICR Number 1659.06, OMB Control Number 2060–0325, expiration date June 30, 2007.

Affected Entities: Entities potentially affected by this action are gasoline distribution facilities.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Gasoline Distribution Facilities 40 CFR part 63, subpart R, were promulgated on December 14, 1994 (59 FR 64318). The affected entities are subject to the General Provisions of NESHAP at 40 CFR part 63, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart R.

Burden Statement: The following data has been extracted from the currently active ICR. The annual public reporting and recordkeeping burden for this collection of information is estimated to average 62 hours per response.

Respondents/Affected Entities: Bulk gasoline terminals with through-puts greater than 75,700 liters/day and pipeline breakout stations/gasoline loading racks.

Estimated Number of Respondents: 263.

Frequency of Response: On-occasion, semiannually and annually.

Estimated Total Annual Hour Burden: 32,575 hours.

Estimated Total Annual Cost: $851,000 which is comprised of O&M costs only. There are no annualized capital/startup costs associated with this ICR.

(8) NESHAP for Pharmaceuticals Production (40 CFR Part 63, Subpart GGG); Docket ID Number EPA–HQ–OECA–2006–0713; EPA ICR Number 1781.04; OMB Control Number 2060–0358; expiration date June 30, 2007.

Affected Entities: Entities potentially affected by this action are pharmaceutical manufacturers.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Pharmaceuticals Production was proposed on April 2, 1997, and promulgated on September 21, 1998. The affected entities are subject to the General Provisions of NESHAP at 40 CFR part 63, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart GGG.

Burden Statement: The following data has been extracted from the currently active ICR. The annual public reporting and recordkeeping burden for this collection of information is estimated to average 255 hours per response.

Respondents/Affected Entities: Pharmaceutical Manufacturers.

Estimated Number of Respondents: 101.

Frequency of Response: On-occasion, quarterly and semiannually.

Estimated Total Annual Hour Burden: 158,179.

Estimated Total Annual Cost: $9,000, which is comprised of annualized capital/startup costs of $5,000 and O&M costs of $4,000.

(9) NESHAP for Stationary Combustion Turbines (40 CFR Part 63, Subpart YYYY), Docket ID Number EPA–HQ–OECA–2006–0776, EPA ICR Number 1967.03, OMB Control Number 2060–0540, expiration date June 30, 2007.

Affected Entities: Entities potentially affected by this action are the owners or operators of stationary gas turbines.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for stationary gas turbines were promulgated March 5, 2004. The affected entities are subject to the General Provisions of NESHAP at 40 CFR part 63, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart YYYY.

Burden Statement: The following data has been extracted from the currently active ICR. The annual public reporting and recordkeeping burden for this collection of information is estimated to average 10 hours per response.

Respondents/Affected Entities: Stationary gas turbines.

Estimated Number of Respondents: 132.

Frequency of Response: Semiannual.

Estimated Total Annual Hour Burden: 2,448.

Estimated Total Annual Cost: $8,000, all of which are annualized capital/startup costs. There are no O&M costs associated with this ICR.

(10) NESHAP for Metal Can Manufacturing Surface Coating (40 CFR Part 63, Subpart KKKK); EPA–HQ–OECA–2006–0738; EPA ICR Number 2079.03, OMB Control Number 2060–0541; expiration date June 30, 2007.

Affected Entities: Entities potentially affected by this action are metal can manufacturing surface coating facilities.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Metal Can Manufacturing Surface Coating were promulgated on November 13, 2003. The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart KKKK.

Burden Statement: The following data has been extracted from the currently active ICR. The annual public reporting and recordkeeping burden for this collection of information is estimated to average 28 hours per response.

Respondents/Affected Entities: Metal can manufacturing surface coating facilities.

Estimated Number of Respondents: 142.

Frequency of Response: Initially, on-occasion and semiannually.

Estimated Total Annual Hour Burden: 7,815.

Estimated Total Annual Cost: $1,732,000, includes $1,731,000 annualized capital/startup and $1,000 of annualized O&M costs.

(11) NESHAP for Mineral Wool Production (40 CFR Part 63, Subpart DDD); Docket ID Number EPA–HQ–OECA–2006–0721, EPA ICR Number 1799.04; OMB Control Number 2060–0362; expiration date June 30, 2007.

Affected Entities: Entities potentially affected by this action are mineral wool production facilities.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Mineral Wool Production (40 CFR Part 63, Subpart DDD) were proposed on May 8, 1997 and promulgated on June 1, 1999. The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A and any changes or additions to the General Provisions specified at 40 CFR part 63, subpart DDD.

Burden Statement: The following data has been extracted from the currently active ICR. The annual public reporting and recordkeeping burden for this collection of information is estimated to average 126 hours per response.

Respondents/Affected Entities: Mineral wool production facilities.

Estimated Number of Respondents: 12.

Frequency of Response: Initially and semiannually.

Estimated Total Annual Hour Burden: 3,018.

Estimated Total Annual Cost: $9,000, which is comprised of no annualized capital/startup costs and O&M costs of $9,000.

(12) NESHAP for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks (40 CFR Part 63, Subpart N, Docket ID Number EPA–HQ–OECA–2006–0749, EPA ICR Number 1611.06, OMB Control Number 2060–0327, expiration date June 30, 2007.

Affected Entities: Entities potentially affected by this action are chromium electroplating facilities.

Abstract: The national emission standards for hazardous air pollutants (NESHAP) for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks at 40 CFR part 63, subpart R, were proposed on December 16, 1993 and promulgated on January 25, 1995. The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart N.

Burden Statement: The following data has been extracted from the currently active ICR. The annual public reporting and recordkeeping burden for this collection of information is estimated to average 83 hours per response.

Respondents/Affected Entities: Chromium electroplating facilities.

Estimated Number of Respondents: 5,020.

Frequency of Response: Initially, semiannually, and annually.

Estimated Total Annual Hour Burden: 495,774 hours.

Estimated Total Annual Costs: $75,300,000 which is comprised of only annual O&M costs. There are no annualized capital/startup costs associated with this ICR.

(13) NESHAP for Wood Furniture Manufacturing Operations (40 CFR Part 63, Subpart JJ); Docket ID Number EPA–HQ–OECA–2006–0722, EPA ICR Number 1716.05; OMB Control Number 2060–0324; expiration date June 30, 2007.

Affected Entities: Entities potentially affected by this action are wood furniture manufacturers.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Wood Furniture Manufacturing Operations (40 CFR Part 63, Subpart JJ) were proposed on December 6, 1994 and promulgated on December 7, 1995. The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A and any changes or additions to the General Provisions specified at 40 CFR part 63, subpart JJ.

Burden Statement: The following data has been extracted from the currently active ICR. The annual public reporting and recordkeeping burden for this collection of information is estimated to average 45 hours per response.

Respondents/Affected Entities: Wood furniture manufacturers.

Estimated Number of Respondents: 750.

Frequency of Response: Initially, quarterly, and semiannually.

Estimated Total Annual Hour Burden: 47,190.

Estimated Total Annual Cost: $18,000, which is comprised of no annualized capital/startup costs and O&M costs of $18,000.

(14) NESHAP for Commercial Ethylene Oxide Sterilization and Fumigation Operations (40 CFR Part 63, Subpart O); Docket ID Number EPA–HQ–OECA–2006–0723, EPA ICR Number 1666.07; OMB Control Number 2060–0283; expiration date June 30, 2007.

Affected Entities: Entities potentially affected by this action are commercial ethylene oxide sterilization and fumigation operations.

Affected Entities: Entities potentially affected by this action are commercial ethylene oxide sterilization and fumigation facilities.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Commercial Ethylene Oxide Sterilization and Fumigation Operations (40 CFR Part 63, Subpart O) were proposed on March 7, 1994 and promulgated on December 6, 1994. The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A and any changes or additions to the General Provisions specified at 40 CFR part 63, subpart O.

Burden Statement: The following data has been extracted from the currently active ICR. The annual public reporting and recordkeeping burden for this collection of information is estimated to average 37 hours per response.

Respondents/Affected Entities: Commercial ethylene oxide sterilization and fumigation facilities.

Estimated Number of Respondents: 119.

Frequency of Response: Initially and semiannually.

Estimated Total Annual Hour Burden: 8,662.

Estimated Total Annual Cost: $648,000, which is comprised of annualized capital/startup costs of $65,000 and O&M costs of $583,000.

(15) NSPS for Secondary Brass and Bronze Production, Primary Copper Smelters, Primary Zinc Smelters, Primary Lead Smelters, Primary Aluminum Reduction Plants and Ferroalloy Production Facilities (40 CFR Part 60, Subparts M, P, Q, R, S and Z); Docket ID Number EPA–HQ–OECA–2006–0706; EPA ICR Number 1604.08, OMB Control Number 2060–0110, expiration date July 31, 2007.

Affected Entities: Entities potentially affected by this action are secondary brass and bronze production facilities, primary copper/Zinc/Lead Smelters, primary aluminum reduction plants and ferroalloy production facilities.

Abstract: 40 CFR part 60, subpart M, was proposed on June 11, 1973, promulgated on March 8, 1974, and amended most recently on February 14, 1989. 40 CFR part 60, subpart P, was proposed on October 16, 1974, and promulgated on January 15, 1976. 40 CFR part 60, subpart Q, was proposed on October 16, 1974, and promulgated on January 15, 1976. 40 CFR part 60, subpart R, was proposed on October 16, 1974, and promulgated on January 15, 1976. 40 CFR part 60, subpart S, was proposed on October 23, 1974, promulgated on July 25, 1977, and amended most recently on February 14, 1989. 40 CFR part 60, subpart Z, was proposed on October 21, 1974, promulgated on July 25, 1977, and amended most recently on February 14, 1990. The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified 40 CFR part 60, subparts M, P, Q, R, S and Z.

Burden Statement: The following data has been extracted from the currently active ICR. The annual public reporting and recordkeeping burden for this collection of information is estimated to average 170 hours per response.

Respondents/Affected Entities: Secondary brass and bronze production facilities, primary copper/Zinc/Lead Smelters, primary aluminum reduction plants and ferroalloy production facilities.

Estimated Number of Respondents: 18.

Frequency of Response: Initially and Semiannually.

Estimated Total Annual Hour Burden: 4,914.

Estimated Total Annual Cost: $132,000 which is comprised of no annualized capital/startup costs and O&M costs of $132,000.

(16) NSPS for New Residential Wood Heaters (40 CFR Part 60, Subpart AAA) OMB Control Number 2060–0161; Docket ID Number EPA–HQ–OECA–2006–0770; EPA ICR Number 1176.08; OMB Control Number 2060–0161; expiration date July, 31, 2007.

Affected Entities: Entities potentially affected by this action are new residential wood heaters.

Abstract: The Standards of Performance for New Stationary Sources, New Residential Wood Heaters, were proposed on February 18, 1987, promulgated on February 26, 1988, and are found at 40 CFR part 60, subpart AAA. The standards apply to each wood heater manufactured on or after July 1, 1988, or sold at retail on or after July 1, 1990. Wood heaters manufactured on or after July 1, 1990, or sold at retail on or after July 1, 1992, must meet more stringent emission standards. Two features of this rulemaking are unique to the New Source Performance Standard (NSPS) program. First, these standards were negotiated by representatives of groups affected by the NSPS, including those groups which are burdened by the information collection activities. Second, these regulations established a certification program instead of the usual NSPS requirement that each affected facility demonstrates compliance through new source review and testing. Under this certification program, a single wood heater is tested to demonstrate compliance for an entire model line. The certification approach significantly reduces the compliance burden, including information collection, for the manufacturers of wood heaters.

Wood heater manufacturers, testing laboratories, and retailers are required to submit reports and/or to maintain records that demonstrate compliance.

Burden Statement: The following data has been extracted from the currently active ICR. The annual public reporting and recordkeeping burden for this

collection of information is estimated to average 51 hours per response.

Respondents/Affected Entities: Manufacturers and sellers of new residential wood stoves.

Estimated Number of Respondents: 934.

Frequency of Response: On-occasion.

Estimated Total Annual Hour Burden: 9,728.

Estimated Total Annual Cost: $3,000 which includes no capital/startup costs and $3,000 in O&M costs.

(17) NESHAP for Boat Manufacturing (40 CFR Part 63, Subpart VVVV); Docket ID Number EPA–HQ–OECA–2006–0724, EPA ICR Number 1966.03; OMB Control Number 2060–0546; expiration date July 31, 2007.

Affected Entities: Entities potentially affected by this action are boat manufacturers.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Boat Manufacturing (40 CFR Part 63, Subpart VVVV) were proposed on July 14, 2000 and promulgated on August 22, 2001. The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A and any changes or additions to the General Provisions specified at 40 CFR part 63, subpart VVVV.

Burden Statement: The following data has been extracted from the currently active ICR. The annual public reporting and recordkeeping burden for this collection of information is estimated to average 230 hours per response.

Respondents/Affected Entities: Boat manufacturers.

Estimated Number of Respondents: 45.

Frequency of Response: Initially, quarterly, and semiannually.

Estimated Total Annual Hour Burden: 10,343.

Estimated Total Annual Cost: There are no annualized capital/startup costs or O&M costs associated with this ICR.

(18) NESHAP for Automobile and Light-duty Truck Surface Coating (40 CFR Part 63, Subpart IIII); EPA–HQ–OECA–2006–0736; EPA ICR Number 2045.03; OMB Control Number 2060–0550; expiration date August 31, 2007.

Affected Entities: Entities potentially affected by this action are owners and operators of automobile and light-duty truck surface coating facilities.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Automobile and Light-duty Truck Surface Coating were promulgated on April 26, 2004. The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart III.

Burden Statement: The following data has been extracted from the currently active ICR. The annual public reporting and recordkeeping burden for this collection of information is estimated to average 115 hours per response.

Respondents/Affected Entities: Automobile and light-duty truck surface coating facilities.

Estimated Number of Respondents: 65.

Frequency of Response: Initially, on-occasion and semiannually.

Estimated Total Annual Hour Burden: 33,437.

Estimated Total Annual Cost: $7,000, includes no annualized capital/startup and $7,000 of annualized O&M costs.

(19) NESHAP for Industrial, Commercial, and Institutional Boilers and Process Heaters (40 CFR Part 63, Subpart DDDDD), Docket ID Number EPA–HQ–OECA–2006–0778, EPA ICR Number 2028.03, OMB Control Number 2060–0551, expiration date August 31, 2007.

Affected Entities: Entities potentially affected by this action are owners or operators of boilers and process heaters located at major sources of hazardous air pollutants.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for boilers and process heaters were promulgated September 13, 2004. The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart DDDDD.

Burden Statement: The following data has been extracted from the currently active ICR. The annual public reporting and recordkeeping burden for this collection of information is estimated to average 64 hours per response.

Respondents/Affected Entities: Owners or operators of boilers and process heaters.

Estimated Number of Respondents: 18,788.

Frequency of Response: Initially and semiannually.

Estimated Total Annual Hour Burden: 1,201,746.

Estimated Total Annual Cost: $23,504,000, all of which are capital/startup costs. There are no O&M costs associated with this ICR.

(20) NESHAP for Plywood and Composite Products (40 CFR Parts 63, Subparts DDDD and 429); Docket ID Number EPA–HQ–OECA–2006–0725, EPA ICR Number 1984.03; OMB Control Number 2060–0552; expiration date August June 31, 2007.

Affected Entities: Entities potentially affected by this action are plywood and composite product manufacturers.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Plywood and Composite Products (40 CFR Part 63, Subparts DDDD and 429) were proposed on January 1, 2003 and promulgated on July 30, 2004. The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A and any changes or additions to the General Provisions specified at 40 CFR parts 63, subparts DDDD and 429.

Burden Statement: The following data has been extracted from the currently active ICR. The annual public reporting and recordkeeping burden for this collection of information is estimated to average 24 hours per response.

Respondents/Affected Entities: Plywood and composite product manufacturers.

Estimated Number of Respondents: 220.

Frequency of Response: Initially and semiannually.

Estimated Total Annual Hour Burden: 4,692.

Estimated Total Annual Cost: $36,000, which is comprised of annualized capital/startup costs of $31,000 and O&M costs of $5,000.

(21) NSPS for Stationary Gas Turbines (40 CFR Part 60, Subpart GG), Docket ID Number EPA–HQ–OECA–2006–0775, EPA ICR Number 1071.09, OMB Control Number 2060–0028, expiration date August 31, 2007.

Affected Entities: Entities potentially affected by this action are the owners or operators of stationary gas turbines.

Abstract: The New Source Performance Standards (NSPS) for stationary Gas turbines were promulgated on September 10, 1979. The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart GG.

Burden Statement: The following data has been extracted from the currently active ICR. The annual public reporting and recordkeeping burden for this collection of information is estimated to average 56 hours per response.

Respondents/Affected Entities: Owners or operators of stationary gas turbines.

Estimated Number of Respondents: 535.

Frequency of Response: Semiannual.

Estimated Total Annual Hour Burden: 59,519.

Estimated Total Annual Cost: There are no capital/startup or O&M costs associated with this ICR.

(22) NESHAP for Petroleum Refineries, Catalytic Cracking, Reforming and Sulfur Units (40 CFR Part 63, Subpart UUU), Docket ID Number EPA–HQ–OECA–2006–0752, EPA ICR Number 1844.02, OMB Control Number 2060–0554, expiration date August 31, 2007.

Affected Entities: Entities potentially affected by this action are petroleum refinery fluid catalytic cracking unit catalyst regeneration, catalytic reforming unit catalyst regeneration, and sulfur recovery units.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP), for the regulations published at 40 CFR part 63, subpart UUU, were proposed on September 11, 1998, promulgated on April 11, 2002, and amended on February 09, 2005. The affected entities are subject to the General Provisions of NESHAP at 40 CFR part 63, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart UUU.

Burden Statement: The following data has been extracted from the currently active ICR. The annual public reporting and recordkeeping burden for this collection of information is estimated to average 96 hours per response.

Respondents/Affected Entities: Petroleum refinery fluid catalytic cracking unit catalyst regeneration, catalytic reforming unit catalyst regeneration, and sulfur recovery units

Estimated Number of Respondents: 132.

Frequency of Response: Semiannually.

Estimated Total Annual Hour Burden: 12,667.

Estimated Total Annual Cost: $4,606,000 which is comprised of annualized capital/startup costs of $1,126,000 and O&M costs of $3,480,000.

(23) NESHAP for Stationary Reciprocating Internal Combustion Engines (40 CFR Part 63, Subpart ZZZZ), Docket ID Number EPA–HQ–OECA–2006–0777, EPA ICR Number 1975.03, OMB Control Number 2060–0548, expiration date August 31, 2007.

Affected Entities: Entities potentially affected by this action are the owners or operators of stationary reciprocating internal combustion engines.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for stationary reciprocating internal combustion engines were promulgated June 15, 2004. The affected entities are subject to the General Provisions of NESHAP at 40 CFR part 63, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart ZZZZ.

Burden Statement: The following data has been extracted from the currently active ICR. The annual public reporting and recordkeeping burden for this collection of information is estimated to average 21 hours per response.

Respondents/Affected Entities: Reciprocating internal combustion engines.

Estimated Number of Respondents: 514.

Frequency of Response: Semiannual.

Estimated Total Annual Hour Burden: 141,984.

Estimated Total Annual Cost: $2,973,000, which is comprised of annualized capital/startup costs of $1,767,000 and O&M costs of $1,206,000.

(24) NSPS for Sewage Sludge Treatment Plants (40 CFR Part 60, Subpart O); Docket ID Number EPA–HQ–OECA–2006–0711; EPA ICR Number 1063.10; OMB Control Number 2060–0035; expiration date September 31, 2007.

Affected Entities: Entities potentially affected by this action are sewage sludge treatment plants.

Abstract: The New Source Performance Standards (NSPS) for Sewage Sludge Treatment Plants (40 CFR Part 60, Subpart O) industry were promulgated on November 10, 1977. The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified 40 CFR part 60, subpart O.

Burden Statement: The following data has been extracted from the currently active ICR. The annual public reporting and recordkeeping burden for this collection of information is estimated to average 35 hours per response.

Respondents/Affected Entities: Sewage Sludge Treatment Plants.

Estimated Number of Respondents: 54.

Frequency of Response: Initially and Semiannually.

Estimated Total Annual Hour Burden: 6,214.

Estimated Total Annual Cost: $1,990,000 which is comprised of annualized capital/startup costs of $100,000 and O&M costs of $1,890,000.

(25) Air Emissions Standards for Tanks, Surface Impoundments and Containers (40 CFR Part 264, Subpart CC and 40 CFR Part 265, Subpart 265); Docket ID Number EPA–HQ–OECA–2006–0705; EPA ICR Number 1593.07; OMB Control Number 2060–0318; expiration date September 31, 2007.

Affected Entities: Entities potentially affected by this action are sewage tanks, surface impoundments and containers.

Abstract: The Air Emissions Standards for Tanks, Surface Impoundments and Containers (40 CFR Part 264, Subpart CC and 40 CFR Part 265, Subpart 265) industry were promulgated on December 6, 1994. The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 264, subpart CC and 40 CFR part 265, subpart 265.

Burden Statement: The following data has been extracted from the currently active ICR. The annual public reporting and recordkeeping burden for this collection of information is estimated to average 114 hours per response.

Respondents/Affected Entities: Tanks, Surface Impoundments and Containers.

Estimated Number of Respondents: 6,209.

Frequency of Response: On-occasion and Semiannually.

Estimated Total Annual Hour Burden: 711,477.

Estimated Total Annual Cost: $12,418,000 which is comprised of no annualized capital/startup costs and O&M costs of $12,418,000.

(26) NESHAP for Aerospace Manufacturing and Rework (40 CFR Part 63, Subpart GG); Docket ID Number EPA–HQ–OECA–2006–0726, EPA ICR Number 1687.07; OMB Control Number 2060–0314; expiration date August September 30, 2007.

Affected Entities: Entities potentially affected by this action are aerospace manufacturing and rework facilities.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Aerospace Manufacturing and Rework (40 CFR Part 63, Subpart GG) were proposed on June 6, 1994 and promulgated on September 1, 1995. The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A and any changes or additions to the General Provisions specified at 40 CFR part 63, subpart GG.

Burden Statement: The following data has been extracted from the currently active ICR. The annual public reporting and recordkeeping burden for this collection of information is estimated to average 260 hours per response.

Respondents/Affected Entities: Aerospace manufacturing and rework facilities.

Estimated Number of Respondents: 136.

Frequency of Response: Initially, on-occasion, quarterly, and semiannually.

Estimated Total Annual Hour Burden: 141,645.

Estimated Total Annual Cost: $136,000, which is comprised of no

annualized capital/startup costs and O&M costs of $136,000.

(27) NSPS for Incinerators (40 CFR Part 60, Subpart E); Docket ID Number EPA–HQ–OECA–2006–0709; EPA ICR Number 1058.09; OMB Control Number 2060–0040; expiration date September 31, 2007.

Affected Entities: Entities potentially affected by this action are incinerators.

Abstract: The New Source Performance Standards (NSPS) for Incinerators (40 CFR Part 60, Subpart E) were promulgated on July 25, 1977. The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart E.

Burden Statement: The following data has been extracted from the currently active ICR. The annual public reporting and recordkeeping burden for this collection of information is estimated to average 51 hours per response.

Respondents/Affected Entities: Incinerators.

Estimated Number of Respondents: 82.

Frequency of Response: Initially.

Estimated Total Annual Hour Burden: 8,393.

Estimated Total Annual Cost: $205,000 which is comprised of no annualized capital/startup costs and O&M costs of $205,000.

(28) NSPS for the Graphic Arts Industry (40 CFR Part 60, Subpart QQ); Docket ID Number EPA–HQ–OECA–0707; EPA ICR Number 0657.09; OMB Control Number 2060–0105; expiration date September 31, 2007.

Affected Entities: Entities potentially affected by this action are graphic arts facilities.

Abstract: The New Source Performance Standards (NSPS) for the Graphic Arts Industry (40 CFR Part 60, Subpart QQ) were promulgated on November 8, 1982. The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart QQ.

Burden Statement: The following data has been extracted from the currently active ICR. The annual public reporting and recordkeeping burden for this collection of information is estimated to average 37 hours per response.

Respondents/Affected Entities: Graphic Arts Industry.

Estimated Number of Respondents: 19.

Frequency of Response: Initially and Semiannually.

Estimated Total Annual Hour Burden: 1,718.

Estimated Total Annual Cost: There are no annualized capital/startup costs or O&M costs associated with this ICR.

EPA will consider any comments received and may amend any of the above ICRs, as appropriate. Then, the final ICR packages will be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue one or more **Federal Register** notices pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR(s) to OMB and the opportunity to submit additional comments to OMB. If you have any questions about any of the above ICRs or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: September 19, 2006.

Michael M. Stahl,

Director, Office of Compliance.

[FR Doc. E6–16525 Filed 10–4–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8227–9]

Gulf of Mexico Program Policy Review Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Charter Renewal.

The Charter for the Environmental Protection Agency's Gulf of Mexico Program Policy Review Board (GMPPRB) will be renewed for an additional two-year period, as a necessary committee which is in the public interest, in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App.2 Section 9(c). The purpose of GMPPRB is to provide advice and recommendations to the Administrator of EPA on issues associated with plans to improve and protect the water quality and living resources of the Gulf of Mexico.

It is determined that GMPPRB is in the public interest in connection with the performance of duties imposed on the Agency by law.

Inquiries may be directed to Gloria Car, Designated Federal Officer, U.S. EPA, Gulf of Mexico Program Office (Mail Code: EPA/GMPO), Stennis Space Center, MS, 39529, Telephone (228) 688–2421, or *car.gloria@epa.gov.*

Dated: August 3, 2006.

Benjamin H. Grumbles,

Assistant Administrator, Office of Water.

[FR Doc. E6–16524 Filed 10–4–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8227–8]

Gulf of Mexico Program Citizens Advisory Committee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Under the Federal Advisory Committee Act (Pub. L. 92–463), EPA gives notice of a meeting of the Gulf of Mexico Program (GMP) Citizens Advisory Committee (CAC).

For information on access or services for individuals with disabilities, please contact Gloria Car, U.S. EPA, at (228) 688–2421 or *car.gloria@epa.gov*. To request accommodation of a disability, please contact Gloria Car, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

DATES: The meeting will be held on Tuesday, October 31, 2006, from 8:30 a.m. to 5 p.m. and Wednesday, November 1, 2006, from 8:30 a.m. to 2 p.m.

ADDRESSES: The meeting will be held at the Texas Farm Bureau Headquarters, 7420 Fish Pond Road, Waco, Texas 76710.

FOR FURTHER INFORMATION CONTACT: Gloria D. Car, Designated Federal Officer, Gulf of Mexico Program Office, Mail Code EPA/GMPO, Stennis Space Center, MS 39529–6000 at (228) 688–2421.

SUPPLEMENTARY INFORMATION: The proposed agenda includes the following topics: Field trips to Waco Wetland Project and Dairy Farm Operations; Gulf of Mexico Program Updates; Presentation on Liquified Natural Gas Facilities; Discussions of Citizens Advisory Committee Involvement in Gulf Alliance Activities; Gulf Guardian Process; Priority Interests of the Citizens Advisory Committee; Citizens Advisory Committee membership status.

The meeting is open to the public.

Dated: September 27, 2006.

Gloria D. Car,

Designated Federal Officer.

[FR Doc. E6–16519 Filed 10–4–06; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority

September 28, 2006.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed 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 estimate; (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: Persons wishing to comment on this information collection should submit comments by December 4, 2006. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit your Paperwork Reduction Act (PRA) comments by e-mail or U.S. postal mail. To submit your comments by e-mail send them to: *PRA@fcc.gov.* To submit your comments by U.S. mail, mark it to the attention of Leslie F. Smith, Federal Communications Commission, 445 12th Street, SW., Room 1–A804, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s) send an e-mail to *PRA@fcc.gov* or contact Leslie F. Smith at (202) 418–0217.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0951.

Title: Sections 1.204(b) and 1.1206(a) Note 1, Service of Petitions for Preemption.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit entities; Individuals or households; Not-for-profit institutions; and State, local, or Tribal Government.

Number of Respondents: 125.

Estimated Time per Response: 0.25 hours (15 minutes).

Frequency of Response: Occasion reporting requirements; Third party disclosure.

Total Annual Burden: 30 hours.

Total Annual Costs: N/A.

Privacy Impact Assessment: Yes.

Needs and Uses: These provisions supplement the procedures for filing petitions seeking Commission preemption of State and local government regulation of telecommunications services. They require that such petitions, whether in the form of a petition for rulemaking or a petition for declaratory ruling, be served on all State and local governments. The actions for which are cited as a basis for requesting preemption. Thus, in accordance with these provisions, persons seeking preemption must serve their petitions not only on the State or local governments whose authority would be preempted, but also on other State or local governments whose actions are cited in the petition.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E6–16492 Filed 10–4–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 30, 2006.

A. Federal Reserve Bank of Chicago (Patrick M. Wilder, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. FBOP Corporation, Oak Park, Illinois; to merge with United Financial Holdings, Inc., Lisle, Illinois, and thereby indirect acquire United Community Bank of Lisle, Lisle, Illinois.

B. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. First Miami Bancshares, Inc., Miami, Florida; to acquire up to 100 percent of the voting shares of Bank of Billings, Billings, Missouri.

Board of Governors of the Federal Reserve System, October 2, 2006.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E6–16468 Filed 10–4–06; 8:45 am]

BILLING CODE 6210–01–S

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

Sunshine Act Meeting; Meeting of the Trustees and Officers of the Harry S. Truman Scholarship Foundation

November 16, 2006, 3 p.m.–5 p.m. Rayburn House Office Building, Room 2216.

I. Welcome and Opening Comments.
II. Approval of the Minutes of the Meeting of November 8, 2005.
III. Report from the President.
IV. Report from the Executive Secretary.
V. Report on 2006 Summer Institute, 2006/2007 Truman Fellows Program.

VI. Approval of Budget for FY 2007.
VII. Old Business.
VIII. New Business.
IX. Adjournment.

Frederick G. Slabach,

Executive Secretary.

[FR Doc. 06–8526 Filed 10–3–06; 9:49 am]

BILLING CODE 6820–AD–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–06–0425X]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

The National Centers for Autism and Developmental Disabilities Research and Epidemiology (CADDRE) Study—New—National Center on Birth Defects and Developmental Disabilities (NCBDDD), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Children's Health Act of 2000 mandated CDC to establish autism surveillance and research programs to address the number, incidence, correlates, and causes of autism and related disabilities. Under the provisions of this act, CDC funded 5 CADDRE centers including the California Department of Health and Human Services, Colorado Department of Public Health and Environment, Johns Hopkins University, the University of Pennsylvania, and the University of North Carolina at Chapel Hill. CDC National Center on Birth Defects and Developmental Disabilities will participate as the 6th site. The multi-site, collaborative study will be an epidemiological investigation of possible causes for the autism spectrum disorders.

Study participants will be selected from children born in and residing in the following six areas: Atlanta metropolitan area, San Francisco Bay area, Denver metropolitan area, Baltimore metropolitan area, Philadelphia metropolitan area, and Central North Carolina. Children with autism spectrum disorders will be compared to children with other developmental problems, referred to as the neurodevelopmentally impaired group (NIC), as well as children who do not have developmental problems, referred to as the subcohort.

Data collection methods will consist of the following: (1) Medical record review of the child participant; (2) medical record review of the biological mother of the child participant; (3) a packet sent to the participants with self-administered questionnaires and a buccal swab kit; (4) a telephone interview focusing on pregnancy-related events and early life history (biological mother and/or primary caregiver interview); (5) a child development evaluation (more comprehensive for case participants than for the control group participants); (6) parent-child development interview (for case participants only) administered over the telephone or in-person; (7) a physical exam of the child participant; (8) biological sampling of the child participant (blood and hair); and (9) biological sampling of the biological parents of the child participant (blood only). There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Form	Number of respondents	Number of responses per respondent	Avg. burden per response (in hours)	Total burden hours
1. Initial Contact by Mail	17,610	1	0.17	2,994
2. Invitation Telephone Contact	8,922	1	0.33	2,944
3. Self-administered Questionnaires and buccal sample	3,456	1	3.17	10,955
4. Caregiver Interview by telephone	3,282	1	0.83	2,724
5. Child Clinic Visit (Child Development Evaluation, physical exam, and biosamples)	3,114			
Case	810	1	2.0	1,620
NIC	1,170	1	1.33	1,556
Subcohort	1,134	1	1.33	1,508
6. Parent-Child Development Interview (Case participants only)	810	1	3.17	2,568
7. Parent biosamples	3,114	1	0.25	779
Total				27,648

Dated: September 29, 2006.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E6–16455 Filed 10–4–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Disease, Disability, and Injury Prevention and Control Special Emphasis Panel, Centers for Disease Control and Prevention, Department of Health and Human Services, has been renewed for a 2-year period through September 18, 2008.

For information contact Elaine L. Baker, Designated Federal Officer, Disease, Disability, and Injury Prevention and Control Special Emphasis Panel, Centers for Disease Control and Prevention, Management Analysis and Services Office, 1600 Clifton Road, NE., Mailstop E72, Atlanta, Georgia 30333, telephone 404–498–0090 or fax 404–498–0011.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: September 25, 2006.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E6–16464 Filed 10–4–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Discontinued Publication of Funding Opportunity Announcements

AGENCY: The Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of New Procedure.

Important notice regarding: (1) Discontinued publication of Funding Opportunity Announcements (FOAs) in the **Federal Register**; and (2) FOA announcement and application submission via Grants.gov. CDC announces plans to publish all FOAs on *http://www.grants.gov* and accept electronic applications through this site. All application packages will be posted on Grants.gov, as well, utilizing the PHS5161–1 forms for non-research applications and the new form SF 424 Research and Related (R&R) application for research. Grants.gov will feed the form 424 (R&R) packages directly into the Health and Human Services electronic Research Administration Commons for on-line receipt of research applications.

As of October 1, 2005, CDC ceased publication of all FOAs in The **Federal Register**. CDC currently announces these FOAs, also known as Requests for Application (RFAs) and Program Announcements (PAs), via the Grants.gov on-line submission system. Applicants are able to find a synopsis and attachments of the complete text of all CDC grants and cooperative agreements, as well as apply electronically for opportunities, via *http://www.Grants.gov*. All FOAs will continue to be posted on the CDC Web site (*http://www.cdc.gov/od/pgo/funding/FOAs.htm*) and on the NIH Guide (*http://grants1.nih.gov/grants/guide/index.html*), for research.

The provisions of the Federal Financial Assistance Management Improvement Act of 1999 (Public Law 106–107) and the President's Management Agenda have led Federal Agencies to simplify Federal financial assistance application requirements and create a single Web site to apply for Federal assistance. Accordingly, Grants.gov (*http://www.grants.gov/*) has been designated by the Office of Management and Budget (OMB) as the single access point for all grant programs offered by 26 Federal grant-making agencies. It provides a single interface for agencies to announce their grant opportunities, and for all grant applicants to find and apply for these opportunities.

The PHS–5161–1 application package will be posted in Grants.gov for CDC non-research application submissions. A transition from the PHS Form 398 package to the SF 424 (R&R) forms will allow electronic submission of research applications through Grants.gov.

Getting Started—Grants.gov and HHS eRA Commons Registration

To provide a secure environment, the submission of electronic applications to HHS and CDC will require organizations to register with Grants.gov (*http://www.grants.gov/applicants/applicants.jsp*), and, in addition, for Research Grants, the applicant will also have to register with HHS eRA Commons (*https://commons.era.nih.gov/commons/*). Grants.gov registration provides the ability to submit applications electronically to at least 26 Federal grant-making agencies. HHS eRA Commons registration allows tracking of research application status for the potential grantee organization and Principal Investigator.

Additional Information

Questions regarding this notice should be directed to the Technical Information Management Section (TIMS), Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Atlanta, GA 30341, Telephone 770–488–2700, or e-mail address: *pgotim@cdc.gov*.

Dated: September 26, 2006.

James D. Seligman,

Chief Information Officer, Centers for Disease Control and Prevention.

[FR Doc. E6–16322 Filed 10–4–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Request for Nominations for Nonvoting Members Representing Industry Interests on Public Advisory Panels or Committees

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for nonvoting industry representatives to serve on the National Mammography Quality Assurance Advisory Committee (NMQAAC) and certain device panels of the Medical Devices Advisory Committee in the Center for Devices and Radiological Health.

DATES: Industry organizations interested in participating in the selection of a nonvoting member to represent industry for the vacancies listed in this document must send a letter to FDA by November 6, 2006, stating their interest in the NMQAAC or one or more panels. Concurrently, nomination materials for prospective candidates should be sent to FDA by November 6, 2006. A nominee

may either be self-nominated or nominated by an organization to serve as a nonvoting industry representative.

ADDRESSES: All letters of interest and nominations should be sent to Kathleen L. Walker (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Kathleen L. Walker, Center for Devices and Radiological Health (HFZ–17), Food and Drug Administration, 7520 Standish Pl. (MPN1), Rockville, MD 20855, 301–827–7293, e-mail: *kathleen.walker@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

A. NMQAAC

The Mammography Quality Standards Reauthorization Act of 2004 (Public Law 108–365) requires the addition of at least two industry representatives with expertise in mammography equipment to the NMQAAC.

B. Medical Devices Advisory Committee

Section 520(f)(3) of the Federal Food, Drug and Cosmetic Act (the act) (21 U.S.C. 360j(f)(3)), as amended by the Medical Device Amendments of 1976, provides that each medical device panel include one nonvoting member to represent the interests of the medical device manufacturing industry.

FDA is requesting nominations for nonvoting members representing industry interests for the following vacancies listed in table 1 of this document:

TABLE 1.

Committee/Panel	Approximate Date Representatives Needed
NMQAAC	February 1, 2007
Certain Panels of the Medical Devices Advisory Committee	
General and Plastic Surgery Devices Panel	Immediate
Hematology and Pathology Devices Panel	Immediate

II. Functions

A. NMQAAC

The functions of the NMQAAC are to advise FDA on the following topics: (1) Developing appropriate quality standards and regulations for mammography facilities, (2) developing appropriate standards and regulations for bodies accrediting mammography facilities under this program, (3) developing regulations with respect to sanctions, (4) developing procedures for monitoring compliance with standards, (5) establishing a mechanism to investigate consumer complaints, (6) reporting new developments concerning breast imaging which should be considered in the oversight of mammography facilities, (7) determining whether there exists a shortage of mammography facilities in rural and health professional shortage areas and determining the effects of personnel on access to the services of such facilities in such areas, (8) determining whether there will exist a sufficient number of medical physicists after October 1, 1999, and (9) determining the costs and benefits of compliance with these requirements.

B. Medical Devices Advisory Committee

The medical device panels perform the following functions: (1) Review and evaluate data on the safety and effectiveness of marketed and investigational devices and make recommendations for their regulation, (2) advise the Commissioner of Food and Drugs (the Commissioner) regarding recommended classification or reclassification of these devices into one of three regulatory categories, (3) advise on any possible risks to health associated with the use of devices, (4) advise on formulation of product development protocols, (5) review premarket approval applications for medical devices, (6) review guidelines and guidance documents, (7) recommend exemption to certain devices from the application of portions of the act, (8) advise on the necessity to ban a device, (9) respond to requests from the agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices, and (10) make recommendations on the quality in the design of clinical studies regarding the safety and effectiveness of marketed and investigational devices.

II. Selection Procedure

Any organization representing the mammography device industry or the medical device manufacturing industry wishing to participate in the selection of a nonvoting member to represent industry should send a letter stating that interest to the contact person (see **FOR FURTHER INFORMATION CONTACT**) within 30 days of publication of this notice. Persons who nominate themselves as industry representatives will not participate in the selection process. It is, therefore, recommended that nominations be made by someone within an organization, trade association, or firm who is willing to participate in the selection process. Within the subsequent 30 days, FDA will send a letter to each organization and a list of all nominees along with their resumes. The letter will state that the interested organizations are responsible for conferring with one another to select a candidate, within 60 days after receiving the letter, to serve as the nonvoting industry representative on a particular committee or device panel. If no individual is selected within that 60 days, the Commissioner may select the nonvoting member to represent industry interests.

IV. Qualifications

A. NMQAAC

Persons nominated for membership as an industry representative on the NMQAAC must meet the following criteria: (1) Demonstrate expertise in mammography equipment and (2) be able to discuss equipment specifications and quality control procedures affecting mammography equipment. The industry representative must be able to represent the industry perspective on issues and actions before the advisory committee, serve as liaison between the committee and interested industry parties, and facilitate dialogue with the advisory committee on mammography equipment issues.

B. Medical Devices Advisory Committee

Persons nominated for the device panels should be full time employees of firms that manufacture products that would come before the panel, or

consulting firms that represent manufacturers, or have similar appropriate ties to industry.

V. Application Procedure

Individuals may nominate themselves, or an organization representing the mammography device industry or medical device industry may nominate one or more individuals to serve as a nonvoting industry representative. A current curriculum vitae (which includes the nominee's business address, telephone number, and e-mail address) and the name of the committee or panel of interest should be sent to the contact person (see **FOR FURTHER INFORMATION CONTACT**). FDA will forward all nominations to the organizations that have expressed interest in participating in the selection process for that committee or panel.

FDA has a special interest in ensuring that women, minority groups, individuals with disabilities, and small businesses are adequately represented on its advisory committees. Therefore, the agency encourages nominations for appropriately qualified candidates from these groups.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: September 28, 2006.

Randall W. Lutter,

Associate Commissioner for Policy and Planning.

[FR Doc. E6–16438 Filed 10–4–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Proposed Project: Protection and Advocacy for Individuals With Mental Illness (PAIMI) Final Rule, 42 CFR Part 51 (OMB No. 0930–0172)—Extension

These regulations meet the directive under 42 U.S.C. 10826(b) requiring the Secretary to promulgate final regulations to carry out the PAIMI Act. The regulations contain information collection requirements. The Act authorized funds to support activities on behalf of individuals with significant (severe) mental illness (adults) or emotional impairment (children/youth) [42 U.S.C. at 10802(4)]. However, only entities designated by the governor of each State and six (6) territories (the American Indian Consortium, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands), and the Mayor of the District of Columbia to protect and advocate the rights of persons with developmental disabilities under Title I, Subtitle C—Protection and Advocacy of Individual Rights, of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C. 150041 *et seq.*] are eligible to receive PAIMI grants [42 U.S.C. at 10802(2)]. PAIMI grants are based on a formula prescribed by the Secretary [42 U.S.C. at 10822(a)(1)(A)].

On January 1, each eligible State protection and advocacy (P&A) system is required to prepare and transmit to the Secretary and head of the State Mental Health Agency, in which the system is located, a report describing its activities, accomplishments, and expenditures during the most recently completed fiscal year. Section 10824(a) of the Act requires that the State P&A system's annual reports to the Secretary, shall describe its activities, accomplishments, and expenditures to protect the rights of individuals with mental illness supported with payments from PAIMI Program allotments. These include:

- The number of (PAIMI-eligible) individuals with mental illness served;
- A description of the types of activities undertaken;
- A description of the types of facilities providing care or treatment to which such activities are undertaken;
- A description of the manner in which the activities are initiated;
- A description of the accomplishments resulting from such activities;
- A description of systems to protect and advocate the rights of individuals with mental illness supported with payments from PAIMI Program allotments;
- A description of activities conducted by States to protect and advocate such rights;
- A description of mechanisms established by residential facilities for individuals with mental illness to protect such rights; and,
- A description of the coordination among such systems, activities and mechanisms;
- Specification of the number systems that are public and nonprofit systems established with PAIMI Program allotments;
- Recommendations for activities and services to improve the protection and advocacy of the rights of individuals with mental illness and a description of the needs for such activities and services which have not been met by the State P&A systems established under the PAIMI Act * * * [The PAIMI Rules 42 CFR Part 51 at section 51.32(b) states that P&A systems may place restrictions on case or client acceptance criteria developed as part of its annual PAIMI priorities. However, prospective clients must be informed of any such restrictions at the time they request service].

This summary report must include a separate section, prepared by the PAIMI Advisory Council, that describes the council's activities and its assessment of the operations of the State P&A system. [42 U.S.C. 10805(7)].

The burden estimate for the annual State P&A system reporting requirements for these regulations is as follows.

42 CFR citation	Number of respondents	Responses per respondent	Burden per response (hrs.)	Total annual burden
51.(8)(a)(2) Program Performance Report	57	1	26.0	[1] 1,482
51.8(8)(a)(8) Advisory Council Report	57	1	10.0	[1] 570
51.10 Remedial Actions.				
Corrective Action Plan	7	1	8.0	56
Implementation Status Report	7	3	2.0	42
51.23(c) Reports, materials and fiscal data provided to advisory Council	57	1	1.0	57
51.25(b)(2) Grievance Procedure	57	1	.5	29

42 CFR citation	Number of respondents	Responses per respondent	Burden per response (hrs.)	Total annual burden
Total	57			184

[1] Burden hours associated with these reports are approved under OMB Control No. 0930–0169.

Written comments and recommendations concerning the proposed information collection should be sent by November 6, 2006 to: SAMHSA Desk Officer, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; due to potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, respondents are encouraged to submit comments by fax to: 202–395–6974.

Dated: September 27, 2006.

Anna Marsh,

Director, Office of Program Services.

[FR Doc. E6–16456 Filed 10–4–06; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[CGD17–06–003]

Cook Inlet Regional Citizen's Advisory Committee; Charter Renewal

AGENCY: Coast Guard, DHS.

ACTION: Notice of Recertification.

SUMMARY: The Coast Guard has recertified the Cook Inlet Regional Citizen's Advisory Council for the period covering September 1, 2006 through August 31, 2007. Under the Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990, the Coast Guard may certify on an annual basis an alternative voluntary advisory group in lieu of a regional citizens' advisory council for Cook Inlet, Alaska. This advisory group monitors the activities of terminal facilities and crude oil tankers under the Cook Inlet Program established by the statute.

DATES: The Cook Inlet Regional Citizen's Advisory Council is certified through August 31, 2007.

ADDRESSES: You may request a copy of the recertification letter by writing to Commander, Seventeenth Coast Guard District (dpi), P.O. Box 25517, Juneau, AK 99802–5517; or by calling 907–463–2809.

FOR FURTHER INFORMATION CONTACT: Lieutenant-Commander Gary Koehler, Seventeenth Coast Guard District (dpi), telephone 907–463–2809.

SUPPLEMENTARY INFORMATION:

Background and Purpose

On September 1, 2005, the Coast Guard recertified the Cook Inlet Regional Citizen's Advisory Council through August 31, 2006 (70 FR 51077). Under the Oil Terminal and Oil Tanker Environmental Oversight Act of 1990 (33 U.S.C. 2732), the Coast Guard may certify, on an annual basis, an alternative voluntary advisory group in lieu of a regional citizens' advisory council for Cook Inlet, Alaska. This advisory group monitors the activities of terminal facilities and crude oil tankers under the Cook Inlet Program established by Congress, 33 U.S.C. 2732 (b).

On September 16, 2002, the Coast Guard published a notice of policy on revised recertification procedures for alternative voluntary advisory groups in lieu of councils at Cook Inlet, Alaska (67 FR 58440). This revised policy indicated that Cook Inlet Regional Citizen's Advisory Council recertification in 2006 need only submit a streamlined application and public comments would not be solicited prior to that recertification.

Dated: September 18, 2006.

Arthur E. Brooks,

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

[FR Doc. E6–16430 Filed 10–4–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5091–N–03]

Notice of Proposed Information Collection: Comment Request; Federal Labor Standards Payee Verification and Payment Processing

AGENCY: Office of Labor Relations, 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:* December 4, 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., Room 4176, Washington, DC 20410 or *Lillian_L._Deitzer@hud.gov.*

FOR FURTHER INFORMATION CONTACT: Jade Banks, Senior Policy Advisor, Office of Labor Relations, Department of Housing and Urban Development, 451 7th Street, SW., Room 2102, Washington, DC 20410 or *Jade_M._Banks@hud.gov*, telephone (202) 708–0370, Ext. 5475 (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: Federal Labor Standards Payee Verification and Payment Processing.

OMB Control Number, if applicable: 2501–0021.

Description of the need for the information and proposed use: HUD, and State, local, and Tribal agencies

administering HUD-assisted programs must enforce Federal labor standards requirements, including the payment of prevailing wage rates to laborers and mechanics employed on HUD-assisted construction and maintenance work that is covered by these requirements. Enforcement activities include securing funds to ensure the payment of wage restitution that has been or may be found due to laborers and mechanics who were employed on HUD-assisted projects, and the payment of liquidated damages that may be assessed for violations of Contract Work Hours and Safety Standards Act (CWHSSA) overtime provisions. Ultimately, these funds are deposited to an account in the U.S. Treasury. If the labor standards discrepancies are resolved, HUD refunds associated amounts to the depositor. As underpaid laborers and mechanics are located, HUD sends wage restitution payments to the effected workers. Liquidated damages assessed for CWHSSA overtime violations are retained by HUD.

In order to make refunds and wage restitution payments, HUD must verify the identity of the payee to ensure that the refund is made to the correct depositor or to the correct worker before payment is made. In order to complete these verifications, HUD will request information such as the depositor's or payee's tax identification number (*i.e.*, employer identification number or Social Security Number), the project name or number, and/or the worker's employer's name.

All refunds from labor standards deposit accounts are made electronically. Depositors entitled to a refund must provide to HUD the name, address, and account information for the banking institution to which it wants the refund sent. Wage restitution payments may be made by check or electronically, at the payee's choice. HUD must collect either the payee's mailing address, so that a check may be sent to them, or banking information for an electronic payment.

Agency form numbers, if applicable: HUD–4734, Labor Standards Deposit Account Voucher. This form is completed by HUD staff after depositor or payee verification and the collection of payment processing information, *i.e.*, financial institution information or mail delivery address.

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 50 per year. The estimated number of hours needed per respondent is .1 hours. The total public burden is estimated to be 5 hours per year. Payees do not need to complete a form; the information may be collected by HUD in person, by telephone, or in writing, at the payee's option.

Status of the proposed information collection: Extension of existing collection approved under OMB number 2501–0021.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: September 28, 2006.

Edward L. Johnson,

Director, Office of Labor Relations.

[FR Doc. E6–16439 Filed 10–4–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5091–N–04]

Notice of Proposed Information Collection: Comment Request; Federal Labor Standards Remote Monitoring

AGENCY: Office of Labor Relations, 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:* December 4, 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., Room 4176, Washington, DC 20410 or *Lillian_L._Deitzer@hud.gov.*

FOR FURTHER INFORMATION CONTACT: Jade Banks, Senior Policy Advisor, Office of Labor Relations, Department of Housing and Urban Development, 451 7th Street, SW., Room 2102, Washington, DC 20410 or *Jade_M._Banks@hud.gov*, telephone (202) 708–0370, Ext. 5475 (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: Federal Labor Standards Remote Monitoring.

OMB Control Number, if applicable: None.

Description of the need for the information and proposed use: Many HUD programs are subject to Federal labor standards provisions, including the payment of federally-determined prevailing wage rates to construction and maintenance laborers and mechanics, and the payment of premium rates for overtime hours worked. Several HUD programs are administered by State, local, and tribal agencies, aka local contracting agencies (LCAs), to which HUD has delegated labor standards administration and enforcement responsibilities. HUD is responsible, overall, for full compliance with Federal labor standards requirements in all of its programs and must monitor LCA performance. HUD prefers to conduct monitoring reviews on-site, at the LCA's place(s) of business. In some instances, resource constraints may limit HUD's ability to conduct on-site LCA monitoring. To ensure compliance, HUD may resort to remote monitoring requiring LCAs to submit to HUD information relating to performance in the delegated areas of labor standards administration and enforcement.

In order for HUD to accomplish remote monitoring and to assist LCAs, HUD proposes to institute remote monitoring information collection requirements and has created forms on which LCAs may submit information necessary for HUD's monitoring review.

HUD and LCAs would be required to maintain records of these remote monitoring forms and the results of the remote monitoring review for three (3) years after the review or the resolution of any findings, whichever is later.

Agency form numbers, if applicable: Proposed forms HUD–4742 (A, B, C, D, and E for city, county, and Tribal agencies); and HUD–4743 (A and B for State agencies).

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Item	Number of respondents	Amount of time required (hours)	Total time required/ annum (hours)
HUD–4742 (A through E)	45	4	180
HUD–4743 (A and B)	5	4	20
Recordkeeping	50	1	50
Total Annual Burden			250

Status of the proposed information collection: This is a new collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: September 28, 2006.

Edward L. Johnson,

Director, Office of Labor Relations.

[FR Doc. E6–16440 Filed 10–4–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4922–N–23]

Privacy Act of 1974; Notice of a Computer Matching Program between HUD and the Social Security Administration: Matching Tenant Data in Assisted Housing Programs

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice of a computer matching program between the Department of Housing and Urban Development HUD and the Social Security Administration (SSA).

SUMMARY: Pursuant to the Computer Matching and Privacy Protection Act of 1988, as amended, and the Office of Management and Budget's (OMB) Guidance on the statute, HUD is updating its notice of a matching program involving comparisons between income data provided by participants in HUD's assisted housing programs and independent sources of income information. The matching program will be carried out to detect inappropriate (excessive or insufficient) housing assistance under the National Housing Act, the United States Housing Act of 1937, section 101 of the Housing and Community Development Act of 1965, the Native American Housing Assistance and Self-Determination Act of 1996, and the Quality Housing and Work Responsibility Act (QHWRA) of 1998. The program provides for the verification of the matching results and the initiation of appropriate administrative or legal actions, primarily through public housing agencies (PHAs) and owners and agents (all collectively referred to as POAs). Indian tribes and tribally designated housing entities (TDHEs) are not a mandatory component of the computer matching program. Participation by Indian tribes and TDHEs is discretionary; however, they may receive and use social security (SS) and supplemental security income (SSI) matching information provided by HUD.

This notice provides an overview of computer matching for HUD's rental assistance programs. Specifically, the notice describes HUD's program for computer matching of its tenant data to SSA's SS and SSI income benefits data.

DATES: *Effective Date:* Computer matching is expected to begin 30 days after publication of this notice in the **Federal Register,** unless comments are received which will result in a contrary determination, or 40 days from the date a computer matching agreement is signed, whichever is later.

Comments Due Date: November 6, 2006.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500. Communications should refer to the above docket number and title. Comments sent by facsimile are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: For Privacy Act: Jeanette Smith, Departmental Privacy Act Officer, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4176, Washington, DC 20410, telephone number (202) 708–2374. A telecommunications device for hearing- and speech-impaired individuals (TTY) is available at (800) 877–8339 (Federal Information Relay Service). For all other information: Myra Newbill, Project Manager, Tenant Assessment Sub-System, Real Estate Assessment Center, Department of Housing and Urban Development, 550 12th Street, SW., Suite 100, Washington, DC 20410, telephone number (202) 475–8988.

SUPPLEMENTARY INFORMATION: This notice supersedes a similar notice published in the **Federal Register** on March 9, 2004 (69 FR 11033). Since that time, the matching program has continued to be implemented on a large scale. In previous years, the computer matching was carried out for random samples of households receiving rental assistance or for selected POAs. During calendar year 1999, HUD used the matching program for a large-scale computer matching project involving over 2 million households. HUD announced plans for the large-scale implementation of the program on September 14, 1999 (64 FR 49817). The Computer Matching and Privacy Protection Act (CMPPA) of 1988, an amendment to the Privacy Act of 1974 (5 U.S.C. 552a), OMB's guidance on this statute entitled ''Final Guidance Interpreting the Provisions of Public Law 100–503, the CMPPA of 1988'' (OMB Guidance), and OMB Circular No. A–130 requires publication of notices of computer matching programs. Appendix I to OMB's Revision of Circular No. A–130, ''Transmittal Memorandum No. 4, Management of Federal Information Resources,'' prescribes Federal agency responsibilities for maintaining records about individuals. In compliance with the CMPPA and Appendix I to OMB Circular No. A–130, copies of this notice are being provided to the Committee on Government Reform and Oversight of the House of Representatives, the Committee of Homeland Security and Governmental Affairs of the Senate, and

OMB's Office of Information and Regulatory Affairs.

I. Authority

This matching program is being conducted pursuant to section 542(b) of the 1998 Appropriations Act (Pub. L. 105–65); section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 3544); section 165 of the Housing and Community Development Act of 1987 (42 U.S.C. 3543); the National Housing Act (12 U.S.C. 1701–1750g); the United States Housing Act of 1937 (42 U.S.C. 1437–1437z); section 101 of the Housing and Community Development Act of 1965 (12 U.S.C. 1701s); the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.); and the QHWRA Act of 1998 (42 U.S.C. 1437a(f)). The Stewart B. McKinney Homeless Assistance Amendments Act of 1988 authorizes HUD and PHAs (but not private owners/agents for subsidized multifamily projects) to request wage and claim information from State Wage Information Collection Agencies (SWICAs) responsible for administering State unemployment laws in order to undertake computer matching. This Act authorizes HUD to require applicants and participants to sign a consent form authorizing HUD or the PHA to request wage and claim information from the SWICAs. The Housing and Community Development Act of 1987 authorizes HUD to require applicants and participants in HUD-administered programs involving rental assistance to disclose to HUD their social security numbers (SSNs) as a condition of initial or continuing eligibility for participation in the programs. The QHWRA of 1998, section 508(d), 42 U.S.C. 1437a(f) authorizes the Secretary of HUD to require disclosure by the tenant to the PHA of income information received by the tenant from HUD as part of the income verification procedures of HUD. The QHWRA was amended by Public Law 106–74, which extended the disclosure requirements to participants in section 8, section 202, and section 811 assistance programs. The participants are required to disclose the HUD-provided income information to owners responsible for determining the participants' eligibility or level of benefits.

II. Objectives To Be Met by the Matching Program

HUD's primary objective in implementing the computer matching program is to increase the availability of rental assistance to individuals who meet the requirements of the rental assistance programs. Other objectives include determining the appropriate level of rental assistance, and deterring and correcting abuse in rental assistance housing programs. In meeting these objectives, HUD also is carrying out its responsibility under 42 U.S.C. 1437f(K) to ensure that income data provided to POAs by household members is complete and accurate. HUD's various assisted housing programs, available through POAs, require that applicants meet certain income and other criteria to be eligible for rental assistance. In addition, tenants generally are required to report the amounts and sources of their income at least annually. However, under the QHWRA of 1998, PHA must offer tenants the option to pay a flat rent, or an income-based rent annually. Those tenants who select a flat rent will be required to recertify income at least every three years. In addition, the Changes to the Admissions and Occupancy Final Rule (March 29, 2000; 65 FR 16692) specified that household composition must be recertified annually for tenants who select a flat rent or income-based rent. The matching program identifies tenants receiving inappropriate (excessive or insufficient) rental assistance resulting from under or over-reported household income.

When excessive rental assistance amounts are identified, some tenants move out of assisted units making more units available to assist eligible families, while other tenants agree to repay excessive rental assistance, which increases subsidy payments to HUD. When tenants continue to be eligible for rental assistance, but at a reduced level, the tenants will be required to increase their contributions toward rent. Tribes and TDHEs set admission and eligibility requirements pursuant to the requirements contained in the Native American Housing Assistance and Self-Determination Act of 1996. They are not required to provide tenant data to the Department. Therefore, their participation is discretionary.

III. Program Description

In this computer matching program, tenant-provided information included in HUD's automated files will be compared to data from the SSA on a quarterly basis. HUD will request SSA matching of SS and SSI benefits information monthly for residents due to be recertified in four months and each three months thereafter. New tenants will be processed in the next monthly SSA cycle. No tenant records will be forwarded to HHS for matching against NDNH until SSA has verified their ID. Indian Tribes and Tribally Designated Housing Entities may receive and use SS and SSI matching information provided by HUD. HUD may also request SWICA matching to supplement SSA matching and income verification. PHAs, but not owners and agents, may also request SWICA matching. For matching purposes, HUD will disclose to SSA and SWICA only tenant personal identifiers such as SSNs, surnames, and dates of birth. The SSA and SWICAs will conduct the matching of the HUD-provided personal identifiers to personal identifiers included in their automated files. Those agencies will provide income data to HUD only for those individuals with matching personal identifiers. HUD will then compare income data obtained from the sources cited above to tenant-reported income data included in HUD's system of records known as the Tenant Eligibility Verification Files (HUD/REAC–1) published on August 30, 2000 (65 FR 52777). HUD/REAC–1 receives tenant data from the Tenant Housing Assistance and Contract Verification Data (HUD/H–11), published on March 13, 1997 (62 FR 11909). The tenant income comparisons identify tenants whose incomes require further verification to determine if the tenants received appropriate levels of rental assistance.

A. Income Verification

HUD will normally request that POAs verify matching results as described below. However, under certain circumstances, HUD Program staff or the HUD Office of Inspector General (OIG) may verify tenant incomes with independent income sources. For example, such circumstances may include: (a) When HUD declares a PHA in breach of an annual contributions contract; or (b) when tenants fail to disclose SSA data, or tenants commit other serious violations, and HUD's analysis of the data could support legal actions.

(1) Verification of SS and SSI Benefits Data. SSA's SS and SSI benefits data may be disclosed to POAs. (The Foster Care Independence Act of 1999; Public Law 106–169 provided a new Title VIII of the Social Security Act, which authorized special benefits for certain World War II veterans.) Therefore, after receiving this data from the SSA and comparing it to tenant-reported income, HUD will disclose SS and SSI benefits data to POAs. These disclosures will include information on monthly SS and SSI benefits data and, where applicable, income discrepancy information between tenant-reported data, as reported by POAs, and the income amounts provided by the SSA. POAs will use this information in periodic

verifications of tenant incomes that are required to determine program eligibility and rental assistance amounts. HUD has implemented secure electronic facilities for transmitting SS and SSI benefits data to all POAs.

(2) Verification of SWICA Data. HUD may disclose matching results for SWICAs wage and unemployment claim data directly to PHAs. The comparison of SWICA data and the tenant-reported data will reveal whether income verification is necessary. If tenant contests the accuracy of the SWICA reported information, the PHA must then obtain wage information directly from the tenant's employers, including information from prior years, when appropriate. The SWICA unemployment claim data must be verified with the tenant. Verification of the income data with employers would only be required when the tenant disputes the SWICA data.

B. Administrative or Legal Actions

Regarding all the matching described in this notice, HUD anticipates that POAs will take appropriate action in consultation with tenants to:

(1) Resolve income disparities between tenant-reported and independent income source data; and

(2) Use correct income amounts in determining housing rental assistance. POAs must compute the rent in full compliance with all applicable occupancy regulations. POAs must ensure that they use the correct income and correctly compute the rent. POAs may not suspend, terminate, reduce, or make a final denial of any rental housing assistance to any tenant as the result of information produced by this matching program until: (a) The tenant has received notice from the POA of its findings and has been informed of the opportunity to contest such findings; and (b) either the notice period provided in applicable regulations of the program, or 30 days, whichever is later, has expired. In most cases, POAs will resolve income discrepancies in consultation with tenants. Additionally, serious violations, which POAs, HUD Program staff, or the HUD OIG verify, should be referred for full investigation and appropriate civil and/or criminal proceedings.

IV. Records To Be Matched

SSA will conduct the matching of tenant SSNs and additional identifiers (such as surnames and dates of birth) to tenant data that HUD supplies from its system of records known as the Tenant Housing Assistance and Contract Verification Data (HUD/H–11). Within HUD, this system of records includes two automated systems known as the Multifamily Tenant Characteristics System (a system for programs under the Office of the Assistant Secretary for Public and Indian Housing) and the Tenant Rental Assistance Certification System (a system for programs under the Office of the Assistant Secretary for Housing—Federal Housing Commissioner). POAs provide HUD with the tenant data that is included in HUD/H–11. The SSA will match the HUD/H–11 records to the SSA's Earnings Recording and Self-Employment Income System (HHS/SSA/OSR, 09–60–0059) (Earnings Record); Master Beneficiary Record (HHS/SSA/OSR, 09–60–0090) (MBR); and Supplemental Security Income Record (HHS/SSA/OSR, 09–60–0103) (SSR). HUD will place matching data into its system of records known as the Tenant Eligibility Verification Files (HUD/REAC–1). The HUD/REAC–1 records are specifically exempt from certain provisions of the Privacy Act, as described in notices published on February 28, 1994 (59 FR 9406) and March 30, 1994 (59 FR 14869). HUD may also coordinate SWICA income computer matches for its rental assistance programs using tenant SSNs and surnames. SWICAs will match tenant records to machine-readable files of quarterly wage data and unemployment insurance benefit data. Results from this matching will be provided to HUD or PHAs, which will then determine whether tenants have unreported or underreported income. The matching will be done in accordance with a written agreement between the SWICA and HUD. Tenant data may be matched to the SSA's Master Files of Social Security Number Holders (HHS/SSA/OSR, 09–60–0058) and Death Master Files for the purpose of validating SSNs contained in tenant records. These records will also be used to validate SSNs for all applicants, tenants, and household members who are six (6) years of age and over to identify noncompliance with program eligibility requirements. HUD will compare tenant SSNs provided by POAs to reveal duplicate SSNs and potential duplicate housing assistance.

V. Period of the Match

The computer matching program will be conducted according to agreements between HUD and the SSA and SWICA. The computer matching agreements for the planned matches will terminate either when the purpose of the computer matching program is accomplished, or 18 months from the date the agreement is signed, whichever comes first. The agreements may be extended for one 12-month period, with the mutual agreement of all involved parties, if the following conditions are met:

(1) Within three months of the expiration date, all Data Integrity Boards review the agreement, find that the program will be conducted without change, and find a continued favorable examination of benefit/cost results; and (2) All parties certify that the program has been conducted in compliance with the agreement.

The agreement may be terminated, prior to accomplishment of the computer matching purpose or 18 months from the date the agreement is signed (whichever comes first), by the mutual agreement of all involved parties within 30 days of written notice.

Dated: September 29, 2006.

Lisa Schlosser,

Chief Information Officer.

[FR Doc. E6–16435 Filed 10–4–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of the Assessment Plan: Lawrenceville, IL Former Indian Refinery Natural Resource Damage Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 30-day comment period.

SUMMARY: Notice is given that the document titled ''Assessment Plan: Lawrenceville, IL Former Indian Refinery NRDA'' (''The Plan'') is available for public review and comment. The U.S. Department of the Interior and the State of Illinois are Trustees for natural resources considered in this assessment, pursuant to subpart G of the National Oil and Hazardous Substances Pollution Contingency Plan and Executive Order 12580.

Interested members of the public are invited to review and comment on the Plan.

DATES: Written comments on the Plan must be submitted by November 6, 2006.

ADDRESSES: Requests for copies of the Plan may be made to Mr. Tom Heavisides, Contaminant Assessment Section, Illinois Department of Natural Resources, One Natural Resources Way, Springfield, IL 62702–1271. This Assessment is also available on our Web

site at: *http://www.fws.gov/midwest/LawrencevilleNRDA/*.

Comments on the Plan should be sent to Tom Heavisides of the Illinois Department of Natural Resources at the address listed above.

SUPPLEMENTARY INFORMATION: The Trustees are following the guidance of the Natural Resource Damages Assessment Regulations found at 43 CFR part 11. The Trustees are undertaking an assessment of damages resulting from the suspected injury to natural resources at the Former Indian Refinery Site in Lawrence County, IL which have been exposed to hazardous substances released into the environment. It is suspected that this exposure has caused injury and resultant damages to trust resources. The injury and resultant damages will be assessed under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 *et seq.*), as amended, and the Clean Water Act, as amended (33 U.S.C. 1251 *et seq.*). The Plan addresses the Trustees' overall assessment approach and utilizes existing data. Plan addenda may be prepared by the Trustees to provide public notice of additional data collection activities.

All written comments will be considered by the Trustees and included in the Report of Assessment, at the conclusion of the assessment process.

Dated: September 29, 2006.

Robyn Thorson,

Regional Director, Region 3.

[FR Doc. E6–16465 Filed 10–4–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Colorado: Filing of Plats of Survey

September 29, 2006.

SUMMARY: The plats of survey of the following described land will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10 a.m., September 29, 2006. All inquiries should be sent to the Colorado State Office (CO–956), Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215–7093.

The supplemental plat creating new lot 133 in the SW¼NE¼ of section 13, in Township 1 North, Range 72 West of the Sixth Principal Meridian, Colorado, was accepted July 20, 2006.

The supplemental plat creating lots 22 and 23 in sec. 18, of Township 49 North, Range 10 East, New Mexico Principal Meridian, Colorado, was accepted July 24, 2006.

The plats and field notes of the dependent resurvey and surveys in Townships 33 and 34 North (SU), Range 13 West, of the New Mexico Principal Meridian, Colorado, Group 1419, were accepted July 28, 2006.

The supplemental plat correcting lotting errors made on the supplemental plat accepted May 5, 2006, of section 22, in Township 1 North, Range 71 West, Sixth Principal Meridian, Colorado, was accepted July 31, 2006.

The plat, and field notes of the dependent resurvey in Sections 13 and 24, Township 15 South, Range 76 West, Sixth Principal Meridian, Colorado, Group 1435, was accepted August 1, 2006.

The plat and field notes of the Dependent Resurvey of a portion of Tract 37 and the Corrective Dependent Resurvey of the metes-and-bounds survey of Public Land Tract 38, Township 5 South, Range 74 West, of the Sixth Principal Meridian, Colorado, Group 1270, was accepted August 7, 2006.

The plat and field notes of the dependent resurvey in Section 8, Township 9 South, Range 74 West, Sixth Principal Meridian, Colorado, Group 1448, was accepted August 11, 2006.

The plat and field notes of the location and remonumentation of certain original corners in, Township 10 North, Range 101 West, Sixth Principal Meridian, Colorado, Group 750, was accepted August 15, 2006.

The plat and field notes of the dependent resurvey of a portion of the Colorado-New Mexico State Line (S. bdy.), the Eighth Standard Parallel North (N. bdy.) and west boundary, and the survey of the east boundary of Townships 32 North, Range 16 West, of the New Mexico Principal Meridian, Colorado, Group 1425, was accepted August 22, 2006.

The plat and field notes of the dependent resurvey and survey, in Township 27 South, Range 72 West, Sixth Principal Meridian, Colorado, Group 1410, was accepted September 12, 2006.

The plat and field notes of the dependent resurvey and survey in Fractional Township 32 North, Range 1 East, New Mexico Principal Meridian, Colorado, Group 1447, was accepted September 14, 2006.

The plat which includes the field notes, and is the entire record of this resurvey, in Township 33½ North, Range 17 West, New Mexico Principal Meridian, Colorado, Group 1452, was accepted September 20, 2006.

The plat and field notes of the dependent resurveys and surveys, in Township 3 North, Range 80 West, Sixth Principal Meridian, Colorado, Group 1443, was accepted September 27, 2006.

The plat (in 2 sheets), which is the entire record, of the dependent resurvey of a portion of Mineral Survey 359, Kirsch Placer, and subdivisional lines, and the remonumentation of certain corners, in Township 12 South, Range 79 West, Sixth Principal Meridian, Colorado, Groups 750 and 1416, was accepted September 27, 2006.

Randall M. Zanon,

Chief Cadastral Surveyor for Colorado.

[FR Doc. E6–16482 Filed 10–4–06; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–957–07–1910–BJ–5GKZ]

Notice of Filing of Plats of Survey, Nebraska

September 28, 2006.

AGENCY: Bureau of Land Management, Interior.

SUMMARY: The Bureau of Land Management (BLM) is scheduled to file the plat of survey of the lands described below thirty (30) calendar days from the date of this publication in the BLM Wyoming State Office, Cheyenne, Wyoming.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003.

SUPPLEMENTARY INFORMATION: This survey was executed at the request of the Bureau of Indian Affairs and is necessary for the management of these lands. The lands surveyed are:

The plat and field notes representing the dependent resurvey of a portion of the Eighth Standard Parallel North, through Range 5 West, portions of the south boundary, subdivisional lines, and subdivision of section lines, the survey of the subdivision of certain sections, and the retracement of a portion of the U.S. Army Corps of Engineers boundary line, Township 32 North, Range 5 West, of the Sixth Principal Meridian, Nebraska, was accepted September 28, 2006.

Copies of the preceding described plat and field notes are available to the public at a cost of $1.10 per page.

Dated: September 28, 2006.

John P. Lee,

Chief Cadastral Surveyor, Division of Support Services.

[FR Doc. E6–16481 Filed 10–4–06; 8:45 am]

BILLING CODE 4467–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–960–1420–BJ–TRST]

Group No. 166, Wisconsin; Eastern States: Filing of Plat of Survey

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plat of survey; Wisconsin.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM-Eastern States, Springfield, Virginia, 30 calendar days from the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153. *Attn:* Cadastral Survey.

SUPPLEMENTARY INFORMATION: This survey was requested by the Bureau of Indian Affairs.

The lands we surveyed are:

Fourth Principal Meridian, Wisconsin

T. 51 N., R. 3 W.

The plat of survey represents the dependent resurvey of a portion of the north boundary, a portion of the west boundary, a portion of the subdivisional lines; and the survey of the subdivision of certain sections, and the corrective dependent resurvey of a portion of the west boundary and a portion of the subdivisional lines Township 51 North, Range 3 West, of the 5th Principal Meridian, in the State of Wisconsin, and was accepted September 27, 2005. We will place a copy of the plat we described in the open files. It will be available to the public as a matter of information. If BLM receives a protest against this survey, as shown on the plat, prior to the date of the official filing, we will stay the filing pending our consideration of the protest. We will not officially file the plat until the day after we have accepted or dismissed all protests and they have become final, including decisions on appeals.

Dated: September 27, 2006.

Michael W. Young,

Chief Cadastral Surveyor.

[FR Doc. E6–16454 Filed 10–4–06; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–936–1430–ET; HAG–07–0001; OR–59658]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Oregon; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction.

SUMMARY: In **Federal Register** notice document # 05–19132 filed 9–23–05; 8:45 a.m., beginning on page 56187, in issue published Monday, September 26, 2005, the following correction is made:

On page 56187, in the second column, the legal description in the twenty-second line under Sec. 10, which reads ''NW¼ SE¼ NW¼ W½ SW¼ SE¼ NW¼'' is hereby corrected to read ''NW¼SE¼NW¼, W½ SW¼ SE¼ NW¼.''

Patrick H. Geehan,

Acting Chief, Branch of Lands and Minerals, Oregon/Washington.

[FR Doc. E6–16467 Filed 10–4–06; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Meeting of the Yakima River Basin Conservation Advisory Group, Yakima River Basin Water Enhancement Project, Yakima, Washington

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meeting.

SUMMARY: As required by the Federal Advisory Committee Act, notice is hereby given that the Yakima River Basin Conservation Advisory Group, Yakima River Basin Water Enhancement Project, Yakima, Washington, established by the Secretary of the Interior, will hold a public meeting. The purpose of the Conservation Advisory Group is to provide technical advice and counsel to the Secretary of the Interior and Washington State on the Structure, implementation, and oversight of the Yakima River Basin Water Conservation Program.

DATES: Thursday, November 2, 2006, 10 a.m.–4 p.m.

ADDRESSES: Bureau of Reclamation Office, 1917 Marsh Road, Yakima, WA, 98901.

FOR FURTHER INFORMATION CONTACT: Mr. James Esget, Manager, Yakima River Basin Water Enhancement Project, 1917 Marsh Road, Yakima, WA, 98901; 509–575–5848, extension 267.

SUPPLEMENTARY INFORMATION: The purpose of the meeting will be to review the option of using the acquired habitat lands to mitigate the impacts that occur from the planned conservation measures and develop recommendations. This meeting is open to the public.

Dated: September 29, 2006.

James A. Esget,

Program Manager, Pacific Northwest Region.

[FR Doc. 06–8501 Filed 10–14–06; 8:45 am]

BILLING CODE 4310–MN–M

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–546]

In the Matter of Certain Male Prophylactic Devices; Notice of Commission Determination To Review a Final Initial Determination in Part; Schedule for Filing Written Submissions on the Issues Under Review and on Remedy, the Public Interest, and Bonding; Extension of Target Date

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part the final initial determination (''ID'') issued by the presiding administrative law judge (''ALJ'') on June 30, 2006, in the above-captioned investigation. The Commission has also determined to extend the target date for completion of the investigation until December 5, 2006.

FOR FURTHER INFORMATION CONTACT: Mark B. Rees, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3116. The public version of the ALJ's final ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://edis.usitc.gov.* Hearing-impaired

persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: This investigation was instituted on August 5, 2005, based on a complaint filed on behalf of Portfolio Technologies, Inc., of Chicago, Illinois. 70 FR 45422. The complaint, as amended and supplemented, alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain male prophylactic devices by reason of infringement of claims 1–27, 31–33, and 36 of U.S. Patent No. 5,082,004 (''the '004 patent''). The respondents named in the investigation are Church & Dwight Co., Inc., of Princeton, New Jersey; Reddy Medtech, Ltd., of Tamil Nadu, India; and Intellx, Inc., of Petoskey, Michigan.

On June 30, 2006, the ALJ issued a final ID in which he ruled that there is no violation of section 337 of the Tariff Act of 1930, as amended. All parties have petitioned for review of various parts of the final ID.

Having examined the record in this investigation, including the ALJ's final ID, the petitions for review, and the responses thereto, the Commission has determined to review the issues of claim construction, invalidity due to anticipation, infringement, and domestic industry.

On review, the Commission requests briefing on these issues based on the evidentiary record. The Commission is particularly interested in briefing on the following subissues: (1) The proper treatment of functional limitations in the asserted claims of the '004 patent, (2) whether the use of ''theoretical constructs'' to construe claim terms is appropriate, including whether the use of theoretical constructs to interpret claims would raise any issues under 35 U.S.C. 112, second paragraph; (3) the effect that the parties' proposed claim constructions may have on the resolution of issues concerning anticipation, infringement, and the technical prong of the domestic industry; (4) whether the ID properly applied Commission precedent to determine that complainant had not met the economic prong of the domestic industry requirement; and (5) whether the ID gave appropriate weight to the evidence complainant proffered to prove that a domestic industry exists under the economic prong. The Commission also requests that the parties include responses to the following question in their submissions:

1. Whether the ID's construction of ''elongated tubular portion'' to consist of both a physical tube-like structure and a theoretical tube-like structure improperly reads out of the claims the limitation that the ''tubular portion'' be ''formed of thin membrane.''

2. Whether a finding that the preferred embodiment depicted in Figure 10 of the '004 patent is not covered by any of the patent claims, as argued by Respondents, is permissible given the Federal Circuit's statement that a claim interpretation that altogether excludes a preferred embodiment from practicing any claims of the patent is ''rarely, if ever, correct.'' *Pfizer, Inc.* v. *Teva Pharmaceuticals, USA, Inc.*, 429 F. 3d 1364, 1374 (Fed. Cir. 2005) (internal quotes omitted).

3. Whether the ID, in finding no infringement of claims 22 or 25, took into consideration all the undisputed evidence in the record regarding the thickness of the Twisted Pleasure.

4. Whether the undisputed evidence in the record (whether or not credited by the ALJ), in addition to the facts found by the ALJ that go to the existence of a domestic industry, are sufficient to support a finding that Complainant satisfied the economic prong of the domestic industry requirement.

In connection with the final disposition of this investigation, the Commission may (1) Issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue one or more cease and desist orders that could result in respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *In the Matter of Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337–TA–360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) The public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed.

Written Submissions: The parties to the investigation are requested to file written submissions on the issues under review. The submissions should be concise and thoroughly referenced to the record in this investigation. Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the June 30, 2006, recommended determination by the ALJ on remedy and bonding. Complainant and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. Complainant is further requested to provide the expiration date of the '004 patent and state the HTSUS number under which the accused articles are imported. The written submissions and proposed remedial orders must be filed no later than close of business on October 16, 2006. Reply submissions must be filed no later than the close of business on October 23, 2006. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the

Commission should grant such treatment. *See* § 201.6 of the Commission's Rules of Practice and Procedure, 19 CFR 201.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in sections 210.42–.46 of the Commission's Rules of Practice and Procedure (19 CFR 210.42–210.46).

By order of the Commission.

Issued: September 29, 2006.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E6–16514 Filed 10–4–06; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (OJJDP) Docket No. 1458]

Meeting of the Federal Advisory Committee on Juvenile Justice

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, Justice.

ACTION: Notice of meeting.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention is announcing the spring meeting of the Federal Advisory Committee on Juvenile Justice (FACJJ), which will be held in Columbia, SC on October 23–24, 2006. The meeting times and location are noted below.

DATES: The schedule of events is as follows:

1. Monday, October 23, 2006.

8:30 a.m.–12:30 p.m. Welcome, Call to Order and Introductory Remarks. Review, Discussion and Deliberation of the 2006 Final Draft Reports to the President, Congress, and the Administrator of OJJDP (Open Sessions).

12:30 p.m.–1:45 p.m. Regional and Topical Discussions (Closed Sessions).

1:45 p.m.–2:20 p.m. Subcommittee Meetings and Report Outs (Open Sessions).

2:20 p.m.–4 p.m. Review of State Summaries and Discussion of 2007 Preliminary Report Topics and Small Group Discussions (Open Sessions).

4 p.m.–5 p.m. State Announcements, Other Business and Summary Remarks (Open Session).

2. Tuesday, October 24, 2006.

8 a.m–12 p.m. Presentations: Topics to Be Determined (Open Session).

12 p.m.–12:30 p.m. Summary and Closing Remarks (Open Session).

ADDRESSES: The meeting will be held at the National Advocacy Center, 1620 Pendleton Street, Columbia, SC 29201.

FOR FURTHER INFORMATION CONTACT: Robin Delany-Shabazz, Designated Federal Official, OJJDP, *Robin.Delany-Shabazz@usdoj.gov,* or 202–307–9963.

SUPPLEMENTARY INFORMATION: The Federal Advisory Committee on Juvenile Justice (FACJJ), established pursuant to Section 3(2)A of the Federal Advisory Committee Act (5 U.S.C. App.2) will meet to carry out its advisory functions under Section 223(f)(2)(C–E) of the Juvenile Justice and Delinquency Prevention Act of 2002. The FACJJ is composed of one representative from each state and territory. FACJJ duties include: reviewing Federal policies regarding juvenile justice and delinquency prevention; advising the OJJDP Administrator with respect to particular functions and aspects of OJJDP; and advising the President and Congress with regard to State perspectives on the operation of OJJDP and Federal legislation pertaining to juvenile justice and delinquency prevention. More information, including a member list, may be found at *http://www.facjj.org.*

For security purposes, members of the public who wish to attend open sessions should register by sending a fax with their name, affiliation, address, phone number, and a list of sessions they plan to attend to 703–738–9149, attention: Daryel Dunston. [Note: this is not a toll-free number.] Because space is limited, notification of intent to attend should be sent by October 17, 2006.

Note: Photo identification will be required for admission. Additional identification documents may be required.

Written Comments: Interested parties may submit written comments by Tuesday, October 17, 2006, to Robin Delany-Shabazz, Designated Federal Official for the Federal Advisory Committee on Juvenile Justice, OJJDP, at *Robin.Delany-Shabazz@usdoj.gov,* or by fax to 202–354–4063. [Note: this is not a toll-free number.] No oral presentations will be permitted though written questions or comments from the public may be invited.

Dated: September 29, 2006.

Marilyn Roberts,

Deputy Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. E6–16457 Filed 10–4–06; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of 30 CFR 75.1714–4(a), (b), (c), (d), and (e) (Additional Self-Contained Self-Rescuers), for their anthracite underground coal mines, under section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR Part 44:

(1) Orchard Coal Company, Orchard Slope Mine, 214 Vaux Road, Tremont Pennsylvania 17981 (MSHA I.D. No. 36–08346), located in Schuylkill County, Pennsylvania.

[Docket No. M–2006–031–C]

(2) R S & W Coal Company, Inc., R S & W Slope Mine; 207 Creek Road, Klingerstown, Pennsylvania 17941 (MSHA I.D. No. 36–01818), located in Schuylkill County, Pennsylvania.

[Docket No. M–2006–032–C]

(3) S & M Coal Company, Buck Mountain Slope Mine, 1744 E. Grand Avenue, Tower City, Pennsylvania 17980 (MSHA I.D. No. 36–02022), located in Dauphin County, Pennsylvania.

[Docket No. M–2006–040–C]

(4) FKZ Coal Company, No. 1 Slope Mine, P.O. Box 62, Locust Gap, Pennsylvania 17840 (MSHA I.D. No. 36–08637), located in Northumberland County, Pennsylvania.

[Docket No. M–2006–048–C]

(5) Tito Coal Company, No. 2 Slope Mine, 118 Fairview Lane, Williamstown, Pennsylvania 17098 (MSHA I.D. No. 36–06815), located in Northumberland County, Pennsylvania.

[Docket No. M–2006–052–C]

(6) D & D Coal Company, Primrose Slope Mine, D & D Coal Company, 409 W. Centre Street, Donaldson, Pennsylvania 17981 (MSHA I.D. No. 36–08341), located in Schuylkill County, Pennsylvania.

[Docket No. M–2006–055–C]

These petitioners request a modification of the existing standard to eliminate the requirement for providing an additional self-contained self-rescue (SCSR) device, and to eliminate the requirement for providing additional SCSRs on mantrips or mobile equipment and in alternate and primary escapeways. The petitioners state that:

(i) An SCSR has never been used in an anthracite mine and no statistical data exists to support the need to use an SCSR;

(ii) The potential hazard which would require wearing an SCSR and traveling the escapeway does not exist;

(iii) There is no hazard scenario where traveling the escapeway with an SCSR would be likely; and

(iv) The travel time on foot from the working face through the primary escapeway is less than fifteen minutes. The petitioners further state that, historically, fires in anthracite mines have not been a significant hazard, as a result of the low volatile matter of the coal, which is reflected in numerous granted petitions for modification relating to firefighting.

The petitioners propose to have each miner wear an SCSR correctly for one hour to give the full affect of proper usage when actually wearing the SCSR, because the petitioners believe that to train the miner with one SCSR is a safer act than to have multiple SCSRs without proper training and the miner will know how to use the SCSR in the event of an actual emergency. The petitioners also propose to have hand-held multi-gas detectors located at each working face and have the SCSR stored on the locomotive for the locomotive operator.

The petitioner asserts that the proposed alternative method for use of the SCSR would in no way provide less than the same measure of protection than that afforded the miners under the existing standard.

Request for Comments

Persons interested in these petitions are encouraged to submit comments via E-mail to *Standards-Petitions@dol.gov.* Include ''petitions for modification'' in the subject line of the email. Comments can also be submitted by fax, regular mail, or hand-delivery. If faxing your comments, include ''petitions for modification'' on the subject line of the fax. Comments by regular mail or hand-delivery should be submitted to the Mine Safety and Health Administration, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209. If hand-delivered, you are required to stop by the 21st floor to check in with the receptionist. All comments must be postmarked or received by the Office of Standards, Regulations, and Variances on or before November 6, 2006. Copies of the petitions are available for inspection at that address.

Dated at Arlington, Virginia, this 29th day of September 2006.

Cherie A. Hutchison,

Acting Director, Office of Standards, Regulations, and Variances.

[FR Doc. E6–16489 Filed 10–4–06; 8:45 am]

BILLING CODE 4510–43–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (Pub. L. 95–541)

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Regulations. This is required notice of permit application received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by November 6, 2006. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy at the above address or (703) 292–7405.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas requiring special protection. The regulations established such a permit system to designate Antarctic Specially Protected Areas.

The applications received are as follows:

Permit Application No. 2007–016

1. *Applicant:* David Hutchins, College of Marine Studies, University of Delaware, 700 Pilottown Road, Lewes, DE 19958.

Activity for Which Permit Is Requested

Export and Introduce a Non-indigenous species into Antarctica. The applicant plans to introduce two (2) 100 mi vials each of *Phaeocystic Antarctica, Thalassiosira Antarctica, Parauonema sp., Tyramimonas tychotreta, Paraphysomonas imperforate, Geminigera cryophila, Mallomonas sp., unidentified Antarctic marine bacterium, and Fragilaria sp.* to Antarctica for use during experiments onboard the *RVIB Nathaniel B. Palmer.* These marine phytoplankton will be used in shipboard experiments to study feeding rates of Antarctic protistan grazers. The cultures will be destroyed after use.

Location: Ross Sea, Antarctica.

Dates: October 20, 2006 to January 1, 2007.

Permit Application No. 2007–017

2. *Applicant:* Philip R. Kyle, Department of Earth & Environmental Science, NM Institute of Mining & Technology, 801 Leroy Place, Socorro, NM 87801.

Activity for Which Permit Is Requested

Enter Antarctic Specially Protected Area. The applicant plans to use the hut at Cape Crozier (ASPA 124) and collect rock samples from Post Office Hill and The Knoll, all of which are within the Cape Crozier ASPA. The team does not plan to enter the penguin rookery.

Location: Cape Crozier, Ross Island (ASPA #124).

Dates: November 29, 2006 to January 30, 2007.

Nadene G. Kennedy,

Permit Officer, Office of Polar Programs.

[FR Doc. 06–8489 Filed 10–4–06; 8:45 am]

BILLING CODE 7555–01–M

NEIGHBORHOOD REINVESTMENT CORPORATION

Neighborworks® America; Regular Meeting of the Board of Directors; Sunshine Act

TIME AND DATE: 2 p.m. Wednesday, October 11, 2006.

PLACE: 1325 G Street NW., Suite 800, Boardroom, Washington, DC 2005.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Jeffrey T. Bryson, General Counsel/Secretary, (202) 220–2372; *jbryson@nw.org.*

AGENDA:

I. Call to Order.
II. Approval of the Minutes.
III. Summary Report of the Audit Committee.
IV. Summary Report of the Finance, Budget and Program Committee.
V. Summary Report of the Corporate Administration Committee.
VI. Financial Report.
VII. Chief Executive Officer's Quarterly Management Report.
  a. Strategic Plan Update.

b. Gulf Coast Rebuilding Initiative.
c. CFO Update.
d. GSE Housing Fund Update.
e. Center for Foreclosure Solutions.
f. NHSA Update.
VIII. Training Division Update.
IX. Adjournment.

Jeffrey T. Bryson,

General Counsel/Secretary.

[FR Doc. 06–8538 Filed 10–3–06; 1:19 pm]

BILLING CODE 7570–02–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–382]

Entergy Operations, Inc.; Notice of Partial Denial of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (NRC or the Commission) has denied a portion of an amendment request by Entergy Operations, Inc. (the licensee), for an amendment to Facility Operating License No. NPF–38, issued to the licensee for operation of the Waterford Steam Electric Station, Unit 3, located in St. Charles Parish, Louisiana. The Notice of Consideration of Issuance of this amendment was published in the **Federal Register** on December 7, 2004 (69 FR 70717).

The purpose of the licensee's amendment request was to revise Technical Specifications (TS) 3.7.4, ''Ultimate Heat Sink,'' to provide clarification that the ambient temperature monitoring requirement that is specified in TS 3.7.4.d only applies when the affected ultimate heat sink train is considered to be operable and to delete TS 3.7.4.c. Deleting TS 3.7.4.c would allow the plant to take credit for the dry cooling tower fans that are not protected from tornado missiles when a tornado warning is in effect.

The NRC staff has concluded that the portion of the licensee's request regarding deletion of TS 3.7.4.c cannot be granted. The licensee was notified of the Commission's denial of the proposed change by a letter dated September 28, 2006.

By 30 days from the date of publication of this notice in the **Federal Register**, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene pursuant to the requirements of 10 CFR 2.309.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001 Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. Because of possible delays in delivery to mail to U.S. Government offices, it is requested that petitions for leave to intervene and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov.* A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and because of possible delays in delivery of mail to the U.S. Government offices, it is requested that copies be transmitted either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* A copy of any petitions should also be sent to N. S. Reynolds, Esquire, Winston & Strawn, 1700 K Street, NW., Washington, DC 20006–3817, attorney for the licensee.

For further details with respect to this action, see (1) The application for amendment dated November 5, 2004, and (2) the Commission's letter to the licensee dated September 28, 2006.

Documents may be examined, and/or copied for a fee, at the NRC's PDR, located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and will be accessible electronically through the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room link at the NRC Web site *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 28th day of September 2006.

For the Nuclear Regulatory Commission.

Catherine Haney,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E6–16448 Filed 10–4–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50–528, Stn 50–529, and STN 50–530]

Palo Verde Nuclear Generating Station, Units 1, 2, and 3; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–41, Facility Operating License No. NPF–51, and Facility Operating License No. NPF–74, issued to Arizona Public Service Company (the licensee) for the operation of Palo Verde Nuclear Generating Station, Units 1, 2, and 3, respectively.

The proposed amendment would modify requirements of Technical Specification (TS) 3.7.2, ''Main Steam Isolation Valves (MSIVs),'' to include specific requirements (Conditions, Required Actions, and Completion Times) for the MSIV actuator trains. Additionally, surveillance requirement (SR) 3.7.2.1 will be revised to clearly identify that each MSIV actuator train is required to be tested to support the operability of the associated MSIV.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in Title 10 of the Code of Federal Regulations (10 CFR), Section 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No

The proposed changes to incorporate requirements for the MSIV actuator trains do not involve any design or physical changes to the facility, including the MSIVs and actuator trains themselves. The design and functional performance requirements, operational characteristics, and reliability of the MSIVs and actuator trains remain unchanged. Therefore, there is no impact on the design safety function of the MSIVs to close (as an accident mitigator), nor is there any change with respect to inadvertent closure of an MSIV (as a potential transient initiator). Since no failure mode or initiating condition that could cause an accident (including any plant transient) evaluated in the Palo Verde Nuclear Generating Station (PVNGS) Updated Final Safety Analysis Report (UFSAR) described safety analyses is created or affected, the change cannot involve a significant increase in the probability of an accident previously evaluated.

With regard to the consequences of an accident and the equipment required for mitigation of the accident, the proposed changes involve no design or physical changes to the MSIVs or any other equipment required for accident mitigation. With respect to MSIV actuator train Completion Time, the consequences of an accident are independent of equipment Completion Time as long as adequate equipment availability is maintained. The proposed Condition A Note takes into account the redundancy of the actuator trains and the accident analysis assumption that only 3 of 4 MSIVs close in the accident. Adequate equipment availability would therefore continue to be available and Condition C [of TS 3.7.2] for an inoperable MSIV would continue to support the Palo Verde safety analysis. On this basis, the consequences of applicable analyzed accidents (such as a main steam line break) are not significantly impacted by the proposed changes.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously analyzed.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes to incorporate requirements for the MSIV actuator trains do not involve any design or physical changes to the facility, including the MSIVs and actuator trains themselves. No physical alteration of the plant is involved, as no new or different type of equipment is to be installed. The proposed changes do not alter any assumptions made in the safety analyses, nor do they involve any changes to plant procedures that could cause a new or different kind of accident from any previously evaluated are being introduced.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change to incorporate requirements for the MSIV actuator trains does not alter the manner in which safety limits or limiting safety system settings are determined. No changes to instrument/system actuation setpoints are involved. The safety analysis acceptance criteria are not impacted by this change and the proposed change will not permit plant operation in a configuration outside the design basis.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific

contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff; (3) E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, *HEARINGDOCKET@NRC.GOV*; or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at 301–415–1101, verification number is 301–415–1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and it is requested that copies be transmitted either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov*. A copy of the request for hearing and petition for leave to intervene should also be sent to Michael G. Green, Senior Regulatory Counsel, Pinnacle West Capital Corporation, P.O. Box 52034, Mail Station 8695, Phoenix, Arizona 85072–2034, attorney for the licensee.

For further details with respect to this action, see the application for amendment dated September 26, 2006, which is available for public inspection at the Commission's PDR, located at One White Flint North, File Public Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 28th day of September 2006.

For the Nuclear Regulatory Commission.

Mel B. Fields,

Senior Project Manager, Plant Licensing Branch IV, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E6–16445 Filed 10–4–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–361 and 50–362; License Nos. NPF–10 and NPF–15]

In the Matter of Southern California Edison Company the City of Anaheim, CA; San Onofre Nuclear Generating Station, Units 2 and 3; Order Approving Transfer of Licenses and Conforming Amendments

I.

Southern California Edison Company (SCE), San Diego Gas and Electric Company (SDG&E), the City of Riverside, California (Riverside), and the City of Anaheim, California (Anaheim), are the owners of San Onofre Nuclear Generating Station, Units 2 and 3 (SONGS 2 and 3), located in San Diego County, California. With respect to their ownership, they co-hold the Facility Operating Licenses Nos. NPF–10 and NPF–15, for SONGS 2 and 3. SCE is authorized to act as agent for the other co-owners and has exclusive responsibility and control under the licenses over the physical construction, operation, and maintenance of the facility.

II.

By application dated March 10, 2006, as supplemented May 16, 2006, SCE, acting on behalf of itself and Anaheim, requested pursuant to Title 10, Section 50.80 of the Code of Federal Regulations (10 CFR 50.80), that the Nuclear Regulatory Commission (NRC) consent to certain license transfers to permit the transfer of Anaheim's 3.16-percent undivided ownership interest in SONGS 2 and 3 to SCE, excluding Anaheim's interest in its spent fuel and in the SONGS 2 and 3 independent spent fuel storage installation (ISFSI). The initial application and the supplement are hereinafter referred to as ''the application'' unless otherwise indicated. SCE also requested, pursuant 10 CFR 50.90, approval of conforming license amendments to reflect the transfer. The conforming license amendments would address Anaheim's transfer of its above stated ownership interests in the facility. Anaheim will retain its ownership interests in its spent nuclear fuel and the facility's ISFSI located on the facility's site, and financial responsibility for its spent fuel and a portion of the facility's decommissioning costs. Anaheim proposes to remain a licensee for the purposes of its retained interests and liabilities.

Notice of consideration of approval of the transfer of the Facility Operating

Licenses and conforming amendments and an opportunity for a hearing was published in the **Federal Register** on June 8, 2006 (71 FR 33321). No hearing requests or written comments were received.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. After reviewing the information in SCE's application and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that SCE is qualified to hold the licenses to the extent proposed to permit the transfer of Anaheim's 3.16-percent undivided ownership interest in SONGS 2 and 3 to SCE, excluding Anaheim's interest in its spent fuel and in the SONGS 2 and 3 ISFSI, as previously described herein, and that the transfer of the licenses is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendments complies with the standards and requirements of the Atomic Energy Act (AEA) of 1954, as amended, and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendments can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendments will not be inimical to the common defense and security or the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied. The foregoing findings are supported by a safety evaluation dated September 27, 2006.

III.

Accordingly, pursuant to Sections 161b, 161i, and 184 of the AEA of 1954, as amended, 42 U.S.C. 2201(b), 2201(i), and 2234, and 10 CFR 50.80, *It is hereby ordered* that the transfer of the licenses to SCE, as described herein, is approved, subject to the following conditions:

After receipt of all required regulatory approvals of the transfer of Anaheim's 3.16-percent undivided ownership interest in SONGS 2 and 3 to SCE, excluding Anaheim's interest in its spent fuel and in the SONGS 2 and 3 ISFSI, as previously described herein, SCE shall inform the Director, Office of Nuclear Reactor Regulation, in writing of such receipt, within 5 business days, and of the date of the closing of the transfer no later than 7 business days before the date of closing. If the transfer is not completed by September 27, 2007, this Order shall become null and void, provided however, that upon written application and for good cause shown, such date may be extended in writing.

It is further ordered that consistent with 10 CFR 2.1315(b), license amendments that make changes, as indicated in Enclosure 2 to the cover letter forwarding this Order, to conform the licenses to reflect the subject license transfers are approved. The amendments shall be issued and made effective at the time the proposed transfers are completed.

This Order is effective upon issuance.

For further details with respect to this action, see the initial application dated March 10, 2006, the supplemental submittal dated May 16, 2006, and the safety evaluation dated September 27, 2006, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically through the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet on the NRC's Web site *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the document located in ADAMS, should contact the Office of Nuclear Reactor Regulation PDR reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *PDR@nrc.gov*.

Dated at Rockville, Maryland, this 27th day of September 2006.

For the Nuclear Regulatory Commission.

J. E. Dyer,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. E6–16446 Filed 10–4–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 52–011]

Southern Nuclear Operating Company, Inc., Vogtle ESP Site; Notice of Intent To Prepare an Environmental Impact Statement and Conduct Scoping Process

Southern Nuclear Operating Corporation (SNC) has submitted an application for an early site permit (ESP) for its Vogtle ESP site, located on the west bank of the Savannah River in eastern Burke County, in east-central Georgia. The site is approximately 100 miles northwest of Savannah, Georgia, and approximately 26 miles southeast of Augusta, Georgia, and across the river from the U.S. Department of Energy's Savannah River Site (Barnwell County, South Carolina). The application for the ESP was submitted by letter dated August 15, 2006, pursuant to 10 CFR Part 52. A notice of receipt of application, including the environmental report (ER), was published in the **Federal Register** on August 29, 2006 (71 FR 51222). A notice of acceptance for docketing of the application for an early site permit for Vogtle was published in the **Federal Register** on September 26, 2006 (71 FR 56187). The purpose of this notice is to inform the public that the U.S. Nuclear Regulatory Commission (NRC) will be preparing an environmental impact statement (EIS) in support of the review of the ESP application and to provide the public with an opportunity to participate in the environmental scoping process as defined in 10 CFR 51.29. In addition, as outlined in 36 CFR 800.8, ''Coordination with the National Environmental Policy Act,'' the NRC plans to coordinate compliance with Section 106 of the National Historic Preservation Act in meeting the requirements of the National Environmental Policy Act of 1969 (NEPA).

In accordance with 10 CFR 52.17 (a)(2), 51.45 and 51.50, SERI submitted the ER as part of the application. The ER was prepared pursuant to 10 CFR Part 51 and 52 and is available for public inspection at the NRC Public Document Room (PDR) located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852, or from the Publicly Available Records component of NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible at *http://www.nrc.gov/reading-rm/adams.html*, which provides access through the NRC's Electronic Reading Room (ERR) link. Persons who do not

have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC's PDR Reference staff at 1–800–397–4209, or 301–415–4737, or by e-mail to *pdr@nrc.gov.* The application may also be viewed on the Internet at *http://www.nrc.gov/reactors/new-licensing/esp/vogtle.html.* In addition, the Burke County Library, 130 Highway 24 South, Waynesboro, GA 30830–4572, has agreed to make the ER available for public inspection.

The following key reference documents related to the ESP applications and the NRC staff's review process are available through the NRC's Web site at *http://www.nrc.gov:*

a. 10 CFR Part 51, Environmental protection regulations for domestic licensing and related regulatory functions.

b. 10 CFR Part 52, Early site permits; standard design certifications; and combined licenses for nuclear power plants.

c. 10 CFR Part 100, Reactor site criteria.

d. NUREG–1555, Standard Review Plans for Environmental Reviews for Nuclear Power Plants.

e. NUREG/BR–0298, Brochure on Nuclear Power Plant Licensing Process.

f. Regulatory Guide 4.2, Preparation of Environmental Reports for Nuclear Power Stations.

g. Regulatory Guide 4.7, General Site Suitability Criteria for Nuclear Power Stations.

h. Fact Sheet on Nuclear Power Plant Licensing Process.

i. Draft review Standard RS–002, Processing Applications for Early Site Permits.

j. NRR Office Instruction LIC–203, Procedural Guidance for Preparing Environmental Assessments and Considering Environmental Issues.

The regulations, NUREG-series documents, regulatory guide(s), and fact sheet can be found under Document Collections in the Electronic Reading Room on the NRC Web page. The draft review standard is at *http://www.nrc.gov/reactors/new-licensing/license-reviews/esp/esp-public-comments-rs-002.html.* Finally, Office Instruction LIC–203 can be found in ADAMS in two parts under accession numbers ML011710073 (main text) and ML011780314 (charts and figures).

This notice advises the public that the NRC intends to gather the information necessary to prepare an EIS in support of the review of the application for an ESP at the Vogtle ESP site. Possible alternatives to the proposed action (issuance of the ESP at the Vogtle ESP site) include no action and alternate sites. The NRC is required by 10 CFR 52.18 to prepare an EIS in connection with the issuance of an ESP. This notice is being published in accordance with NEPA and the NRC's regulations found in 10 CFR Part 51.

The NRC will first conduct a scoping process for the EIS and, as soon as practicable thereafter, will prepare a draft EIS for public comment. Participation in this scoping process by members of the public and local, State, Tribal, and Federal government agencies is encouraged. The scoping process for the draft EIS will be used to accomplish the following:

a. Define the proposed action which is to be the subject of EIS.

b. Determine the scope of the EIS and identify the significant issues to be analyzed in depth.

c. Identify and eliminate from detailed study those issues that are peripheral or that are not significant.

d. Identify any environmental assessments and other EISs that are being or will be prepared that are related to but are not part of the scope of the EIS being considered.

e. Identify other environmental review and consultation requirements related to the proposed action.

f. Indicate the relationship between the timing of the preparation of environmental analyses and the Commission's tentative planning and decision-making schedule.

g. Identify any cooperating agencies and, as appropriate, allocate assignments for preparation and schedules for completing the EIS to the NRC and any cooperating agencies.

h. Describe how the EIS will be prepared, including any contractor assistance to be used.

The NRC invites the following entities to participate in the scoping process:

a. The applicant, SNC.

b. Any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved, or that is authorized to develop and enforce relevant environmental standards.

c. Affected State and local government agencies, including those authorized to develop and enforce relevant environmental standards including the State Historic Preservation Officer.

d. Any affected Indian tribe including the Tribal Historic Preservation Officer.

e. The Advisory Council on Historic Preservation.

f. Any person who requests or has requested an opportunity to participate in the scoping process.

g. Any person who intends to petition for leave to intervene.

In accordance with 10 CFR 51.26, the scoping process for an EIS may include a public scoping meeting to help identify significant issues related to a proposed activity and to determine the scope of issues to be addressed in an EIS. The NRC will hold a public meeting for the Vogtle early site permit application EIS. The scoping meeting will be held at the Augusta Technical College, Waynesboro Campus Auditorium, 216 Hwy 24 South, Waynesboro, GA 30830, on Thursday, October 19, 2006. The meeting will convene at 7 p.m., and will continue until 10 p.m., as necessary. The meeting will be transcribed and will include the following: (1) An overview by the NRC staff of the NEPA environmental review process, the proposed scope of the EIS, and the proposed review schedule; (2) an overview by SNC of the proposed action, the Vogtle ESP, and the environmental impacts as outlined in the ER; and (3) the opportunity for interested Government agencies, organizations, and individuals to submit comments or suggestions on the environmental issues or the proposed scope of the EIS. Additionally, the NRC staff will host informal discussions during the two hours prior to the start of the public meeting at Augusta Technical College. No formal comments on the proposed scope of the EIS will be accepted during the informal discussions. To be considered, comments must be provided either at the transcribed public meeting or in writing, as discussed below. Persons may register to attend or present oral comments at the meeting on the NEPA scoping process by contacting Ms. Cristina Guerrero by telephone at 1 (800) 368–5642, extension 2981, or by Internet to the NRC at *Vogtle_EIS@nrc.gov* no later than October 12, 2006. Members of the public may also register to speak at the meeting within 15 minutes of the start of the session. Individual oral comments may be limited by the time available, depending on the number of persons who register. Members of the public who have not registered may also have an opportunity to speak, if time permits. Public comments will be considered in the scoping process for the EIS. If special equipment or accommodations are needed to attend or present information at the public meeting, the need should be brought to Ms. Guerrero's attention no later than October 12, 2006, so that the NRC staff can determine whether the request can be accommodated.

Members of the public may send written comments on the environmental

scoping process for the EIS to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mailstop T–6D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Comments may be hand-delivered to the NRC at 11545 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays. To be considered in the scoping process, written comments must be postmarked or delivered by December 4, 2006. Electronic comments may be sent by the Internet to the NRC at *Vogtle_EIS@nrc.gov.* Electronic submissions must be sent no later than December 4, 2006, to be considered in the scoping process. The staff will not consider comments submitted later than as specified above unless time permits. Comments will be available electronically and accessible through the NRC's ERR link *http://www.nrc.gov/nrc.gov/reading-rm/adams.html* at the NRC Homepage.

Participation in the scoping process for the EIS does not entitle participants to become parties to the proceeding to which the EIS relates. Notice of a hearing regarding the application for an ESP will be the subject of a future **Federal Register** notice.

At the conclusion of the scoping process, the NRC will prepare a concise summary of the determination and conclusions reached, including the significant issues identified, and will send a copy of the summary to each participant in the scoping process. The summary will also be available for inspection through the ERR link. The staff will then prepare and issue for comment the draft EIS, which will be the subject of separate notices and a separate public meeting. Copies will be available for public inspection at the above-mentioned addresses, and one copy per request will be provided free of charge. After receipt and consideration of the comments, the NRC will prepare a final EIS, which will also be available for public inspection.

Information about the proposed action, the EIS, and the scoping process may be obtained from Mark Notich at (301) 415–3053 or *mdn@nrc.gov.*

Dated at Rockville, Maryland, this 2nd day of October, 2006.

For the Nuclear Regulatory Commission.

Thomas A. Bergman,

Acting Director, Division of New Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E6–16559 Filed 10–4–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Sunshine Act Meeting

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATE: Week of October 9, 2006.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

ADDITIONAL MATTERS TO BE CONSIDERED:

Week of October 9, 2006

Tuesday, October 10, 2006

12:55 p.m. Affirmation Session (Public Meeting) (Tentative). a. Entergy Nuclear Vermont Yankee, LLC and Energy Nuclear Operations, Inc., (Pilgrim Nuclear Power Station and Vermont Yankee Nuclear Power Station), Massachusetts Attorney General's Petition for Backfit Order (Tentative).

* * * * *

Additional Information

Affirmation of Entergy Nuclear Operations, Inc., (Pilgrim Nuclear Power Station), Massachusetts Attorney General's Petition for Backfit Order, tentatively scheduled for Thursday, October 5, 2006, at 12:55 p.m. has been rescheduled tentatively on Tuesday, October 10, 2006 at 12:55 p.m.

* * * * *

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.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/what-we-do/policy-making/schedule.html.*

* * * * *

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: October 2, 2006.

R. Michelle Schroll,

Office of the Secretary.

[FR Doc. 06–8530 Filed 10–3–06; 10:40 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Notice of Opportunity to Comment on Model Safety Evaluation and Model License Amendment Request on Technical Specification Improvement Regarding the Removal of the Main Steam and Main Feedwater Isolation Valve Times Using the Consolidated Line Item Improvement Process

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for comment.

SUMMARY: Notice is hereby given that the staff of the U.S. Nuclear Regulatory Commission (NRC) has prepared a model license amendment request (LAR), model safety evaluation (SE), and model proposed no significant hazards consideration (NSHC) determination related to changes to Standard Technical Specification NUREG–1430, 1431, 1432, (STS) 3.7.2, ''Main Stream Isolation Valves (MSIVs);'' NUREG–1430, STS 3.7.3, ''Main Feedwater Stop Valves (MFSVs), Main Feedwater Control Valves (MFCVs), and Associated Startup Feedwater Control Valves (SFCVs);'' NUREG–1431, STS 3.7.3, ''Main Feedwater Isolation Valves (MFIVs), Main Feedwater Regulation Valves (MFRVs), and Associated Bypass Valves;'' and NUREG–1432, STS 3.7.3,''Main Feedwater Isolation Valves (MFIVs), and MFIV Bypass Valves.'' These valves are herein referred to generically as the Main Steam and Main Feedwater Isolation Valves. The Babcocks and Wilcocks Owners Group (BWOG), the Combustion Engineering Owners Group (CEOG) and the Westinghouse Owners Group (WOG) participants in the Technical Specifications Task Force (TSTF) proposed these changes to the STS in TSTF–491, Revision 2 ''Removal of Main Steam and Feedwater Valve Isolation Times.''

The purpose of these models is to permit the NRC to efficiently process amendments to incorporate these changes into plant-specific Technical Specifications (TS) for Babcock and Wilcock Pressurized Water Reactors (BWPWR), Combustion Engineering Pressurized Water Reactors (CEPWR) and Westinghouse Pressurized Water Reactors (WPWR). Licensees of nuclear power reactors to which the models apply can request amendments conforming to the models. In such a request, a licensee should confirm the applicability of the model LAR, model SE and NSHC determination to its plant. The NRC staff is requesting comments on the model LAR, model SE and NSHC determination before announcing their availability for referencing in license amendment applications.

DATES: The comment period expires November 6, 2006. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Comments may be submitted either electronically or via U.S. mail. Submit written comments to: Chief, Rulemaking, Directives, and Editing Branch, Division of Administrative Services, Office of Administration, Mail Stop: T–6 D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Hand deliver comments to: 11545 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays.

Submit comments by electronic mail to: *CLIIP@nrc.gov.* Copies of comments received may be examined at the NRC's Public Document Room, One White Flint North, Public File Area O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

FOR FURTHER INFORMATION CONTACT: Peter C. Hearn, Mail Stop: O–12H2, Division of Inspection and Regional Support, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–1189, e-mail *pch@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Background

Regulatory Issue Summary 2000–06, ''Consolidated Line Item Improvement Process for Adopting Standard Technical Specifications Changes for Power Reactors,'' was issued on March 20, 2000. The CLIIP is intended to improve the efficiency and transparency of NRC licensing processes. This is accomplished by processing proposed changes to the STS in a manner that supports subsequent license amendment applications. The CLIIP includes an opportunity for the public to comment on proposed changes to the STS following a preliminary assessment by the NRC staff and finding that the change will likely be offered for adoption by licensees. This notice is soliciting comment on a proposed change to the STS that relocates the Main Steam and Main Feedwater Isolation Valves Closure Times for the Babcock and Wilcock PWR STS Revision 3.0 of NUREG–1430, Combustion Engineering PWR STS Revision 3.0 of NUREG–1432 and Westinghouse PWR STS Revision 3.0 of NUREG–1431 to a Licensee Controlled Document that is referenced in the Bases. The CLIIP directs the NRC staff to evaluate any comments received for a proposed change to the STS and to either reconsider the change or proceed with announcing the availability of the change for proposed adoption by licensees. Those licensees opting to apply for the subject change to TSs are responsible for reviewing the staff's evaluation, referencing the applicable technical justifications, and providing any necessary plant-specific information. Following the public comment period, the model LAR and model SE will be finalized, and posted on the NRC Web page. Each amendment application made in response to the notice of availability will be processed and noticed in accordance with applicable NRC rules and procedures.

This notice involves relocating the Main Steam and Main Feedwater Isolation Valves Closure Times for the Babcock and Wilcock PWRs, Combustion Engineering PWRs and Westinghouse PWRs to a Licensee Controlled Document that is referenced in the Bases. By letter dated May 18, 2006, the BWPWR, CEPWR and the WPWR OG proposed these changes for incorporation into the STS as TSTF–491, Revision 2. These changes are accessible electronically from the Agency-wide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet (ADAMS Accession No. ML061500078) at the NRC Web site *http://frwebgate.access.gpo.gov/cgi-bin/leaving.cgi?from=leavingFR.html&log=linklog&to=http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC Public Document Room Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.*

Applicability

These proposed changes will revise the Sections 3.7.2 and 3.7.3 for the Babcock and Wilcock, Combustion Engineering and Westinghouse plants.

To efficiently process the incoming license amendment applications, the NRC staff requests that each licensee applying for the changes addressed by TSTF–491, Revision 2, using the CLIIP submit an LAR that adheres to the following model. Any variations from the model LAR should be explained in the licensee's submittal. Variations from the approach recommended in this notice may require additional review by the NRC staff, and may increase the time and resources needed for the review. Significant variations from the approach, or inclusion of additional changes to the license, will result in staff rejection of the submittal. Instead, licensees desiring significant variations and/or additional changes should submit a LAR that does not claim to adopt TSTF–491.

Public Notices

This notice requests comments from interested members of the public within 30 days of the date of this publication. Following the NRC staff's evaluation of comments received as a result of this notice, the NRC staff may reconsider the proposed change or may proceed with announcing the availability of the change in a subsequent notice (perhaps with some changes to the model LAR, model SE or model NSHC determination as a result of public comments). If the NRC staff announces the availability of the change, licensees wishing to adopt the change will submit an application in accordance with applicable rules and other regulatory requirements. The NRC staff will, in turn, issue for each application a notice of consideration of issuance of amendment to facility operating license(s), a proposed NSHC determination, and an opportunity for a hearing. A notice of issuance of an amendment to operating license(s) will also be issued to announce the revised requirements for each plant that applies for and receives the requested change.

Dated at Rockville, Maryland this 28th day of September 2006.

For the Nuclear Regulatory Commission.

Timothy J. Kobetz,

Chief, Technical Specifications Branch, Division of Inspection and Regional Support, Office of Nuclear Reactor Regulation.

Attachments—For inclusion on the Technical Specification Web Page the following example of an application was

prepared by the NRC staff to facilitate the adoption of Technical Specifications Task Force (TSTF) Traveler TSTF–491, Revision 2. The model provides the expected level of detail and content for an application to adopt TSTF–491, Revision 2. Licensees remain responsible for ensuring that their actual application fulfills their administrative requirements as well as NRC regulations.

U.S. Nuclear Regulatory Commission, Document Control Desk, Washington, DC 20555.Subject: Plant Name, Docket No. 50-[XXX,] Re: Application For Technical Specification Improvement To Adopt TSTF–491, Revision 2 ''Removal of Main Steam and Feedwater Valve Isolation Times.''

Dear Sir or Madam:

In accordance with the provisions of Section 50.90 of Title 10 of the Code of Federal Regulations (10 CFR), [LICENSEE] is submitting a request for an amendment to the technical specifications (TS) for [PLANT NAME, UNIT NOS.]. The proposed changes would revise Sections 3.7.2, ''Main Steam Isolation Valves'' and 3.7.3, ''Main Feedwater Isolation Valves''. The changes are consistent with NRC-approved Industry Technical Specification Task Force (TSTF) Standard Technical Specification Change Traveler, TSTF–491, Revision 2 ''Removal of Main Steam and Feedwater Valve Isolation Times.'' The availability of this TS improvement was announced in the **Federal Register** on [DATE] ([ ]FR[ ]) as part of the consolidated line item improvement process CLIIP.

Enclosure 1 provides a description and assessment of the proposed changes, as well as confirmation of applicability. Enclosure 2 provides the existing TS pages and TS Bases marked-up to show the proposed changes. Enclosure 3 provides final TS pages and TS Bases pages.

[LICENSEE] requests approval of the proposed license amendment by [DATE], with the amendment being implemented [BY DATE OR WITHIN X DAYS]. In accordance with 10 CFR 50.91, a copy of this application, with enclosures, is being provided to the designated [STATE] Official.

I declare under penalty of perjury under the laws of the United States of America that I am authorized by [LICENSEE] to make this request and that the foregoing is true and correct. [Note that request may be notarized in lieu of using this oath or affirmation statement]. If you should have any questions regarding this submittal, please contact [ ].

Sincerely,

Name, Title

Enclosures:

1. Description and Assessment of Proposed Changes
2. Proposed Technical Specification Changes and Technical Specification Bases Changes
3. Final Technical Specification and Bases pages

cc: NRR Project Manager, Regional Office, Resident Inspector, State Contact, T. Kobetz.

1.0 Description

This letter is a request to amend Operating License(s) [LICENSE NUMBER(S)] for [PLANT/UNIT NAME(S)].

The proposed changes would revise Technical Specification 3.7.2 '' Main Steam Valves Closure Times'' and 3.7.3 ''Main Feedwater Isolation Valves Closure Times'' to allow relocating the closure times to a Licensee Controlled Document that is referenced in the BasesTechnical Specification Task Force (TSTF) change traveler TSTF–491, Revision 2, ''Removal of Main Steam and Feedwater Valve Isolation Times'' was announced for availability in the **Federal Register** on [DATE] as part of the consolidated line item improvement process CLIIP.

2.0 Proposed Changes

Consistent with NRC-approved TSTF_491, Revision 2, the proposed TS changes include: Relocating the main steam and main feedwater isolation closure times to a Licensee Controlled Document that is referenced in the Bases.

3.0 Background

The background for this application is as stated in the model SE in NRC's Notice of Availability published on [DATE]([ ] FR [ ]), the NRC Notice for Comment published on [DATE] ([ ] FR [ ]), and TSTF–491, Revision 2.

4.0 Technical Analysis

[LICENSEE] has reviewed References 1 and 2, and the model SE published on [DATE] ([ ] FR [ ]) as part of the CLIIP Notice for Comment. [LICENSEE] has applied the methodology in Reference 1 to develop the proposed TS changes. [LICENSEE] has also concluded that the justifications presented in TSTF–491, Revision 2 and the model SE prepared by the NRC staff are applicable to [PLANT, UNIT NOS.], and justify this amendment for the incorporation of the changes to the [PLANT] TS.

5.0 Regulatory Analysis

A description of this change and its relationship to applicable regulatory requirements and guidance was provided in the NRC Notice of Availability published on [Date] ([FR [ ]), the NRC Notice for Comment published on [Date] ([ ] FR [ ]) and TSTF–491, Revision 2.

6.0 No Significant Hazards Consideration

[LICENSEE] has reviewed the proposed no significant hazards consideration determination published in the **Federal Register** on [DATE] ([ ] FR [ ]) as part of the CLIIP. [LICENSEE] has concluded that the proposed determination presented in the notice is applicable to [PLANT] and the determination is hereby incorporated by reference to satisfy the requirements of 10 CFR 50.91(a).

7.0 Environmental Evaluation

[LICENSEE] has reviewed the environmental consideration included in the model SE published in the **Federal Register** on [DATE] ([ ] FR [ ]) as part of the CLIIP. [LICENSEE] has concluded that the staff's findings presented therein are applicable to [PLANT] and the determination is hereby incorporated by reference for this application.

8.0 References

1. **Federal Register** Notices: Notice for Comment published on [DATE] ([ ] FR [ ]).

Notice of Availability published on [DATE] ([ ] FR [ ]).

Model Safety Evaluation—U.S. Nuclear Regulatory Commission.

Office of Nuclear Reactor Regulation- ''Technical Specification Task Force TSTF–491, Revision 2, ''Removal of Main Steam and Feedwater Valve Isolation Times.''

Model Safety Evaluation—U.S. Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation— ''Technical Specification Task Force TSTF–491, Revision 2,''—''Removal of Main Steam and Feedwater Valve Isolation Times.''

1.0 Introduction

By letter dated [____, 20__], [LICENSEE] (the licensee) proposed changes to the technical specifications (TS) for [PLANT NAME]. The requested changes are the adoption of TSTF–491, Revision 2, ''Removal of Main Steam and Feedwater Valve Isolation Times'' which was proposed by the Technical Specification Task Force (TSTF) by letter on May 18, 2006. The proposed changes would revise Technical Specification 3.7.2 '' Main Steam Valves Closure Times'' and 3.7.3 ''Main Feedwater Isolation Valves Closure

Times.'' The proposed TSTF would allow relocating the isolation valve closure times to a Licensee Controlled Document that is referenced in the Bases. Technical Specification Task Force (TSTF) change traveler TSTF–491, Revision 2, was announced for availability in the **Federal Register** on [DATE] as part of the consolidated line item improvement process CLIIP.

2.0 Regulatory Evaluation

Section 182a of the Atomic Energy Act (the ''Act'') requires applicants for nuclear power plant operating licenses to include TS as part of the license. The TS ensure the operational capability of structures, systems and components that are required to protect the health and safety of the public. The Commission's regulatory requirements related to the content of the TS are contained in 10 CFR Section 50.36. That regulation requires that the TS include items in the following specific categories: (1) Safety limits, limiting safety systems settings, and limiting control settings (50.36(c)(1)); (2) Limiting Conditions for Operation (50.36(c)(2)); (3) Surveillance Requirements (50.36(c)(3)); (4) design features (50.34(c)(4)); and (5) administrative controls (50.36(c)(5)).

In general, there are two classes of changes to TS: (1) Changes needed to reflect modifications to the design basis (TS are derived from the design basis), and (2) voluntary changes to take advantage of the evolution in policy and guidance as to the required content and preferred format of TS over time. This amendment deals with the second class of changes.

In determining the acceptability of revising STS 3.7.2 and 3.7.3, the staff used the accumulation of generically approved guidance in NUREG–1430, ''Standard Technical Specifications, Revision 3 Babcock and Wilcox Plants,'' dated June, 2004; NUREG–1431, Revision 3, ''Standard Technical Specifications, Westinghouse Plants,'' dated June, 2004; and NUREG–1432, ''Standard Technical Specifications, Revision 3 Combustion Engineering Plants,'' dated June, 2004.

Licensees may revise the TS to adopt current improved STS format and content provided that plant-specific review supports a finding of continued adequate safety because: (1) The change is editorial, administrative or provides clarification (i.e., no requirements are materially altered), (2) the change is more restrictive than the licensee's current requirement, or (3) the change is less restrictive than the licensee's current requirement, but nonetheless still affords adequate assurance of safety when judged against current regulatory standards. The detailed application of this general framework, and additional specialized guidance, are discussed in Section 3.0 in the context of specific proposed changes. Nomenclature specific to the Westinghouse Plants is used in the following Technical Evaluation.

3.0 Technical Evaluation

The NRC staff has reviewed the justification for the proposed TSTF as described in the September 13, 2005 submittal. The detailed evaluation below will support the conclusion that: (1) There is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) such activities will be conducted in compliance with the Commission's regulations, and (3) the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public.

3.1 Main Steam Isolation Valves (MSIV)

One MSIV is located in each main steam line outside of the containment. Closing the MSIVs isolates each steam generator from the others and isolates the turbine, steam bypass system and other auxiliary steam supplies from the steam generator.

By isolating the steam flow from the secondary side of the steam generator the MSIVs prevent over cooling the reactor core following a high energy line break (HELB). By preventing core overcooling the MSIVs protect the reactor core from being damaged.

TSTF–491 is proposing to relocate the required closure times for the MSIVs to the Licensee Controlled Document (LCD) that is referenced in the Bases. Changes to LCDs are subject to the 10 CFR 50.59 process. The 10 CFR 50.59 criteria provide adequate assurance that prior staff review and approval will be requested by the licensee for changes to the Bases or LCD requirements with the potential to affect the safe operation of the plant. Furthermore, the MSIVs are subject to periodic testing and acceptance criteria in accordance with the Inservice Testing (IST) Program. Compliance with the IST Program is required by Section 5.5.7 of the Standard Technical Specifications (STS) and 10 CFR 50.55. The IST Program includes specific reference value baseline operating times for valves that are not subject to arbitrary changes.

10 CFR 50.36 requires the inclusion of the periodic testing of the MSIVs in the Surveillance Requirements not the actual closure time of the valves. TSTF–491 change maintains the periodic testing requirements for MSIVs in accordance with 10 CFR 50.36.

Based on the requirements of 10 CFR 50.36, 10 CFR 50.59 and IST Program, the staff concludes that relocating the MSIV closure time to the LCD as referenced in the Bases is acceptable.

3.2 Main Feedwater Isolation Valve (MFIV), Main Feedwater Regulation/ Control Valve (MFRV) and Associated Bypass Valves (BV)

The MFIVs and BVs or the MFRVs and BVs isolate the nonsafety related portions from the safety related portions of the system. In the event of a secondary side pipe rupture inside containment, these valves limit the quantity of high energy fluid that enters the containment through the break and provide a pressure boundary for the controlled addition of auxiliary feedwater to the intact loops.

By isolating the feedwater flow from the affected steam generator the MFIVs, MFRVs and BVs prevent overcooling the reactor core and over pressurizing of the containment from feedwater pump runout.

As with the MSIVs, TSTF–491 is also proposing to relocate the required closure times for the MFIVs, MFRVs and BVS to the LCD that is referenced in the Bases. Changes to the Bases or LCD are subject to the 10 CFR 50.59 process. The 10 CFR 50.59 criteria provide adequate assurance that prior staff review and approval will be requested by the licensee for changes to the Bases or Licensee Controlled Document requirements with the potential to affect the safe operation of the plant. Furthermore, the MFIVs, MFRVs and BVs are subject to periodic testing and acceptance criteria in accordance with the Inservice Testing (IST) Program. Compliance with the IST Program is required by Section 5.5.7 of the Standard Technical Specifications (STS) and 10 CFR 50.55. The IST Program includes specific reference value baseline operating times for valves that are not subject to arbitrary changes.

10 CFR 50.36 requires the inclusion of the periodic testing of the MFIVs, MFRVs and BVs in the Surveillance Requirements not the actual closure time of the valves. TSTF–491 maintains the periodic testing requirements for MFIVs, MFRVs and BVs in accordance with 10 CFR 50.36.

Based on the requirements of 10 CFR 50.36, 10 CFR 50.59 and the IST Program, the staff concludes that relocating the MFIVs, MFRVs and BVs closure times to the LCD as referenced in the Bases is acceptable.

4.0 State Consultation

In accordance with the Commission's regulations, the [_____] State official was notified of the proposed issuance of the amendment. The State official had [(1) no comments or (2) the following comments—with subsequent disposition by the staff].

5.0 Environmental Consideration

The amendment[s] change[s] a requirement with respect to the installation or use of a facility component located within the restricted area as defined in 10 CFR part 20 or surveillance requirements. The NRC staff has determined that the amendment involves no significant increase in the amounts, and no significant change in the types, of any effluents that may be released offsite, and that there is no significant increase in individual or cumulative occupational radiation exposure. The Commission has previously issued a proposed finding that the amendment involves no significant hazards consideration and there has been no public comment on such finding published [DATE] ([ ] FR [ ]). Accordingly, the amendment meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the issuance of the amendment.6.0 Conclusion

The Commission has concluded, based on the considerations discussed above, that (1) There is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) such activities will be conducted in compliance with the Commission's regulations, and (3) the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public.

Proposed No Significant Hazards Consideration Determination

Description of Amendment Request: [Plant name] requests adoption of an approved change to the standard technical specifications (STS) for Babcock and Wilcock PWR STS Revision 3.0 of NUREG–1430, Combustion Engineering PWR STS Revision 3.0 of NUREG–1432 and Westinghouse PWR STS Revision 3.0 of NUREG–1431 plant specific technical specifications (TS), to allow relocating the main steam and main feedwater isolation valve closure times to a Licensee Controlled Document that is referenced in the Bases. The changes are consistent with NRC approved Industry/Technical Specification Task Force (TSTF) Standard Technical Specifcation Change Traveler, TSTF–491, Revision 2.

Basis for proposed no-significant-hazards-consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no-significant-hazards-consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change allows relocating main steam and main feedwater valve isolation times to the Licensee Controlled Document that is referenced in the Bases. The proposed change is described in Technical Specification Task Force (TSTF) Standard TS Change Traveler TSTF–491 related to relocating the main steam and main feedwater valves isolation times to the Licensee Controlled Document that is referenced in the Bases and replacing the isolation time with the phase, ''within limits.''

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed). The proposed changes relocate the main steam and main feedwater isolation valve times to the Licensee Controlled Document that is referenced in the Bases. The requirements to perform the testing of these isolation valves are retained in the TS. Future changes to the Bases or licensee-controlled document will be evaluated pursuant to the requirements of 10 CFR 50.59, '' Changes, test and experiments'', to ensure that such changes do not result in more than minimal increase in the probability or consequences of an accident previously evaluated.

The proposed changes do not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, and configuration of the facility or the manner in which the plant is operated and maintained. The proposed changes do not adversely affect the ability of structures, systems and components (SSCs) to perform their intended safety function to mitigate the consequences of an initiating event within the assumed acceptance limits. The proposed changes do not affect the source term, containment isolation, or radiological consequences of any accident previously evaluated. Further, the proposed changes do not increase the types and the amounts of radioactive effluent that may be released, nor significantly increase individual or cumulative occupation/public radiation exposures.

Therefore, the changes do not involve a significant increase in the probability or consequences of any accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated

The proposed changes relocate the main steam and main feedwater valve isolation times to the Licensee Controlled Document that is referenced in the Bases. In addition, the valve isolation times are replaced in the TS with the phase ''within limits''. The changes do not involve a physical altering of the plant (i.e., no new or different type of equipment will be installed) or a change in methods governing normal pant operation. The requirements in the TS continue to require testing of the main steam and main feedwater isolation valves to ensure the proper functioning of these isolation valves.

Therefore, the changes do not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The proposed changes relocate the main steam and main feedwater valve isolation times to the Licensee Controlled Document that is referenced in the Bases. In addition, the valve isolation times are replaced in the TS with the phase ''within limits''. Instituting the proposed changes will continue to ensure the testing of main steam and main feedwater isolation valves. Changes to the Bases or license controlled document are performed in accordance with 10 CFR 50.59. This approach provides an effective level of regulatory control and ensures that main steam and feedwater isolation valve testing is conducted such that there is no significant reduction in the margin of safety.

The margin of safety provided by the isolation valves is unaffected by the proposed changes since there continue to be TS requirements to ensure the testing of main steam and main feedwater isolation valves. The proposed changes maintain sufficient controls to preserve the current margins of safety.

Based upon the reasoning above, the NRC staff concludes that the amendment request involves no significant hazards consideration.

For the Nuclear Regulatory Commission.

Project Manager, Plant Licensing Branch, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E6–16450 Filed 10–4–06; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Emergency Clearance and 60 Day Notice for Comment for a Reinstatement, With Change, of a Previously Approved Collection: OPM Form 1300, Presidential Management Fellows Program Online Application and Resume Builder

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice

announces that the Office of Personnel Management (OPM) submitted a request to the Office of Management and Budget (OMB) for emergency clearance and review for a reinstatement, with change, of a previously approved collection for the OPM Form 1300, Presidential Management Fellows (PMF) Program Online Application and Resume Builder. Approval of this request is necessary to facilitate the timely nomination of PMF applicants to the PMF Program. This also serves as the 60 Day Notice for review for full clearance.

As a result of Executive Order 13318 and OPM regulations on the PMF Program issued on May 19, 2005 (70 FR 28775), effective June 20, 2005, eligible graduate students interested in applying to the PMF Program must be nominated by their accredited graduate school's Dean, Chairperson, or Academic Program Director (otherwise referred to as the Nomination Official). In addition, per OMB's approval of the OPM Form 1300 for the PMF Class of 2006 on September 31, 2005, several contingencies were requested. One of those contingencies was for OPM to commit to developing future systems/system changes that would streamline the application process for those seeking Federal jobs.

The following significant changes have been made to the application and nomination process: (1) The PMF Program has recently migrated from an in-house online application and resume builder system to a vacancy announcement approach via USAJOBS; and (2) the nomination process was modified to create a PMF Nomination Form (which OPM proposes to become the new OPM Form 1300), which will serve as a fax-back form for the Nomination Official to fill-out and fax to OPM. Applicants will be directed to a vacancy announcement on USAJOBS and asked to upload their resume. Upon submission of their application, a Nomination Form will generate for the applicant to hand-carry to their school's Nomination Official for possible nomination to the PMF Program. If at any stage the applicant is found ineligible or ultimately not selected as a Finalist, he/she would still have the flexibility to apply to other Federal opportunities on USAJOBS.

We estimate 2,500 to 3,000 applications will be received and processed in the 2006/2007 open season for PMF applications. During the 2005/2006 open season OPM received approximately 2,982 applications, leading to 2,755 nominations by colleges and universities. Using the new OPM Form 1300 (PMF Nomination Form) we estimate Nomination Officials will need one-half hour to receive, review, and render a decision for nomination. The annual estimated burden for Nomination Officials to select nominees is 1,500 hours.

Comments are particularly invited on: Whether this information is necessary for the proper performance of functions on the Office of Personnel Management, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

For copies of this proposal, contact Mary Beth Smith-Toomey at (202) 606–2150 fax (202) 418–3251, or e-mail to *mbtoomey@opm.gov*. Please include your complete mailing address with your request.

DATES: Comments on this proposal for emergency review should be received within 10 calendar days from the date of this publication. We are requesting OMB to take action within 5 calendar days from the close of this **Federal Register** Notice, on the request for emergency review. Comments on this proposal for 60 day review should be received within 60 days from the date of this publication.

ADDRESSES: Send or deliver comments to: U.S. Office of Personnel Management, Presidential Management Fellows Program, ATTN: Rob Timmins, 1900 E Street, NW., Room 1425, Washington, DC 20415; E-mail: *pmf@opm.gov*; and Brenda Aguilar, OPM Desk Officer, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, NW., Room 10235, Washington, DC 20503.

Office of Personnel Management.

Dan G. Blair,

Deputy Director.

[FR Doc. E6–16437 Filed 10–4–06; 8:45 am]

BILLING CODE 6325–38–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–27507]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

September 29, 2006.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of September, 2006. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch (tel. 202–551–5850). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 24, 2006, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE.,Washington, DC 20549–1090.

For Further Information Contact: Diane L. Titus at (202) 551–6810, SEC, Division of Investment Management, Office of Investment Company Regulation, 100 F Street, NE., Washington, DC 20549–4041.

SEI Absolute Return Master Fund, L.P. [File No. 811–21350]

SEI Absolute Return Fund, L.P. [File No. 811–21351]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicants have never made a public offering of their securities and do not propose to make a public offering or engage in business of any kind.

Filing Dates: The applications were filed on July 20, 2006, and amended on September 21, 2006 and September 27, 2006.

Applicants' Address: One Freedom Valley Dr., Oaks, PA 19456.

Evergreen American Retirement Trust [File No. 811–5434]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On or about December 22, 1997, applicant transferred its assets to Evergreen American Retirement Fund, a newly created series of Evergreen Equity Trust, based on net asset value. Expenses incurred in connection with the reorganization were paid by applicant.

Filing Date: The application was filed on September 21, 2006.

Applicant's Address: 200 Berkeley St., Boston, MA 02116.

AmSouth Funds [File No. 811–5551]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On September 23, 2005, each of applicant's series transferred its assets to one of the following corresponding funds: Pioneer Value Fund, Pioneer Short Term Income Fund, Pioneer Money Market Trust, Pioneer Fund, Pioneer Bond Fund, Pioneer Mid Cap Value Fund, Pioneer Series Trust II, Pioneer Tax Free Income Fund, Pioneer Series Trust I, Pioneer Series Trust IV and Pioneer Ibbotson Asset Allocation Series, based on net asset value. Expenses of $5,510,356 incurred in connection with the reorganization were paid by AmSouth Asset Management Inc., applicant's investment adviser, Pioneer Investment Management, Inc., the acquiring fund's investment adviser, and AmSouth Bancorporation, the parent company of applicant's investment adviser.

Filing Dates: The application was filed on August 10, 2006, and amended on September 21, 2006.

Applicant's Address: 3435 Stelzer Rd., Columbus, OH 43219.

Mason Street Funds, Inc. [File No. 811–7961]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On March 24, 2006, a series of applicant, Mason Street Index 400 Stock Fund, transferred its assets to a series of Federated Index Trust, based on net asset value. On March 31, 2006, applicant's remaining series transferred their assets, based on net asset value, to corresponding series of the following funds: American Century Mutual Funds, Inc., American Century Investment Trust, American Century Capital Portfolios, Inc., American Century Quantitative Equity Funds, Inc., American Century World Mutual Funds, Inc., American Century Strategic Asset Allocations, Inc., American Century Municipal Trust and Federated Index Trust. Expenses of $2,496,358 incurred in connection with the reorganization were paid by Northwestern Mutual Life Insurance Company, Mason Street Advisors, LLC, applicant's investment adviser, American Century Companies, Inc., and Federated Equity Management Company of Pennsylvania, or one or more of their affiliates.

Filing Date: The application was filed on August 29, 2006.

Applicant's Address: 720 East Wisconsin Ave., Milwaukee, WI 53202.

UBS Aspen Fund, L.L.C. [File No. 811–9581]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On June 30, 2006, applicant made a final liquidating distribution to its shareholders, based on net asset value. Expenses of $59,316 incurred in connection with the liquidation were paid by PFPC Inc., applicant's administrator.

Filing Date: The application was filed on August 24, 2006.

Applicant's Address: c/o UBS Financial Services Inc., 1285 Avenue of the Americas, New York, NY 10019.

Analysts Investment Trust [File No. 811–7778]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On November 30, 2005, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of approximately $1,550 incurred in connection with the liquidation were paid by Equity Analysts, Inc., applicant's investment adviser.

Filing Dates: The application was filed on August 14, 2006, and amended on September 12, 2006.

Applicant's Address: 7750 Montgomery Rd., Cincinnati, OH 45326.

AXP Stock Series, Inc. [File No. 811–498]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On March 7, 2006, applicant transferred its assets to RiverSource Large Cap Series, Inc., based on net asset value. Expenses of $59,494 incurred in connection with the reorganization were paid by RiverSource Investments, LLC, applicant's investment adviser.

Filing Dates: The application was filed on July 7, 2006, and amended on September 8, 2006.

Applicant's Address: 901 Marquette Ave. South, Suite 2810, Minneapolis, MN 55402–3268.

Matterhorn Growth Fund, Inc. [File No. 811–3054]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On February 28, 2006, applicant transferred its assets to CSI Equity Fund, a series of The World Funds, Inc., based on net asset value. Expenses of $81,443 incurred in connection with the reorganization were paid by applicant and the acquiring fund.

Filing Dates: The application was filed on June 5, 2006, and amended on August 1, 2006 and September 8, 2006.

Applicant's Address: 301 Oxford Valley Rd., Suite 802B, Yardley, PA 19067.

The Treasurer's Fund, Inc. [File No. 811–5347]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On October 27, 2005, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $36,290 incurred in connection with the liquidation were paid by Gabelli Fixed Income, LLC, applicant's investment adviser.

Filing Dates: The application was filed on January 5, 2006, and amended on September 25, 2006.

Applicant's Address: c/o Gabelli Fixed Income, LLC, One Corporate Center, Rye, NY 10580–1422.

DB Hedge Strategies Fund LLC [File No. 811–10561]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant is not presently making a public offering of its securities and does not propose to make a public offering. Applicant has one remaining shareholder, which is an affiliate of the investment adviser, and will continue to operate as a private investment fund in reliance on section 3(c)(1) of the Act.

Filing Dates: The application was filed on March 9, 2006, and amended on September 28, 2006.

Applicant's Address: DB Investment Managers, Inc., 345 Park Ave., New York, NY 10154.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Nancy M. Morris,

Secretary.

[FR Doc. E6–16461 Filed 10–4–06; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54544 / File No. S7–12–01]

Order Extending Temporary Exemption of Banks, Savings Associations, and Savings Banks From the Definition of ''Broker'' Under Section 3(a)(4) of the Securities Exchange Act of 1934

September 29, 2006.

I. Background

The Gramm-Leach-Bliley Act (''GLBA'') repealed the blanket exception of banks from the definitions of ''broker'' and ''dealer'' under the Securities Exchange Act of 1934 (''Exchange Act'')[1] and replaced it with functional exceptions incorporated in amended definitions of ''broker'' and ''dealer.'' Under the GLBA, banks that engage in securities activities either must conduct those activities through a registered broker-dealer or ensure that their securities activities fit within the terms of a functional exception to the amended definitions of ''broker'' and ''dealer.''

The GLBA provided that the amended definitions of ''broker'' and ''dealer'' were to become effective May 12, 2001. On May 11, 2001, the Securities and Exchange Commission (''Commission'') issued interim final rules (''Interim Rules'') to define certain terms used in, and grant additional exemptions from, the amended definitions of ''broker'' and ''dealer.''[2] Among other things, the Interim Rules extended the exceptions and exemptions granted to banks under the GLBA and Interim Rules to savings associations and savings banks. These Rules also included a temporary exemption that gave banks time to come into full compliance with the more narrowly-tailored exceptions from broker-dealer registration.[3] To further accommodate the banking industry's continuing compliance concerns, the Commission delayed the effective date of the bank ''broker'' and ''dealer'' rules through a series of orders that, among other things, ultimately extended the temporary exemption from the definition of ''broker'' to September 30, 2006.[4]

In previous extension orders, the Commission acknowledged ''that banks may need as much as a year to develop compliance systems to adapt to the GLBA in light of amended Rules. The Commission does not expect banks to develop compliance systems for the provisions of the GLBA discussed in the Rules until the Commission has amended the Rules.''[5] Consistent with those statements, when the Commission proposed Regulation B in June 2004, to replace the Interim Rules, the Commission also proposed a one-year delay in the Regulation's effective date.[6]

Although the comment period for Regulation B expired on September 1, 2004,[7] the Commission has continued to receive comments. To date, the Commission has received over 120 comments on the proposal, including comments from the banking industry, banking regulators, and members of Congress. The Commission has reviewed these comments and has had further discussions with several commenters, including the federal banking regulators.

II. Extension of Temporary Exemption From Definition of ''Broker''

The Commission is carefully considering comments to determine what final action should be taken with regard to the Regulation B proposal. The Commission anticipates that this review process will not be completed before the exemption from the Interim Rules relating to the definition of ''broker'' expires on September 30, 2006.[8]

Therefore, the Commission finds that extending the temporary exemption for banks, savings associations, and savings banks from the definition of ''broker'' is necessary and appropriate in the public interest, and is consistent with the protection of investors. The Commission believes that extending the exemption from the definition of ''broker'' until January 15, 2007, will prevent banks and other financial institutions from unnecessarily incurring costs to comply with the statutory scheme based on the current Interim Rules and will give the Commission time to consider fully comments received on Regulation B and take any final action on the proposal as necessary, including consideration of any modification necessary to the proposed compliance date.

III. Conclusion

Accordingly, pursuant to Section 36 of the Exchange Act,[9]

It is hereby ordered that banks, savings associations, and savings banks are exempt from the definition of the term ''broker'' under the Exchange Act until January 15, 2007.

By the Commission.

Nancy M. Morris,

Secretary.

[FR Doc. E6–16443 Filed 10–4–06; 8:45 am]

BILLING CODE 8010–01–P

[1] As defined in Exchange Act Sections 3(a)(4) and 3(a)(5) [15 U.S.C. 78c(a)(4) and 78c(a)(5)].

[2] *See* Definition of Terms in and Specific Exemptions for Banks, Savings Associations, and Savings Banks Under Sections 3(a)(4) and 3(a)(5) of the Securities Exchange Act of 1934, Exchange Act Release No. 44291 (May 11, 2001), 66 FR 27760 (May 18, 2001).

[3] 17 CFR 240.15a–7.

[4] *See* Exchange Act Release No. 44570 (July 18, 2001); Exchange Act Release No. 45897 (May 8, 2002); Exchange Act Release No. 46751 (Oct. 30, 2002); Exchange Act Release No. 47649 (April 8, 2003); Exchange Act Release No. 50618 (Nov. 1, 2004); Exchange Act Release No. 51328 (March 8, 2005); and Exchange Act Release No. 52405 (Sept. 9, 2005) (extending the exemption from the definition of ''broker'' until September 30, 2006). During this time, the Commission also extended the temporary exemption from the definition of ''dealer'' to September 30, 2003. *See* Exchange Act Release No. 47366 (Feb. 13, 2003). On February 13, 2003, the Commission adopted amendments to certain parts of the Interim Rules that define terms used in the dealer exceptions, as well as certain dealer exemptions (''Dealer Release''), *see* Exchange Act Release No. 47364 (Feb. 13, 2003), 68 FR 8686 (Feb. 24, 2003). Therefore, this order is limited to an extension of the temporary exemption from the definition of ''broker.''

[5] *See, e.g.*, Order Extending Temporary Exemption of Banks, Savings Associations, and Savings Banks from the Definitions of ''Broker'' and ''Dealer'' under Sections 3(a)(4) and 3(a)(5) of the Securities Exchange Act of 1934; Notice of Intent to Amend Rules, Exchange Act Release No. 45897 (May 8, 2002), *http://www.sec.gov/rules/other/34–45897.htm.*

[6] Exchange Act Release No. 49879 (June 17, 2004), 69 FR 39682 (June 30, 2004).

[7] *See* Exchange Act Release No. 50056 (July 22, 2004) 69 FR 44988 (July 28, 2004) (extending comment period on Regulation B until September 1, 2004).

[8] In the Interim Rules, the Commission adopted Exchange Act Rule 15a–7, 17 CFR 240.15a–7, which, as proposed to be amended, would provide banks and other financial institutions until January 1, 2006, to begin complying with the GLBA. In proposing Regulation B, the Commission proposed Rule 781 as a re-designation of Rule 15a–7. *See* 17 CFR 242.781.

[9] 15 U.S.C. 78mm.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54539; File No. SR–NSX–2006–06]

Self-Regulatory Organizations; National Stock Exchange, Inc.; Order Approving Proposed Rule Change To Allow the Primary Market Print Protection Rule To Be Applied on an Optional Basis

September 28, 2006.

On April 12, 2006, the National Stock Exchange, Inc. (''NSX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend NSX Rule 11.9(u), which pertains to the preferencing of public agency limit orders that a dealer represents as agent, to eliminate the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

specific requirement that a Designated Dealer execute eligible limit orders if certain conditions occur in the primary market (referred to as the ''primary market print protection'' or the ''limit order protection'' provision). Pursuant to the proposal, dealers and members would still be permitted, but not required, to guarantee the execution of a limit order as principal upon the occurrence of a transaction in another market. The Commission published the proposed rule change for comment in the **Federal Register** on June 27, 2006.[3] The Commission received no comments on the proposed rule change.

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange.[4] In particular, the Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[5] which requires among other things, that the rules of the Exchange are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission notes that the Exchange voluntarily enacted its rule-based execution guarantees in 1996,[6] when the guarantees were used, among other things, as a competitive tool to attract order flow to the Exchange. The Commission notes that it has approved a substantially similar proposal of another national securities exchange.[7] In that context, the Commission discussed how the environment had changed since the adoption of voluntary rule-based execution guarantees and ''that consequently, the guarantees may no longer serve to foster competition between the markets.'' [8] The Commission notes that the deletion of the rule-based mandate regarding limit order protection does not in any way affect the Exchange's rules relating to trading ahead prohibitions or best execution obligations, or any other dealer obligations within NSX's rules. In addition, the Commission notes that, under the proposed rule change, dealers and members would still be permitted, but not required, to provide such guarantees if they wished to do so.[9]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR–NSX–2006–06) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Nancy M. Morris,

Secretary.

[FR Doc. E6–16460 Filed 10–4–06; 8:45 am]

BILLING CODE 8011–01–P

[3] *See* Securities Exchange Act Release No. 54018 (June 20, 2006), 71 FR 36576.

[4] 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).

[5] 15 U.S.C. 78f(b)(5).

[6] *See* Securities Exchange Act Release No. 37046 (March 29, 1996), 61 FR 15322 (April 5, 1996) (File No. SR–CSE–95–03).

[7] *See* Securities Exchange Act Release No. 52652 (October 21, 2005), 70 FR 62151 (October 28, 2005) (order approving File No. SR–CHX–2004–17).

[8] *Id.* at 62152.

[9] In addition, the Commission notes that it recently approved File No. SR–NSX–2006–08 which, among other things, adopted a new NSX Rule 11.9 as part of a new trading system for the Exchange, which is not yet operational. *See* Securities Exchange Act Release No. 54391 (August 31, 2006), 71 FR 52836 (September 7, 2006).

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10625]

Virginia Disaster # VA–00008

AGENCY: Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the Commonwealth of Virginia (FEMA–1661–DR), dated 09/22/2006.

Incident: Severe Storms and Flooding, Including Severe Storms and Flooding Associated with Tropical Depression Ernesto.

Incident Period: 08/29/2006 Through 09/07/2006.

Effective Date: 09/22/2006.

Physical Loan Application Deadline Date: 11/21/2006.

ADDRESSES: Submit Completed Loan Applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 09/22/2006, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Accomack, Caroline, Charles City, Dinwiddie, Essex, Gloucester, Isle of Wight, James City, King William, Lancaster, Mathews, Middlesex, Northampton, Northumberland, Poquoson (City), Richmond, Richmond (City), Surry, Sussex, Westmoreland, York.

The Interest Rates are:

	Percent
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	5.000
Businesses And Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 10625.

(Catalog of Federal Domestic Assistance Number 59008)

Allan I. Hoberman,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E6–16413 Filed 10–4–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Revocation of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration by the Final Order of the United States District Court of the District of New Jersey, dated September 6, 2006, the United States Small Business Administration hereby revokes the license of Bishop Capital, L.P., a New Jersey limited partnership, to function as a small business investment company under the Small Business Investment Company License No. 02/02–0503 issued to Bishop Capital, L.P. on August 27, 1987 and said license is hereby declared null and void as of September 28, 2006.

Small Business Administration.

Dated: September 28, 2006.

Jaime Guzman-Fournier,

Associate Administrator for Investment.

[FR Doc. E6–16498 Filed 10–4–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Revocation of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration by the Final Order of the United States District Court of the Eastern District of Michigan, dated July 26, 2006, the United States Small Business Administration hereby revokes the license of Metro-Detroit Investment Company, a Michigan corporation, to function as a small business investment company under the Small Business Investment Company License No. 05/05–5126 issued to Metro-Detroit Investment Company on June 1, 1978 and said license is hereby declared null and void as of September 28, 2006.

Small Business Administration.

Dated: September 28, 2006.

Jaime Guzman-Fournier,

Associate Administrator for Investment.

[FR Doc. E6–16499 Filed 10–4–06; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 5573]

Transitional Application Deadline for Adoption Service Providers Applying for Accreditation, Temporary Accreditation, or Approval Under the Intercountry Adoption Act of 2000

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Pursuant to the Intercountry Adoption Act of 2000 (the IAA), the Department of State (the Department) is the Central Authority for the United States for implementation of the 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (the Convention). Under the Convention and the IAA, once the Convention enters into force for the United States, agencies and persons that seek to provide adoption services must generally be accredited, temporarily accredited, approved, or otherwise exempt. The United States intends to ratify the Convention once the necessary preparations for its implementation in the United States have been made.

In this public notice, the Department is announcing the transitional application deadline (TAD). In order for an agency or person to be accredited or approved as of the time the Convention enters into force for the United States or for an agency to be temporarily accredited, an agency or person must submit an application and the required fee(s) on or before the TAD to an accrediting entity with jurisdiction to evaluate its application. The Department has designated two accrediting entities. They are: The Council on Accreditation (COA) and Colorado's Department of Human Services. The TAD is November 17, 2006. *See* 22 CFR part 96.19 for further information on the TAD.

Agencies or persons that do not seek to be accredited or approved by the time the Convention enters into force for the United States may submit an application and the required fee(s) to an accrediting entity with jurisdiction to evaluate its application at any time after the TAD. Agencies seeking temporary accreditation must apply by the TAD.

FOR FUTHER INFORMATION CONTACT: Mikiko Stebbing, Accrediting Entity Liaison, at 202–736–9086. Hearing or speech-impaired persons may use the Telecommunications Devices for the Deaf (TDD) by contacting the Federal Information Relay Service at 1–800–877–8339. Application and fee information is available by contacting the appropriate accrediting entity at the following mailing address, e-mail address or telephone number: Council on Accreditation: Contact Beth Rubenstein, 212–797–3000 or e-mail: *brubenstein@coanet.org* or mailing address: Council on Accreditation, 120 Wall Street, 11th Floor, New York City, NY 10005 (*http://www.coanet.org*); Colorado Department of Human Services: Contact Lori Roxbury, 303–866–5475 or e-mail: *lori.roxbury@state.co.us* or mailing address: Colorado Department of Human Services, Division of Child Care, 1575 Sherman Street, First Floor, Denver, Colorado 80203. Applications for the Colorado Department of Human Services are limited to adoption service providers licensed in the State of Colorado.

SUPPLEMENTARY INFORMATION: Agencies whose applications are received after midnight on November 17, 2006 may not be accredited, temporarily accredited, or approved as of the time the Convention enters into force for the United States. Please send accreditation/approval applications to the appropriate designated accrediting entity at the address listed in the Contact Information section of this public notice. Do not send accreditation/approval applications to the Department. Please note that all applicants for temporary accreditation must apply by the TAD. Temporary accreditation is available only to agencies that performed fewer than 100 intercountry adoption cases in the year prior to the TAD and only for the one or two-year period following the Convention's entry into force for the United States. Please *see* 22 CFR 96.95 for further information on temporary accreditation.

Shortly after the TAD on November 17, 2006, the designated accrediting entities will make public the names and addresses of agencies and persons that have applied to be accredited, temporarily accredited, or approved. The accrediting entities will also provide a mechanism for the public to comment on applicants, and will consider, where appropriate, comments received from the public in their accreditation, temporary accreditation, and approval decisions.

The Department, in consultation with the designated accrediting entities, will subsequently establish and announce the deadline for initial accreditation or approval (the DIAA), the date by which the accreditation/approval process must be completed for an agency to be accredited, temporarily accredited, or approved at the time the Convention enters into force for the United States.

Designated accrediting entities must use their best efforts to provide a reasonable opportunity for an agency or person that applied by the TAD to complete the accreditation or approval process by the DIAA. The accrediting entities will not publicly release their accreditation (including temporary accreditation) and approval decisions until the uniform notification date, the date when the accrediting entities notify all adoption service providers that applied by the TAD of their accreditation or approval decisions.

Only those agencies and persons that are accredited, temporarily accredited, or approved by the DIAA will be included on the initial list of accredited and temporarily accredited agencies and approved persons that the Department will deposit with the Permanent Bureau of the Hague Conference on Private International Law. An agency or person may also apply for full accreditation (not temporary accreditation) or approval at any time after November 17, 2006 but such applicants may not be accredited or approved by the DIAA.

Dated: September 29, 2006.

Maura Harty,

Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. E6–16502 Filed 10–4–06; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 5572]

Bureau of Consular Affairs; Registration for the Diversity Immigrant (DV–2008) Visa Program

ACTION: Notice of registration for the Diversity Immigrant Visa Program.

This public notice provides information on how to apply for the DV–2008 Program. This notice is issued pursuant to 22 CFR 42.33(b)(3) which implements sections 201(a)(3), 201(e), 203(c) and 204(a)(1)(I) of the Immigration and Nationality Act, as amended, (8 U.S.C. 1151, 1153, and 1154(a)(1)(I)).

Instructions for the 2008 Diversity Immigrant Visa Program (DV–2008)

The congressionally mandated Diversity Immigrant Visa Program is administered on an annual basis by the Department of State and conducted under the terms of Section 203(c) of the Immigration and Nationality Act (INA). Section 131 of the Immigration Act of 1990 (Pub. L. 101–649) that amended INA 203 provides for a class of immigrants known as ''diversity immigrants.'' Section 203(c) of the INA provides a maximum of up to 55,000 Diversity Visas (DV) each fiscal year to be made available to persons from countries with low rates of immigration to the United States.

The annual DV program makes permanent residence visas available to persons meeting the simple, but strict, eligibility requirements. A computer-generated random lottery drawing chooses selectees for diversity visas. The visas are distributed among six geographic regions with a greater number of visas going to regions with lower rates of immigration, with no visas going to nationals of countries sending more than 50,000 immigrants to the U.S. over the period of the past five years. Within each region, no one country may receive more than seven percent of the available Diversity Visas in any one year.

For DV–2008, natives of the following countries are not eligible to apply because the countries sent a total of more than 50,000 immigrants to the U.S. in the previous five years (the term ''country'' in this notice includes countries, economies and other jurisdictions explicitly listed in this notice): Brazil, Canada, China (mainland-born), Colombia, Dominican Republic, El Salvador, Haiti, India, Jamaica, Mexico, Pakistan, Peru, Philippines, Poland, Russia, South Korea, United Kingdom (except Northern Ireland) and its dependent territories, and Vietnam.

Persons born in Hong Kong SAR, Macau SAR and Taiwan are eligible.

The Department of State implemented the electronic registration system beginning with DV–2005 in order to make the Diversity Visa process more efficient and secure. The Department utilizes special technology and other means to identify those who commit fraud for the purposes of illegal immigration or who submit multiple entries.

Diversity Visa Registration Period

Entries for the DV–2008 Diversity Visa Lottery must be submitted electronically between noon, Eastern Daylight Time (EDT) (GMT–4), Wednesday, October 4, 2006 and noon, Eastern Standard Time (EST) (GMT–5) Sunday, December 3, 2006. Applicants may access the Electronic Diversity Visa Entry Form (E–DV Entry Form) at *www.dvlottery.state.gov* during the registration period. Paper entries will not be accepted. Applicants are strongly encouraged not to wait until the last week of the registration period to enter. Heavy demand may result in Web site delays. No entries will be accepted after noon, EST, on December 3, 2006.

Requirements for Entry

To enter the DV lottery, you must be a native of one of the listed countries. See ''List of Countries by Region Whose Natives are Eligible.'' In most cases this means the country in which you were born. However, there are two other ways you may be able to qualify. First, if you were born in a country whose natives are ineligible but your spouse was born in a country whose natives are eligible, you can claim your spouse's country of birth provided both you and your spouse are on the selected entry, are issued visas and enter the U.S. simultaneously. Second, if you were born in a country whose natives are ineligible, but neither of your parents was born there or resided there at the time of your birth, you may claim nativity in one of your parents' country of birth if it is a country whose natives qualify for the DV–2008 program.

To enter the lottery, you must meet either the education or work experience requirement of the DV program. You must have either a high school education or its equivalent, defined as successful completion of a 12-year course of elementary and secondary education; OR two years of work experience within the past five years in an occupation requiring at least two years of training or experience to perform. The U.S. Department of Labor's *O*Net OnLine* database will be used to determine qualifying work experience. For more information about qualifying work experience, see: Frequently Asked Question #13.

If you cannot meet these requirements, you should NOT submit an entry to the DV program.

Procedures for Submitting an Entry to DV–2008

The Department of State will only accept completed Electronic Diversity Visa Entry Forms submitted electronically at *www.dvlottery.state.gov* during the registration period between noon, Eastern Daylight Time (EDT) (GMT–4), Wednesday, October 4, 2006 and noon, Eastern Standard Time (EST) (GMT–5) Sunday, December 3, 2006.

All entries by an individual will be disqualified if more than ONE entry for that individual is received, regardless of who submitted the entry. You may prepare and submit your own entry, or have someone submit the entry for you.

A successfully registered entry will result in the display of a confirmation screen containing your name, date of birth, country of chargeability, and a date/time stamp. You may print this confirmation screen for your records using the print function of your web browser.

Paper entries will not be accepted.

Your entry will be disqualified if all required photographs are not submitted. Recent photographs of the following people must be submitted electronically with the Electronic Diversity Visa Entry Form: You; your spouse; each unmarried child under 21 years of age, including all natural children as well as all legally-adopted children and stepchildren, even if a child no longer resides with you or you do not intend for a child to immigrate under the DV program. You do not need to submit a photo for a child who is already a U.S. citizen or a Legal Permanent Resident.

Group or family photographs will not be accepted; there must be a separate photograph for each family member. Failure to submit the required photographs for your spouse and each child will result in an incomplete entry to the E–DV system. The entry will not be accepted and must be resubmitted. Failure to enter the correct photograph of each individual in the case into the E–DV system will result in disqualification of the principal applicant and refusal of all visas in the case at the time of the visa interview.

A digital photograph (image) of you, your spouse, and each child must be submitted on-line with the E–DV Entry Form. The image file can be produced either by taking a new digital

photograph or by scanning a photographic print with a digital scanner.

Entries are subject to disqualification and visa refusal for cases in which the photographs are not recent or have been manipulated or fail to meet the specifications explained below.

Instructions for Submitting a Digital Photograph (Image)

The image file must adhere to the following compositional specifications and technical specifications and can be produced in one of the following ways: taking a new digital image or using a digital scanner to scan a submitted photograph.

Compositional Specifications

The submitted digital image must conform to the following compositional specifications or the entry will be disqualified: The person being photographed must directly face the camera; the head of the person should not be tilted up, down, or to the side; the head of the person should cover about 50% of the area of the photo; the photograph should be taken with the person in front of a neutral, light-colored background; dark or patterned backgrounds are not acceptable; the photo must be in focus; photos in which the person being photographed is wearing sunglasses or other items that detract from the face will not be accepted; photos of applicants wearing head coverings or hats are only acceptable due to religious beliefs, and even then, may not obscure any portion of the face of the applicant; photographs of applicants with tribal or other headgear not specifically religious in nature will not be accepted; photographs of military, airline, or other personnel wearing hats will not be accepted.

Colored photographs in 24-bit color depth are preferred to black and white or gray scale pictures in 24-bit color depth. Photographs may be down loaded from a camera into a file in the computer or they may be scanned into a file in the computer. If you are using a scanner, the settings must be for True Color or 24-bit color mode. Colored photographs or black and white (or gray scale) must be scanned at this setting for the requirements of the DV program. For black and white or grey scale photographs scanned in 24-bit color mode, only three colors or image bands are used, and the results will still be black, white and gray. See the additional scanning requirements below.

Technical Specifications

The submitted digital photograph must conform to the following specifications or the system will automatically reject the E–DV Entry Form and notify the sender:

When taking a new digital image: the image file format must be in the Joint Photographic Experts Group (JPEG) format; it must have a maximum image file size of sixty-two thousand five hundred (62,500) bytes; the image resolution must be 320 pixels high by 240 pixels wide; the image color depth must be 24-bit color [**Note:** Colored photographs are preferred, but black and white or grayscale photographs, if used, must be scanned in 24-bit color mode]. Monochrome images (2-bit color depth), 8-bit color or 8-bit grayscale will not be accepted.

Before a photographic print is scanned it must meet the following specifications: The print size must be 2 inches by 2 inches (50mm × 50mm) square; a color image is preferred, however, a black and white or grayscale image may be used only with the 24-bit setting mode.

The photographic print must also meet the compositional specifications. If the photographic print meets the print size, print color and compositional specifications, scan the print using the following scanner specifications: scanner resolution must be 150 dots per inch (dpi); the image file formant in Joint Photographic Experts Group (JPEG) format; the maximum image file size will be sixty-two thousand five hundred (62,500) bytes; the image resolution at 300 by 300 pixels; the image color depth 24-bit color. Note that black and white or grayscale images must be used with 24-bit color depth. Monochrome images (2-bit color depth), 8-bit color or 8-bit grayscale will not be accepted.

Information Required for the Electronic Entry

There is only one way to enter the DV–2008 lottery. Applicants must submit an Electronic Diversity Visa Entry Form (E–DV Entry Form), which is accessible only at *www.dvlottery.state.gov*. Failure to complete the form in its entirety will disqualify the entry. Those who submit the E–DV entry will be asked to include the following information on the E–DV Entry Form.

1. Full Name—Last/Family Name, First Name, Middle name.
2. Date of Birth—Day, Month, Year.
3. Gender—Male or Female.
4. City Where You Were Born
5. Country Where You Were Born—The name of the country should be that which is currently in use for the place where you were born.
6. Country of Eligibility or Chargeability for The DV Program—Your country of eligibility will normally be the same as your country of birth. Your country of eligibility is not related to where you live. If you were born in a country that is not eligible for the DV program, please review the instructions to see if there is another option for country of chargeability available for you. For additional information on chargeability, please review ''Frequently Asked Question #1'' of these instructions.
7. Entry Photograph(s)—See the technical information on photograph specifications. Make sure you include photographs of your spouse and all your children, if applicable. See: Frequently Asked Question #11.
8. Mailing Address—In Care Of, Address Line 1, Address Line 2, City/Town, District/Country/Province/State, Postal Code/Zip Code, Country.
9. Country Where You Live Today.
10. Phone Number (optional).
11. E-Mail Address (optional)
12. What is the highest level of education you have achieved, as of today?

You must indicate which one of the following represents your own highest level of educational achievement: (1) Primary school only, (2) High school, no degree, (3) High school degree, (4) Vocational school, (5) Some university courses, (6) University degree, (7) Some graduate level courses, (8) Master degree, (9) Some doctorate level courses, and (10) Doctorate degree.

13. Marital Status—Unmarried, Married, Divorced, Widowed, Legally Separated
14. Number of Children: Entries must include the name, date and place of birth of your spouse and all natural children, as well as all legally-adopted children and stepchildren, who are unmarried and under the age of 21 (do not include children who are already U.S. citizens or Legal Permanent Residents), even if you are no longer legally married to the child's parent, and even if the spouse or child does not currently reside with you and/or will not immigrate with you. Note that married children and children 21 years or older are not eligible for the diversity visa. Failure to list all children, who are eligible, will result in disqualification of the principal applicant and refusal of all visas in the case at the time of the visa interview. See: Frequently Asked Question #11.
15. Spouse Information—Name, Date of Birth, Gender, City/Town of Birth, Country of Birth, Photograph. Failure to

list your spouse will result in disqualification of the principal applicant and refusal of all visas in the case at the time of the visa interview.

16. Children Information—Name, Date of Birth, Gender, City/Town of Birth, Country of Birth, and Photograph: Include all children declared in question #14 above.

Selection of Applicants

The computer will select at random individuals from among all qualified entries. They will be notified by mail between May and July 2007 and will be provided further instructions, including information on fees connected with immigration to the U.S. Those selected in the random drawing are NOT notified by e-mail. Those individuals NOT selected will NOT receive any notification. U.S. embassies and consulates will not be able to provide a list of successful entrants. Spouses and unmarried children under age 21 of successful entrants may also apply for visas to accompany or follow to join the principal applicant. DV–2008 visas will be issued between October 1, 2007 and September 30, 2008.

Processing of entries and issuance of diversity visas to successful individuals and their eligible family members MUST occur by midnight on September 30, 2008. Under no circumstances can diversity visas be issued or adjustments approved after this date, nor can family members obtain diversity visas to follow to join the principal applicant in their case in the U.S. after this date.

In order to receive a Diversity Visa to immigrate to the United States, those chosen in the random drawing must meet all eligibility requirements under U.S. law. These requirements may significantly increase the level of scrutiny required and time necessary for processing of applicants for natives of some countries listed in this notice, including, but not limited to, countries identified as state sponsors of terrorism.

Important Notice

No fee is charged for the electronic lottery entry in the annual DV program. The U.S. Government employs no outside consultants or private services to operate the DV program. Any intermediaries or others who offer assistance to prepare DV entries do so without the authority or consent of the U.S. Government. Use of any outside intermediary or assistance to prepare a DV entry is entirely at the entrant's discretion.

A qualified entry submitted electronically directly by an applicant has an equal chance of being selected by the computer at the Kentucky Consular Center, as does an entry submitted electronically through a paid intermediary who completes the entry for the applicant. Every entry received during the lottery registration period will have an equal random chance of being selected within its region. However, receipt of more than one entry per person will disqualify the person from registration, regardless of the source of the entry.

Frequently Asked Questions About DV Registration

1. What do the terms ''eligibility'', ''native'' and ''chargeability'' mean?

Are there any situations in which persons who were not born in a qualifying country may apply?

Your country of eligibility will normally be the same as your country of birth. Your country of eligibility is not related to where you live. Native ordinarily means someone born in a particular country, regardless of the individual's current country of residence or nationality. For immigration purposes ''native'' can also mean someone who is entitled to be ''charged'' to a country other than the one in which he/she was born under the provisions of Section 202(b) of the Immigration and Nationality Act. For example, if you were born in a country that is not eligible for this year's DV program, you may claim chargeability to the country where your derivative spouse was born, but you will not be issued a DV–1 unless your spouse is also eligible for and issued a DV–2, and both of you must enter the United States together with the diversity visas. In a similar manner, a minor dependent child can be ''charged'' to a parent's country of birth.

Finally, if you were born in a country not eligible to participate in this year's DV program, you can be ''charged'' to the country of birth of either of your parent as long as neither parent was a resident of the ineligible country at the time of the your birth. In general, people are not considered residents of a country in which they were not born or legally naturalized if they are only visiting the country, studying in the country temporarily, or stationed in the country for business or professional reasons on behalf of a company or government. If you claim alternate chargeability, you must indicate such information on the E–DV electronic online entry form, question #6. Please be aware that listing an incorrect country of eligibility or chargeability (i.e. one to which you cannot establish a valid claim) may disqualify your entry.

2. Are there any changes or new requirements in the application procedures for this diversity visa registration?

All DV–2008 lottery entries must be submitted electronically at *www.dvlottery.state.gov* during the registration period. No paper entries will be accepted.

Several questions and options for answers have been added to DV–2008 to gather additional information, including: ''What is the name of the country where you live today? And ''What is the highest level of education you have achieved, as of today?'' You must choose one of the ten options indicating the highest level of education you have achieved: (1) Primary school only, (2) High school, no degree, (3) High school degree, (4) Vocational school, (5) Some university courses, (6) University degree, (7) Some graduate level courses, (8) Master degree, (9) Some doctorate level courses, and (10) Doctorate degree. ''Legally Separated'' replaces the term ''Separated'' used in previous DV programs as an option under the question ''What is your marital status?'' Legal separation means that a court has formally declared that you and your spouse are legally separated. Legal separation means that your spouse would not be eligible to immigrate as your derivative.

3. Are signatures and photographs required for each family member, or only for the principal entrant?

Signatures are not required on the Electronic Diversity Visa Entry Form. Recent and individual photographs of you, your spouse and all children under 21 years of age are required. Family or group photographs are not accepted. See the information located in photograph requirements.

4. Why do natives of certain countries not qualify for the diversity program?

Diversity visas are intended to provide an immigration opportunity for persons from countries other than the countries that send large numbers of immigrants to the U.S. The law states that no diversity visas shall be provided for natives of ''high admission'' countries. The law defines this to mean countries from which a total of 50,000 persons in the Family-Sponsored and Employment-Based visa categories immigrated to the United States during the period of the previous five years. Each year, the USCIS adds the family and employment immigrant admission figures for the previous five years in order to identify the countries whose natives will be ineligible for the annual

diversity lottery. Because there is a separate determination made before each annual E–DV entry period, the list of countries whose natives are not eligible may change from one year to the next.

5. What is the numerical limit for DV–2008?

By law, the U.S. diversity immigration program makes available a maximum of 55,000 permanent residence visas each year to eligible persons. However, the Nicaraguan Adjustment and Central American Relief Act (NACARA) passed by Congress in November 1997 stipulates that beginning as early as DV–1999, and for as long as necessary, up to 5,000 of the 55,000 annually-allocated diversity visas will be made available for use under the NACARA program. The actual reduction of the limit by up to 5,000 diversity visas began with DV–2000 and is likely to remain in effect through the DV–2008 program.

6. What are the regional diversity visa (DV) limits for DV–2008?

The U.S. Citizenship and Immigration Services (USCIS) determines the DV regional limits for each year according to a formula specified in Section 203(c) of the Immigration and Nationality Act (INA). Once the USCIS has completed the calculations, the regional visa limits will be announced.

7. When will entries for the DV–2008 program be accepted?

The DV–2008 entry period will run throughthe registration period. Each year millions of people apply for the program during the registration period. The massive volume of entries creates an enormous amount of work in selecting and processing successful individuals. Holding the entry period during October, November, and December will ensure that selectees are notified in a timely manner, and gives both the visa applicants and our embassies and consulates time to prepare and complete cases for visa issuance. You are strongly encouraged to enter early in the registration period. Excessive demand at end of the registration period may slow the system down. No entries whatsoever will be accepted after noon EST Sunday, December 3, 2006.

8. May persons who are in the U.S. apply for the program?

Yes, an applicant may be in the U.S. or in another country, and the entry may be submitted from the United States or from abroad.

9. Is each applicant limited to only one entry during the annual E–DV registration period?

Yes, the law allows only one entry by or for each person during each registration period. Individuals for whom more than one entry is submitted will be disqualified. The Department of State will employ sophisticated technology and other means to identify individuals who submit multiple entries during the registration period. People submitting more than one entry will be disqualified and an electronic record will be permanently maintained by the Department of State. Individuals may apply for the program each year during the regular registration period.

10. May a husband and a wife each submit a separate entry?

Yes, a husband and a wife may each submit one entry if each meets the eligibility requirements. If either were selected, the other would be entitled to derivative status.

11. What family members must I include on my E–DV entry?

On your entry you must list your spouse (husband or wife), and all unmarried children under 21 years of age, with the exception of children who are already U.S. citizens or Legal Permanent Residents. You must list your spouse even if you are currently separated from him/her, unless you are legally separated (i.e. there is a written agreement recognized by a court or a court order). If you are legally separated or divorced, you do not need to list your former spouse. You must list ALL your children who are unmarried and under 21 years of age, whether they are your natural children, your spouse's children, or children you have formally adopted in accordance with the laws of your country, unless such child is already a U.S. citizen or Legal Permanent Resident. List all children under 21 years of age even if they no longer reside with you or you do not intend for them to immigrate under the DV program.

The fact that you have listed family members on your entry does not mean that they later must travel with you. They may choose to remain behind. However, if you include an eligible dependent on your visa application forms that you failed to include on your original entry, your case will be disqualified. This only applies to those who were family members at the time the original application was submitted, not those acquired at a later date. Your spouse may still submit a separate entry, even though he or she is listed on your entry, as long as both entries include details on all dependents in your family. See question #10 above.

12. Must I submit my own entry, or may someone act on my behalf?

You may prepare and submit your own entry, or have someone submit the entry for you. Regardless of whether an entry is submitted by the individual directly, or assistance is provided by an attorney, friend, relative, etc., only one entry may be submitted in the name of each person and the entrant remains responsible for insuring that information in the entry is correct and complete. If the entry is selected, the notification letter will be sent only to the mailing address provided on the entry.

13. What are the requirements for education or work experience?

The law and regulations require that every entrant must have at least a high school education or its equivalent or, within the past five years, have two years of work experience in an occupation requiring at least two years training or experience. A ''high school education or equivalent'' is defined as successful completion of a twelve–year course of elementary and secondary education in the United States or successful completion in another country of a formal course of elementary and secondary education comparable to a high school education in the United States. Documentary proof of education or work experience must be presented to the consular officer at the time of the visa interview. To determine eligibility based on work experience, definitions from the Department of Labor's *O*Net OnLine* database will be used.

What Occupations qualify for the Diversity Visa Program? The Department of Labor (DOL) O*Net Online Database database groups job experience into five ''job zones.'' While many occupations are listed on the DOL Web site, only certain specified occupations qualify for the Diversity Visa Program. To qualify for a Diversity Visa on the basis of your work experience, you must, within the past five years, have two years of experience in an occupation that is designated as Job Zone 4 or 5, classified in a Specific Vocational Preparation (SVP) range of 7.0 or higher.

How Do I Find the Qualifying Occupations on the Department of Labor Web site? Qualifying DV Occupations are shown on the Department of Labor *O*Net Online Database.* Follow these steps to find out if your occupation qualifies: Select ''Find Occupations'' and then select a specific ''Job Family.''

For example, select Architecture and Engineering and click ''GO.'' Then click on the link for the specific Occupation. Following the same example, click Aerospace Engineers. After selecting a specific Occupation link, select the tab ''Job Zone'' to find out the designated Job Zone number and Specific Vocational Preparation (SVP) rating range.

14. How will successful entrants be selected?

At the Kentucky Consular Center, all entries received from each region will be individually numbered. After the end of the registration period, a computer will randomly select entries from among all the entries received for each geographic region. Within each region, the first entry randomly selected will be the first case registered, the second entry selected the second registration, etc. All entries received during the registration period will have an equal chance of being selected within each region. When an entry has been selected, the entrant will be sent a notification letter by the Kentucky Consular Center, which will provide visa application instructions. The Kentucky Consular Center will continue to process the case until those selected to be visa applicants are instructed to appear for visa interviews at a U.S. consular office, or until those qualifying to change status in the United States apply at a domestic USCIS office.

Important Note: Notifications to those selected in the random lottery are not sent by E-mail. Should you receive an E-mail notification about your E–DV selection, be aware that the message is not legitimate.

15. May selectees adjust their status with USCIS?

Yes, provided they are otherwise eligible to adjust status under the terms of Section 245 of the INA, selected individuals who are physically present in the United States may apply to the USCIS for adjustment of status to permanent resident. Applicants must ensure that USCIS can complete action on their cases, including processing of any overseas derivatives, before September 30, 2008, since on that date registrations for the DV–2008 program expire. No visa numbers for the DV–2008 program will be available after midnight on September 30, 2008 under any circumstances.

16. Will entrants who are not selected be informed?

No, entrants who are not selected will receive no response to their entry. Only those who are selected will be informed. All notification letters are sent within five to seven months from the end of the application period to the address indicated on the entry. Since there is no notification provided to those not selected, anyone who does not receive a letter five to seven months from the end of the registration period should assume that his/her application has not been selected.

17. How many individuals will be selected?

There are 50,000 DV visas available for DV–2008, but more than that number of individuals will be selected. Because it is likely that some of the first 50,000 persons who are selected will not qualify for visas or pursue their cases to visa issuance, more than 50,000 entries will be selected by the Kentucky Consular Center to ensure that all of the available DV visas are issued. However, this also means that there will not be a sufficient number of visas for all those who are initially selected. All applicants who are selected will be informed promptly of their place on the list. Interviews for the DV–2008 program will begin in October 2007. The Kentucky Consular Center will send appointment letters to selected applicants four to six weeks before the scheduled interviews with U.S. consular officers at overseas posts. Each month visas will be issued, visa number availability permitting, to those applicants who are ready for issuance during that month. Once all of the 50,000 DV visas have been issued, the program for the year will end. In principle, visa numbers could be finished before September 2008. Selected applicants who wish to receive visas must be prepared to act promptly on their cases. Random selection by the Kentucky Consular Center computer as a selectee does not automatically guarantee that you will receive a visa.

18. Is there a minimum age for applicants to apply for the E–DV program?

There is no minimum age to apply for the program, but the requirement of a high school education or work experience for each principal applicant at the time of application will effectively disqualify most persons who are under age 18.

19. Are there any fees for the E–DV program?

There is no fee for submitting an electronic lottery entry. DV applicants must pay all required visa fees at the time of visa application directly to the consular cashier at the embassy or consulate. Details of required diversity visa and immigration visa application fees will be included with the instructions sent by the Kentucky Consular Center to applicants who are selected.

20. Do DV applicants receive waivers of any grounds of visa ineligibility or receive special processing for a waiver application?

No. Applicants are subject to all grounds of ineligibility for immigrant visas specified in the Immigration and Nationality Act. There are neither special provisions for the waiver of any ground of visa ineligibility other than those ordinarily provided in the Act nor special processing for waiver requests.

21. May persons who are already registered for an immigrant visa in another category apply for the dv program?

Yes, such persons may apply for the DV program.

22. How long do applicants who are selected remain entitled to apply for visas in the DV category?

Persons selected in the DV–2008 lottery are entitled to apply for visa issuance only during fiscal year 2008, from October 1, 2007 through September 30, 2008. Applicants must obtain the DV visa or adjust status by the end of the fiscal year. There is no carry-over of DV benefits into the next year for persons who are selected but who do not obtain visas during FY–2008. Also, spouses and children who derive status from a DV–2008 registration can only obtain visas in the DV category between October 2007 and September 2008. Applicants who apply overseas will receive an appointment letter from the Kentucky Consular Center four to six weeks before the scheduled appointment.

23. If an E–DV selectee dies, what happens to the DV case?

The death of an individual selected in the lottery results in automatic revocation of the DV case. Any eligible spouse and/or children are no longer entitled to the DV visa, for that entry.

24. When will E–DV online be available?

Online entry will be available during the registration period beginning at noon EDT (GMT–4) on October 4, 2006 and ending at noon EST (GMT–5) on December 3, 2006.

25. Will I be able to download and save the E–DV entry form to a microsoft word program (or other suitable program) and then fill it out?

No, you will not be able to save the form into another program for completion and submission later. The E–DV Entry Form is a Web form only. This makes it more ''universal'' than a proprietary word processor format. Additionally, it does require that the information be filled in and submitted while on-line.

26. If I don't have access to a scanner, can I send photographs to my relative in the U.S. to scan the photographs, save the photographs to a diskette, and then mail the diskette back to me to apply?

Yes, this can be done as long as the photograph meets the photograph requirements in the instructions, and the photograph is electronically submitted with, and at the same time the E–DV online entry is submitted. The applicants must already have the scanned photograph file when they submit the entry on-line. The photograph cannot be submitted separate from the online application. Only one on-line entry by or for each person can be submitted. Multiple submissions will disqualify the entry for that person for DV–2008. The entire entry (photograph and application together) can be submitted electronically from the United States or from overseas.

27. Can I save the form on-line so that I can fill out part and then come back later and complete the remainder?

No, this cannot be done. The E–DV Entry Form is designed to be completed and submitted at one time. However, because the form is in two parts, and because of possible network interruptions and delays, the E–DV system is designed to permit up to sixty (60) minutes between the downloading of the form and when the entry is received at the E–DV Web site after being submitted online. If more than sixty minutes elapses and the entry has not been electronically received, the information already received is discarded. This is done so that there is no possibility that a full entry could accidentally be interpreted as a duplicate of a previous partial entry. For example, suppose an applicant with a wife and child sends a filled in E–DV Entry Form Part One and then receives Form Part Two, but there is a delay before sending Part Two because of trouble finding the file that holds the child's photograph. If the filled in Form Part Two is sent by the applicant and received by the E–DV Web site within sixty (60) minutes, there is no problem. However, if the Form Part Two is received after sixty (60) minutes have elapsed, the applicant will be informed that he or she must start the entire entry from the beginning. The DV–2008 instructions explain clearly and completely what information is required to fill in the form. This way you can be fully prepared, making sure you have all of the information needed, before you start to complete the form on-line.

28. If the submitted digital images do not conform to the specifications, the procedures state that the system will automatically reject the E–DV entry form and notify the sender. Does this mean I will be able re-submit my entry?

Yes, the entry can be resubmitted. Since the entry was automatically rejected, it was not actually considered as submitted to the E–DV Web site. It does not count as a submitted E–DV entry, and no confirmation notice of receipt is sent. If there are problems with the digital photograph sent, because it does not conform to the requirements, it is automatically rejected by the E–DV Web site. However, the amount of time it takes the rejection message to reach the sender is unpredictable due to the nature of the Internet. If the problem can be fixed by the applicant, and the Form Part One or Two is resent within sixty (60) minutes, there is no problem. Otherwise the submission process will have to be started over. An applicant can try to submit an application as many times as is necessary until a complete application is received and the confirmation notice sent.

29. Will the electronic confirmation notice that the completed E–DV entry form has been received through the online system be sent immediately after submission?

The response from the E–DV Web site which contains confirmation of the receipt of an acceptable E–DV Entry Form is sent by the E–DV Web site immediately. However, how long it takes the response to reach the sender is unpredictable due to the nature of the Internet. If many minutes have elapsed since pressing the 'Submit' button, there is no harm in pressing the 'Submit' button a second time. The E–DV system will not be confused by a situation where the 'Submit' button is hit a second time, because no confirmation response has been received. An applicant can try to submit an application as many times as is necessary until a complete application is received and the confirmation notice sent.

30. How will I know if the notification of selection that I have received is authentic? How can I confirm that I have in fact been chosen in the random DV lottery?

After the individuals have been selected at random from among all qualified entries through the State Department E–DV lottery computer program, they will NOT be notified by e-mail. Those selected will be notified only by letter through the mail between May and July 2007 at the addresses listed on their E–DV entry. Only the randomly selected individuals will be notified. Persons not selected will NOT receive any notification. U.S. embassies and consulates will NOT be able to provide a list of those selected to continue the visa process.

Kentucky Consular Center (KCC) will send the letters notifying those selected. These letters will contain instructions for the visa application process. The instructions say the selected applicants will pay all diversity and immigrant visa fees in person only at the U.S. Embassy or Consulate at the time of the visa application. The Consular Cashier or Consular Officer immediately gives the visa applicant a U.S. Government receipt for payment. You should never send money for DV fees through the mail, through Western Union, or any other delivery service.

The E–DV lottery entries are made on the Internet, on the official U.S. Government E–DV Web site at *www.dvlottery.state.gov.* KCC sends only letters to the selected applicants. KCC, consular offices, or the U.S. Government have never sent e-mails to notify selected individuals, and there are no plans to use e-mail for this purpose for the DV–2008 program.

The Department of State, Visa Services advises the public that only Internet sites including the ''.gov'' indicator are official government Web sites. Many other non-governmental Web sites (e.g., using the suffixes ''.com'' or ''.org'' or ''.net'') provide legitimate and useful immigration and visa related information and services. Regardless of the content of non-governmental Web sites, the Department of State does not endorse, recommend or sponsor any information or material shown at these other Web sites.

Some Web sites may try to mislead customers and members of the public into thinking they are official Web sites and may contact you by e-mail to lure you to their offers. These Web sites may attempt to require you to pay for services such as forms and information

about immigration procedures, which are otherwise free on the Department of State Visa Services Web site, or overseas through the Embassy Consular Section Web sites. Additionally, these other Web sites may require you to pay for services you will not receive, often including diversity immigration application and visa fees in an effort to outright steal your money. Once you send money in one of these scams, you will never see it again. Also, you should be wary of sending any personal information that might be used for identity fraud/theft to these Web sites.

31. How do I report Internet fraud or unsolicited e-mail?

If you wish to file a complaint about Internet fraud, please see the *econsumer.gov* Web site, hosted by the Federal Trade Commission, which is a joint effort of consumer protection agencies from 17 nations at *http://www.econsumer.gov/english/* or go to the Federal Bureau of Investigation (FBI) *Internet Crime Complaint Center or IC3*. To file a complaint about unsolicited e-mail, contact *Department of Justice contact us page.*

List of Countries by Region Whose Natives Are Eligible for DV–2008

The lists below show the countries whose natives are eligible for DV–2008 within each geographic region for this diversity program. The determination of countries within each region is based on information provided by the Geographer of the Department of State. The countries whose natives are not eligible for the DV–2008 program were identified by the U.S. Citizenship and Immigration Services (USCIS) according to the formula in Section 203(c) of the Immigration and Nationality Act. Dependent areas overseas are included within the region of the governing country. The countries whose natives are NOT eligible for this diversity program (because they are the principal source countries of Family-Sponsored and Employment-Based immigration, or ''high admission'' countries) are noted after the respective regional lists.

List of Countries by Region Whose Natives Are Eligible for DV–2008

Africa

Algeria
Angola
Benin
Botswana
Burkina Faso
Burundi
Cameroon
Cape Verde
Central African Republic
Chad
Comoros
Congo
Congo, Democratic Republic of the Cote D'Ivoire (Ivory Coast)
Djibouti
Egypt
Equatorial Guinea
Eritrea
Ethiopia
Gabon
Gambia, The
Ghana
Guinea
Guinea-Bissau
Kenya
Lesotho
Liberia
Libya
Madagascar
Malawi
Mali
Mauritania
Mauritius
Morocco
Mozambique
Namibia
Niger
Nigeria
Rwanda
Sao Tome and Principe
Senegal
Seychelles
Sierra Leone
Somalia
South Africa
Sudan
Swaziland
Tanzania
Togo
Tunisia
Uganda
Zambia
Zimbabwe

List of Countries by Region Whose Natives Are Eligible for DV–2008

Asia

Afghanistan
Bahrain
Bangladesh
Bhutan
Brunei
Burma
Cambodia
East Timor
Hong Kong Special Administrative Region
Indonesia
Iran
Iraq
Israel
Japan
Jordan
Kuwait
Laos
Lebanon
Malaysia
Maldives
Mongolia
Nepal
North Korea
Oman
Qatar
Saudi Arabia
Singapore
Sri Lanka
Syria
Taiwan
Thailand
United Arab Emirates
Yemen

Natives of the following Asian countries are not eligible for this year's diversity program: China [mainland-born], India, Pakistan, South Korea, Philippines, and Vietnam. The Hong Kong S.A.R and Taiwan do qualify and are listed above. Macau S.A.R. also qualifies and is listed below.

List of Countries by Region Whose Natives Are Eligible for DV–2008

Europe

Albania
Andorra
Armenia
Austria
Azerbaijan
Belarus
Belgium
Bosnia and Herzegovina
Bulgaria
Croatia
Cyprus
Czech Republic
Denmark (including components and dependent areas overseas)
Estonia
Finland
France (including components and dependent areas overseas)
Georgia
Germany
Greece
Hungary
Iceland
Ireland
Italy
Kazakhstan
Kyrgyzstan
Latvia
Liechtenstein
Lithuania
Luxembourg
Macau Special Administrative
Macedonia, the Former Yugoslav Republic
Malta
Moldova
Monaco
Montenegro
Netherlands (including components and dependent areas overseas)
Northern Ireland
Norway

Portugal (including components and dependent areas overseas)
Romania
San Marino
Serbia
Slovakia
Slovenia
Spain
Sweden
Switzerland
Tajikistan
Turkey
Turkmenistan
Ukraine
Uzbekistan
Vatican City

Natives of the following European countries are not eligible for this year's diversity program: Great Britain, Poland and Russia. Great Britain (United Kingdom) includes the following dependent areas: Anguilla, Bermuda, British Virgin Islands, Cayman Islands, Falkland Islands, Gibraltar, Montserrat, Pitcairn, St. Helena, Turks and Caicos Islands. Note that for purposes of the diversity program only, Northern Ireland is treated separately; Northern Ireland does qualify and is listed among the qualifying areas.

List of Countries by Region Whose Natives Are Eligible for DV–2008

North America

The Bahamas

In North America, natives of Canada and Mexico are not eligible for this year's diversity program.

Oceania

Australia (including components and dependent areas overseas)
Fiji
Kiribati
Marshall Islands
Micronesia, Federated States of
Nauru
New Zealand (including components and dependent areas overseas)
Palau
Papua New Guinea
Samoa
Solomon Islands
Tonga
Tuvalu
Vanuatu

South America, Central America, and the Caribbean

Antigua and Barbuda
Argentina
Barbados
Belize
Bolivia
Chile
Costa Rica
Cuba
Dominica
Ecuador
Grenada
Guatemala
Guyana
Honduras
Nicaragua
Panama
Paraguay
Saint Kitts and Nevis
Saint Lucia
Saint Vincent and the Grenadines
Suriname
Trinidad and Tobago
Uruguay
Venezuela

Countries in this region whose natives are not eligible for this year's diversity program: Brazil, Colombia, Dominican Republic, El Salvador, Haiti, Jamaica, Mexico, and Peru.

Dated: September 29, 2006.

Maura Harty,

Assistant Secretary for Consular Affairs, Department of State.

[FR Doc. E6–16505 Filed 10–4–06; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Henderson and Buncombe Counties, North Carolina

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent; correction.

SUMMARY: This document corrects three typographical errors in the FHWA's notice of intent, published on June 7, 2006, at 71 FR 33033. The notice of intent advises the public that an Environmental Impact Statement (EIS) will be prepared for a road widening project in Henderson and Buncombe Counties, North Carolina. There were two typographical errors in the **SUMMARY** section and the incorrect route number appeared in the **SUPPLEMENTARY INFORMATION** section. This notice provides the correct information.

FOR FURTHER INFORMATION CONTACT: Clarence W. Coleman, P.E., Operations Engineer, (919) 856–4350, ext. 133, Federal Highway Administration, 310 New Bern Avenue, Suite 410, Raleigh, North Carolina 27601–1418; or Mr. Joseph S. Qubain, Project Manager, (919) 733–7844, ext. 209, North Carolina Department of Transportation (NCDOT), 1548 Mail Service Center, Raleigh, North Carolina 27699–1548.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded using a modem and suitable communications software from the **Federal Register** Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the **Federal Register**'s home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara.*

Background

On June 7, 2006, at 71 FR 33033, the FHWA issued a notice of intent regarding an EIS for a road widening project in North Carolina. The June 7, 2006 notice contained three typographical errors. The purpose of this notice is to correct these errors. First, in the **SUMMARY** section the word ''advice'' should be ''advise''. Second, in the **SUMMARY** section, the word ''multi-land'' should be ''multi-lane''. Finally, in the **SUPPLEMENTARY INFORMATION** section the route, ''NC 255'' should read ''NC 225''.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: September 29, 2006.

Clarence W. Coleman,

P.E., Operations Engineer, Raleigh, North Carolina.

[FR Doc. E6–16480 Filed 10–4–06; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Public Meeting With Public and Agencies Interested in the Corridor Improvement Project on State Route 76 in San Diego County, California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of meeting pursuant to 40 CFR part 1500.

SUMMARY: The Federal Highway Administration (FHWA) and California Department of Transportation (Caltrans) in cooperation with the Army Corps of Engineers are proposing a corridor improvement project on State Route 76 from Melrose Drive in Oceanside to South Mission Road in Bonsall, California.

Caltrans has initiated the required environmental documentation process to analyze potential effects the proposed project alternatives may have on the environment. This notice is to inform you of the scheduled public scoping meeting. The public meeting will

provide you an opportunity to review and discuss proposed project features. Caltrans will consider substantive comments provided and incorporate necessary changes into the ongoing documentation effort.

The public meeting will not have a formal presentation. This will be an ''Open House'' format where there will be the opportunity to speak directly with Caltrans representatives about the project and its environmental impacts. All substantive comments will be addressed in the Draft Environmental Document. Comments will become part of the public record and may be submitted at the meeting via the comment sheets provided, mailed, or submitted verbally to the stenographer.

Information for your review and comment will include corridor mapping, a project fact sheet, an aerial photo simulation, and other project information to be provided by Caltrans specialist staff.

DATES: The meeting will be held on Wednesday, October 18, 2006 from 5 p.m. to 8 p.m.

ADDRESSES: The meeting will be held at the Bonsall Middle School, 31505 Old River Road, Bonsall, California.

FOR FURTHER INFORMATION CONTACT: Steve Healow, FHWA–CADIV Project Development Engineer, at (916) 498–5849; Mark Phelan, Caltrans Project Manager, at (619) 688–6803, or Debra Soifer, Caltrans Associate Environmental Planner, at (619) 688–3106. For general information about transportation issues, please call the Caltrans Public Information Office at (619) 688–6670.

SUPPLEMENTARY INFORMATION: Individuals who require special accommodation (American Sign or Foreign Language interpreter, accessible seating, documentation in alternate formats, *etc.*) are requested to contact the District 11 Public Information Office at (619) 688–6670 at least 14 days prior to the scheduled meeting date. TDD users may contact the California Relay Service TDD line at 1–800–735–2929 or 619/688–3214.

Dated: September 27, 2006.

Lisa Cathcart-Randall,

Senior Transportation Specialist, Federal Highway Administration, Sacramento, California.

[FR Doc. 06–8496 Filed 10–4–06; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in North Carolina

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitation on claims for judicial review of actions by FHWA and other Federal Agencies.

SUMMARY: This notice announces actions taken by the FHWA and other Federal agencies that are final within the meaning of 23 U.S.C. 139 (I)(1). The actions relate to a proposed highway project, Fayetteville Outer Loop, from I–95 south of Fayetteville to U.S. 401 (Ramsey Street) in Fayetteville, North Carolina, Cumberland and Robeson Counties, North Carolina. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139 (I)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filled on or before April 16, 2007. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Clarence W. Coleman, P.E., Operations Engineer, Federal Highway Administration, 310 New Bern Avenue, Ste 410, Raleigh, North Carolina, 27601–1418; Telephone: (919) 856–4350 extension 133; e-mail: *clarence.coleman@fhwa.dot.gov.* FHWA North Carolina Division Office's normal business hours are 8 a.m. to 5 p.m. (Eastern Time). You may also contact Gregory J. Thorpe, Ph.D., Project Development and Environmental Analysis (PDEA) Branch Manager, North Carolina Department of Transportation (NCDOT), 1 South Wilmington Street (Delivery), 1548 Mail Service Center, Raleigh, North Carolina 27699–1548; Telephone (919) 733–3141, *gthorpe@dot.state.nc.us.* NCDOT—PDEA Branch Office's normal business hours are 8 a.m. to 5 p.m. (Eastern Time).

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA and other Federal agencies have taken final agency actions by issuing licenses, permits, and approvals for the following highway project in the State of North Carolina: Fayetteville Outer Loop, Federal Aid No. DPR–0100(001) and DPR–0100(002), from I–95 south of Fayetteville to U.S. 401 (Ramsey Street) in Fayetteville, North Carolina, Cumberland and Robeson Counties, North Carolina. The project will be a 28-mile long, four-lane divided controlled-access freeway on new alignment. The project extends westward from the end of I–295 along the southern boundary of Fort Bragg Military Reservation/northern municipal limits of the City of Fayetteville then turns southward along the western limits of the City of Fayetteville and the Town of Hope Mills until it connects with I–95. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Impact Statement (FEIS) for the project, approved on August 17, 2005, in the FHWA Record of Decision (ROD) issued on January 19, 2006, and in other documents in the FHWA administrative record. The FEIS, ROD, and other documents in the FHWA administrative record file are available by contacting the FHWA or NCDOT at the addresses provided above. The FHWA FEIS and ROD can be viewed at the NCDOT—PDEA Branch, 1 South Wilmington Street, Raleigh, North Carolina; NCDOT—Division 6 Construction Engineer Office, 558 Gillespie Street, Fayetteville, North Carolina and Fayetteville Metropolitan Planning Office (MPO), 130 Gillespie Street, 2nd Floor, Fayetteville, North Carolina.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109].

2. *Air:* Clean Air Act [42 U.S.C. 7401–7671(q)].

3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].

4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536], Marine Mammal Protection Act [16 U.S.C. 1361], Anadromous Fish Conservation Act [16 U.S.C. 757(a)–757(g)], Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)], Migratory Bird Treaty Act [16 U.S.C. 703–712], Magnuson-Stevenson Fishery Conservation and Management Act of 1976, as amended [16 U.S.C. 1801 et seq.].

5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended

[16 U.S.C. 470(f) et seq.]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–11]; Archeological and Historic Preservation Act [16 U.S.C. 469–469(c)]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].

6. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

7. *Wetlands and Water Resources:* Clean Water Act [33 U.S.C. 1251–1377 (Section 404, Section 401, Section 319)]; Coastal Barrier Resources Act [16 U.S.C. 3501–3510]; Coastal Zone Management Act [16 U.S.C. 1451–1465]; Land and Water Conservation Fund (LWCF) [16 U.S.C. 4601–4604]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300(f)–300(j)(6)]; Rivers and Harbors Act of 1899 [33 U.S.C. 401–406]; Wild and Scenic Rivers Act [16 U.S.C. 1271–1287]; Emergency Wetlands Resources Act [16 U.S.C. 3921, 3931]; TEA–21 Wetlands Mitigation [23 U.S.C. 103(b)(6)(m), 133(b)(11)]; Flood Disaster Protection Act [42 U.S.C. 4001–4128].

8. *Hazardous Materials:* Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) [42 U.S.C. 9601–9675]; Superfund Amendments and Reauthorization Act of 1986 (SARA); Resource Conservation and Recovery Act (RCRA) [42 U.S.C. 6901–6992(k)].

9. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139 (I)(1).

Issued on: September 29, 2006.

Clarence W. Coleman,

P.E., Operations Engineer, Raleigh, North Carolina.

[FR Doc. E6–16479 Filed 10–4–06; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA–2005–23112]

Motorcyclist Advisory Council to the Federal Highway Administration

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of meeting of advisory committee.

SUMMARY: This document announces the first meeting of the Motorcyclist Advisory Council to the Federal Highway Administration (MAC–FHWA). The purpose of this meeting is to advise the Secretary of Transportation, through the Administrator of the Federal Highway Administration, on infrastructure issues of concern to motorcyclists, including (1) barrier design; (2) road design, construction, and maintenance practices; and (3) the architecture and implementation of intelligent transportation system technologies, pursuant to Section 1914 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU).

DATES: The first meeting of the MAC–FHWA is scheduled for October 24, 2006, from 8:30 a.m. until 4:30 p.m.

ADDRESS: The first MAC–FHWA meeting will be held at the Holiday Inn Capitol, 550 C Street, SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Halladay, the Designated Federal Official, Office of Safety, 202–366–2288, (*michael.halladay@dot.gov*), or Dr. Morris Oliver, Office of Safety, 202–366–2251, (*morris.oliver@dot.gov*), Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

On August 10, 2005, the President signed into law the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) (Pub. L. 109–59, 119 Stat. 1144). Section 1914 of SAFETEA–LU mandates the establishment of the Motorcyclist Advisory Council as follows: ''The Secretary, acting through the Administrator of the Federal Highway Administration, in consultation with the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, shall appoint a Motorcyclist Advisory Council to coordinate with and advise the Administrator on infrastructure issues of concern to motorcyclists, including—

(1) barrier design;

(2) road design, construction, and maintenance practices; and

(3) the architecture and implementation of intelligent transportation system technologies.''

In addition, Section 1914 specifies the membership of the council: ''The Council shall consist of not more than 10 members of the motorcycling community with professional expertise in national motorcyclist safety advocacy, including—

(1) at least—

(A) one member recommended by a national motorcyclist association;

(B) one member recommended by a national motorcycle riders foundation;

(C) one representative of the National Association of State Motorcycle Safety Administrators;

(D) two members of State motorcyclists' organizations;

(E) one member recommended by a national organization that represents the builders of highway infrastructure;

(F) one member recommended by a national association that represents the traffic safety systems industry; and

(G) one member of a national safety organization; and

(2) at least one, and not more than two, motorcyclists who are traffic system design engineers or State transportation department officials.''

To carry out this requirement, the FHWA published a notice of intent to form an advisory committee in the **Federal Register** on December 23, 2005 (70 FR 76353). This notice, consistent with the requirements of the Federal Advisory Committee Act (FACA), announced the establishment of the Council and invited comments and nominations for membership.

A total of forty-four (44) nominations were received to the docket for the motorcyclist advisory council; thirty-nine (39) were for specific individuals and five (5) nominated specific organizations. Many nominations came with multiple endorsements from Congress, motorcyclist organizations, and motorcycle companies. In addition, there were twenty-three (23) self-nominations. The FHWA selected the members based on elements such as consistency with the Congressional direction on the composition of the advisory council; recommendations received from associations and other organizations, Congressional recommendations; experience related to motorcyclist safety and transportation infrastructure; and geographical representation among the States. The

ten (10) selected members, their roles, and who nominated them are as follows:

Ed Moreland, Vice President, Government Relations, American Motorcyclist Association (AMA), will serve as a member recommended by a national motorcyclist association. Mr. Moreland was recommended by Senator James Inhofe and Representatives Sherwood Boehlert, Peter DeFazio, Sam Graves and Thomas Petri, as well as Wayne T. Curtin (Harley Davidson Motorcycles) and Robert Razor (AMA). Mr. Moreland was also self-nominated.

Jeff Hennie, Vice President Government Relations, Motorcycle Riders Foundation, will serve as a member recommended by a national motorcycle riders foundation. Mr. Hennie was self-nominated.

Ken Kiphart, Chairperson and a member of the Executive Committee of the National Association of State Motorcycle State Administrators and Administrator of the Nevada Department of Public Safety, will serve as a representative of the National Association of State Motorcycle Safety Administrators. Mr. Kiphart was self-nominated.

Darrel Killion, State Coordinator for A Brotherhood for Awareness, Training and Education (ABATE) of South Dakota, will serve as a member of a State motorcyclist organization. Mr. Killion was recommended by Senators John Thune and Tim Johnson and Representative Stephanie Herseth. Mr. Killion was self-nominated.

Steven P. Zimmer, State Executive Director, American Bikers Aimed Toward Education (ABATE) of Ohio, will serve as a member of a State motorcyclist organization. Mr. Zimmer was recommended by Representative Ted Strickland. Mr. Zimmer was also self-nominated.

Gerald J. Salontai, P.E. President and CEO of Kleinfelder, Inc., will serve as a member recommended by a national organization that represents the builders of highway infrastructure. Mr. Salontai was recommended by the American Road and Transportation Builders Association (ARTBA).

Robert J. McClune, Executive Vice President and General Manager of North American Potters Industries, will serve as a member recommended by a national association that represents the traffic safety systems industry. Mr. McClune was recommended by the American Traffic Safety Services Association (ATSSA).

Kathy Van Kleeck, Vice President, Government Relations, Motorcycle Safety Foundation (MSF), will serve as a member of a national safety organization. Ms. Van Kleeck was recommended by Senator James Inhofe.

Mark Bloschock, P.E., Manager, Special Projects Branch, Texas Department of Transportation (TXDOT), will serve as a member who is a motorcyclist and a traffic systems design engineer or State transportation department official. Mr. Bloschock was recommended by the American Association of State Highway and Transportation Officials (AASHTO).

Donald Vaughn, Chief Engineer/ Deputy Director of Operations Alabama Department of Transportation, will serve as a member who is a motorcyclist and a traffic systems design engineer or State transportation department official. Mr. Vaughn was recommended by the American Association of State Highway and Transportation Officials (AASHTO).

The FHWA anticipates that the MAC-FHWA will meet at least once a year, with meetings held in Washington, DC, and the FHWA will publish notices in the **Federal Register** to announce the times, dates, and locations of these meetings. Meetings of the Council are open to the public and time will be provided in each meeting's schedule for comments by members of the public. Attendance will necessarily be limited by the size of the meeting room. Members of the public may present oral or written comments at the meeting or may present written materials by providing copies to Ms. Fran Bents, Westat, 1650 Research Boulevard, Rockville, MD 20850–3195, (240) 314–7557, ten (10) days prior to the meeting.

The agenda topics for the meetings will include a discussion of the following issues: (1) Barrier design; (2) road design, construction, and maintenance practices; and (3) the architecture and implementation of intelligent transportation system technologies.

Conclusion: The first meeting of the Motorcyclist Advisory Council to the Federal Highway Administration will be held on October 24, 2006, at the Holiday Inn Capitol, 550 C Street, SW., Washington, DC 20024 from 8:30 a.m. until 4:30 p.m.

(Authority: Section 1914 of Pub. L. 109–59; Public L. 92–463, 5 U.S.C., App. II § 1.)

Issued on: September, 29, 2006.

J. Richard Capka,

Federal Highway Administrator.

[FR Doc. E6–16516 Filed 10–4–06; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Blacklands Railroad (Waiver Petition Docket Number FRA–2006–25629)

The Blacklands Railroad (BLR) seeks a waiver of compliance from certain provisions of safety glazing standards, 49 CFR 223.11, that requires certified glazing for one locomotive, BLR 4014. The BLR is located in Sulphur Springs, Texas. BLR states that they operate limited service in a rural territory at speeds of 10 mph. The locomotive is generally not used for freight service but operates primarily to move cars back and forth at a trans-load site for grain products. At other times, it operates between Greenville, Texas, and Mt. Pleasant, Texas, in northeastern Texas.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.*, Waiver Petition Docket Number 2006–25629) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet

at the docket facility's Web site at *http://dms.dot.gov*.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78). The Statement may also be found at *http://dms.dot.gov*.

Issued in Washington, DC on October 2, 2006.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E6–16472 Filed 10–4–06; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Dakota Northern Railroad (DN) (Waiver Petition Docket Number FRA–2006–24453)

The Dakota Northern Railroad (DN) seeks a waiver of compliance from certain provisions of the Safety Glazing Standards, 49 CFR 223.11(c), which require certified glazing for existing locomotives. This request is for one locomotive, specifically EMD, model (NW2) number DN 1019.

The DN is located in Crookston, MN, and operates within a 5-mile round trip during industry switching operations under yard limit rules. DN 1019 operates at a speed not exceeding 20 mph. DN 1019 is equipped with automotive-type safety glass and does not meet Federal glazing standards.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number 2006–24453) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78). The Statement may also be found at *http://dms.dot.gov.*

Issued in Washington, DC on October 2, 2006.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E6–16474 Filed 10–4–06; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Durbin & GreenBriar Valley Railroad, Inc. (Waiver Petition Docket Number FRA–2006–24561)

The Durbin & Greenbriar Valley Railroad, Inc. (DGVRR) seeks a waiver of compliance from certain provisions of the Safety Glazing Standards, 49 CFR 223.9(a), requirements for new or rebuilt equipment for two locomotives. The locomotives are BEEM 113 and BEEM 115. The DGVRR is headquartered in Durbin, WV. The DGVRR states they operate in a remote and isolated area of Beech Mountain at speeds not exceeding 10 mph.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number 2006–24561) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78). The Statement may also be found at *http://dms.dot.gov.*

Issued in Washington, DC on October 2, 2006.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E6–16473 Filed 10–4–06; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

The Messena Terminal Railroad Company (Docket Number FRA–2000–7949)

The Messena Terminal Railroad Company (MSTR), a home shop fleet of 71 AOCX aluminum covered hopper cars, has petitioned FRA for an extension of and modification to, the waiver granted on October 17, 2001 in FRA Docket No. 2000–7949. Specifically, MSTR has requested that the existing waiver be modified as follows:

1. Eliminate the requirement in condition no. 6 to lower the handbrake assembly and comply with 49 CFR 231.27(i)(iii) since § 231.27(i)(iii) only applies to cars that were built or placed into service after October 1, 1966, and that do not have roof hatches.

2. Remove condition no. 7 requiring MSTR to report immediately to FRA's Office of Safety any injury involving glazing that results from the use of the locomotive subject to this waiver since all locomotives comply with 49 CFR 223 Safety Glazing Standards.

3. Reword condition no. 4 to allow running boards to be relocated to the outboard area, provided the welding of attachment points is performed by an industry recognized, certified welder; where a sampling of welds are tested per industry standards, and the welds comply 100% with those standards. In support of this request, MSTR notes that upon completion of these modifications/repairs, the AOCX cars are expected to be in full compliance with 49 CFR 231.1(c) (Running boards).

4. Eliminate condition no. 5 which requires that each car in the pool be stencilled with the words ''Keep Off Roof-No Running Board'' as outlined in 49 CFR 231.27(i)(iii) since each railcar roof is currently equipped with a running board.

5. MSTR requests that FRA extend the waiver granted on October 17, 2001, for a minimum of one additional year in order to complete the modifications/repairs needed for running boards to be relocated to the outer area.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA–2000–7949) and must be submitted in triplicate to the Docket Clerk, DOT Central Docket Management Facility, Room Pl-401, Washington, DC, 20590–0001. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m–5 p.m.) at DOT Central Docket Management Facility, Room Pl-401 (Plaza Level), 400 Seventh Street SW., Washington, DC. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov*.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19377–78). The statement may also be found at *http://dms.dot.gov*.

Issued in Washington, DC on October 2, 2006.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E6–16471 Filed 10–4–06; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance from certain requirements of its safety regulations. The individual petition is described below including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Minnesota Transportation Museum, Inc. (Waiver Petition Docket Number FRA–2006–24775)

The Minnesota Transportation Museum (MTM) seeks a waiver of compliance from certain provisions of 49 CFR Part 232, *Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment.* Specifically, § 232 Appendix B-Part 232, prior to May 31, 2001, § 232.17(b)(2) for passenger car maintenance requirements.

MTM is a nonprofit corporation that operates a historical and excursion train as the Osceola and St. Croix Valley Railway between Dresser, Wisconsin and Withrow, Minnesota, a distance of 25 miles, over Canadian National track. Operation of this train is from mid April to the end of October on Thursdays, Saturdays and Sundays, a total of approximately 70 operating days.

MTM currently operates three passenger coaches equipped with UC-type brakes that require a clean oil test and stencil (COT&S) every 15 months, as prescribed in the Manual of Standards and Recommended Practices of the Association of American Railroads, S–045, which was last published in 1984. MTM is requesting that a waiver be granted to extend the COT&S time period from 15 months to 24 months. This would give MTM the ability to operate for two operating seasons between COT&S events. This would also provide a savings of $640 per year in COT&S costs for this nonprofit organization.

Also, MTM currently operates four passenger coaches equipped with D–22 type brakes that requires a COT&S every 24 months, as prescribed in the Manual of Standards and Recommended Practices of the Association of American Railroads, S–045, which was last published in 1984. MTM is requesting that a waiver be granted to extend the COT&S time period from 24 months to

36 months. This would give MTM the ability to operate for three operating seasons between COT&S events. The cost for the COT&S for the four coaches is $6,684. Extending the COT&S interval by one-third (24 months to 36 months) would provide a savings of $2,172 per year in COT&S costs for this nonprofit organization.

MTM declares that safety will not be compromised if this waiver is granted based on their 15 + years of experience with both the UC and D–22 type brake systems. MTM states that previous COT&S events have found the lubricant to be fresh with no detectable signs of deterioration. MTM also notes that since the UC and D–22 brakes were developed in the 1920's to 1950s, there has been considerable improvement in lubricant quality and considerable improvement in all of the flexible gasket and O-ring type materials that makes up these brake systems. It must be also noted that MTM currently has another waiver pending, docket number FRA–2006–24774, requesting an extension of the COT&S interval on one passenger coach equipped with LN-type brakes.

Interested parties are invited to submit written comments to FRA. All written communications concerning this petition should identify the appropriate docket number (e.g., Docket Number FRA–2006–24775) and must be submitted in triplicate to the Associate Administrator for Safety, Federal Railroad Administration, 400 7th Street, SW., Washington, DC 20590–0001. Comments received within *45 days* of the date of this notice will be considered by FRA before any final action is taken. Although FRA does not anticipate scheduling a public hearing in connection with these proceedings, if any interested party desires an opportunity for oral comment, they should notify FRA in writing before the end of the comment period and specify the basis for their request.

All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the Central Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, D.C. 20590. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site *http://dms.dot.gov.*

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) at *http://dms.dot.gov.*

Issued in Washington, DC on October 2, 2006.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E6–16470 Filed 10–4–06; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Safety Advisory 2006–04, Notice No. 2

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Safety Advisory 2006–04 (Notice No. 2); Tank Cars with Stub Sills.

SUMMARY: On May 1, 2006, FRA issued Safety Advisory 2006–04 recommending that owners of tank cars equipped with the ACF Industries, Incorporated (ACF) 200 stub sill design, inspect and enhance the underframes of such tank cars in accordance with ACF's Maintenance Bulletin TC–200 (issued in 1994) and by installing the P470 angle application head brace. *See* 71 FR 26604 (May 5, 2006). The Safety Advisory indicated that owners should contact ACF for a copy of the Maintenance Bulletin and for clarification of procedures and any additional information. This Notice announces the availability of a revised Maintenance Bulletin and updates the contact information for obtaining a copy of the Bulletin.

FOR FURTHER INFORMATION CONTACT: Albert R. Taber or Thomas A. Phemister, Railroad Safety Specialists (Hazardous Materials), Hazardous Materials Division, Office of Safety Assurance and Compliance, Federal Railroad Administration, U.S. Department of Transportation, 1120 Vermont Avenue, NW., Washington, DC 20590–0001 (telephone: (202) 493–6254 or (202) 493–6050; e-mail: *al.taber@dot.gov* or *tom.phemister@dot.gov*).

SUPPLEMENTARY INFORMATION:

Background

As noted in Safety Advisory 2006–04 issued on May 1, 2006, since 1990, FRA, in conjunction with Transport Canada, has documented approximately eleven known defects on tank cars built with the ACF 200 stub sill design (ACF–200 tank cars). These defects included tank head cracks, pad to tank cracks, sill web cracks, and tank car buckling that in some instances led to hazardous materials incidents. In addition, the Association of American Railroads (AAR) Stub Sill (SS–3) inspection data related to ACF–200 tank cars shows significant percentages of longitudinal weld cracks located in the pad to sill area, and parent metal cracks in the pad. These cracks present a possible source of the loss of tank integrity which could lead to unintended releases of hazardous materials from ACF–200 tank cars.

As detailed in the Safety Advisory issued on May 1, 2006, FRA has learned that the safety concerns with the ACF–200 stub sill design are fatigue related which could be addressed through periodic inspection and modification of the tank cars at certain intervals determined by mileage and re-qualification inspection and maintenance dates. Specifically, FRA understands that the fatigue-related safety concerns with the ACF–200 stub sill design can be eliminated by modifying the underframe of the tank car in accordance with ACF's Maintenance Bulletin TC–200 (ACF Style 200 Stub Sill Underframe Enhancement, issued in May 1994) and installing the P470 angle application head brace (P470 Angle Application). Once such modifications are made to ACF–200 tank cars, the tank cars are transformed into what is known as the ACF–270 stub sill design. According to ACF, this program of retrofitting ACF–200 tank cars to the ACF–270 design, began nearly a decade ago and has progressed through the fleet, resulting in the majority of the affected cars having already been retrofitted to the ACF–270 design.

As also noted in Safety Advisory 2006–04, FRA is aware that most interested parties agree with ACF and FRA that a retrofit program is the best course of action. FRA agrees with ACF that the program established by the 1994 Maintenance Bulletin TC–200, augmented by the P470 Angle Application, is an effective method of addressing the fatigue-related safety concerns with ACF–200 tank cars. Accordingly, on May 1, 2006, FRA issued Safety Advisory 2006–04 recommending that owners of unmodified ACF–200 tank cars bring these cars into conformity with Maintenance Bulletin TC–200 and the P470 Angle Application at the earliest practicable date. *See* 71 FR 26604. Subsequent to publication of the Safety Advisory, FRA learned that ACF revised Maintenance Bulletin TC–200 on May 5, 2006. The revised Maintenance Bulletin,

TC–200 Revision A, incorporates the P470 Angle Application. This Notice No. 2 to Safety Advisory 2006–04 announces the availability of the revised Maintenance Bulletin. In addition, this Notice provides updated contact information for obtaining a copy of the Maintenance Bulletin from ACF.

Recommended Action: FRA is reiterating below its original recommended actions published in Safety Advisory 2006–04, with two minor revisions. First, FRA is recommending that ACF–200 tank car owners obtain a copy of the revised version of ACF Maintenance Bulletin TC–200 (Revision A). Second, FRA has updated the contact information for obtaining the revised Bulletin from ACF.

1. ACF–200 tank car owners should enter into discussions with the car builder and decide the best course of action with regard to inspection of and modifications to tank cars built with the ACF–200 stub sill design and not yet retrofitted to the ACF–270 design. Copies of the ACF Maintenance Bulletin TC–200 Revision A are available to owners of tank cars built with the ACF–200 underframe from—Mr. Dave Maechling, Senior Manager Leasing Services, American Railcar Leasing, 620 North Second Street, St. Charles, MO 63301. (*Dmaechling@arleasing.com*).

2. ACF–200 tank car owners should modify ACF–200 tank cars to the ACF–270 design at the earliest of any of the following events:

- A tank car is due for re-qualification under 49 CFR 180.509;
- A tank car is recalled under an AAR Maintenance Advisory requiring modification in the draft sill area;
- A tank car has been in service for 150,000 miles; or
- A tank car requires general repairs and the repairs consume (or are expected to consume) at least 36 hours.

3. First priority in modifying unretrofitted ACF–200 tank cars to the ACF–270 design should go to cars in the general service fleet and, then, to the pressure car fleet.

As noted in the Safety Advisory issued on May 1, 2006, FRA policy is that the owner of the car's reporting marks is the owner of the car and primarily responsible for maintaining the car in a safe and compliant condition. However, for purposes of this Safety Advisory, FRA expects cooperation from the entity who controls the usage of the car in day to day operations, from the lessee/shipper, and from the title holder of the car. Although FRA does not see the need for further regulatory or enforcement action at this time, FRA will continue to monitor the status of ACF–200 tank cars in the hazardous materials industry and will take any necessary regulatory or enforcement action to ensure the highest level of safety on the nation's railroads.

Issued in Washington, DC, on October 2, 2006.

Jo Strang,

Associate Administrator for Safety.

[FR Doc. E6–16477 Filed 10–4–06; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket No. FRA–2006–25864

Applicant: Canadian National Railway, Mr. Timothy R. Luhm, Senior Manager of S&C, Signal and Communications, 1625 Depot Street, Stevens Point, Wisconsin 54481.

The Canadian National Railway (CN) seeks approval of the proposed discontinuance and removal of the traffic control system on the Neenah siding runner track, from milepost 184.29 to milepost 187.42, Wisconsin Zone, Neenah Subdivision, near Neenah, Wisconsin.

The reason given for the proposed changes is that the traffic control system impedes train operations. When this section of the traffic control system was installed in the first quarter of 2006, the original plan was to run through trains on this track; however, the operation plan has since changed.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and include a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov*.

FRA wishes to inform all potential commenters that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov*.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on October 2, 2006.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E6–16475 Filed 10–4–06; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

[Docket Number FRA–2006–25893]

Applicants: Union Pacific Railroad Company, Mr. Thomas T. Ogee, Assistant Vice President, Engineering

Design, 1400 Douglas Street, Mail Stop 0910, Omaha, NE 68179. Peoria and Pekin Union Railway, Mr. Paul D. Feltenstein, President, P. O. Box 139, Springfield, IL 62705.

The Union Pacific Railroad Company (UP) and the Peoria and Pekin Union Railway (PPU), jointly seek approval of the proposed discontinuance and removal of Darst Interlocking, at milepost 82.6, on UP's Adams Street Low Line in Peoria, Illinois. The proposed changes consist of the discontinuance and removal of three controlled signals and the electric lock from the hand-operated switch at the connection between UP and PPU.

The reason given for the proposed changes is that there is no longer a need for the interlocking since the removal of BNSF Railway's crossing at grade.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the addresses listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable.

All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA wishes to inform all potential commenters that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC, on October 2, 2006.

Grady C. Cothen, Jr.

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E6–16476 Filed 10–4–06; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2006 25954]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel ARIEL.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2006–25954 at *http://dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before November 6, 2006.

ADDRESSES: Comments should refer to docket number MARAD 2006–25954. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel ARIEL is:

Intended Use: ''Bareboat, and Captained Charters and Sailing School in the Florida Keys out of Key West.''

Geographic Region: Florida Keys.

Dated: September 26, 2006.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. E6–16431 Filed 10–4–06; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2006 25986]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel FINAL EDITION.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2006–25986 at *http://dms.dot.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or

businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before November 6, 2006.

ADDRESSES: Comments should refer to docket number MARAD 2006–25986. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel FINAL EDITION is:

Intended Use: ''Bareboat charter. Occasional skippered charter.''

Geographic Region: Washington and Canadian waters.

Dated: September 29, 2006.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. E6–16433 Filed 10–4–06; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2006 25987]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel ROCK ON.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2006–25987 at *http://dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before November 6, 2006.

ADDRESSES: Comments should refer to docket number MARAD–2006 25987. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel ROCK ON is:

Intended Use: ''6 pack chartering.''

Geographic Region: Chesapeake Bay and tributaries, and coasts of Delaware, Maryland, and Virginia.

Dated: September 29, 2006.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. E6–16425 Filed 10–4–06; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2006 25952]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel STURDY.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2006–25952 at *http://dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state

the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before November 6, 2006.

ADDRESSES: Comments should refer to docket number MARAD–2006 25952. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel STURDY is:

Intended Use: ''Charter.''

Geographic Region: Maryland, Virginia, North Carolina.

Dated: September 26, 2006.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. E6–16432 Filed 10–4–06; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2006 25953]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel THIRD WISH.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2006–25953 at *http://dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before November 6, 2006.

ADDRESSES: Comments should refer to docket number MARAD–2006 25953. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel THIRD WISH is:

Intended Use: ''Uninspected passenger vessel.''

Geographic Region: East coast of Florida and the Florida Keys.

Dated: September 26, 2006.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. E6–16429 Filed 10–4–06; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Indexing the Annual Operating Revenues of Railroads

This Notice sets forth the annual inflation adjusting index numbers which are used to adjust gross annual operating revenues of railroads for classification purposes. This indexing methodology will insure that regulated carriers are classified based on real business expansion and not from the effects of inflation. Classification is important because it determines the extent of reporting for each carrier.

The railroad's inflation factors are based on the annual average Railroad's Freight Price Index. This index is developed by the Bureau of Labor Statistics (BLS). This index will be used to deflate revenues for comparison with established revenue thresholds.

The base year for railroads is 1991. The inflation index factors are presented as follows:

RAILROAD FREIGHT INDEX

Year	Index	Deflator
1991	409.50	[1] 100.00
1992	411.80	99.45
1993	415.50	98.55
1994	418.80	97.70
1995	418.17	97.85
1996	417.46	98.02
1997	419.67	97.50
1998	424.54	96.38
1999	423.01	96.72
2000	428.64	95.45
2001	436.48	93.73
2002	445.03	91.92
2003	454.33	90.03
2004	473.41	86.40
2005	522.41	78.29

Ex Parte No. 492, *Montana Rail Link, Inc., and Wisconsin Central Ltd., Joint Petition For Rulemaking With Respect To 49 CFR 1201*, 8 I.C.C. 2d 625 (1992), raised the revenue classification level for Class I railroads from $50 million to $250 million (1991 dollars), effective for the reporting year beginning January 1, 1992. The Class II threshold was also revised to reflect a rebasing from $10 million (1978 dollars) to $20 million (1991 dollars).

EFFECTIVE DATE: January 1, 2005.

FOR FURTHER INFORMATION CONTACT: Scott Decker (202) 565–1531. [Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339]

By the Board, Leland L. Gardner, Director, Office of Economics, Environmental Analysis, and Administration.

Vernon A. Williams,

Secretary.

[FR Doc. E6–16478 Filed 10–4–06; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Bureau of Engraving and Printing

Senior Executive Service Combined Performance Review Board (PRB)

AGENCY: Treasury Department, Bureau of Engraving & Printing.

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 (BEP), the Financial Management Service (FMS), the Bureau of the Public Debt (BPD), the United States Mint and the Alcohol and Tobacco Tax and Trade Bureau (TTB). 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 Greiner, Associate Director/ Chief Financial Officer, United States Mint.

John R. Swales, Commissioner, Office of Securities Operations, BPD.

Gary Grippo, Assistant Commissioner, Federal Finance, FMS.

John Manfreda, Administrator, TTB.

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.

Rita Bratcher, Assistant Commissioner, Debt Management Service, FMS.

Vicky McDowell, Deputy Administrator, TTB.

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 R. Felix,

Director, Bureau of Engraving & Printing.

[FR Doc. E6–16444 Filed 10–4–06; 8:45 am]

BILLING CODE 4840–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Cemeteries and Memorials; Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Advisory Committee on Cemeteries and Memorials will be held on November 8–9, 2006. On November 8 the session will be at 811 Vermont Avenue, NW., Washington, DC Room 442 from 8 a.m. until 3:30 p.m. and on November 9, the session will be at 810 Vermont Avenue, NW., Room 430 from 2:30 p.m. until 4 p.m. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the administration of national cemeteries, soldiers' lots and plots, the selection of new national cemetery sites, the erection of appropriate memorials, and the adequacy of Federal burial benefits.

On November 8 the Committee will receive updates on National Cemetery Administration issues. On November 9 the Committee will tour the Crownsville (MD) Veterans Cemetery, the Annapolis National Cemetery and the United States Naval Academy Cemetery in the morning, returning to VA central offices for a business session in the afternoon, which will include discussions of Committee recommendations, future meeting sites, and potential agenda topics.

Time will not be allocated for receiving oral presentations from the public. Any member of the public wishing to attend the meeting should contact Mr. Michael Nacincik, Designated Federal Officer, at (202) 273–5221. The Committee will accept written comments. Comments may be transmitted electronically to the Committee at *mike.nacincik@mail.va.gov* or mailed to the National Cemetery Administration, (41C2), 810 Vermont Avenue, NW., Washington, DC 20420. In the public's communications with the Committee, the writers must identify themselves and state the organizations, associations, or persons they represent.

Dated: September 28, 2006.

By direction of the Secretary

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 06–8487 Filed 10–4–06; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Professional Certification and Licensure Advisory Committee; Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Professional Certification and Licensure Advisory Committee has scheduled a meeting for October 26, 2006 in Room 930 at the Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC, from 8:30 a.m. to 4 p.m. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the requirements of organizations or entities offering licensing and certification tests to individuals for which payment for such tests may be made under Chapters 30, 32, 34, or 35 of title 38, United States Code.

The meeting will open with remarks by Ms. Sandra Winborne, Committee Chair. During the morning session, the Committee will discuss their final report to the Secretary, review current licensure and certification data, and receive certificates of appreciation. The afternoon session will include further discussion on recommendations to the Secretary, statements from the public, old business, and any new business.

Interested persons may file written statements to the Committee before the meeting, or within 10 days after the meeting, with Mr. Sal Garner, Education Service (225B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Oral statements from the public will be heard at 2 p.m. Anyone wishing to attend the meeting should contact Mr. Sal Garner or Mr. Robyn Noles at (202) 273–7187.

Dated: September 28, 2006. By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 06–8488 Filed 10–4–06; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Thursday,
October 5, 2006

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Parts 1, 21, 43, and 45
Production and Airworthiness Approvals, Part Marking, and Miscellaneous Proposals; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 1, 21, 43, and 45

[Docket No. FAA–2006–25877; Notice No. 06–15]

RIN 2120–AI78

Production and Airworthiness Approvals, Part Marking, and Miscellaneous Proposals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA is proposing changes to its certification procedures and identification requirements for aeronautical products and parts. The proposed changes address standardizing requirements for production approval holders; requiring production approval holders to issue airworthiness approvals for aircraft engines, propellers, and other aviation parts; requiring manufacturers to mark all parts and components; and revising export airworthiness approval requirements to facilitate global manufacturing. The intent of these proposed changes is to promote safety by ensuring that aircraft, and parts designed specifically for use in aircraft, wherever manufactured, meet applicable standards. This action is also necessary to update our regulations to reflect the current global aircraft and aircraft parts manufacturing environment.

DATES: Send your comments on or before January 3, 2007.

ADDRESSES: You may send comments identified by Docket Number FAA–2006–25877 using any of the following methods:

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.
- Fax: 1–202–493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For more information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

Privacy: The FAA will post all comments received, without change, to *http://dms.dot.gov*, including any personal information you provide. For more information, see the Privacy Act discussion in the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: To read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Barbara Capron, Production Certification Branch, AIR–220, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3343.

SUPPLEMENTARY INFORMATION:

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I. Comments Invited

The FAA invites interested persons to participate in this rulemaking by sending written comments, data, or views. We also invite comments related to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send two copies of written comments.

We will file, in the docket, all comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the Web address in the **ADDRESSES** section.

Privacy Act: Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment on behalf of an association, business, labor union, and so on.). You may review DOT's complete Privacy Act Statement in the **Federal Register** (65 FR 19477–78, April 11, 2000) or you may visit *http://dms.dot.gov*.

Before acting on this proposal, we will consider all comments received on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments received.

If you mail your comments and want us to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

Readers should note that the FAA has posted on its Web site (*http://www.faa.gov/aircraft/draft_docs/*) four draft Advisory Circulars (ACs). These ACs describe ways to comply with the requirements of this NPRM. We invite you to send comments on the draft ACs to reach us by the date specified in the **DATES** section of this NPRM. Send your comments using any of the methods described in the **ADDRESSES** section of this NPRM. Note that the docket for AC comments (FAA–2006–25882) is different from the docket for NPRM comments.

II. Availability of Rulemaking Documents

You can get an electronic copy using the Internet by—

(1) Searching the Department of Transportation's electronic Docket Management System (DMS) Web page (*http://dms.dot.gov/search*);

(2) Visiting the Office of Rulemaking's Web page at *http://www.faa.gov/avr/arm/index.cfm*; or

(3) Accessing the Government Printing Office's Web page at *http://www.access.gpo.gov/su_docs/aces/aces140.html*.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.

III. Proprietary or Confidential Business Information

Do not file in the docket information that you consider to be proprietary or confidential business information. Send or deliver this information directly to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document. You must mark the information that you consider proprietary or confidential. If you send the information on a disk or CD ROM, mark the outside of the disk or CD ROM and also identify electronically within the disk or CD ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), when we are aware of proprietary information filed with a comment, we do not place it in the docket. We hold it in a separate file to which the public does not have access, and place a note in the docket that we have received it. If we receive a request to examine or copy this information, we treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). We process such a request under the DOT procedures found in 49 CFR part 7.

IV. Guide to Terms and Acronyms Used in This Document

APIS—Approved Production Inspection System
ARAC—Aviation Rulemaking Advisory Committee
BAA—Bilateral Airworthiness Agreement
BASA—Bilateral Aviation Safety Agreement
EASA—European Aviation Safety Agency
FAA—Federal Aviation Administration
FR—**Federal Register**
ICAO—International Civil Aviation Organization
NPRM—Notice of Proposed Rulemaking
PAH—Production Approval Holder
PC—Production Certificate
PMA—Parts Manufacturer Approval
STC—Supplemental Type Certificate
TC—Type Certificate
TSO—Technical Standard Order

V. Authority for This Rulemaking

Under the laws of the United States, the Department of Transportation has the responsibility to develop transportation policies and programs that contribute to providing fast, safe, efficient, and convenient transportation (49 U.S.C. 101). The Federal Aviation Administration (FAA or ''we'') is an agency of the Department. The FAA has general authority to issue rules regarding aviation safety, including minimum standards for appliances and for the design, material, construction, quality of work, and performance of aircraft, aircraft engines, and propellers (49 U.S.C. 106(g) and 44701). We may also prescribe regulations in the interest of safety for registering and identifying an aircraft engine, propeller, or appliance (49 U.S.C. 44104).

The FAA may issue, among other things, type certificates, production certificates and airworthiness certificates (49 U.S.C. 44702). We issue a production certificate authorizing the production of a duplicate of an aircraft, aircraft engine, propeller, or appliance for which a type certificate has been issued when we find the duplicate will conform to the certificate. We may include in a production certificate terms required in the interest of safety. We issue an airworthiness certificate for an aircraft when we find the aircraft conforms to its type certificate and is in condition for safe operation. We may include in an airworthiness certificate terms required in the interest of safety (49 U.S.C. 44704).

In this document, we are proposing changes to our regulations governing the certification procedures for products and parts and our requirements for identification and registration marking. These changes will improve the quality standards applicable to manufacturers, which helps ensure that aircraft and aircraft parts are produced as designed and are safe to operate. These changes will also make it easier for manufacturers to produce and obtain aircraft parts in the global marketplace, which should aid the efficiency and competitiveness of the industry. We are also proposing to upgrade and standardize our requirements for marking parts intended for use in aviation. These changes will make it easier to determine whether the correct parts are installed, which should contribute to a greater degree of safety. For these reasons, this proposal, if adopted, would be a reasonable and necessary exercise of the FAA's rulemaking authority and obligations.

VI. Background

Although 14 CFR part 21 has been amended approximately eighty times since it was codified in 1964, the current requirements of part 21 largely reflect their original form. The origins of many of these regulations can be traced back even further to the Civil Air Regulations codified in 1937. In contrast, the following table summarizes how the aircraft-manufacturing environment has changed significantly over the last several decades:

In the 1960's—	Today—
Most transport category aircraft were manufactured in the U.S.	Transport category aircraft are manufactured in a global environment.
The typical business model consisted of a production certificate holder with a relatively small number of suppliers..	The number of suppliers has increased dramatically. These suppliers manufacture a greater percentage of a given aircraft
These suppliers were mainly located in the U.S.	Suppliers are located all over the world.
	Forming partnerships and risk sharing agreements are common approaches to lowering costs, sharing risks, and opening markets.
	Manufacturers collaborate globally to reduce duplicate requirements for shared suppliers.
Production certificate holders oversaw the manufacture of replacement parts.	The production of replacement parts under parts manufacturer approvals has increased dramatically.
The international market for aviation products was relatively small	The international market for aviation products has increased dramatically.
The U.S. had few bilateral agreements with other countries for the export and import of aviation products. These agreements were limited in scope.	The U.S. has approximately 30 bilateral agreements with other countries. These agreements have, in comparison, a much broader scope.

In recognition of the need to respond to these changes, the FAA gave the Parts Working Group and the Product Certification Working Group of the Aviation Rulemaking Advisory Committee the task of recommending changes to 14 CFR parts 21 and 45 on March 19, 1993 (58 FR 16572, 16574). The working groups made their recommendations on November 6, 1998. Major concepts proposed by the

working groups and incorporated into this NPRM include:

- Adding a new class of parts called ''commercial parts;
- Expanding the definition of ''standard parts;''
- Requiring a completed airworthiness approval for each new aircraft engine, propeller, part, appliance, or article;
- Giving production approval holders responsibility for issuing the airworthiness approval;
- Enhancing and standardizing quality system requirements for all production approval holders (PAHs) to reflect industry best practices; and
- Requiring components of products, parts, appliances, and their components to be marked.

This NPRM also addresses issues that were not among the working groups' recommendations.

VII. General Discussion of the Proposal

Although part 21 has, so far, provided effective certification procedures for products and parts to help foster aviation safety, it does not adequately reflect changes in the global aircraft manufacturing environment. Accordingly, the changes we are proposing would update and standardize requirements related to production approvals; promote a safer aviation industry; reflect the global nature of manufacturing; and reflect the global acceptance of products and parts under bilateral agreements between the United States and other countries or jurisdictions.

Standardization

Part 21 includes procedural rules related to three kinds of production approvals:

- Production Certificates (PC) in subpart G.
- Parts Manufacturer Approvals (PMA) in subpart K.
- Technical Standard Order (TSO) authorizations in subpart O.

The rules pertaining to each of these production approvals are different. For example, subparts G and O require each applicant for a PC and TSO authorization respectively to establish a quality system. The applicants must also provide, for FAA approval, data describing the inspection and test procedures necessary to ensure that each article produced conforms to its type design and is in a condition for safe operation. Applicants have typically met this requirement by providing the necessary information in the form of a manual. In contrast, subpart K requires each PMA applicant to provide a statement certifying that the applicant has established the fabrication and inspection system that meets the requirements of the subpart. Subpart K does not require a quality manual or any other documentation of the fabrication and inspection system. These differences can be confusing. They also support an industry perception that the quality of products or articles produced under different types of production approvals is different. This proposal would revise subparts G, K, and O to harmonize requirements for production approval holders. It would also keep industry from having to maintain, and the FAA from having to oversee, multiple systems and procedures caused by these regulatory differences.

Production Approval Holder's Organization

This proposal would require each applicant for, or holder of, a PC, PMA, or TSO authorization to provide the FAA with a description of the applicant's management organization and how that organization would ensure compliance with the provisions of subpart G, K, or O, respectively. At a minimum, the description would include assigned responsibilities and delegated authority, and the functional relationship of those responsible for quality to management and other organizational components. This requirement already applies to PC holders under existing § 21.143(a)(1), but the proposal would extend it to PMA and TSO authorization holders also. Refer to proposed §§ 21.135, 21.305, and 21.605.

The FAA understands the need for various business models and organizational structures and, therefore, would not mandate a particular structure to address quality system requirements. The intent of this requirement is for the top management of the production approval holder to establish and continually improve a quality system that ensures each product and article conforms to its approved design and is in a condition for safe operation.

A quality system is widely recognized as necessary for continual improvement in manufacturing. This recognition is reflected in industry best practices and the global trend toward implementing the following international quality standards:

- International Organization for Standardization (ISO) 9001, ''Quality Management Systems—Requirements;'' and
- Society of Automotive Engineers, Inc., International AS9100, ''Quality Systems—Aerospace—Model for Quality Assurance in Design, Development, Production, Installation, and Servicing.''

The FAA believes adhering to these standards will enable the PAH to meet its responsibilities under proposed part 21. The intent of this proposal is also to ensure that—

- These international quality standards are communicated to PC, PMA, and TSO authorization holders;
- Responsibility, authority, and interrelation of personnel who manage, perform, and verify work affecting quality are commensurate with these commitments and are clearly defined and communicated within the organization; and
- Decisions with regard to quality and airworthiness are not unduly influenced by other considerations (for example, cost and schedule); and that the quality system is free to comply with applicable regulations and the FAA approved quality manual.

If this proposal is adopted, the FAA will develop guidance material on these issues.

Production Approval Holder's Quality System

Currently, the quality system requirements for holders of PMAs are different from quality system requirements for holders of PCs and TSO authorizations. This proposal would standardize the quality system requirements for all PAHs. This proposal would also enhance and modernize quality system requirements to reflect the industry best practices and the global trend toward implementing the international quality standards listed above.

A quality system consists of the organizational structure, responsibilities, procedures, processes, and resources for ensuring the overall quality of products through the actions of management and individuals. A quality system incorporates quality assurance and quality control, both of which support the quality system. Quality assurance refers to planned or systematic actions necessary to provide confidence that a product will satisfy given requirements for quality. Quality control refers to operational techniques and activities used to fulfill requirements for quality.

This proposal would require that the quality system include elements as defined in proposed § 21.137(a) through (o) of subpart G. These requirements would be incorporated by reference into subparts K and O (proposed §§ 21.307 and 21.607). The FAA would develop guidance materials, such as an Advisory Circular, to provide guidance to PAHs for showing compliance with these

requirements. The FAA expects that the quality systems of most PAHs already meet the majority of these proposed requirements, as most of these proposals are already industry best practices.

Quality Manual

This proposal would require each applicant for a PC, PMA, or TSO authorization to provide a quality manual describing its quality system to the FAA for approval. Currently, subparts G and O require each applicant for a PC or TSO authorization to establish a quality system and provide for FAA approval data describing the inspection and test procedures necessary to ensure that each article produced conforms to its type design and is in a condition for safe operation. Applicants have typically met this requirement by providing the necessary information in the form of a manual. Subpart K, however, does not explicitly require documentation of the PMA holder's fabrication and inspection system in the form of a manual. Just as other proposals in this NPRM would standardize quality system requirements for all PAHs, the intent of this proposal is also to standardize the requirements for documenting the quality system in a quality manual. The quality manual must address each of the requirements related to the quality system in subparts G, K, or O for an applicant for a PC, PMA, or TSO authorization. The quality manual must also address revisions to the manual, and a means of tracking revisions to the manual, that is acceptable to the FAA. In addition, this proposal would require the quality manual to be in the English language and retrievable in a form acceptable to the FAA. The intent of this proposal is to ensure that regardless of the media used, the quality manual is easily available to PAH and FAA personnel who need to use this documentation for performing their duties. The quality manual may be in a digital, computer-based medium.

Location of or Change to Manufacturing Facilities

This proposal would standardize the language of current §§ 21.137, 21.303(g), and 21.601(c) pertaining to the location of manufacturing facilities for a holder of a PC, PMA, and TSO authorization. In addition, this proposal would add a requirement that the holder of each type of production approval obtain advance approval from the FAA for any change to its manufacturing facilities that could affect the inspection or airworthiness of its products or articles, including changes to the location of any of its manufacturing facilities. See proposed §§ 21.139(b), 21.309(b), and 21.609(b). Examples of changes that could affect the inspection or airworthiness of a product or article include (1) A significant increase in production capacity and (2) a substantial rearrangement of space within the present location. These are some of the types of change that would require FAA approval in advance to verify the change is in compliance with subpart G, K, or O, as applicable.

Currently, under § 21.159, a PC is no longer effective if the location of the manufacturing facility is changed. The holder of a PMA only needs to notify the FAA of a change in location of its manufacturing facilities. Subpart O is silent regarding a change in the location of manufacturing facilities for the holder of a TSO authorization.

The intent of this proposal is to standardize the requirements applicable to changes in manufacturing facilities for all PAHs. A change in a manufacturing facility would use an approval process instead of a certificate termination and re-application process under the current requirements of §§ 21.159 and 21.143. This approval process would enhance safety by ensuring an appropriate level of FAA oversight of changes to manufacturing facilities of all PAHs. This requirement does not apply to suppliers. The FAA approves the supplier control procedures a PAH would use in selecting and controlling its suppliers. A change in the supply base would not require FAA approval.

Inspections and Tests

This proposal would standardize the language of current §§ 21.157, 21.303(e) introductory text, and 21.615 pertaining to inspections and tests for an applicant for, or a holder of, a PC, PMA, and TSO authorization. In addition, the proposal would amend these requirements to clarify that they apply to supplier facilities. The intent of this proposal is to ensure the FAA has the requisite access to facilities and cooperation of the manufacturer to administer applicable requirements of Title 49 U.S.C. and this subchapter.

Issuance of a Production Approval

This proposal would standardize the language of current requirements pertaining to the issuance of a PC, PMA, and TSO authorization in §§ 21.135, 21.303(d), and 21.605(c). In addition, this proposal would remove the detailed description of FAA responsibilities related to issuance. This information is better placed in internal directives.

Transferability of a Production Approval

This proposal would standardize the language and format of requirements pertaining to transferability of a PC, PMA, and TSO authorization currently in §§ 21.155, 21.303(i), and 21.621. This change would make the language of subparts G, K, and O consistent.

Responsibility of Production Approval Holder

This proposal would establish requirements for the holder of a PC, PMA, or TSO authorization as set forth in paragraphs (a) through (g) of §§ 21.146, 21.316, and 21.616. All holders of a production approval would have the same responsibilities under this part.

Changes in Quality System

Currently, § 21.147 requires the holder of a PC to notify the FAA of any change that may affect the inspection, conformity, or airworthiness of the product. This proposal would include ''articles'' as well as products in the requirement. As discussed later in this preamble, the proposal would define ''article'' as ''material, part, component, process, or appliance.'' We are also proposing to add this expanded notification requirement to subparts K and O, which are applicable to holders of PMA and TSO authorizations respectively. The intent of this proposal is to standardize requirements for all PAHs.

Export Airworthiness Approvals

Subpart L contains regulations that apply to the export of a product or article. It is important to note that even though an export airworthiness approval is required only when requested by an importing authority, such documents have become increasingly valued within the aviation industry. The primary purpose of an export airworthiness approval is to notify the importing authority, and ultimately the end-user, of the airworthiness status (*i.e.*, conformity of design requirements and condition for safe operation) of the subject product or article.

Such airworthiness notifications serve the needs of both the civil airworthiness authority approving the product or article for import, and the end-user who intends to place it into operation. Products and articles having original airworthiness approvals upon export, even though not specifically required by the importing civil airworthiness authority, have increased sales potential when destined for use outside the U.S.

This proposal would revise this subpart to:

- Relieve U.S. manufacturers and exporters of burdens presently associated with obtaining export airworthiness approvals by:
- Permitting production approval holders, under privileges extended through their approved quality system(s), to issue export airworthiness approvals for the aircraft engines, propellers, appliances, and parts they manufacture (this is presently only accomplished by individual or organizational designees of the FAA);
- Permitting production approval holders to issue export approvals for products and articles they manufacture regardless of their location (this is presently limited to products and articles located in the United States only); and
- Removing the requirement, unless specifically mandated by an importing civil airworthiness authority, that used aircraft engines, propellers, appliances, and parts be newly overhauled before their export;
- Relegate the detailed procedures pertaining to the export process presently contained in the regulation to FAA policy/directives; and
- Implement a definition of ''product'' which would be consistent with the terminology in the rest of Part 21 and with Bilateral Aviation Safety Agreement Implementation Procedures for Airworthiness.

Part Marking

The regulations currently require marking of aircraft, aircraft engines and propellers, critical and life-limited parts, PMA parts, and TSO articles. The regulations do not currently require that individual components or spare components of the above items be individually marked, although most manufacturers do so for their own quality assurance and traceability purposes. Under this proposal, manufacturers would have to mark each component of an aircraft, aircraft engine, or propeller; each part and each component of that part; and each appliance and each component of that appliance.

The lack of marking requirements down to the component level has sometimes hindered field identification when articles must be replaced, serviced, or removed from service, and during accident investigations. This proposal would also standardize minimum part-marking requirements to include an identification of the person who produced the part and a part number. In addition, TSO articles would still have to be marked with the markings required by the applicable TSO. The intent of these proposals is to reduce the potential for installing unapproved parts on FAA type-certificated products, facilitate airworthiness determinations, standardize part-marking requirements, facilitate the international delivery of parts, and provide information to accident investigators that may help prevent future accidents. This change would also simplify the regulations by consolidating all detailed marking requirements in part 45.

VIII. Subpart-by-Subpart Summary of the Proposal

The following table summarizes the major proposals included in this NPRM:

This NPRM proposes to amend 14 CFR—	To—
Part 1	Expand the definition of ''Approved.''
Part 21 Subpart A—General	Add definitions of the following terms: ''airworthiness approval,'' ''article,'' ''commercial part,'' ''design approval,'' ''production approval,'' ''standard part,'' ''State of Design,'' and ''State of Manufacture.''
	Amend § 21.3(f) to require all PAHs, instead of just TSO authorization holders, to report the results of their investigations into certain accidents or service difficulty reports.
Part 21 Subpart B—Type Certificates	Require an applicant for a TC or STC to provide a statement certifying the applicant has shown compliance with applicable requirements.
	Amend requirements related to domestic and international transfers of TCs.
Part 21 Subpart D—Changes to Type Certificates.	Require an applicant for a major change in type design to provide a statement certifying the applicant has shown compliance with applicable requirements.
Part 21 Subpart F—Production under Type Certificate.	Require a person producing under a TC to obtain an airworthiness approval (FAA Form 8130–3), issued by the FAA or its designee, for each engine, propeller, and article produced under that TC.
	Delete reference to an approved production inspection system (APIS). A person who is producing under a TC would be required to obtain a PC in accordance with subpart G within 6 months of the date the TC was issued or the effective date of the final rule, whichever is later.
Part 21 Subpart G—Production Certificates	Enhance quality system requirements to reflect current industry standards and best practices.
	Require that an airworthiness approval (FAA Form 8130–3) be issued by the PAH for each engine, propeller, or article manufactured under this subpart.
Part 21 Subpart H—Airworthiness Certificates	Allow for issuing an airworthiness certificate for an aircraft imported to the U.S. via an export certificate of airworthiness if— • Type certificated in accordance with §§ 21.21, 21.25, or 21.29; and • Produced under the authority of another State of Manufacture.
	Allow FAA to accept performance standards equivalent to the 100-hour inspection requirement and expand provisions governing who may perform these inspections.
Part 21 Subpart K—Parts Manufacturer Approvals.	Revise subpart K, using proposed subpart G as a model, to reduce the scope of subpart K to PMAs only: Move §§ 21.303(a) and (b) (Replacement and modification parts) to part 21 subpart A and amend these sections to— Add ''commercial parts'' as acceptable replacement and modification parts. Prohibit a person who produces a replacement or modification part for sale from representing that part as suitable for installation on a type-certificated product unless that part is a commercial part, a standard part, or produced under part 21 subpart F, G, K, or O. Move § 21.305 (Approval of materials, parts, processes, and TSO articles) to part 21 subpart A.
	Impose the same quality system and quality manual requirements as for PCs.
	Require that an airworthiness approval (FAA Form 8130–3) be issued by the PAH for each part manufactured under this subpart.

This NPRM proposes to amend 14 CFR—	To—
	Add a statement of compliance requirement for PMA applicants.
Part 21 Subpart L—Export Airworthiness Approvals.	Completely revise subpart L to facilitate global acceptance and movement of products and articles and remove prescriptive language.
	Delete definitions and use of the terms, "Class I," "Class II," and "Class III" products.
	Remove § 21.323(b) restrictions related to who may obtain an export airworthiness approval for Class III products.
	Remove § 21.325(b)(3) requirement that Class II and III products be located in the U.S.
	Limit the use of an Export Certificate of Airworthiness (FAA Form 8130–4) to aircraft.
Part 21 Subpart N—Acceptance of Aircraft Engines, Propellers, and Articles for Import.	Correct subpart N and its title to replace "approval" with "acceptance." Design approvals are not issued under part 21 subpart N. Mark each article in accordance with part 45.
Part 21 Subpart O—Technical Standard Order Approvals.	Rewrite subpart O using proposed subpart G as a model.
	Impose the same quality system and quality manual requirements as for PCs.
	Require an airworthiness approval (FAA Form 8130–3) be issued by the PAH for each article manufactured under this subpart.
Part 45 Subpart B—Identification of Products, Parts, Appliances, and TSO Articles.	Add requirements governing who must mark products, parts, appliances, and TSO articles. Add exceptions for the aircraft identification plate location requirement for aircraft operated under part 121, commuter aircraft, and for gliders.
	Consolidate part-marking requirements to part 45.
	Require identification of the manufacturer and part number for each component of each product, part, appliance, and TSO article manufactured by a PAH.
	Delete "FAA–PMA" and "installation eligibility" requirements for PMA parts.

In addition to the substantive changes discussed in detail below, we are also proposing editorial changes to the language of parts 21 and 45 for the purposes of clarity and consistency. These editorial changes include updating the terminology used in cross referencing other regulations, using consistent terms to describe duties and obligations, and eliminating gender bias. This proposal includes a reorganization of portions of parts 21 and 45, including changes to several section headings. For further details, refer to the derivation and distribution tables provided later in this preamble.

IX. Description of Specific Changes

14 CFR Part 1—Definitions and Abbreviations

Section 1.1 General Definitions

This proposal would expand the definition of "Approved" to include approvals under the provisions of a bilateral agreement between the United States and a foreign country or jurisdiction. For decades, the United States has had BAAs, and, more recently, BASA Implementation Procedures for Airworthiness with other countries. Before making these agreements, the FAA thoroughly reviews the certification and production systems of the foreign country or jurisdiction, including its processes and regulations. The FAA does not sign an agreement unless the FAA has confidence in the system of that country or jurisdiction for certifying aviation products and overseeing the design organizations and manufacturers under their authority. These agreements are intended to eliminate redundant processes and allow the FAA to treat data approved by that country or jurisdiction as data approved by the FAA. Accordingly, the intent of this proposal is to clarify that data approved by a foreign country or jurisdiction under a bilateral agreement does not require further FAA approval. Furthermore, the intent of "jurisdiction" is to provide similar clarification for agreements with entities, such as the European Union (EU), that are not countries.

Section 1.2 Abbreviations and Symbols

This proposal would add the following definitions of abbreviations:

- *PMA* means parts manufacturer approval.
- *TSO* means technical standard order.

The intent of this proposal is to adopt long-standing and widely used acronyms to simplify and clarify the language of the regulations.

14 CFR Part 21—Certification Procedures for Products and Parts

Subpart A—General

Section 21.1 Applicability and Definitions

This proposal would revise paragraph (a)(1) of this section to provide a complete list of the types of approvals that part 21 addresses—Design approvals, Production approvals, Airworthiness certificates, and Airworthiness approvals. The only production approval listed in the current paragraph is the PC. Definitions for the three "approvals" would be added to paragraph (b) of this section.

This proposal would revise paragraph (a)(2) of this section to clarify that part 21 contains rules that apply to both applicants for and holders of any approval or certificate specified in paragraph (a)(1) of this section.

This proposal would define "airworthiness approval" in paragraph (b)(1) as an export certificate of airworthiness issued for an aircraft; or a document issued for an aircraft engine, propeller or article certifying that the aircraft engine, propeller, or article meets its approved design and is in a condition for safe operation. An export certificate of airworthiness is currently issued and would continue to be issued using FAA Form 8130–4 to certify that an aircraft to be exported conforms to its type design and is in a condition for safe operation. FAA Form 8130–3 would be used to certify that an aircraft engine, propeller, or article conforms to its approved design and is in a condition for safe operation. FAA Form 8130–3 would be used domestically as regulated by subparts F, G, K, and O. In addition, FAA Form 8130–3 would be used for export of an aircraft engine, propeller, or article as regulated by subpart L. The intent of this proposal is to provide a simpler way to refer to these types of approvals.

This proposal would define "article" in paragraph (b)(2) as a "material, part, component, process, or appliance" to simplify the regulatory language. This proposal would add a new classification of parts, called "commercial parts," defined in paragraph (b)(3) as a part that the FAA design approval holder designates a commercial part. The FAA must find the part is not specifically designed or produced for applications

on aircraft and is produced only under the commercial part manufacturer's specification and marked only with the commercial part manufacturer's markings. The FAA makes this finding when it reviews an application for a design approval or changes to an existing design approval.

For years, industry has used the term, ''commercial parts,'' in referring to parts that are not designed or manufactured specifically for aviation use such as light bulbs, fire axes, smoke detectors, and so on. Whereas a standard part specification is developed by a consensus standards organization and is publicly available, the design for a commercial part is developed privately.

The FAA recognizes that it is unrealistic to expect manufacturers making thousands of non-aviation parts per day and relatively few aviation parts to obtain a PMA. Enforcement of PMA violations is difficult because the FAA has often been unable to show that these manufacturers are producing with the intent to sell their parts for installation on a type-certificated product. The intent of this proposal is to create a replacement parts classification for commercial parts, allowing an operator to install commercial parts on a type-certificated product without having to obtain parts manufactured under a PMA. This proposal will also allow manufactures to continue to use parts now categorized as commercial parts in their type designs. The added benefit of the proposal is to now have the manufacturers specifically identify for FAA approval the commercial parts they intend to use.

This proposal would define ''design approval'' in paragraph (b)(4) as a type certificate (including amended and supplemental type certificates) or the approved design under a PMA, TSO authorization, letter of TSO design approval, or other approved design. The intent of this proposal is to provide a convenient way to refer to all types of design approvals. This definition, in conjunction with the definition for ''production approval,'' helps to clarify that PMA and TSO authorizations are dual approvals consisting of both a design approval and a production approval. In addition, ''other approved design'' is intended to include approvals that meet the proposed definition of ''approved'' in 14 CFR part 1.

Proposed paragraph (b)(5) would delete the special definition of ''product'' for subpart L. This revised definition eliminates the need for defining ''classes'' of products in subpart L. The intent of this proposal is to allow use of the term ''product'' consistently throughout part 21 and to harmonize with the use of this term in Bilateral Aviation Safety Agreement Implementation Procedures for Airworthiness and Annex Part 21 of European Union regulations.

This proposal would define ''production approval'' in paragraph (b)(6) to mean a production certificate, an approval to produce an article under a TSO authorization, or an approval to produce a part or appliance under a PMA. The intent of this proposal is to provide a convenient way to refer to all types of production approvals. In addition, this definition, in conjunction with the definition of ''design approval,'' helps to clarify that a PMA and a TSO authorization are dual approvals consisting of both a design approval and a production approval.

Proposed paragraph (b)(7) would redesignate and expand the definition of ''standard parts'' in existing § 21.303(b)(4) to include parts conforming to a specification established by a foreign government agency or a consensus standards organization. In addition, this proposal would indicate that a ''specification'' may include design, manufacturing, test, and acceptance criteria, and uniform marking requirements; or performance criteria and uniform marking requirements that have been found by the FAA to be adequate for making a finding of airworthiness for that part. This reflects our current interpretation of the word ''specification'' (62 FR 9923, March 5, 1997).

Certain discrete (non-programmable) electrical and electronic parts meeting an accepted performance standard would be classified as standard parts. These parts conform not on the basis of their physical configuration, but by meeting the specified performance criteria.

This proposal would define ''State of Design'' in paragraph (b)(8) to mean the State having jurisdiction over the organization responsible for the type design or other approved design, including those entities who are not ICAO contracting States but who exercise authority over an organization responsible for the type design or other approved design. Examples of other approved designs include PMAs or TSO authorizations.

This proposal would also define ''State of Manufacture'' in paragraph (b)(9) to mean the State having jurisdiction over the organization responsible for the production, final assembly, and final determination of airworthiness of the product or article, including those entities who are not ICAO contracting States but who exercise authority over an organization responsible for the production, final assembly, and final determination of airworthiness of the product or article.

The intent of these proposals is to harmonize our regulations with ICAO standards and recommended practices. Therefore, we have incorporated modified versions of the definitions of ''State of Design'' and ''State of Manufacture'' from Annex 8 to the Convention on International Civil Aviation (Ninth Ed., July 2001). We are proposing to modify these definitions to include those countries or organizations who are not ICAO members, but who exercise authority over organizations that are responsible for design and manufacturing approvals. This would allow the regulations to accommodate those entities, like EASA, who are not contracting ''States'' to the Convention on International Civil Aviation (Chicago Convention), 61 Stat. 1180. For the purposes of this proposal, the word ''State'' does not refer to one of the United States, but to a country that is a signatory to the Chicago Convention and a member of ICAO.

Section 21.2 Falsification of Applications, Reports, or Records

This proposal would amend § 21.2(a)(1) and (2) to prohibit persons from making misleading statements on applications for certificates or approvals or in any record or report that is required to be kept, made, or used to show compliance with any requirement of this part.

We are proposing this amendment because the installation of products or articles that are mistakenly believed to be airworthy or suitable for installation on type-certificated products poses an unacceptable risk to aviation safety. Under FAA regulations, the person installing a product or article on an aircraft is responsible for determining its airworthiness. Because these individuals cannot determine airworthiness simply by inspecting the item, they often rely on the information provided by whoever sold them the product or article to support their airworthiness decisions. There have been cases in which false or misleading statements have led persons installing aviation products or articles to believe that they were suitable for a particular use when, in fact, they were not.

Records containing misleading statements about the quality of aviation products or articles have a potentially large impact on the safety of the flying public. The existing rule only covers fraudulent and intentionally false statements. The FAA has determined

that including a prohibition against misleading statements would be a more comprehensive solution.

This proposal would adopt the ''misleading'' standard set forth at 14 CFR 3.5(c) and discussed in the FAA final rule on False and Misleading Statements Regarding Aircraft Products, Parts, Appliances and Materials. (70 FR 54822, Sept. 16, 2005) For the purposes of this proposal, a misleading statement requires a material representation or omission that is likely to mislead the consumer, and the consumer acting with reasonable reliance under the circumstances. Misleading statements include misrepresentations as well as failures to disclose material information.

In determining whether the statement or omission is misleading, the FAA would examine the overall impression created by the representation before taking enforcement action. We would contact the person making the statement to discuss why the statement appears misleading and would consider that honest mistakes are made. However, if the statement is not corrected so as to remove its misleading character, or the mistake is one of a series of such mistakes, the FAA will presume knowledge on the part of the person sufficient to take enforcement action.

In addition, existing § 21.2(a)(2) currently refers to an—

> Entry in any record or report that is required to be kept, made, or used to show compliance with any requirement for the issuance or the exercise of the privileges of any certificate or approval issued under this part.

This proposal would change this to an—

> Entry in any record or report that is kept, made, or used to show compliance with any requirement of this part.

The term *record* includes all forms of records, including paper, microfilm, identification plates, stamped marks on parts, bar codes, and electronic records. In general, part 21 does not require a particular type of records or reports to be kept, made, or used. Accordingly, industry uses various types of records and reports to show compliance with this part. This proposal would increase the scope of records and reports used to show compliance with any requirements ''for the issuance and exercise of the privileges of any certificate or approval'' to those records and reports used to show compliance with any part 21 requirement. These proposals are intended to strengthen the ability of the FAA to ensure that design, production, and airworthiness certifications and approvals are based on truthful and complete information.

Currently, § 21.2(b) addresses only suspension and revocation of existing certificates and approvals, and does not define consequences for prohibited actions that occur before a certificate or approval is issued. This proposal would expand the consequences of committing prohibited actions in paragraph (b) to include denying issuance of any certificate or approval under this part. This change is intended to clarify the FAA's right to deny issuance of certificates or approvals when the prohibited actions occur before the FAA issues the certificate or approval.

Section 21.3 Reporting of Failures, Malfunctions, and Defects

This proposal would amend § 21.3(d)(2) to clarify that approvals, not type certificates, are issued under proposed § 21.621.

This proposal would amend § 21.3(e)(3) to replace specific product and part identification requirements with a reference to part 45 where these part-marking requirements are defined. The intent of this proposal is to—

- Consolidate detailed part-marking requirements in part 45; and
- Expand reporting requirements to include all applicable product and part identification information required by part 45 to enhance the FAA's ability to respond to service difficulty reports.

Currently, § 21.3(f) requires only holders of TSO authorizations to report the results of their investigations and corresponding corrective actions. However, holders of TSO authorizations represent less than 20% of all PAHs. The current regulation inhibits the FAA's oversight of investigations and corrective actions for the great majority of the industry. This proposal would amend § 21.3(f) to expand this reporting requirement to apply to all PAHs. The intent of this change is to enhance the FAA's ability to respond to service difficulty reports for all products and articles manufactured under this part.

Section 21.7 Approval of Articles

This proposal would relocate current § 21.305 from subpart K to allow us to limit subpart K to PMA requirements only. It would also amend § 21.305(b) to remove the second and third sentences since these sentences are advisory in nature.

Section 21.9 Replacement and Modification Parts

This proposal would relocate existing § 21.303(a) and (b) from subpart K and combine them into one paragraph as § 21.9(a). The intent of this proposal is to apply these requirements to all production approval holders and to limit subpart K to PMA requirements only.

Proposed § 21.9(a)(4) would allow manufacturers to produce ''commercial parts,'' as defined in proposed § 21.1(b), for use in aviation without PMA. To use a ''commercial part'' in the design of a product or part, a design approval holder would provide a list of proposed commercial parts to the appropriate FAA aircraft certification office (ACO) for approval. The design approval holder would identify the application or use of the commercial part and verify that the failure of the part would not degrade the safety of the product. A design approval holder would be responsible for preparing separate lists, for each product or article it manufactures, identifying all commercial parts by part number and nomenclature. The design approval holder would also be responsible for including the list of approved commercial parts, and any approved replacements for those commercial parts, in the manufacturer's maintenance instructions or Instructions for Continued Airworthiness. In addition, a design approval holder who would designate commercial parts would have to establish a system that—

- Provides for the review of the intended use and failure consequences of the commercial part on airplane safety;
- Maintains a list of all commercial parts incorporated into each FAA approved product type, TSO article, or PMA part as applicable;
- Furnishes the lists (and changes to the lists) to persons in accordance with existing § 21.50;
- Maintains current commercial parts lists to reflect design changes; and
- Records FAA approval of both the lists and their revisions.

Proposed § 21.9(b) would prohibit a person who produces a replacement or modification part for sale from representing that part as suitable for installation on a type-certificated product, except under the provisions of proposed § 21.9(a)(1) through (a)(4). Owners, operators, producers, and maintainers rely on these representations to determine the airworthiness of an aircraft, or the acceptability of products and parts for a given application; therefore these representations must be truthful. Likewise, there is a strong public interest in ensuring that replacement and modification parts meet applicable airworthiness standards and are produced under a quality system that ensures conformity to an approved design.

The meaning of the regulatory language, ''for sale * * * as suitable for installation on a type certificated product'' has been contested in FAA enforcement actions. In 1993, the FAA Administrator rendered a decision and order regarding the interpretation of § 21.303(a) in the case, *In the Matter of Pacific Sky Supply, Inc.,* FAA Order No. 93–19. The issue in the case was whether certain aircraft parts, produced without benefit of a parts manufacturer approval, were produced for sale for installation on type-certificated products. The Administrator held that the standard for determining whether there was a violation of the rule is that the Agency must show that the producer knew or should have known (at the time of production) that it was substantially certain that the parts produced without PMA would be installed on type-certificated products. The Administrator determined that this standard appropriately balances the FAA's duty to promote aviation safety by controlling the spread of unapproved parts and the producers' right to produce parts without FAA approval when it is insufficiently probable that the parts will end up on type-certificated aircraft.

The FAA needs to strengthen our ability to take compliance and enforcement action against producers of unapproved parts. Many parts used on type-certificated products can also be used on other types of aircraft, such as military or experimental aircraft, or in non-aviation applications. While a producer may be fully aware, and even intend, the parts will be used on type-certificated aircraft, proving that it was ''substantially certain'' that they would be so used can be impossible. In many cases, parts are sold to distributors, who then sell them to end-users without any inquiry as to where they will be ultimately installed. Once producers place parts into the stream of commerce, they can rightly claim that they have no knowledge of how the part is ultimately used. This makes proving ''substantially certain'' very difficult.

Because of the importance of ensuring that aviation parts are safe to use, we think a different standard is necessary. If manufacturers engage in business where it is reasonably likely that parts they produce will be installed on type-certificated products, then these manufacturers must not produce the parts, unless they meet one of the conditions of proposed § 21.9(a).

In evaluating whether a parts producer is violating this requirement, the FAA will look at all the relevant circumstances, including not only the actual purchaser of the parts, but also how the producer has marketed them (for example, catalogs, advertisements, claims of acceptability for FAA approval, installation instructions for type-certificated aircraft, shipping documents, and so on). If it appears that a producer outside the provisions of proposed § 21.9(a) has identified type-certificated products as a target market or that a producer represented its parts as suitable for installation on these products, the FAA will consider that to be strong evidence of a violation of proposed § 21.9(b). The FAA intends to interpret the term ''suitable'' broadly to cover any statement that expresses or implies that the product or article is acceptable for use on a type-certificated product. The following examples are some of the type of statements that can reasonably be interpreted to mean that FAA requirements for use on a specific type-certificated product have been met:

- ''Aviation quality.''
- ''Direct replacement for aircraft XX.''
- ''Ready to use in your aircraft.''
- ''Reproduction of (approved) part number XX.''
- ''Fits aircraft model XX.''
- ''Eligible for FAA approval.''

Under proposed § 21.9(b), such statements would be prohibited if they were false or misleading.

This proposal would also add new § 21.9(c) to allow a person to sell or represent a part as suitable for installation on a type-certificated aircraft if the part was declared surplus by the U.S. military, was intended for use on that model of U.S. military aircraft, and the person determines the part is in a condition for safe operation. The military owns all the data for its aircraft and provides this data to vendors in order to produce parts to support their aircraft. Surplus military aircraft certificated under §§ 21.25(a)(2) or 21.27 typically have supporting data for all parts. However, additional data can be obtained through the Freedom of Information Act (FOIA) process. Paragraph (c) falls under the processes and practices currently used and therefore presents no significant increase in cost to the FAA or an applicant.

Subpart B—Type Certificates

Section 21.20 Compliance With Applicable Requirements

This proposal would amend subpart B by adding § 21.20(a) to require an applicant for a TC, including an amended or supplemental type certificate (STC), to show compliance with all applicable requirements and to provide the FAA the means by which such compliance has been shown. Current § 21.33(a)(1) specifies that no aircraft, aircraft engine, propeller, or part thereof may be presented to the Administrator for test unless compliance with paragraphs (b)(2) through (b)(4) of that section has been shown. The intent of this proposal is to emphasize that the applicant is responsible for satisfying all applicable requirements.

The FAA has long-standing policy (FAA Order 8110.4, Type Certification Process) that stresses the applicant is responsible for performing an adequate review and assuring that all certification regulations have been complied with in the course of a product design approval project. This proposal would allow the FAA to exercise greater discretion in prioritizing its review of applications, to more effectively assign resources supporting the application process, and to select which aspects of an application to review more closely.

Proposed paragraph (b) would require an applicant for a TC, including an amended or supplemental TC, to provide a statement certifying that the applicant has complied with the applicable requirements. The FAA would still exercise its discretionary function to evaluate an application for compliance, but the statement of compliance would focus the applicant on its responsibility to comply with applicable requirements. A statement of compliance would be subject to the proposed § 21.2 requirements related to fraudulent, intentionally false, or misleading statements.

Section 21.47 Transferability

This proposal would revise this section to change the requirement for the timing of the notification for TC transfers, where the State of Design remains the same, and for TC licensing agreements. Currently, the regulation requires each grantor to notify the FAA within 30 days after the transfer of a certificate or execution or termination of a licensing agreement. This proposal would require notification before the transfer or before executing or terminating a licensing agreement to provide the FAA time to coordinate between affected FAA offices and to inform the prospective applicant of the responsibilities under this subchapter.

This proposal would also revise this section to require a grantor to notify the FAA of TC transfer where the State of Design is changing before the transfer occurs. When the current regulations were written, the FAA did not consider the need to address these types of TC transfers. However, TC transfers where the State of Design is changing have become commonplace and are

addressed in our bilateral agreements with other countries and jurisdictions. Transferring a TC where the State of Design is changing requires FAA coordination with the prospective State of Design to identify the detailed requirements in support of the transfer and to reduce any burden on the FAA for managing the certificate. This change is intended to provide the FAA time to coordinate with a prospective State of Design to support and execute a TC transfer. This is consistent with the ICAO Airworthiness Manual, Volume II, Section 2.6.

Subpart C—Provisional Type Certificates

Section 21.75 Application

This proposal would revise this section to remove detailed requirements related to where an applicant must apply for a provisional type certificate and, instead, to require filing with the appropriate aircraft certification office. The intent of this proposal is to provide flexibility to the FAA in managing the provisional type certification process and to enable more efficient and effective use of FAA resources. It is consistent with the open application process used for other design approvals.

Subpart D—Changes to Type Certificates

Section 21.97 Approval of Major Changes in Type Design

This proposal would revise paragraph (a) of this section to require an applicant for approval of a major change in type design to—

- Show that the changed product complies with the applicable requirements of this subchapter;
- Provide the FAA the means by which such compliance has been shown; and
- Provide a statement certifying that the applicant has complied with the applicable requirements.

The intent of this proposal is discussed under proposed § 21.20.

Subpart E—Supplemental Type Certificates

Section 21.117 Issue of Supplemental Type Certificates

This proposal would amend § 21.117 by removing the words ''if he'' from paragraph (a) and adding in their place the words ''if the FAA finds that the applicant.'' The intent of this change is to clarify that issuance of an STC occurs only after the FAA makes a finding of compliance to the applicable regulations.

Section 21.119 Privileges

This proposal would revise § 21.119(c) to clarify that the holder of an STC may obtain a production certificate for the change in the type design approved by that STC only if the STC holder meets the requirements of subpart G pertaining to the issuance of PCs. The FAA plans to issue guidance material concurrent with the final rule aimed at ensuring that any PCs issued meet the requirements of subpart G.

In accordance with 49 U.S.C. 44704(c), the FAA may include in a PC terms required in the interest of safety. These terms may limit the scope of activities authorized by the PC depending on the STC holder's quality system and the complexity of the design changes approved by the STC.

Subpart F—Production Under Type Certificate

Section 21.122 Location of or Change to Manufacturing Facilities

This proposal would amend subpart F by adding § 21.122(a) to clarify and relieve requirements related to location of manufacturing for production under a TC. Amendment 21–25 (Sept. 5, 1969, 34 FR 14068) clarified that subpart F is intended only for domestic production as follows:

> Section 21.130 comes under Subpart F which governs the production of products under a TC only. That subpart contains requirements that are not applicable to aircraft, aircraft engines and propellers manufactured in a foreign country.''

However, this intent is not clearly specified in subpart F. We considered amending subpart F to clarify that it does not apply to manufacturing in a foreign country, but decided instead to allow manufacturing under a TC in a foreign country as long as it causes ''no undue burden'' on the FAA. This proposal would facilitate global manufacturing under certain circumstances. The FAA would not allow production under a TC in a foreign country for a first-time applicant. However, if an applicant has a PC and produces major aircraft or engine components outside the U.S., the FAA would allow production under a TC for a new model if it determined that there would be no undue burden on the FAA in administering the applicable requirements of Title 49 U.S.C. and this subchapter.

This proposal would amend subpart F by adding § 21.122(b) to require FAA approval before making any changes to its manufacturing facilities that would affect the inspection or airworthiness of its products or articles, including changes to the location of any of its manufacturing facilities. These types of changes require FAA approval before they are implemented to ensure that the change is in compliance with this subpart. We are proposing a similar requirement for each type of production approval holder in proposed subparts G, K, and O.

Section 21.123 Production under type certificate

This proposal would revise the introductory text to include manufacturers of articles to clarify that the holder of a TC is authorized to manufacture articles for its type-certificated products.

Proposed paragraph (a) is based on existing paragraph (b) and removes language requiring technical data and drawings to be maintained at the place of manufacture and replaces it with references to sections where that information is defined more thoroughly. The intent of this proposal is to provide a more logical sequence of requirements and to remove duplicate requirements from the regulations.

Proposed paragraph (b) is based on existing paragraph (a) and would add the requirement that a TC holder must make each article available to the FAA for inspection. This is in addition to the existing requirement to make each product available.

Proposed § 21.123(c) is based on existing § 21.125(b)(10) and would require each manufacturer of a product or article under a TC to maintain completed inspection and test records for specified periods of time. These records would enable the manufacturer to prove to the FAA that it has properly completed and documented all inspections and tests required to ensure compliance with this subpart. This would place a requirement on manufacturers under a TC that already applies to other PAHs. The intent of this proposal is to ensure that manufacturers maintain evidence that indicates conformance or nonconformance of a product or article with regard to required inspections and tests.

In 1991, the FAA issued Notice 8120.13, Verification of Completeness, Accuracy, and Traceability of Manufacturing and Quality Records. This notice required a one-time evaluation of certain FAA PAHs to assess their record keeping and related internal audit procedures used in the production of civil aviation products and parts under part 21. This evaluation concluded that, although all PAHs were in compliance with the regulations, the current regulations do not ensure that the quality inspection records are

available at all PAHs when they are needed.

To resolve this issue, this proposal would increase the record retention requirements for all PAHs and for persons producing under a TC from two to five years for the products and articles manufactured under the approval and to at least ten years for critical components identified under proposed § 45.15(c) of this chapter. The intent of this proposal is to retain these records to support any future investigations related to failures, malfunctions, or defects that may occur or be discovered after the producer releases the product or article. This proposal is consistent with current industry best practices. The beginnings of these five-year and ten-year periods for a given product or article would correspond to the issuance of an airworthiness approval for that product or article. We specifically request comments on whether the proposed ten-year minimum record retention requirement is adequate for critical components.

This proposal would add new § 21.123(d) to require each manufacturer of a product or article being manufactured under a TC to allow the FAA to make any inspection or test, including any inspection or test at a supplier facility, necessary to determine compliance with this subchapter. ''Allowing'' means that the manufacture must—

- Give free and full access to facilities and information relevant to show compliance with this subchapter; and
- Provide appropriate assistance to the FAA to enable us to perform these inspections and tests.

Inspections and tests include audits, inquiries, questions, discussions, monitoring, witnessing, checks, flight and ground tests, and inspections of completed products and articles. The intent of this proposal is to ensure that the FAA has the requisite access to administer applicable requirements of Title 49 U.S.C. and this subchapter.

This proposal would add new § 21.123(e) to require each manufacturer under a TC to obtain an airworthiness approval, FAA Form 8130–3, from an FAA designee for each aircraft engine, propeller, or article produced under that TC as evidence or proof that it conforms to its approved design and is in a condition for safe operation. The FAA expects the TC holder to obtain this approval from a FAA designee. Only under exceptional circumstances would the FAA issue these approvals. The intent of this proposal is discussed under the description of proposed § 21.146(d) later in this preamble.

This proposal would remove current § 21.123(c) and (d) and replace them with proposed § 21.123(f) to eliminate production under an APIS and require TC holders to obtain a PC for that product in accordance with subpart G of this part within 6 months after the date of issuance of the TC. Under the current subpart F regulations, the FAA issues an APIS provided certain requirements are met. The APIS is a production approval for producing the same products that can be produced under a PC. Although APIS and PC quality system descriptions use different terms, they contain the same basic controls. For this reason, and the fact that there are very few APIS holders (3 APIS holders as of January 2005), the FAA proposes to eliminate APIS approvals and make all changes effective 18 months after publication of the final rule in the **Federal Register**.

Eighteen months after publication of the final rule, the FAA will rescind all existing APIS approvals. Persons manufacturing under an APIS would be expected to surrender their letter of APIS approval, manufacture under a TC if they choose to continue manufacturing, and have 6 months to obtain a PC under part 21 subpart G.

Section 21.130 Statement of Conformity

Under existing § 21.130, a statement of conformity is required only for products manufactured in the United States. This proposal would extend the applicability of this statement of conformity requirement to products manufactured outside the United States and to all articles. The intent of this proposal is to reflect the global manufacturing environment for aviation products and parts. We propose to include ''articles'' to facilitate the issuance of an airworthiness approval required under proposed § 21.123(e) for each aircraft engine, propeller, or article produced under subpart F.

This section currently requires a manufacturer under a TC to provide the FAA a statement that each product conforms to its type certificate and is in a condition for safe operation. Currently, manufacturers under a PC, PMA, or TSO authorization are not required to provide a statement that the products or articles they manufacture conform to the approved design and are in a condition for safe operation. This proposal would enhance safety by extending the statement of conformity requirements of existing § 21.130 to those producing under a PC, PMA, or TSO authorization, in the form of an airworthiness approval requirement. See proposed §§ 21.146(d), 21.316(d), and 21.616(d), respectively.

The statement required under existing § 21.130 must include, for aircraft, that the aircraft has been flight checked; and for each aircraft engine or variable-pitch propeller, a statement that the engine or propeller has been subjected to a final operational check. This proposal would remove the flight and operational check requirements of existing § 21.130 that are redundant to those currently found in §§ 21.127(a), 21.128, and 21.129, while retaining the conformity statement requirement in proposed § 21.130.

This proposal would also require that the statement of conformity be provided in a form and manner prescribed by the FAA. The intent of this proposed change is to place details related to particular FAA forms, form content, and form use in policy documents that are more easily adjusted to reflect future changes in procedures.

Existing § 21.130(c) currently exempts a manufacturer from providing a statement of conformity for products manufactured for the Armed Forces if they have accepted the product. This proposal would remove this exemption. TC holders who manufacture products for the Armed Forces would be required to give the FAA Form 8130–2, Conformity Certificate—Military Aircraft. The intent of this proposal is to make it simpler for a future applicant to obtain a standard airworthiness certificate under existing § 21.183(d) for surplus military aircraft. Having a conformity certificate for that aircraft would satisfy existing § 21.183(d)(1).

Subpart G—Production Certificates

Section 21.137 Quality system

Proposed § 21.137(a) is based on current § 21.143(a)(5) and would require that a manufacturer's quality system include procedures for controlling design data and subsequent changes to ensure that only current, correct, and approved data is used.

Proposed § 21.137(b) would require that the quality system include procedures for controlling quality system documents and data and subsequent changes to ensure that only current, correct, and approved documents and data are used.

Proposed § 21.137(c) is based on current § 21.143(a)(2) and (b) and § 21.303(h)(1) and (2) and would require manufacturers to establish procedures to control conformity of each supplier-furnished product or article to its approved design before release for installation. For the purposes of this NPRM, a ''supplier'' is any person or

organization contracted to furnish products, articles, or services (at any tier) to a PAH. FAA certificate management activities consistently reveal shortcomings in supplier control across the industry.

Proposed paragraph § 21.137(c)(1) would require procedures to ensure that each supplier-furnished product or article conforms to its approved design. The intent of this proposal is to clarify that the PAH is responsible for ensuring the conformity of supplier-furnished items and to emphasize supplier control requirements to strengthen the effectiveness of this segment of the industry.

Proposed paragraph § 21.137(c)(2) would require each supplier to report to the PAH if a product or article has been released from that supplier and subsequently found not to conform to the applicable design data. The intent of this proposal is to ensure that the PAH is informed if non-conforming items make it through the quality system so it can initiate appropriate corrective action and reporting.

Proposed § 21.137(d) is based on current § 21.143(a)(3) and would require the quality system to include procedures for controlling manufacturing processes to ensure that each product and article conforms to its approved design. The term, ''manufacturing process,'' is intended to include special processes such as plating or heat-treating. Process controls typically include the following: Documented procedures for production, use of suitable production equipment, monitoring and controlling process parameters and product characteristics, accountability of all products during manufacture, and evidence that all manufacturing and inspection operations have been completed.

Proposed § 21.137(e) would require the quality system to include procedures for inspections and tests to ensure that a product or article conforms to its approved design. This proposal is based on existing §§ 21.143(a)(3) and 21.325(b)(1) and is intended to clarify that the purpose of inspections and tests is to verify that each product and article conforms to its approved design and is in a condition for safe operation. In addition, these inspection and test procedures must include a flight test of each aircraft produced, unless that aircraft will be exported as an unassembled aircraft, and a functional test of each aircraft engine and each propeller produced.

Proposed § 21.137(f) is new and would require the quality system to include procedures to ensure that all inspection, measuring, and test equipment used in determining conformity of products and articles to their respective approved designs is calibrated and controlled. Each calibration standard must be traceable to a standard acceptable to the FAA. The intent of this proposal is to ensure that the PAH performs conformity verifications using equipment having the necessary capability and reliability to preclude nonconforming items from being accepted and conforming items from being rejected.

Proposed § 21.137(g) is new and would require the quality system to include procedures for documenting the inspection and test status of products and articles supplied or manufactured to the approved design. The intent of this proposal is to have PAHs maintain evidence to indicate conformity or nonconformity of a product with regard to required inspections and tests.

Proposed § 21.137(h) is new and would require each organization's quality system to include procedures for establishing and maintaining certifying staff responsible for issuing airworthiness approvals for aircraft engines, propellers, and articles, including the issuance of export airworthiness approvals. The intent of proposed § 21.137(h) is to ensure that only qualified personnel issue these airworthiness approvals. An evaluation of certifying staff qualifications would need to include an assessment of the individual's knowledge, background, experience, and training. Qualifications must be commensurate with the complexity and type of product or article to be released. The FAA plans to place guidance regarding certifying staff qualifications in policy documents to be issued if this proposal is adopted. This proposal is based on the European Commission regulations, Annex Part 21, Certification of aircraft and related products, parts and appliances, and of design and production organisations.

Proposed § 21.137(i)(1) is based on current § 21.143(a)(4) and would require the quality system to include procedures to ensure that only products or articles that conform to their approved design are installed on a type-certificated product. These procedures must provide for identification, documentation, evaluation, segregation, and disposition of a nonconforming product or article. Only authorized individuals with the appropriate qualifications may make determinations regarding the disposition of products and articles. The intent of this proposal is to prevent a nonconforming product or article from being installed on a type-certificated product. This proposal is not intended to prevent, for example, temporary installation of nonconforming products or articles to facilitate assembly or testing (as accepted by the FAA), their use as a shop or training aid, or sale for non-aviation purposes.

Proposed § 21.137(i)(2) is new and would require the quality system to include procedures to ensure that discarded articles are rendered unusable. The intent of this proposal is to ensure that discarded articles are not erroneously placed into service on aircraft.

Proposed § 21.137(j) is new and would require the quality system to include procedures for implementing corrective and preventive actions to eliminate the causes of an actual or potential nonconformity to the approved design, or noncompliance with the approved quality system. This proposal is intended to address issues that may occur before products are shipped to customers. Corrective actions are intended to include root cause analysis and any other analyses necessary to correct known nonconformities and noncompliances with the quality system. Preventive actions require proactive measures to ensure that nonconformities and noncompliances do not occur. Corrective and preventive actions would promote continuous improvement of the quality system and the products and articles produced under that quality system.

Proposed § 21.137(k) is new and would require the quality system to include procedures to prevent damage or deterioration of products and articles during handling, storage, preservation, packaging, and delivery. The intent of this proposal is to ensure that a product or article continues to conform to its approved design and remains in a condition for safe operation during handling, storage, preservation, packaging, and delivery.

Proposed § 21.137(l) is a new requirement for PC holders (and by cross reference for holders of PMAs and TSO approvals at proposed §§ 121.307 and 121.607) and would require the quality system to include procedures for identifying, storing, protecting, retrieving, and retaining quality records. Quality system records include records such as inspection and test records, material review board records, and work orders. The intent of this proposal is to require documented evidence of compliance with applicable regulations and the approved quality system. Currently, subparts K and O require that these quality records be retained for two years. Subpart G does not have a quality system record retention requirement.

This proposal would require an applicant for and a holder of a production approval to retain these records for at least five years for the products and articles manufactured under the approval, and at least ten years for those parts that are identified as critical components under § 45.15(c) of this chapter. The intent of this proposal is to retain these records to support any future investigations related to failures, malfunctions, or defects that may occur or be discovered after the product or article is released from the PAH's quality system. The beginnings of these five- and ten-year periods for a given product or article would correspond to the issuance of an airworthiness approval for that product or article. This proposal is consistent with current industry best practices. We specifically request comments on whether the proposed ten-year minimum record retention requirement is adequate for critical components.

Proposed § 21.137(m) is new and would require the quality system to include procedures for planning and conducting internal audits for the purpose of assuring compliance with the approved quality system. ''Internal'' is relative to a PAH's quality system. Audits of suppliers, therefore, would fall within the scope of internal audits since a supplier is under the PAH's quality system. FAA certificate management data indicates that facilities with internal audit programs experience a lower probability of nonconformances. The results of these audits would be reported to applicable management personnel and to those personnel responsible for taking corrective actions for deficiencies found during the audit.

Proposed paragraph 21.137(n) is new and would require each manufacturer's quality system to include procedures for receiving and processing feedback from operators on in-service failures, malfunctions, and defects of products or articles. These procedures must describe how the manufacturer will assist the design approval holder (if different) to address in-service problems involving design changes and determine if any changes to the Instructions for Continued Airworthiness are necessary. The intent of this proposal is to provide feedback to ensure operational safety and facilitate continuous improvements to the manufacturer's quality system.

Proposed paragraph 21.137(o) is based on Annex Part 21 of European Union regulations and would require that the quality system include procedures for identifying, analyzing, and initiating appropriate corrective action for products or articles that have been released from the quality system and that do not conform to the applicable design data or quality system requirements (''quality escapes''). The intent of this proposal is to ensure that the PAH tracks, evaluates, categorizes, and initiates the appropriate corrective action for all nonconforming articles, including actions to correct deficiencies in the quality system that allowed for the quality escape and to assist the FAA in its certificate management and oversight of a PAH's quality system. This proposal would help promote continuous operational safety and improvement of a PAH's quality system.

Section 21.142 Production Limitation Record

This proposal is based on existing § 21.151 and would clarify that the PC holder, not the applicant for a PC, is the one who is authorized to manufacture the products listed on the production limitation record.

Section 21.146 Responsibility of Holder

This proposal would establish requirements for the holder of a PC, PMA, or TSO authorization in §§ 21.146, 21.316, and 21.616. The holders of production approvals would have the same responsibilities, as described below.

Proposed paragraph (a) would make each PAH responsible for updating the document required by §§ 21.135, 21.305, and 21.605. This would keep the FAA informed of changes in the PAH's organization and how that organization will ensure compliance with this part.

Proposed paragraph (b) would make each PAH responsible for maintaining its quality system in compliance with the data and procedures approved for that production approval. This is currently required for a holder of a PC in § 21.165(a) and for a holder of a TSO authorization in § 21.607(b). This would be a new requirement for a holder of a PMA.

Proposed paragraph (c) would make each PAH responsible for ensuring that each product or article conforms to its approved design and is in a condition for safe operation. This is currently required for a holder of a PC in § 21.165(b), a PMA in § 21.303(k), and a TSO authorization in § 21.607(a). This proposal would also retain other current requirements in § 21.165(b) for the holder of a PC related to primary category aircraft assembled from a kit. It would also retain the current requirement in § 21.607(a) for the holder of a TSO authorization that the TSO article meets the applicable TSO.

Proposed paragraph (d) would require an airworthiness approval for each aircraft engine, propeller, or article or each shipment of aircraft engines, propellers, or articles produced under that production approval that conforms to its approved design and is in a condition for safe operation. This airworthiness approval would be in the form of a completed FAA Form 8130–3. Although current regulations do not require issuance of an airworthiness approval for shipping aircraft engines, propellers, and articles, there has been a growing demand within the U.S. aviation industry to require this form to improve identification and tracking of these items.

The proposed regulation is also consistent with the 1998 recommendations of the Industry Suspected Unapproved Parts Steering Group. (We have placed a copy of these recommendations in the docket for this rulemaking.) This group determined that the establishment of a standardized, end-to-end, FAA-approved documentation process would—

- Provide a common, easily recognizable form with all aircraft engine, propeller, and article shipments so that the receiver could easily verify the airworthiness of the products, articles, and authority of the producer;
- Make a major contribution towards eliminating unapproved parts;
- Enhance the probability of success in prosecuting a manufacturer of unapproved parts, by challenging unauthorized and fraudulent use of an FAA document; and
- Provide greater confidence for non-U.S. air agencies and domestic users if the form used for export and domestic purposes is standardized for all shipments of aircraft engines, propellers, and articles.

The intent of this proposal is to provide evidence of the airworthiness approval status of an aircraft engine, propeller, and article; and help an installer make accurate airworthiness determinations.

An airworthiness approval is not intended for use within a PAH's quality system; that is, a supplier will not use an airworthiness approval to ship articles to the PAH. Only airworthiness approvals issued under subpart L of this part would be eligible for use as export airworthiness approvals; however, if the PAH issues the original airworthiness approval as an export airworthiness approval under subpart L of this part, that export airworthiness approval would also satisfy the requirement for an airworthiness approval under subpart G, K, or O; that is, only one airworthiness approval document

would be required for export. Currently, if a domestic part already has an airworthiness approval and the PAH wants to export that same part, the existing regulations require a second airworthiness approval be issued for export. Under this proposal, only one airworthiness approval document would be required.

Proposed paragraph (d) would also make the PAH responsible for issuing these airworthiness approvals for aircraft engines, propellers, and articles. A holder of a PC, PMA, and TSO authorization already has responsibility under §§ 21.165(b), 21.303(k), and 21.607(a) for determining that an aircraft engine, propeller, or article, as applicable, conforms to its approved design and is in a condition for safe operation. This proposal would now make the PAH responsible for documenting that determination via an airworthiness approval.

As discussed above for proposed § 21.137(h), the quality system for each PAH would include procedures for establishing and maintaining a certifying staff responsible for issuing these airworthiness approvals. The FAA (or its designees) would retain discretion to issue these airworthiness approvals as appropriate. This proposal is intended to give the PAH the same flexibility and responsiveness available to European and Canadian manufacturers who already issue these approvals.

Proposed paragraph (e) would require each holder of a PC, PMA, or TSO authorization to maintain complete and current design data for each product and article produced under its production approval. This is currently required for a holder of a PMA in § 21.303(h)(6) and a TSO authorization in § 21.607(c). This change would standardize requirements for all PAHs.

Proposed paragraph (f) would require each holder of a PC, PMA, or TSO authorization to retain the document(s) granting that certificate, approval, or authorization, respectively, and make it available to the FAA upon request. The intent of this proposal is to relieve the PAH from the current § 21.161 requirement to display the production certificate, and, instead, allow the holder to retain it in a manner it deems appropriate. In addition, this would standardize requirements for all PAHs.

Proposed paragraph (g) would require each holder of a PC, PMA, or TSO authorization to make available to the FAA information regarding all delegation of authority to suppliers. A holder of a PC already is required to do this under § 21.143(b). These delegations would include, for example, delegations of authority related to performing major inspections, direct ship authorization, and materials review. For the purposes of this NPRM, a direct ship authorization is a written authorization granted by a PAH to a supplier to ship completed and marked articles directly to end users, without the articles being processed through the PAH's own facility. This change would standardize requirements for all PAHs.

Subpart H Airworthiness Certificates

Section 21.183 Issue of Standard Airworthiness Certificates for Normal, Utility, Acrobatic, Commuter, and Transport Category Aircraft; Manned Free Balloons; and Special Classes of Aircraft

Currently, to manufacture an aircraft outside the United States and be entitled to a standard airworthiness certificate, that aircraft must be type certificated under § 21.21 and manufactured under a PC extension. At present, an applicant may obtain approval to manufacture under a PC extension only if the FAA finds no undue burden in administering the applicable requirements of Title 49 U.S.C. and this subchapter. This proposal would revise § 21.183(c) to entitle a person to a standard airworthiness certificate for an aircraft that is imported to the United States via an export certificate of airworthiness provided the aircraft is type certificated under § 21.21 or § 21.29, the aircraft is manufactured under the authority of another State of Manufacture, and there is no undue burden on the FAA. The State of Manufacture would be required to certify, in accordance with the provisions of an agreement with the United States for import and export of that aircraft that the aircraft conforms to its type design and is in condition for safe operation. The FAA would have to find that the aircraft conforms to its type design and is in condition for safe operation.

The intent of this proposal is to facilitate global manufacturing. A bilateral agreement with the State of Manufacture signifies that the FAA has confidence in the aircraft certification system of that country or jurisdiction for products within the scope of that agreement. Therefore, the FAA may accept their airworthiness determinations.

Currently, § 21.183(d)(2) entitles an applicant to a standard airworthiness certificate for a used aircraft if certain requirements are met. One of these requirements is that the aircraft be inspected in accordance with the performance rules for 100-hour inspections set forth in § 43.15 of this chapter. This proposal would revise paragraph (d)(2) to allow aircraft to be inspected in accordance with the performance rules for 100-hour inspections set forth in § 43.15 of this chapter, or an equivalent performance standard acceptable to the FAA. Similarly, this proposal would add paragraph (d)(2)(v) to accept a finding of airworthiness determined by the holder of a license or certificate to perform aircraft maintenance issued by a country or jurisdiction that has an agreement with the United States for the acceptance of used aircraft.

The intent of these proposals is to provide flexibility to accept equivalent inspection standards of a country or jurisdiction and the corresponding airworthiness determinations from those countries and jurisdictions with which the United States has a bilateral agreement. This proposal could also reduce the cost of importing a used aircraft if duplicate inspection requirements are eliminated.

Section 21.185 Issue of Airworthiness Certificates for Restricted Category Aircraft

Currently, to manufacture an aircraft outside the United States and be entitled to a restricted category airworthiness certificate, that aircraft must be type certificated under § 21.25 and manufactured under a PC extension. At present, an applicant may obtain approval to manufacture under a PC extension only if the FAA finds no undue burden on the FAA in administering applicable requirements of Title 49 U.S.C. and this subchapter. This proposal would revise § 21.185(c) to entitle a person to a special airworthiness certificate for a restricted category aircraft that is imported to the United States under an export certificate of airworthiness provided the aircraft is type certificated under § 21.25 or § 21.29, the aircraft is manufactured under the authority of another State of Manufacture, and there is no undue burden on the FAA. The State of Manufacture would be required to certify, in accordance with the provisions of an agreement with the United States for import and export of that aircraft that the aircraft conforms to its type design and is in condition for safe operation. The FAA would have to find that the aircraft conforms to its type design and is in condition for safe operation.

The intent of this proposal is to facilitate global manufacturing. A bilateral agreement with the State of Manufacture signifies that the FAA has confidence in the aircraft certification

system of that State for products within the scope of that agreement. Accordingly, the FAA could accept airworthiness determinations from that State as a basis for issuing airworthiness certificates for restricted category aircraft.

Section 21.195 Experimental Certificates: Aircraft To Be Used for Market Surveys, Sales Demonstrations, and Customer Crew Training

Existing paragraph (d) entitles an applicant to an experimental airworthiness certificate if certain requirements are met. One of these requirements, as specified in paragraph (d)(2), is that the applicant must show that the aircraft has been flown for at least 50 hours, or for at least 5 hours if it is a type-certificated aircraft that has been modified. This proposal would add language to allow the FAA to reduce these operational requirements when the FAA determines it is safe to do so and harmonize with the corresponding Annex Part 21 of the European Union regulations.

Section 21.197 Special Flight Permits

Under this proposal, existing paragraphs 21.197(c)(1) and (c)(2) would be combined into a single requirement, proposed § 21.197(c)(1), for all carriers certificated under part 119. The requirement for operators to maintain their aircraft under a continuous airworthiness maintenance program (CAMP) would be changed to ''an approved program for continuing flight authorization.'' This gives operators options for developing their programs, as well as allowing operators that do not have a CAMP, but do have the necessary quality system and infrastructure to support this authorization, to also be eligible.

This proposal would allow certificate holders under existing § 135.411, with an approved program, to be eligible for a continuing authorization to issue special flight permits for the purpose of maintenance. The intent of this proposal is to provide relief to operators who periodically require the issuance of special flight permits, and to the FAA, which would no longer have to issue these permits or oversee Designated Airworthiness Representatives issuing these permits.

The undesignated paragraph between existing 21.197(c)(2) and (3) would be removed, because the statement is redundant to a statement in the introductory language of existing paragraph (c).

Subpart J—Delegation Option Authorization Procedures

Section 21.293 Current Records

This proposal would revise paragraph (a)(2) to increase the record retention requirements for manufacturers from 2 to 5 years, consistent with the proposed changes to subparts G, K, and O.

Subpart K—Parts Manufacturer Approvals

Section 21.301 Applicability

This proposal would revise this section to clarify that the scope of subpart K is limited to parts manufacturer approvals.

Section 21.303 Application

This proposal would require a part to conform to its ''approved design'' instead of ''drawings in the design'' in recognition of the fact that the approved design may consist of more than drawings. It would also replace ''fabrication processes'' with ''manufacturing processes'' to reflect that PMAs would have to adhere to quality system requirements common to all PAHs. A holder of a PMA would no longer have a fabrication inspection system.

This proposal would also add § 21.303(a)(5), a new requirement for PMA applicants to provide a statement certifying that the applicant has complied with the airworthiness requirements of this subchapter. The intent of this proposal is discussed under proposed § 21.20.

Section 21.310 Inspections and Tests

This proposal would expand the FAA's ability to conduct inspections and tests to include supplier facilities. For the purposes of this NPRM, a supplier is any person or organization contracted to furnish products, articles, or services (at any tier) to a PAH. The intent of this proposal is to ensure the FAA has the requisite access to facilities and cooperation of the manufacturer to administer applicable requirements of Title 49 U.S.C. and this subchapter.

Section 21.319 Design Changes

This proposal would add requirements for classifying and approving PMA design changes that are parallel and comparable to both TSO and TC design change regulations. Currently, PMA design changes are classified and approved using the corresponding TC design change processes even though part 21 does not specifically address PMA design changes. The intent of this proposal is to fill this void in the regulations.

Subpart L—Export Airworthiness Approvals

Section 21.321 Applicability

This proposal would delete the definitions of Class I, Class II, and Class III products and of ''newly overhauled'' in existing paragraphs (b)(1) through (4) respectively. The intent of this proposal is to harmonize the definition of ''product'' in subpart L with the rest of part 21 and with the BASA Implementation Procedures for Airworthiness; that is, a ''product'' is an aircraft, aircraft engine, or propeller. In addition, since other proposals in this NPRM for subpart L would remove all occurrences of and requirements related to the term ''newly overhauled,'' the definition for this term is no longer required.

Section 21.325 Export Airworthiness Approvals

Proposed paragraph (a) would still require that an export airworthiness approval for an aircraft be issued in the form of an export certificate of airworthiness. The FAA would continue to use FAA Form 8130–4, Export Certificate of Airworthiness, for issuing these approvals. An export certificate of airworthiness form would no longer be issued for aircraft engines and propellers. See proposed paragraph (b) below. This proposal is intended to provide U.S. exporters the same flexibility and responsiveness available to foreign exporters.

This proposal would also relocate requirements related to flight-testing new aircraft from existing § 21.325(b)(1) to proposed § 21.137(e). The purpose of this change is to place all production-related requirements in subpart G. Section 21.325(b)(1) currently allows export from the United States of certain types of unassembled aircraft, including small airplanes, small rotorcraft, and gliders, without flight testing. The FAA is proposing to remove these references to specific types of aircraft. Proposed § 21.329(b) would allow the importing country or jurisdiction to define what types of unassembled aircraft may be imported without a flight test. This would facilitate the export of U.S.-manufactured aircraft to customers in foreign countries.

Proposed § 21.325(b) would require that an export airworthiness approval for an aircraft engine, propeller, or article be issued in a form and manner prescribed by the FAA. The FAA would continue to use FAA Form 8130–3 for articles and proposes using this form for issuing export airworthiness approvals for aircraft engines and propellers. The intent of this proposal is to standardize

the format of the export airworthiness approval. This will facilitate export of aircraft engines and propellers in a global manufacturing environment.

Currently, export airworthiness approvals may only be issued for used products located in another country if the FAA finds no undue burden on the FAA in administering the provisions of this regulation. Under existing § 21.325(b)(3), export airworthiness approvals may only be issued for Class II or Class III products manufactured and located in the United States. The FAA has granted numerous exemptions to those manufacturers whose suppliers are located in countries that have a BAA or BASA with the United States. These exemptions permit the issuance of export airworthiness approvals for Class II and Class III products so that these products would not have to be first shipped to the United States before export. When § 21.325(b)(3) was adopted (30 FR 8465, Jul. 2, 1965), the international market in aviation products was minimal compared with today's international market; additionally, FAA resources were limited for issuing export airworthiness approvals outside the United States. However, FAA designees are now available to issue export airworthiness approvals for PAHs and other exporters. In addition, if the United States has a bilateral agreement with another country or jurisdiction, that country or jurisdiction is typically in a position to assist the FAA in the monitoring and surveillance of U.S. PAHs located in that country or jurisdiction.

Proposed paragraph (c) would relieve these current restrictions and the burden on the public of petitioning for exemptions by allowing export airworthiness approvals to be issued for any product or article located in another country as long as the FAA finds no undue burden on the FAA in administering applicable requirements. Certificate management and designee oversight responsibilities are examples of potential burdens on the FAA. For PAHs, the assessment of undue burden related to issuing an export airworthiness approval would be performed during the FAA's undue burden assessment of a prospective production facility located outside the United States. See FAA Order No. 8100.11 for a description of the undue burden assessment process. The order is available through the FAA Internet Web site, *http://www.faa.gov.*

The FAA may permit a PAH to issue export airworthiness approvals at a supplier facility in a foreign country or jurisdiction if the PAH has established and implemented supplier control procedures that are acceptable to the FAA. Using a designated representative of the Administrator to issue these approvals could mitigate any burden on the FAA from other exporters. In addition, as discussed under proposed § 21.331(a), the PAH would be authorized to issue an export airworthiness approval for a new aircraft engine, propeller, or article on behalf of the FAA.

In summary,

If a—	Is in a foreign location, may an export airworthiness approval be issued for that item under the *current* regulation?	Is in a foreign location, may an export airworthiness approval be issued for that item under the *proposed* regulation?
New aircraft	No.	
New engine or propeller	No.	
Used aircraft	Yes, if no undue burden on the FAA	Yes, if no undue burden on the FAA.
Used engine or propeller	Yes, if no undue burden on the FAA	
New article	No.	
Used article	No.	

Section 21.327 Application

This proposal would shift detailed application procedures of this section to FAA policy and clarify that any person may apply for an export airworthiness approval. An applicant would use FAA Form 8130–1, Application for Export Certificate of Airworthiness, to apply for an export certificate of airworthiness. A PAH would not have to apply for an export airworthiness approval for a new aircraft engine, propeller, or article.

This proposal would remove existing § 21.327(e), which requires a written statement from the importing country that will validate an export airworthiness approval if the product being exported meets any of four conditions listed in paragraphs (e)(1) through (4). Paragraph (e)(1) requires this written statement for aircraft manufactured outside the United States and being exported to a country with which the United States has a reciprocal agreement concerning the validation of export certificates. A written statement is not required if an agreement with the importing country or jurisdiction already includes provisions for import and export of ''third country'' aircraft. If these provisions do not exist, then the FAA, not the exporter, would coordinate with the importing country or jurisdiction to determine if that country or jurisdiction would ''validate'' or accept an FAA export certificate of airworthiness. The intent of this proposal to remove paragraph (e)(1) is to clarify that the exporter does not have responsibility for obtaining this written statement from the importing country or jurisdiction. Paragraphs (e)(2) through (4) would be removed and addressed under proposed § 21.329.

Section 21.329 Issuance of Export Certificates of Airworthiness

This proposal would revise this section to provide requirements related to issuance of export certificates of airworthiness for aircraft. Paragraph (a) would provide specific requirements for issuance of these certificates and paragraph (b) would include provisions for exceptions to these requirements.

Proposed paragraph (a)(1) would expand current paragraph (a) to allow an export certificate of airworthiness to be issued for new or used aircraft manufactured under subparts F or G of this part, including aircraft manufactured outside of the United States. Currently, paragraph (a) requires that the aircraft be manufactured in the United States. The intent of this proposal is to clarify that this requirement is addressing the regulatory authority under which the aircraft was manufactured, not the physical location of manufacture. Requirements related to the physical location of the aircraft would be addressed by proposed § 21.325(c). This proposal would also allow an aircraft that meets the requirements under subpart H of this part for a special airworthiness certificate in either the ''primary'' or ''restricted'' category to receive an export certificate of airworthiness. An export certificate of airworthiness represents a statement from the FAA that a given aircraft conforms to its type design and is in a condition for safe operation. Since an aircraft in either the ''primary'' or ''restricted'' category has a type design, adequate basis exists for issuing an export certificate of

airworthiness for such an aircraft that conforms to its type design and is in a condition for safe operation. The intent of this proposal is to facilitate exporting such aircraft.

Proposed paragraph (a)(2) would revise current paragraph (b) to clarify that an export certificate of airworthiness may be issued for a new or used aircraft not manufactured under subpart F or G of this part. Currently, paragraph (b) applies to ''aircraft manufactured outside the United States.'' The intent of this proposal is to clarify that this requirement addresses the regulatory authority under which the aircraft was manufactured, not the physical location of manufacture. This proposal would also allow aircraft that have a special airworthiness certificate in the ''primary'' category or the ''restricted'' category to receive an export certificate of airworthiness. The intent of this proposal is to facilitate exporting such aircraft.

Proposed paragraph (a)(3) would require that each requirement of the importing country or jurisdiction be met. This requirement is the same as current § 21.329(f).

This proposal would remove existing paragraphs (c) and (e) that require, for an export certificate of airworthiness—

- Used aircraft to undergo an annual type inspection and be approved for return to service; and
- Used engines and propellers not exported as part of a certificated aircraft to be newly overhauled.

Under regulations in effect since 1965, the requirements for export airworthiness approvals have helped to assure the export of quality products that meet safety standards at least as high as those applicable to products for domestic use. Currently, an aircraft or other product not having been inspected or newly overhauled is not issued an export airworthiness approval. Under this proposal, importing airworthiness authorities may choose to accept a product without being inspected or newly overhauled. The decision to accept aircraft or other products that have not been inspected or overhauled would rest with the airworthiness authority of the importing country or jurisdiction. This would result in cost savings without compromising aviation safety since the importing airworthiness authority would continue to apply the appropriate safety standards.

Section 21.331 Issuance of Export Airworthiness Approvals for Aircraft Engines, Propellers, and Articles

Proposed paragraph (a) would permit a PAH to issue an export airworthiness approval for a new aircraft engine, propeller, or article it manufactured under this part. Only airworthiness approvals issued under subpart L of this part would be eligible for use as export airworthiness approvals; however, if the PAH issues the original airworthiness approval as an export airworthiness approval under subpart L of this part, that export airworthiness approval would also satisfy the requirements for issuing an airworthiness approval under subparts G, K, or O. Under this proposal, the FAA would retain discretion to issue export airworthiness approvals for new aircraft engines, propellers, and articles for a PAH.

Proposed paragraph (b) would combine the requirements of existing § 21.331(b) and § 21.325(c) to put exceptions to proposed § 21.331(a) in one place.

Under proposed paragraph (c), the FAA or its designees may also issue an export airworthiness approval for a new aircraft engine, propeller, or article for a person who is not a PAH. This proposal expands current subpart L provisions by allowing a U.S. exporter who is not a PAH to export what are currently referred to as Class III products. Currently, § 21.323(b) allows only a manufacturer who has in his employ a designated representative of the Administrator to obtain an export airworthiness approval for Class III products. The intent of these proposals is to facilitate the global movement and acceptance of new aircraft engines, propellers, and articles.

Under proposed paragraph (d), the FAA or its designees may also issue an export airworthiness approval for a used aircraft engine, propeller, or article. The FAA would only issue these approvals for items that—

- Conform to their approved designs and are in a condition for safe operation; and
- Meet each requirement of the importing country or jurisdiction.

Subpart L currently has no provision for issuing export airworthiness approvals for used articles. The intent of this proposal is to make provision for the export of these items. In addition, used aircraft engines and propellers not exported as part of a certificated aircraft would no longer be required to be newly overhauled as discussed in the preamble for proposed § 21.329.

Section 21.335 Responsibilities of Exporters

Rather than listing specific documents that the exporter must forward to the importing authority as in current paragraphs (a) and (b), proposed paragraph (a) would require only that the exporter forward to the importing country or jurisdiction all documents specified by that country or jurisdiction. This proposal is intended to recognize the ability of a country or jurisdiction to define its own requirements. Proposed paragraph (b) would require the exporter to preserve and package products and articles as necessary to protect them against corrosion and damage during transit or storage.

Section 21.339 [Removed]

Existing § 21.339 provides for the issuance of special export certificates of airworthiness for aircraft located in the United States that are to be flown to various foreign countries for the purpose of demonstrating the aircraft to prospective purchasers if the aircraft possesses either—

- A standard U.S. airworthiness certificate; or
- A special U.S. airworthiness certificate in the restricted category.

Under this regulation, an export certificate of airworthiness appropriate for validation or acceptance in any of the foreign countries involved may be issued before departure of the aircraft from the United States. The exporter must show that it has the documents, information, and material necessary to meet the special requirements of each of the prospective importing countries. Upon finding a buyer, the exporter has, in hand, a valid export certificate of airworthiness to facilitate airworthiness acceptance by the country in which the aircraft is to be sold. This relieves the exporter of the need to return the aircraft to the United States or apply to an overseas FAA office for a certificate under § 21.329.

This proposal would remove this section. This special procedure has rarely been used and is no longer necessary today. The FAA can accommodate this need ''without returning the aircraft to the U.S.'' using designated airworthiness representatives, an option that was not available when this rule was originally adopted. When the exporter finds a buyer, the exporter can hire a designated airworthiness representative to issue an export certificate of airworthiness under subpart L and ship required documents to the importer and importing authority.

Subpart N—Acceptance of Aircraft Engines, Propellers, and Articles for Import

Section 21.500 Acceptance of Aircraft Engines and Propellers

This proposal would revise this section by replacing the word ''approval'' with ''acceptance'' to clarify

that this section is limited to regulating the import or acceptance of aircraft engines and propellers into the United States, not the original design or production approvals of aircraft engines and propellers. It would also require that each aircraft engine and propeller be identified in accordance with part 45 of this chapter.

Section 21.502 Acceptance of Articles

This proposal would revise this section by replacing the word ''approval'' with ''acceptance'' to clarify that this section is limited to regulating the import or acceptance of articles into the United States, not the original design or production approvals of articles.

It would also add a requirement that an article (including an article produced under a letter of TSO design approval) be marked in accordance with part 45 of this chapter to meet the requirements for acceptance under this subchapter. Currently, § 21.617(c) contains marking requirements for TSO articles produced under a letter of TSO design approval. The FAA originally considered consolidating these requirements with all other marking requirements in part 45. However, to avoid any appearance of regulating manufacturers under another State of Manufacture, the FAA decided to impose these marking requirements as a requirement in § 21.502 for importing these articles into the United States.

Subpart O—Technical Standard Order Approvals

Section 21.603 Application

Proposed § 21.603(a) is based on existing § 21.605(a)(1) and (2) with minor edits for consistency. (Existing § 21.605(a)(3) is removed because it is addressed under proposed § 21.607.) Proposed § 21.603(b) is a redesignation of existing § 21.605(b). (Existing § 21.605(c) is relocated to proposed § 21.611.)

Proposed § 21.603(c) is based on existing § 21.605(d) and (e) and eliminates some of the overlap of these paragraphs. Under proposed § 21.603(c), there would be no 30-day time frame for the FAA to issue or deny an application. We are proposing to remove this requirement to avoid imposing an arbitrary time limit on the application review process. The FAA may need additional time to review complex applications. The FAA intends to issue guidance to accompany this rulemaking that would encourage staff to complete application reviews within 30 days, but we do not believe it is appropriate to retain this inflexible standard in the regulations.

Existing § 21.603(a) specifies that no person may identify an article with a TSO marking unless that person holds a TSO authorization and the article meets applicable TSO performance standards. This proposal would relocate this requirement to proposed § 45.10 and expand it to apply to all production approval holders. This proposal would relocate existing § 21.603(b) to proposed § 21.613(b).

This proposal would remove existing § 21.603(c). The TSO standards listed in § 21.603(c) were removed from use over thirty years ago and are no longer recognized as valid standards. Removal of the list from paragraph (c) does not imply that the previously listed TSO standards may once again be used or articles may once again be marked with the listed TSO numbers. The FAA believes that since the listed standards have not been used for several decades, no purpose is served by retaining § 21.603(c).

Section 21.611 Issuance

Proposed § 21.611 is based on existing § 21.605(c) and would allow the FAA to issue a TSO authorization (including all TSO deviations granted to the applicant) if the FAA finds that the applicant complies with the requirements of this subchapter. An important aspect of this finding would be a determination that the applicant has the ability to produce duplicates. This would be based on a review of the applicant's quality system required under proposed § 21.607.

Section 21.613 Duration

This proposal would remove language related to transferability of a TSO authorization. Requirements related to transferability of a TSO authorization would be addressed in a separate section, proposed § 21.614.

Part 43—Maintenance, Preventive Maintenance, Rebuilding, and Alteration

Section 43.3 Persons Authorized To Perform Maintenance, Preventive Maintenance, Rebuilding, and Alterations

This proposal would amend § 43.3(j)(3) to remove all references to an APIS consistent with the proposed changes to part 21, subpart F, and allow a manufacturer to perform any inspection required by Parts 91 or 125 of this chapter on aircraft it manufactured under a type certificate or currently manufactures under a production certificate.

Part 45—Identification and Registration Marking

Section 45.1 Applicability

This proposal would revise paragraphs (a) and (b) of this section to reflect that all detailed marking requirements would now be consolidated in part 45, including TSO article marking requirements.

Section 45.10 Identification

This proposal would consolidate marking requirements in one location and apply them to all production approval holders, including persons who export their products to the United States under the provisions of an agreement between the United States and another country or jurisdiction. These markings identify the person authorized to produce that product, part, appliance, or TSO article and also provide a reference to the corresponding approved design data. Furthermore, these markings constitute a representation from that person that the given product, part, appliance, or TSO article conforms to its approved design. Only the person authorized to produce the product, part, appliance, or TSO article may make this representation. This proposal would not preclude a supplier of a production approval holder from applying markings in accordance with requirements from that production approval holder and procedures approved by the FAA.

Proposed paragraph (b) would require that no person may identify a product, part, appliance, or TSO article in accordance with this subpart unless that product, part, appliance, or TSO article conforms to its approved design, and is in a condition for safe operation; and, for a TSO article; that TSO article meets the applicable performance standards. This proposal would not preclude applying in-process markings throughout the manufacturing process if necessary.

Section 45.11 Identification of Products

This proposal would replace current paragraph (a) with proposed paragraphs (a) and (b) to put aircraft and aircraft engine identification requirements into separate paragraphs for clarity.

Proposed paragraph (b) would apply the current aircraft engine marking requirements to each module of modular engine configuration so that identification information and operational history is retained if these modules are ever separated from one another, or interchanged in service.

This proposal would add paragraph (g) to provide relief from the aircraft

data plate location requirement of paragraph (a) of this section for those persons who, since amendment number 45–17 (52 FR 34101, Sept. 9, 1987), have had to obtain exemptions (DOT/FAA exemption numbers 4902 and 4913) to allow them not to locate the data plate on the exterior of the aircraft near the tail. The FAA has consistently determined that the justifications for granting these exemptions are valid and that granting these exemptions is in the public interest. Aircraft and aircraft operations of the types covered by these exemptions are unlikely to be connected with drug smuggling activities, the situation addressed in amendment number 45–17. The intent of this proposal is to relieve the burden on the public and on the FAA related to processing these exemptions in the future.

This proposal would add paragraph (h) to provide relief to manufacturers of gliders from the aircraft data plate location requirement of paragraph (a) of this section for those persons who since amendment number 45–17 have had to obtain exemptions (DOT/FAA exemption number 4988) to allow them not to locate the data plate on the exterior of the aircraft near the tail.

Section 45.15 Identification Requirements for Parts, Appliances, and TSO Articles

This proposal would standardize and consolidate marking requirements for parts, appliances, TSO articles, and components thereof, including an identifier of the person who manufactured the part and the part number. For the purposes of this proposal, ''component'' refers to a constituent part. For example, the letter keys of a computer keyboard would be components of the keyboard. For TSO articles, in addition to the requirements of proposed paragraph (a), paragraph (b) would require the TSO number and letter of designation, all markings specifically required by the applicable TSO, and the serial number or date of manufacture or both, unless otherwise specified in the applicable TSO.

This proposal would relocate the requirements of existing § 45.15(b) to paragraph (d) of this section. The proposal would allow marking information to be attached to any part or component that the FAA finds is too small or otherwise impractical to mark on the part or component and clarify that this provision applies to all PAHs.

Section 45.16 Marking of Life-Limited Parts

This proposal would remove the second sentence of this section, which provides two acceptable means of compliance with the requirement to provide marking instructions. It has long been FAA policy to place recommendations for how to comply with requirements in advisory material, not regulations.

X. Proposed Effective Date for Changes

The FAA proposes to make all changes effective 18 months after publication of the final rule in the **Federal Register**. The complexity of this proposed effective date for persons manufacturing under an approved production inspection system (APIS) per existing § 21.123(c) warrants further explanation. Eighteen months after adoption of the proposed changes to § 21.123, the FAA will rescind all APIS approvals. Persons manufacturing under an APIS would be expected to surrender their letter of APIS approval, manufacture under a TC if they choose to continue manufacturing, and have 6 months to obtain a PC under part 21 subpart G.

XI. Derivation and Distribution Tables

In this NPRM, the FAA proposes to completely revise subparts G, K, L, and O of part 21 and subparts A and B of part 45. For these subparts, the following derivation tables show the bases for each proposed section.

DERIVATION TABLE FOR PART 21 SUBPART G

Proposed section—	Based on—
21.131 Introductory text	21.131.
21.131(a)	21.131.
21.131(b)	21.131.
21.132 Introductory text	21.133(a).
21.132(a)	21.133(a)(1).
21.132(b)	21.133(a)(2).
21.132(c)	21.133(a)(3).
21.133	21.133(b).
21.135	21.143(a)(1).
21.137 Introductory text	21.139 and 21.143(a).
21.137(a)	21.143(a)(5).
21.137(b)	21.143(a)(5).
21.137(c) Introductory text	New language.
21.137(c)(1)	21.143(a)(2).
21.137(c)(2)	New language.
21.137(d)	21.143(a)(3).
21.137(e)	21.143(a) and 21.143(a)(3).
21.137(e)(1)	21.143(a)(3).
21.137(e)(2)	New language.
21.137(f)	New language.
21.137(g)	New language.
21.137(h)	New language.
21.137(i)(1)	21.143(a)(4).
21.137(i)(2)	New language.
21.137(i)(3)	New language.
21.137(j)	New language.
21.137(k)	New language.
21.137(l)	New language.
21.137(m)	New language.
21.137(n)	New language.
21.137(o)	New language.

DERIVATION TABLE FOR PART 21 SUBPART G—Continued

Proposed section—	Based on—
21.138	21.143(a).
21.139(a)	21.137.
21.139(b)	21.159.
21.140	21.157.
21.141	21.135.
21.142	21.151.
21.143	21.159.
21.144	21.155.
21.145	21.163.
21.146 Introductory text	21.165 Introductory text.
21.146(a)	New language.
21.146(b)	21.165(a).
21.146(c)	21.165(b).
21.146(d)	New language.
21.146(e)	21.303(h)(6) and 21.613(a)(1).
21.146(f)	21.161.
21.146(g)	21.143(b).
21.147	21.153.
21.150 Introductory text	21.147.
21.150(a)	21.147.
21.150(b)	21.147.

DERIVATION TABLE FOR PART 21 SUBPART K

Proposed section—	Based on—
21.301 Introductory text	21.301.
21.301(a)	21.301.
21.301(b)	New language.
21.303(a)	21.303(c).
21.303(a)(5)	New language.
21.303(b)	21.303(f).
21.305	New language.
21.307	New language.
21.308	New language.
21.309(a)	21.303(g).
21.309(b)	21.303(j).
21.310	21.303(e).
21.311	21.303(d) Introductory text and 21.303(d)(1).
21.313	21.303(i).
21.314	21.303(i).
21.316 Introductory text	New language.
21.316(a)	New language.
21.316(b)	21.165(a).
21.316(c)	21.303(k).
21.316(d)	New language.
21.316(e)	21.303(h)(6).
21.316(f)	21.161.
21.316(g)	21.143(b).
21.319(a)	21.93(a).
21.319(b)(1)	21.95.
21.319(b)(2)	New language.
21.320	21.147.

DERIVATION TABLE FOR PART 21 SUBPART L

Proposed section—	Based on—
21.321 Introductory text	21.321(a).
21.321(a)	21.321(a)(1).
21.321(b)	21.321(a)(2).
21.325(a)	21.325(a)(1).
21.325(b)	21.325(a)(2).
21.325(c)	New language.
21.327	21.327(a).
21.329(a)	21.329 Introductory text.
21.329(a)(1)	21.329(a).
21.329(a)(2)	21.329(b).
21.329(a)(3)	21.329(f).
21.329(b)	21.329(g).

DERIVATION TABLE FOR PART 21 SUBPART L—Continued

Proposed section—	Based on—
21.329(b)(1)	21.329(g).
21.329(b)(2)	21.325(c).
21.331(a)	New language.
21.331(a)(1)	New language.
21.331(a)(2)	New language.
21.331(b)	21.331(b).
21.331(b)(1)	21.331(b).
21.331(b)(2)	21.325(c).
21.335 Introductory text	21.335 Introductory text.
21.335(a)	21.335(a) and (b).
21.335(b)	New language.
21.335(c)	21.335(c).
21.335(d)	21.335(d).
21.335(e)	21.335(e).

DERIVATION TABLE FOR PART 21 SUBPART O

Proposed section—	Based on—
21.601(a)	21.601(a).
21.601(b) Introductory text	21.601(b) Introductory text.
21.601(b)(1)	21.601(b)(1).
21.601(b)(2)	21.601(b)(2).
21.601(b)(3)	21.601(b)(3).
21.601(b)(4)	21.601(b)(4).
21.601(b)(5)	21.601(b)(5).
21.603(a)	21.605(a).
21.603(a)(1)	21.605(a)(1).
21.603(a)(2)	21.605(a)(2).
21.603(b)	21.605(b).
21.603(c)	21.605(d) and part of (e).
21.605	New language.
21.607	New language.
21.608	21.605(a)(3).
21.609(a)	21.601(c).
21.609(b)	New language.
21.610	21.615.
21.611	21.605(c).
21.613(a)	21.621.
21.613(b)	21.603(b).
21.614	21.621.
21.616 Introductory text	21.607 Introductory text.
21.616(a)	New language.
21.616(b)	21.607(b).
21.616(c)	21.607(a).
21.616(d)	New language.
21.616(e)	21.607(c), 21.613(a)(1), and 21.613(b).
21.616(f)	21.161.
21.616(g)	21.143(b).
21.618	21.609.
21.619	21.611.
21.620	21.147.
21.621(a)	21.617(a).
21.621(b)	21.617(b).

DERIVATION TABLE FOR PART 45 SUBPART A

Proposed section—	Based on—
45.1 Introductory text	45.1 Introductory text.
45.1(a)	45.1(a).
45.1(a)(1)	45.1(a).
45.1(a)(2)	45.1(a).
45.1(a)(3)	New language.
45.1(b)	45.1(c).

DERIVATION TABLE FOR PART 45 SUBPART B

Proposed section—	Based on—
45.10	21.603(a).
45.11(a)	45.11(a).
45.11(b)	45.11(a).
45.11(c)	45.11(b).
45.11(d)	45.11(c).
45.11(e)	45.11(d).
45.11(f)	45.11(e).
45.11(g)	New language.
45.11(h)	New language.
45.13	45.13.
45.15(a)	New language.
45.15(b)	21.607(d).
45.15(c)	45.14.
45.15(d)	45.15(b).
45.16	45.16

The Distribution Tables below show the sections that would be replaced by the current proposal..

DISTRIBUTION TABLE FOR PART 21 SUBPART G

Current section—	Replaced by—
21.131	21.131(a) and (b).
21.133(a)(1) through (a)(3)	21.132(a) through (c).
21.133(b)	21.133.
21.135	21.141.
21.137	21.139(a).
21.139	21.137 Introductory text.
21.143(a)	21.138 and 21.137(e).
21.143(a)(1)	21.135.
21.143(a)(2)	21.137(c)(1).
21.143(a)(3)	21.137(d), 21.137(e)(1) and (e)(2).
21.143(a)(4)	21.137(i).
21.143(a)(5)	21.137(a) and (b).
21.143(a)(6)	Removed.
21.143(b)	21.146(g).
21.147	21.150(a) and (b).
21.149	Removed.
21.151	21.142.
21.153	21.147.
21.155	21.144.
21.157	21.140.
21.159	21.139(b) and 21.143.
21.161	21.146(f).
21.163	21.145.
21.165 Introductory text	21.146 Introductory text.
21.165(a)	21.146(b).
21.165(b)	21.146(c).

DISTRIBUTION TABLE FOR PART 21 SUBPART K

Current section—	Replaced by—
21.301	21.301(a) and (b).
21.303(a)	21.9(a).
21.303(b)	Removed.
21.303(b)(1)	21.9(a)(1–2).
21.303(b)(2)	21.9(a)(5).
21.303(b)(3)	21.9(a)(2).
21.303(b)(4)	21.9(a)(3) and 21.1(b)(7).
21.303(c)(1) through (c)(4)	21.303(a)(1) through (a)(4).
21.303 Introductory text and (d)(1)	21.311.
21.303(d)(2)	Removed, but see 21.308.
21.303(e)	21.310 Introductory text.
21.303(e)(1)	21.310(a).
21.303(e)(2)	21.310(b).
21.303(f)(1) through (f)(4)	21.303(b)(1) through (b)(4).

DISTRIBUTION TABLE FOR PART 21 SUBPART K—Continued

Current section—	Replaced by—
21.303(g)	21.309(a).
21.303(h)(1) through (h)(9)	Removed.
21.303(i)	21.313 and 21.314.
21.303(j)	21.309(b).
21.303(k)	21.316(c).
21.305(a) through (d)	21.7(a) through (d).

DISTRIBUTION TABLE FOR PART 21 SUBPART L

Current section—	Replaced by—
21.321(a)	21.321 Introductory text.
21.321(a)(1)	21.321(a).
21.321(a)(2)	21.321(b).
21.321(b)(1) through (b)(4)	Removed.
21.323	21.329 and 21.331.
21.325(a)(1)	21.325(a).
21.325(a)(2)	21.325(b).
21.325(b)(1)	Removed.
21.325(b)(2) and (b)(3)	21.325(c).
21.325(c)	21.329(b)(2) and 21.331(c)(2).
21.327(a) through (f)	21.327.
21.329 Introductory text	21.329(a), 21.331(a), and 21.331(b).
21.329(a)	21.329(a)(1), 21.329(a)(1)(i) and (a)(1)(ii).
21.329(b)	21.329(a)(2) and 21.329(a)(2)(i).
21.329(c)	Removed.
21.329(d)	21.331(a)(1).
21.329(e)	Removed.
21.329(f)	21.329(a)(3).
21.329(g)	21.329(b) and 21.329(b)(1).
21.331	21.331.
21.333	21.331.
21.335 Introductory text	21.335 Introductory text.
21.335(a)	21.335(a).
21.335(b)	21.335(a).
21.335(c)	21.335(c).
21.335(d)	21.335(d).
21.335(e)(1) through (e)(3)	21.335(e)(1) through (e)(3).
21.337(a) through (f)	Removed.
21.339(a) through (f)	Removed.

DISTRIBUTION TABLE FOR PART 21 SUBPART O

Current section—	Replaced by—
21.601(a) and 21.601(a)(1) through (a)(3)	21.601(a) and 21.601(a)(1) through (a)(3).
21.601(b)(1)	21.601(b)(1).
21.601(b)(2)	21.601(b)(2).
21.601(b)(3)	21.601(b)(3).
21.601(b)(4)	21.601(b)(4).
21.601(b)(5)	21.601(b)(5).
21.601(c)	21.609(a).
21.603(a)	45.10.
21.603(b)	21.613(b).
21.603(c)	Removed.
21.605(a)(1) and (2)	21.603(a).
21.605(a)(3)	Removed.
21.605(b)	21.603(b).
21.605(c)	21.611.
21.605(d)	21.603(c).
21.605(e)	Partially removed, 21.603(c).
21.607 Introductory text	21.616 Introductory text.
21.607(a)	21.616(c).
21.607(b)	21.616(b).
21.607(c)	21.616(e).
21.607(d)	45.15(b).
21.609	21.618.
21.611	21.619.
21.613(a)	21.616(e) and 21.137(l).
21.613(a)(1)	21.616(e).

DISTRIBUTION TABLE FOR PART 21 SUBPART O—Continued

Current section—	Replaced by—
21.613(a)(2)	21.137(l).
21.613(b)	21.616(e).
21.615	21.610.
21.617(a)(1) and (a)(2).	21.621(a)(1) and (a)(2).
21.617(b)	21.621(b).
21.617(c)	21.502.

DISTRIBUTION TABLE FOR PART 45 SUBPART A

Current section—	Replaced by—
45.1 Introductory text	45.1 Introductory text.
45.1(a)	45.1(a).
45.1(b)	45.1(a).
45.1(c)	45.1(b).

DISTRIBUTION TABLE FOR PART 45 SUBPART B

Current section—	Replaced by—
45.11(a)	45.11(a) and (b).
45.11(b)	45.11(c).
45.11(c)	45.11(d).
45.11(d)	45.11(e).
45.11(e)	45.11(f).
45.13	45.13.
45.14	45.15(c).
45.15(a)	Removed.
45.15(b)	45.15(d).
45.16	45.16.

XII. Regulatory Notices and Analyses

Paperwork Reduction Act

This proposal contains new information collection requirements as described in the subsequent paragraphs of this section. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the FAA has submitted the information requirements associated with this proposal to the Office of Management and Budget for its review.

Currently, § 21.3(f) requires only holders of TSO authorizations to report to the FAA the results of their investigations, corresponding corrective actions, and if necessary, data necessary for issuing an airworthiness directive. This proposal would amend this paragraph to expand this reporting requirement to apply to all PAHs. The proposal would enhance the FAA's ability to respond to service difficulty reports for all products and articles manufactured under part 21. The likely respondents to this proposed information requirement are two additional Production Approval Holders (PAHs) over the next 10 years. One additional manufacturer would be impacted every 5 years (years 5 and 10). Eighty-six percent of Technical Standard Order (TSO) authorization holders are small businesses, and the remaining 14% are large businesses (based on a 45% sample of FAA data). The estimate of average time to comply with the rule is 40 hours for small businesses and 64 hours for large businesses. The average cost to comply with the rule is $4,000 for small businesses and $6,400 for large businesses. The weighted average cost to comply with the rule is approximately $4,300. The undiscounted cost of this section of the rule is approximately $8,700. The average total annual cost burden is approximately $870. The average total annual hour burden is approximately 8.7 hours.

This proposal would require an applicant for a TC (including an STC) or a major change to a type design to provide a statement to the FAA certifying that the applicant has complied with the applicable requirements. This proposal would allow the FAA to exercise greater discretion in prioritizing its review of applications, to more effectively assign resources supporting the application process, and to select which aspects of an application to review most closely. The likely respondents to this proposed information requirement are all PMAs. The average cost to comply with the rule is approximately $50 per firm. The total cost to comply with the rule is approximately $74,650 (1,493 firms × $50/firm = $74,650). The average total annual cost burden is approximately $7,465 ($74,650/10 years = $7,465). The average total annual hour burden is approximately 75 hours.

This proposal would require each PAH to issue and each manufacturer under a TC to obtain an airworthiness approval, FAA Form 8130–3, for each aircraft engine, propeller, article, or shipment thereof produced under that production approval or TC that conforms to its approved design and is in a condition for safe operation. The intent of this proposal is to—

- Make a major contribution towards eliminating unapproved parts;
- Enhance the probability of success in prosecuting a manufacturer of unapproved parts by challenging unauthorized and fraudulent use of an FAA document;
- Provide greater confidence in the source of a part to users throughout the world;
- Provide evidence of the airworthiness approval status of an aircraft engine, propeller, and article; and
- Help an installer make accurate airworthiness determinations.

There are four categories of likely respondents to this proposed information requirement.

Manufacturing Under a TC

About 36 small businesses manufacture under a PC. The cost to tag all parts produced under a TC only is less than 1% of the cost to do so under a PC. Since it costs a small PC an additional $100,000 to comply with the corresponding rule for PCs, it will cost a small firm producing under a TC only less than $1,000 to comply. The average annual cost to comply is estimated to be no more than approximately $36,000. The average total annual hour burden is no more than approximately 36 hours.

PC Holders

Approximately 32 PC holders are large businesses. About 80% of large PC holders currently tag all parts. There are 36 PC holders that are small businesses. About 45% of small PC holders currently tag all parts. The average additional cost to tag all parts is estimated to be $100,000 for a small business and $70,667 for a large business. The average total annual cost to comply is estimated to be about $3,600,000 for small businesses and $452,267 for large businesses. The average total annual cost is estimated to be about $4,052,267. The average total annual hour burden is estimated to be about 4,052 hours.

PMA Holders

Based on a sample of FAA data, there are approximately 1,374 PMA holders that are small businesses and about 119 PMA holders that are large firms. Based on information from FAA inspectors, an average of about 31% of PMAs currently tag all parts or shipments of parts. The average additional cost to tag all parts or shipments of parts produced under a PMA is about $2,400 for small businesses and about $82,500 for large businesses. The average total annual cost to comply is approximately $9.3 million. The average total annual hour burden is approximately 93,000 hours.

TSO Authorization Holders

Based on a sample of FAA data, there are approximately 302 TSO authorization holders that are small businesses and about 49 TSO authorization holders that are large businesses. Based on information from FAA inspectors, an average of about 50% of TSO authorization holders currently tag all shipments of articles or parts. The average additional cost to tag all shipments of articles or parts produced under a TSO authorization is estimated to be about $450 for a small business and about $366,875 for a large business. The average total annual cost to comply is estimated to be approximately $9.08 million. The average total annual hour burden is estimated to be approximately 90,800 hours.

Totals

The average total annual cost for all four classes of respondents is estimated at approximately $22.2 million. The average total annual hour burden for all four classes of respondents is estimated at approximately 222,000 hours.

This proposal would require each applicant for a production approval to provide to the FAA a document describing how the applicant's organization will ensure compliance with the requirements for production approvals in part 21 subpart G, K, or O, as applicable. A PAH would also be required to provide to the FAA amendments to this document as necessary to reflect changes in its organization. The intent of this requirement is to obtain a commitment from the top management of the PAH to—

- Establish a quality system that complies with this subchapter and ensures that each product and article conforms to its approved design and is in a condition for safe operation; and
- Continually improve that quality system.

These commitments are widely recognized as necessary for establishing and continually improving quality. Based on information from industry representatives, this is current practice for PC holders and PMA holders. Based on a sample of FAA data, 14% of TSO authorization holders are large businesses and 86% are small businesses. Thus, approximately 302 of the 351 TSO authorization holders are small businesses and about 49 TSO authorization holders are large businesses. There would be no additional cost for a large TSO authorization holder to comply with this proposed regulation, and that the average cost for a small TSO authorization holder to comply with this would be $50. This is a FAA estimate based on information from industry representatives. The average total annual cost to comply is approximately $1,509. The average total annual hour burden is approximately 15 hours.

This proposal would require each applicant for a PMA to provide a quality manual describing its quality system to the FAA for approval. Just as other proposals in this NPRM would standardize quality system requirements for all PAHs, the intent of this proposal is to standardize the requirements for documenting the quality system. In addition, a PAH would have to provide a revised quality manual to reflect proposed changes to quality system requirements. This is already current practice for PC and TSO authorization holders. Based on a sample of FAA data, approximately 1,374 PMA holders are small businesses and about 119 PMA holders are large firms. The average cost to comply with the rule is estimated to be $400 for small businesses and $200 for large businesses. The total cost to comply with the rule is estimated to be approximately $573,312. The average total annual cost burden is estimated to be approximately $57,331. The average total annual hour burden is estimated to be approximately 573 hours.

Current regulations only require marking and identification of products and articles of the top-level assembly. Marking or identification of constituent parts is not required. This proposal would require manufacturers to mark or identify the constituent parts of each product and article with an identifier of the manufacturer and a part number. This proposal would also relieve a holder of a PMA from the requirement of marking its parts with ''FAA–PMA'' and installation eligibility information. The intent of these proposals is to—

- Relieve PMA holders of unnecessary part marking requirements;
- Reduce the potential for installing unapproved parts on FAA type-certificated products;
- Facilitate airworthiness determinations;
- Facilitate the international delivery of parts; and
- Provide information to accident investigators that may help prevent future accidents.

Based on information from industry representatives, this requirement is already current practice for large- and small-business holders of PCs and for small-business holders of PMAs. Based on information from industry representatives, it would cost a large-business holder of a PMA an average of $42,900 to mark every part and every component of a part. Based on a sample of FAA data, approximately 1,374 of the 1,493 PMA holders are small businesses and about 119 PMA holders are large businesses. The average cost to comply is estimated to be $42,900 for a PMA holder that is a large business. The average annual cost to comply is estimated to be $5.1 million.

Based on information from industry representatives, it would cost a TSO authorization holder that is a large business an average of $57,200 to mark

every TSO article and every component of a TSO article. It would cost a TSO authorization holder that is a small business an average of $8,500 to mark everything. Based on a sample of FAA data, approximately 302 of the 351 TSO authorization holders are small firms and about 49 TSO authorization holders are large firms. The average cost for TSO authorization holders to comply with this proposed regulation is $57,200 for large businesses and $8,500 for small businesses. The average annual cost to comply is approximately $2.7 million. The average annual hour burden is 27,000 hours.

The average total annual cost burden for both PMA holders and TSO authorization holders is approximately $7.8 million. The average total annual hour burden is approximately 78,000 hours.

Proposed § 21.9(a)(4) would allow manufacturers to produce ''commercial parts,'' as defined in proposed § 21.1(b), for use in aviation without PMA. To use a ''commercial part'' in the design of a product or part, a design approval holder would provide a list of proposed commercial parts to the appropriate FAA aircraft certification office (ACO) for approval. The design approval holder would identify the application or use of the commercial part and verify that the failure of the part would not degrade the safety of the product. A design approval holder would be responsible for preparing separate lists, for each product or article it manufactures, identifying all commercial parts by part number and nomenclature. The design approval holder would also be responsible for including the list of approved commercial parts, and any approved replacements for those commercial parts, in the manufacturer's maintenance instructions or Instructions for Continued Airworthiness. In addition, a design approval holder who would designate commercial parts would have to establish a system that provides for the review of the intended use and failure consequences of the commercial part on airplane safety; maintains a list of all commercial parts incorporated into each FAA approved product type, TSO article, or PMA part as applicable; furnishes the lists (and changes to the lists) to persons in accordance with existing § 21.50; maintains current commercial parts lists to reflect design changes; and records FAA approval of both the lists and their revisions.

Based on information received from industry, the likely respondents to this proposed requirement are 10 percent of small TSO authorization holders, 10 percent of small PMA holders, all small PC holders, and 25 percent of large PC holders. Based on information received from industry, the average cost per certification per firm is estimated to be $25 for small TSO authorization holders, $62.50 for small PMA holders, $400 for small PC holders, and $32,000 for large PC holders. The average number of new certifications per year is estimated to be 1.5 for small TSO authorization holders, 2 for small PMA holders, and 0.4 for PC holders.

Thus, the average cost per year per affected firm is estimated to be $37.50 for a small TSO authorization holder, $125 for a small PMA holder, $160 for a small PC holder, and $12,800 for a large PC holder. The total yearly cost is estimated to be $1,133 for the 302 small TSO authorization holders, $17,175 for the 1,374 small PMA holders, $10,560 for the 66 small PC holders, and $102,400 for the 32 large PC holders. The total annual cost burden is estimated to be $131,268. The total annual hour burden is estimated to be 1,313 hours.

The total annual cost burden for this NPRM is estimated to be approximately $30.2 million. The total annual hour burden for this NPRM is estimated to be approximately 302,000 hours.

The agency is soliciting comments to—

(1) Evaluate whether the proposed information requirement 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;

(3) Enhance the quality, utility, and clarity of the information to be collected;

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; and

(5) Determine the best ways to minimize the impact of the proposal on small businesses consistent with our need to impose safety-related requirements.

Individuals and organizations may send comments on the information collection requirement by January 3, 2007, and should direct them to the address listed in the **ADDRESSES** section of this document. Comments also should be sent to the Office of Information and Regulatory Affairs, OMB, New Executive Building, Room 10202, 725 17th Street, NW., Washington, DC 20053, Attention: Desk Officer for FAA.

According to the 1995 amendments to the Paperwork Reduction Act (5 CFR 1320.8(b)(2)(vi)), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid OMB control number. The OMB control number for this information collection will be published in the **Federal Register**, after the Office of Management and Budget approves it.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no differences with these proposed regulations.

Economic Assessment, Regulatory Flexibility Determination, Trade Impact Assessment, and Unfunded Mandates Assessment

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency propose or adopt a regulation only upon a determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act also requires agencies to consider international standards and, where appropriate, use them as the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by private sector, of $100 million or more annually (adjusted for inflation).

In conducting these analyses, FAA has determined this rule (1) Has benefits that justify its costs, is not a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, and is not ''significant'' as defined in DOT's

Regulatory Policies and Procedures; (2) would have a significant economic impact on a substantial number of small entities; (3) would reduce barriers to international trade; and (4) would not impose an unfunded mandate on state, local, or tribal governments, or on the private sector. These analyses, available in the docket, are summarized below.

Regulatory Evaluation Summary

This portion of the preamble summarizes the FAA's analysis of the economic impacts of this proposal. It also includes summaries of the initial regulatory flexibility analysis, international trade impact assessment, and the unfunded mandate assessment. For more information, we suggest readers go to the full regulatory evaluation, a copy of which we have placed in the docket for this rulemaking.

Total Costs and Benefits of This Rulemaking

This Regulatory Evaluation examines the impacts of a Federal Aviation Administration (FAA) proposed rule making various changes in design, production, airworthiness approval, and marking regulations for products, parts, and appliances. These proposed changes would include (1) Enhancing and standardizing requirements (e.g., quality system, notification of quality system changes, responsibilities) for production approval holders; (2) requiring an airworthiness approval document to be issued with all aircraft engine, propeller, part, appliance, and article shipments from a production approval holder; and (3) requiring all parts to be marked. The intent of these proposed changes is to promote safety and to reflect the current state of the industry.

The FAA estimates the present (2005$) value of the total quantified safety benefits from 2009 through 2018 of all quality system related accidents to be about $11.5 million. It is FAA practice to use a fairly short period of analysis (*e.g.*, 10 years) for procedural changes that have no significant front-loaded costs. The cost savings of the proposed rule from 2009 through 2018 would be approximately $137 million in net present or discounted cost savings (calculated by subtracting cost savings from costs). Accordingly, the benefits justify the costs. More detailed benefit and cost information is provided below. The FAA seeks comments on these estimates.

Who Is Potentially Affected by This Rulemaking

All production approval holders in the aviation industry are affected by this rulemaking. For example, this includes holders of production certificates, technical standard order authorizations, and parts manufacturer approvals. This rulemaking also affects design approval holders, distributors, importers and exporters of products and articles, and air cargo carriers that operate under part 135.

Our Cost Assumptions and Sources of Information

- Discount rate—7%. Sensitivity analysis was performed on 3% and 7%.
- Period of Analysis—2009 through 2018.
- Burdened labor rate for engineers and quality professionals—$100/hour.
- Value of fatality avoided—$3.0 million (Source: ''Treatment of Value of Life and Injury in Economic Analysis,'' (FAA APO Bulletin, February 2002)).
- Final rule will become effective 18 months after publication.

Benefits of This Rulemaking

The FAA estimates the present (2005$) value of the total quantified safety benefits from 2009 through 2018 of all quality system related accidents to be about $11.5 million. The FAA presents a more detailed discussion of the benefits and costs of this proposed rulemaking in the complete Regulatory Evaluation filed in the docket.

Costs of This Rulemaking

The cost savings of the proposed rule from 2009 through 2018 are approximately $137 million in present or discounted cost savings. Refer to the tables below for a more detailed breakdown of the costs and cost savings.

Regulation	Undiscounted total costs	Discounted total costs
Part 1: Definitions and Abbreviations		
Subpart A—Definitions	$0	$0
Part 21: Certification Procedures for Products and Parts		
Subpart A—General	1,321,300	756,900
Subpart B—Type Certificates	0	0
Subpart C—Provisional Type Certificates	0	0
Subpart D—Changes to Type Certificates	0	0
Subpart E—Supplemental Type Certificates	0	0
Subpart F—Production Under Type Certificate Only	360,000	206,400
Subpart G—Production Certificates	40,707,300	23,373,800
Subpart H—Airworthiness Certificates	(4,155,500)	(2,342,200)
Subpart I—Provisional Airworthiness Certificates	0	0
Subpart J—Delegation Option Authorization Procedures	0	0
Subpart K—Approval of Materials, Parts, Processes, and Appliances	91,506,000	52,692,200
Subpart L—Export Airworthiness Approvals	(564,351,000)	(323,561,300)
Subpart N—Approval of Engines, Propellers, Materials, Parts, and Appliances: Import	0	0
Subpart O—Technical Standard Order Authorizations	90,835,500	52,081,900
Part 43: Maintenance, Preventive Maintenance, Rebuilding, and Alteration		
	0	0
Part 45: Identification and Registration Marking		
Subpart A—General	0	0
Subpart B—Identification of Products, Parts, and TSO Articles	105,005,900	60,203,400

Regulation	Undiscounted total costs	Discounted total costs
Total Costs	(238,770,500)	(136,588,900)

BREAKDOWN OF SUBPART L COST SAVINGS

Regulation section	Undiscounted cost savings	Discounted cost savings
21.323: No Designated Manufacturing Inspection Representative required to export Class III products	($95,552,000)	($54,783,200)
21.325(c): Class II and III products do not have to be located in the U.S. to be exported	(119,661,500)	(68,605,900)
21.329: No annual inspection requirements to export used aircraft	(7,765,000)	(4,451,900)
21.331: No overhaul requirements to export used engines and propellers	(341,372,500)	(195,720,300)
Subtotal	(564,351,000)	(323,561,300)

Regulatory Flexibility Determination

The FAA certifies that this proposed rule would have a significant economic impact on a substantial number (10) of small entities. The FAA presents a more detailed discussion of the impact of this proposed rulemaking on small entities in the complete Regulatory Flexibility Assessment filed in the docket.

International Trade Impact Assessment

The FAA has assessed the potential affect of this proposed rule and has determined that it would impose the same costs on domestic and international entities and, thus, would have a neutral trade impact.

Unfunded Mandates Assessment

This proposed rule does not have costs of $100 million or more in any one year, and therefore does not contain a significant Federal intergovernmental/private sector mandate.

Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government, and therefore would not have federalism implications.

Regulations Affecting Intrastate Aviation in Alaska

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the Administrator, when modifying regulations in title 14 of the CFR in manner affecting intrastate aviation in Alaska, to consider the extent to which Alaska is not served by transportation modes other than aviation, and to establish such regulatory distinctions, as he or she considers appropriate. Because this proposed rule would apply to the certification of future designs of transport category airplanes and their subsequent operation, it could, if adopted, affect intrastate aviation in Alaska. The FAA therefore specifically requests public comments on whether there is justification for applying the proposed rule differently in intrastate operations in Alaska.

Plain English

Executive Order 12866 (58 FR 51735, Oct. 4, 1993) requires each agency to write regulations that are simple and easy to understand. The FAA invites your comments on how to make these proposed regulations easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain unnecessary technical language or jargon that interferes with their clarity?
- Would the regulations be easier to understand if they were divided into more (but shorter) sections?
- Is the description in the preamble helpful in understanding the proposed regulations?

Please send your comments to the address specified in the **ADDRESSES** section.

Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this proposed rulemaking action qualifies for the categorical exclusion identified in paragraph 308b and involves no extraordinary circumstances.

Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA has analyzed this NPRM under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). We have determined that it is not a ''significant energy action'' under the executive order because it is not a ''significant regulatory action'' under Executive Order 12866, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

List of Subjects

14 CFR Part 1

Air transportation.

14 CFR Part 21

Aircraft, Aviation safety, Exports, Imports, Reporting and recordkeeping requirements.

14 CFR Part 43

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 45

Aircraft, Exports, Signs and symbols.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Chapter I of Title 14, Code of Federal Regulations, as follows:

PART 1—DEFINITIONS AND ABBREVIATIONS

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

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

2. Amend § 1.1 by revising the definition of ''Approved'' to read as follows:

§ 1.1 General definitions.

* * * * *

Approved, unless used with reference to another person, means approved by the FAA or any person to whom the FAA has delegated its authority in the matter concerned, or approved under the provisions of a bilateral agreement between the United States and a foreign country or jurisdiction.

* * * * *

3. Amend § 1.2 by adding the following abbreviations in alphabetical order:

§ 1.2 Abbreviations and symbols.

* * * * *

PMA means parts manufacturer approval.

* * * * *

TSO means technical standard order.

* * * * *

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

4. Revise the authority citation for part 21 to read as follows:

Authority: 42 U.S.C. 7572; 49 U.S.C. 106(g), 40105, 40113, 44701–44702, 44704, 44707, 44709, 44711, 44713, 44715, 45303.

PART 21—[NOMENCLATURE CHANGE]

5. Amend part 21 by removing the word ''Administrator'' and adding in its place the word ''FAA'' wherever it appears.

6. Amend part 21 by removing the word ''shall'' and adding in its place the word ''must'' wherever it appears.

7. Amend part 21 by removing the phrase ''type certificate only'' and adding in its place the phrase ''type certificate'' wherever it appears.

8. Revise § 21.1 to read as follows:

§ 21.1 Applicability and definitions.

(a) This part prescribes—

(1) Procedural requirements for issuing and changing—

(i) Design approvals;

(ii) Production approvals;

(iii)Airworthiness certificates; and

(iv) Airworthiness approvals;

(2) Rules governing applicants for, and holders of, any approval or certificate specified in paragraph (a)(1) of this section; and

(3) Procedural requirements for the approval of articles.

(b) For the purposes of this part—

(1) *Airworthiness approval* means—

(i) An export certificate of airworthiness issued for an aircraft; or

(ii) A document issued for an aircraft engine, propeller, or article certifying that the aircraft engine, propeller, or article meets its approved design and is in a condition for safe operation;

(2) *Article* means a material, part, component, process, or appliance.

(3) *Commercial part* means a part that the design approval holder designates a commercial part and that the FAA finds—

(i) Is not specifically designed or produced for applications on aircraft; and

(ii) Is produced only under the commercial part manufacturer's specification and marked only with the commercial part manufacturer's markings;

(4) *Design approval* means a type certificate (including amended and supplemental type certificates) or the approved design under a PMA, TSO authorization, letter of TSO design approval, or other approved design;

(5) *Product* means an aircraft, aircraft engine, or propeller;

(6) *Production approval* means—

(i) A production certificate;

(ii) An approval to produce an article under a TSO authorization; or

(iii) An approval to produce a part or appliance under a PMA.

(7) *Standard part* means a part that conforms to an established industry, U.S., foreign government agency, or consensus standards organization specification that contains—

(i) Design, manufacturing, test, and acceptance criteria and uniform marking requirements; or

(ii) Performance criteria and uniform marking requirements that have been found by the FAA to be adequate for making a finding of airworthiness for that part;

(8) *State of Design* means a State having jurisdiction over an organization responsible for design approvals, including those entities who are not ICAO contracting States, but who exercise authority over an organization responsible for design approvals; and

(9) *State of Manufacture* means a State having jurisdiction over an organization responsible for the production, final assembly, or final determination of airworthiness of a product or article, including those entities who are not ICAO contracting States, but who exercise authority over an organization responsible for the production, final assembly, or final determination of airworthiness of a product or article.

9. Revise § 21.2 to read as follows:

§ 21.2 Falsification of applications, reports, or records.

(a) A person may not make or cause to be made—

(1) Any fraudulent, intentionally false, or misleading statement on any application for a certificate or approval under this part;

(2) Any fraudulent, intentionally false, or misleading statement in any record or report that is kept, made, or used to show compliance with any requirement of this part;

(3) Any reproduction for a fraudulent purpose of any certificate or approval issued under this part; or

(4) Any alteration of any certificate or approval issued under this part.

(b) The commission by any person of an act prohibited under paragraph (a) of this section is a basis for—

(1) Denying issuance of any certificate or approval under this part; and

(2) Suspending or revoking any certificate or approval issued under this part and held by that person.

10. Amend § 21.3 by revising paragraphs (a), (b), (d), (e)(3), and (f) to read as follows:

§ 21.3 Reporting of failures, malfunctions, and defects.

(a) The holder of a type certificate (including amended or supplemental type certificates), a PMA, or a TSO authorization, or the licensee of a type certificate must report any failure, malfunction, or defect in any product or article manufactured by it that it determines has resulted in any of the occurrences listed in paragraph (c) of this section.

(b) The holder of a type certificate (including amended or supplemental type certificates), a PMA, or a TSO authorization, or the licensee of a type certificate must report any defect in any product or article manufactured by it that has left its quality system and that it determines could result in any of the occurrences listed in paragraph (c) of this section.

(c) * * *

(d) The requirements of paragraph (a) of this section do not apply to—

(1) Failures, malfunctions, or defects that the holder of a type certificate (including amended or supplemental type certificates), PMA, TSO authorization, or the licensee of a type certificate determines—

(i) Were caused by improper maintenance or use;

(ii) Were reported to the FAA by another person under this chapter; or

(iii) Were reported under the accident reporting provisions of 49 CFR part 830 of the regulations of the National Transportation Safety Board.

(2) Failures, malfunctions, or defects in products or articles—

(i) Manufactured by a foreign manufacturer under a U.S. type certificate issued under § 21.29 or under an approval issued under § 21.621; or

(ii) Exported to the United States under § 21.502.

(e) * * *

(1) * * *

(2) * * *

(3) Must include as much of the following information as is available and applicable:

(i) The applicable product and article identification information required by part 45 of this chapter;

(ii) Identification of the system involved; and

(iii) Nature of the failure, malfunction, or defect.

(f) If an accident investigation or service difficulty report shows that a product or article manufactured under this part is unsafe because of a manufacturing or design data defect, the holder of the production approval for that product or article must, upon request of the FAA, report to the FAA the results of its investigation and any action taken or proposed by the holder of that production approval to correct that defect. If action is required to correct the defect in an existing product or article, the holder of that production approval must send the data necessary for issuing an appropriate airworthiness directive to the appropriate aircraft certification office.

11. Amend § 21.5 by revising paragraph (a) to read as follows:

§ 21.5 Airplane or Rotorcraft Flight Manual.

(a) With each airplane or rotorcraft not type certificated with an Airplane or Rotorcraft Flight Manual and having no flight time before March 1, 1979, the holder of a type certificate (including amended or supplemental type certificates) or the licensee of a type certificate must make available to the owner at the time of delivery of the aircraft a current approved Airplane or Rotorcraft Flight Manual.

* * * * *

12. Amend subpart A by adding § 21.7 to read as follows:

§ 21.7 Approval of articles.

If an article is required to be approved under this chapter, it may be approved—

(a) Under a PMA for parts and appliances;

(b) Under a TSO;

(c) In conjunction with type certification procedures for a product; or

(d) In any other manner approved by the FAA.

13. Amend subpart A by adding § 21.9 to read as follows:

§ 21.9 Replacement and modification parts.

(a) If a person knows, or should know, that a replacement or modification part is reasonably likely to be installed on a type-certificated product, the person may not produce that part unless it is—

(1) Produced under a type certificate;

(2) Produced under an FAA production approval;

(3) A standard part;

(4) A commercial part, administered in a manner acceptable to the FAA; or

(5) Produced by an owner or operator for maintaining or altering that owner or operator's product.

(b) Except as provided in paragraphs (a)(1) through (a)(4) of this section, a person who produces a replacement or modification part for sale may not represent that part as suitable for installation on a type-certificated product.

(c) Except as provided in paragraphs (a)(1) through (a)(4) of this section, a person may not sell or represent a part as suitable for installation on an aircraft type-certificated under §§ 21.25(a)(2) or 21.27 unless that part—

(1) Was declared surplus by the U.S. Armed Forces;

(2) Was intended for use on that aircraft model by the U.S. Armed Forces; and

(3) The person determines it is in a condition for safe operation.

§ 21.15 [Amended]

14. Amend § 21.15 by removing the words ''Aircraft Certification Office'' in paragraph (a) and adding, in their place, the words ''aircraft certification office.''

15. Amend subpart B by adding § 21.20 to read as follows:

§ 21.20 Compliance with applicable requirements.

The applicant for a type certificate, including an amended or supplemental type certificate, must—

(a) Show compliance with all applicable requirements and must provide the FAA the means by which such compliance has been shown; and

(b) Provide a statement certifying that the applicant has complied with the applicable requirements.

§ 21.21 [Amended]

16. Amend § 21.21 by removing the words ''the Federal Aviation Regulations'' and adding, in their place, the words ''this subchapter'' wherever they appear.

§ 21.27 [Amended]

17. Amend § 21.27 as follows:

a. Remove the words ''the Federal Aviation Regulations'' in paragraph (c) and add, in their place, the words ''this subchapter;''

b. Remove the words ''FAR Part 23,'' wherever they occur, from the second and third columns of the table in paragraph (f) and add, in their place, the words ''part 23 of this chapter;''

c. Remove the words ''FAR Part 25,'' wherever they occur, from the third column of the table in paragraph (f) and add, in their place, the words ''part 25 of this chapter;''

d. Remove the words ''FAR Part 27'' from the third column of the table in paragraph (f) and add, in their place, the words ''part 27 of this chapter;'' and

e. Remove the words ''FAR Part 29'' from the third column of the table in paragraph (f) and add, in their place, the words ''part 29 of this chapter.''

18. Revise § 21.29 to read as follows:

§ 21.29 Issue of type certificate: import products.

(a) The FAA may issue a type certificate for a product that is manufactured in a foreign country or jurisdiction with which the United States has an agreement for the acceptance of these products for export and import and that is to be imported into the United States if—

(1) The applicable State of Design certifies that the product has been examined, tested, and found to meet—

(i) The applicable aircraft noise, fuel venting and exhaust emissions requirements of this subchapter as designated in § 21.17, or the applicable aircraft noise, fuel venting and exhaust emissions requirements of the State of Design, and any other requirements the FAA may prescribe to provide noise, fuel venting and exhaust emission levels no greater than those provided by the applicable aircraft noise, fuel venting, and exhaust emission requirements of this subchapter as designated in § 21.17; and

(ii) The applicable airworthiness requirements of this subchapter as designated in § 21.17, or the applicable airworthiness requirements of the State of Design and any other requirements the FAA may prescribe to provide a level of safety equivalent to that provided by the applicable airworthiness requirements of this subchapter as designated in § 21.17;

(2) The applicant has provided technical data to show the product meets the requirements of paragraph (a)(1) of this section; and

(3) The manuals, placards, listings, and instrument markings required by the applicable airworthiness (and noise, where applicable) requirements are presented in the English language.

(b) A product type certificated under this section is considered to be type certificated under the noise standards of part 36, and the fuel venting and exhaust emission standards of part 34, of this subchapter. Compliance with

parts 36 and 34, is certified under paragraph (a)(1)(i) of this section, and the applicable airworthiness standards of this subchapter, or an equivalent level of safety, with which compliance is certified under paragraph (a)(1)(ii) of this section.

§ 21.33 [Amended]

19. Amend § 21.33(a) introductory text by removing the words ''the Federal Aviation Regulations'' and adding, in their place, the words ''this subchapter.''

§ 21.45 [Amended]

20. Amend § 21.45 as follows:

a. Remove the words ''or certified'' from paragraph (b) and add in their place the words ''on certificated.''

b. Remove the words ''§§ 21.133 through 21.163'' from paragraph (c) and add in their place the words ''subpart G of this part.''

21. Revise § 21.47 to read as follows:

§ 21.47 Transferability.

(a) A holder of a type certificate may transfer it or make it available to other persons by licensing agreements.

(b) For a type certificate transfer in which the State of Design will remain the same, each transferor must, before such a transfer, notify in writing the appropriate aircraft certification office. This notification must include the applicable type certificate number, the name and address of the transferee, and the anticipated date of the transfer.

(c) For a type certificate transfer in which the State of Design is changing, a type certificate may only be transferred to or from a person subject to the authority of another State of Design if the United States has an agreement with that State of Design for the acceptance of the affected product for export and import. Each transferor must notify the appropriate aircraft certification office before such a transfer in a form and manner acceptable to the FAA. This notification must include the applicable type certificate number; the name, address, and country of residence of the transferee; and the anticipated date of the transfer.

(d) Before executing or terminating a licensing agreement that makes a type certificate available to another person, the type certificate holder must notify in writing the appropriate aircraft certification office. This notification must include the type certificate number addressed by the licensing agreement, the name and address of the licensee, the extent of authority granted the licensee, and the anticipated date of the agreement.

22. Revise § 21.53(a) to read as follows:

§ 21.53 Statement of conformity.

(a) Each applicant must provide a statement to the FAA that each aircraft engine or propeller presented for type certification conforms to its type design.

* * * * *

§ 21.73 [Amended]

23. Amend § 21.73(b) by removing the words ''Any manufacturer of aircraft manufactured in a foreign country with which the United States has an agreement'' and adding in their place the words ''Any manufacturer of aircraft in a State of Manufacture subject to the provisions of an agreement with the United States''.

24. Revise § 21.75 to read as follows:

§ 21.75 Application.

Each applicant for a provisional type certificate, for an amendment thereto, or for a provisional amendment to a type certificate must apply to the appropriate aircraft certification office and provide the information required by this subpart.

25. Revise § 21.97(a) to read as follows:

§ 21.97 Approval of major changes in type design.

(a) An applicant for approval of a major change in type design must—

(1) Provide substantiating data and necessary descriptive data for inclusion in the type design;

(2) Show that the changed product complies with the applicable requirements of this subchapter, and provide the FAA the means by which such compliance has been shown; and

(3) Provide a statement certifying that the applicant has complied with the applicable requirements.

* * * * *

26. Revise § 21.113 to read as follows:

§ 21.113 Requirement for supplemental type certificate.

(a) If a person holds the TC for a product and alters that product by introducing a major change in type design that does not require an application for a new TC under § 21.19, that person must either apply to the appropriate aircraft certification office for an STC or apply to amend the original type certificate under subpart D of this part.

(b) If a person does not hold the TC for a product and alters that product by introducing a major change in type design that does not require an application for a new TC under § 21.19, that person must apply to the appropriate aircraft certification office for an STC.

(c) The application for an STC must be made in the form and manner prescribed by the FAA.

§ 21.117 [Amended]

27. Amend § 21.117 by removing the words ''if he'' from paragraph (a) and adding in their place the words ''if the FAA finds that the applicant''.

28. Revise § 21.119(c) to read as follows:

§ 21.119 Privileges.

* * * * *

(c) Obtain a production certificate in accordance with the requirements of subpart G of this part for the change in the type design approved by that supplemental type certificate.

29. Amend subpart F by adding § 21.122 to read as follows:

§ 21.122 Location of or change to manufacturing facilities.

(a) If the FAA finds no undue burden in administering the applicable requirements of Title 49 U.S.C. and this subchapter, a type certificate holder may use manufacturing facilities located outside of the United States.

(b) The type certificate holder must obtain FAA approval before making any changes to its manufacturing facilities that would affect the inspection or airworthiness of its products or articles, including changes to the location of any of its manufacturing facilities.

30. Revise § 21.123 to read as follows:

§ 21.123 Production under type certificate.

Each manufacturer of a product or article being manufactured under a type certificate must—

(a) Maintain at the place of manufacture all information and data specified in §§ 21.31 and 21.41;

(b) Make each product and article available for inspection by the FAA;

(c) Maintain records of the completion of all inspections and tests required by §§ 21.127, 21.128, and 21.129 for at least 5 years for the products and articles manufactured under the approval and at least 10 years for critical components identified under § 45.15(c) of this chapter;

(d) Allow the FAA to make any inspection or test, including any inspection or test at a supplier facility, necessary to determine compliance with this subchapter;

(e) Obtain an airworthiness approval for each aircraft engine, propeller, and article produced under that type certificate as evidence that it conforms to its approved design and is in a condition for safe operation; and

(f) Except as otherwise authorized by the FAA, obtain a production certificate for that product in accordance with

subpart G of this part within 6 months after the date of issuance of the type certificate.

§ 21.125 [Removed and Reserved]

31. Remove and reserve § 21.125.

32. Revise § 21.130 to read as follows:

§ 21.130 Statement of Conformity.

Each holder or licensee of a type certificate who manufactures a product or article under this subpart must provide a statement to the FAA that each product or article conforms to its type certificate and is in a condition for safe operation.

33. Revise subpart G to read as follows:

Subpart G—Production Certificates

Sec.
21.131 Applicability.
21.132 Eligibility.
21.133 Application.
21.135 Organization.
21.137 Quality system.
21.138 Quality manual.
21.139 Location of or change to manufacturing facilities.
21.140 Inspections and tests.
21.141 Issuance.
21.142 Production limitation record.
21.143 Duration.
21.144 Transferability.
21.145 Privileges.
21.146 Responsibility of holder.
21.147 Amendment of production certificates.
21.150 Changes in quality system.

§ 21.131 Applicability.

This subpart prescribes—

(a) Procedural requirements for issuing production certificates; and

(b) Rules governing holders of those certificates.

§ 21.132 Eligibility.

Any person may apply for a production certificate if that person holds, for the product concerned—

(a) A current type certificate;

(b) A supplemental type certificate; or

(c) Rights to the benefits of that type certificate or supplemental type certificate under a licensing agreement.

§ 21.133 Application.

Each applicant must apply for a production certificate in a form and manner prescribed by the FAA.

§ 21.135 Organization.

Each applicant must provide the FAA with a document describing how the applicant's organization will ensure compliance with the provisions of this subpart. At a minimum, the document must describe assigned responsibilities and delegated authority, and the functional relationship of those responsible for quality to management and other organizational components.

§ 21.137 Quality system.

Each applicant must establish and describe in writing a quality system that ensures that each product and article conforms to its approved design and is in a condition for safe operation. This quality system must include:

(a) *Design data control.* Procedures for controlling design data and subsequent changes to ensure that only current, correct, and approved data is used.

(b) *Document control.* Procedures for controlling quality system documents and data and subsequent changes to ensure that only current, correct, and approved documents and data are used.

(c) *Supplier control.* Procedures that—

(1) Ensure that each supplier-furnished product or article conforms to its approved design; and

(2) Require each supplier to report to the production approval holder if a product or article has been released from that supplier and subsequently found not to conform to the applicable design data.

(d) *Manufacturing process control.* Procedures for controlling manufacturing processes to ensure that each product and article conforms to its approved design.

(e) *Inspecting and testing.* Procedures for inspections and tests used to ensure that each product and article conforms to its approved design. These procedures must include the following, as applicable:

(1) A flight test of each aircraft produced unless that aircraft will be exported as an unassembled aircraft.

(2) A functional test of each aircraft engine and each propeller produced.

(f) *Inspection, measuring, and test equipment control.* Procedures to ensure calibration and control of all inspection, measuring, and test equipment used in determining conformity of each product and article to its approved design. Each calibration standard must be traceable to a standard acceptable to the FAA.

(g) *Inspection and test status.* Procedures for documenting the inspection and test status of products and articles supplied or manufactured to the approved design.

(h) *Certifying staff.* Procedures for establishing and maintaining a certifying staff responsible for issuing airworthiness approvals for each aircraft engine, propeller, and article.

(i) *Nonconforming product and article control.* (1) Procedures to ensure that only products or articles that conform to their approved design are installed on a type-certificated product. These procedures must provide for the identification, documentation, evaluation, segregation, and disposition of nonconforming products and articles. Only authorized individuals may make disposition determinations.

(2) Procedures to ensure that discarded articles are rendered unusable.

(j) *Corrective and preventive actions.* Procedures for implementing corrective and preventive actions to eliminate the causes of an actual or potential nonconformity to the approved design or noncompliance with the approved quality system.

(k) *Handling and storage.* Procedures to prevent damage and deterioration of each product and article during handling, storage, preservation, packaging, and delivery.

(l) *Control of quality records.* Procedures for identifying, storing, protecting, retrieving, and retaining quality records. A production approval holder must retain these records for at least 5 years for the products and articles manufactured under the approval and at least 10 years for critical components identified under § 45.15(c) of this chapter.

(m) *Internal audits.* Procedures for planning, conducting, and documenting internal audits to ensure compliance with the approved quality system. The procedures must include reporting results of internal audits to the manager responsible for implementing corrective and preventive actions.

(n) *In-service feedback.* Procedures for receiving and processing feedback on in-service failures, malfunctions, and defects. These procedures must include a process for assisting the design approval holder to—

(1) Address any in-service problem involving design changes; and

(2) Determine if any changes to the Instructions for Continued Airworthiness are necessary.

(o) *Quality escapes.* Procedures for identifying, analyzing, and initiating appropriate corrective action for products or articles that have been released from the quality system and that do not conform to the applicable design data or quality system requirements.

§ 21.138 Quality manual.

Each applicant must provide a manual describing its quality system to the FAA for approval. The manual must be in the English language and retrievable in a form acceptable to the FAA.

§ 21.139 Location of or change to manufacturing facilities.

(a) If the FAA finds no undue burden in administering the applicable

requirements of Title 49 U.S.C. and this subchapter, an applicant may obtain a production certificate for manufacturing facilities located outside of the United States.

(b) The production certificate holder must obtain FAA approval before making any changes to its manufacturing facilities that could affect the inspection or airworthiness of its products or articles, including changes to the location of any of its manufacturing facilities.

§ 21.140 Inspections and tests.

Each applicant for or holder of a production certificate must allow the FAA to inspect its quality system, facilities, technical data, and any manufactured products or articles and witness any tests, including any inspections or tests at a supplier facility, necessary to determine compliance with this subchapter.

§ 21.141 Issuance.

The FAA issues a production certificate after finding that the applicant complies with the requirements of this subpart.

§ 21.142 Production limitation record.

The FAA issues a production limitation record as part of a production certificate. The record lists the type certificate number and the model of every product that the production certificate holder is authorized to manufacture.

§ 21.143 Duration.

A production certificate is effective until surrendered, suspended, revoked, or the FAA otherwise establishes a termination date.

§ 21.144 Transferability.

The holder of a production certificate may not transfer the production certificate.

§ 21.145 Privileges.

(a) The holder of a production certificate may—

(1) Obtain an aircraft airworthiness certificate without further showing, except that the FAA may inspect the aircraft for conformity with the type design; or

(2) In the case of other products, obtain approval from the FAA for installation on type-certificated aircraft.

(b) Notwithstanding the provisions of § 147.3 of this chapter, the holder of a production certificate for a primary category aircraft, or for a normal, utility, or acrobatic category aircraft of a type design that is eligible for a special airworthiness certificate in the primary category under § 21.184(c), may—

(1) Conduct training for persons in the performance of a special inspection and preventive maintenance program approved as a part of the aircraft's type design under § 21.24(b), provided a person holding a mechanic certificate with appropriate airframe and powerplant ratings issued under part 65 of this chapter gives the training; and

(2) Issue a certificate of competency to persons successfully completing the approved training program, provided the certificate specifies the aircraft make and model to which the certificate applies.

§ 21.146 Responsibility of holder.

The holder of a production certificate must—

(a) Amend the document required by § 21.135 as necessary to reflect changes in the organization and provide these amendments to the FAA.

(b) Maintain the quality system in compliance with the data and procedures approved for the production certificate;

(c) Ensure that each article and completed product, including primary category aircraft assembled under a production certificate by another person from a kit provided by the holder of the production certificate, presented for airworthiness certification or approval conforms to its approved design and is in a condition for safe operation;

(d) Issue an airworthiness approval for each aircraft engine, propeller, and article produced under that production certificate that conforms to its approved design and is in a condition for safe operation;

(e) Maintain complete and current type design data for each product and article produced under the production certificate;

(f) Retain its production certificate and make it available to the FAA upon request; and

(g) Make available to the FAA information regarding all delegation of authority to suppliers.

§ 21.147 Amendment of production certificates.

The holder of a production certificate must apply for an amendment to a production certificate in a form and manner prescribed by the FAA. The applicant for an amendment to a production certificate to add a type certificate or model, or both, must comply with the applicable requirements of §§ 21.137, 21.138, and 21.150.

§ 21.150 Changes in quality system.

After the issuance of a production certificate—

(a) Each change to the quality system is subject to review by the FAA; and

(b) The holder of a production certificate must immediately notify the FAA, in writing, of any change that may affect the inspection, conformity, or airworthiness of its product or article.

34. Amend § 21.183 by revising paragraphs (c), (d)(1), (d)(2), and (d)(3) to read as follows:

§ 21.183 Issue of standard airworthiness certificates for normal, utility, acrobatic, commuter, and transport category aircraft; manned free balloons; and special classes of aircraft.

* * * * *

(c) *Import aircraft.* An applicant for a standard airworthiness certificate for an import aircraft is entitled to that certificate if—

(1) The aircraft is type certificated in accordance with § 21.21 or § 21.29 and produced under the authority of another State of Manufacture;

(2) The State of Manufacture certifies, in accordance with the provisions of an agreement with the United States for import and export of that aircraft, that the aircraft conforms to the type design and is in condition for safe operation; and

(3) The FAA finds that the aircraft conforms to the type design and is in condition for safe operation.

(d) * * *

(1) The applicant presents evidence to the FAA that the aircraft conforms to a type design approved under a type certificate or a supplemental type certificate and to applicable Airworthiness Directives;

(2) The aircraft (except an experimentally certificated aircraft that previously had been issued a different airworthiness certificate under this section) has been inspected in accordance with the performance rules for 100-hour inspections set forth in § 43.15 of this chapter, or an equivalent performance standard acceptable to the FAA, and found airworthy by—

(i) The manufacturer;

(ii) The holder of a repair station certificate as provided in part 145 of this chapter;

(iii)The holder of a mechanic certificate as authorized in part 65 of this chapter;

(iv) The holder of a certificate issued under part 121 of this chapter, and having a maintenance and inspection organization appropriate to the aircraft type; or

(v) The holder of a license or certificate to perform aircraft maintenance that is issued by a foreign country or jurisdiction if the United States has an agreement with that

country or jurisdiction for the acceptance of used aircraft; and

(3) The FAA finds after inspection, that the aircraft conforms to the type design, and is in condition for safe operation.

* * * * *

35. Revise § 21.185(c) to read as follows:

§ 21.185 Issue of airworthiness certificates for restricted category aircraft.

* * * * *

(c) *Import aircraft.* An applicant for the original issue of a special airworthiness certificate for a restricted category import aircraft is entitled to that certificate if—

(1) The aircraft is type-certificated in accordance with § 21.25 or § 21.29 and produced under the authority of another State of Manufacture;

(2) The State of Manufacture certifies, in accordance with the provisions of an agreement with the United States for import and export of that aircraft that the aircraft conforms to the type design and is in condition for safe operation; and

(3) The FAA finds that the aircraft conforms to the type design and is in condition for safe operation.

* * * * *

36. Revise § 21.195(d)(2) to read as follows:

§ 21.195 Experimental certificates: aircraft to be used for market surveys, sales demonstrations, and customer crew training.

* * * * *

(d) * * *

(1) * * *

(2) The applicant shows that the aircraft has been flown for at least 50 hours, or for at least 5 hours if it is a type certificated aircraft which has been modified. The FAA may reduce these operational requirements if the applicant provides adequate justification.

37. Revise § 21.197(c) to read as follows:

§ 21.197 Special flight permits.

* * * * *

(c) Upon application, as prescribed in §§ 119.51 or 91.1017 of this chapter, a special flight permit with a continuing authorization may be issued for aircraft that may not meet applicable airworthiness requirements, but are capable of safe flight for the purpose of flying aircraft to a base where maintenance or alterations are to be performed. The permit issued under this paragraph is an authorization, including conditions and limitations for flight, which is set forth in the certificate holder's operations specifications. The permit issued under this paragraph may be issued to—

(1) Certificate holders authorized to conduct operations under part 119 of this chapter, that have an approved program for continuing flight authorization; or

(2) Management specification holders authorized to conduct operations under part 91, subpart K, for those aircraft they operate and maintain under a continuous airworthiness maintenance program prescribed by § 91.1411 of this part.

§ 21.223 [Amended]

38. Amend § 21.223 by removing the word ''control'' from paragraph (c).

§ 21.225 [Amended]

39. Amend § 21.225 by removing the word ''control'' from paragraph (b).

§ 21.251 [Amended]

40. Amend § 21.251 by removing the words ''(FAA Form 8130–3)'' from paragraphs (b)(4)(iii) and (b)(4)(iv).

§ 21.253 [Amended]

41. Amend § 21.253 by removing the words ''(FAA Form 312)'' from paragraph (a)(1).

42. Revise § 21.267(d) to read as follows:

§ 21.267 Production certificates.

* * * * *

(d) After placing the manufacturing and quality system data required by § 21.137 with the data required by § 21.293(a)(1)(ii), a statement certifying that this has been done.

§ 21.271 [Amended]

43. Amend § 21.271(a) by removing the words ''(FAA Form 8130–3).''

44. Revise § 21.293(a)(2) introductory text to read as follows:

§ 21.293 Current records.

(a) * * *

(1) * * *

(2) For 5 years—

* * * * *

45. Revise subpart K to read as follows:

Subpart K—Parts Manufacturer Approvals

Sec.

21.301 Applicability.
21.303 Application.
21.305 Organization.
21.307 Quality system.
21.308 Quality manual.
21.309 Location of or change to manufacturing facilities.
21.310 Inspections and tests.
21.311 Issuance.
21.313 Duration.
21.314 Transferability.
21.316 Responsibility of holder.
21.319 Design changes.
21.320 Changes in quality system.

§ 21.301 Applicability.

This subpart prescribes—

(a) Procedural requirements for issuing PMAs; and

(b) Rules governing holders of PMAs.

§ 21.303 Application.

(a) The applicant for a PMA must apply in a form and manner prescribed by the FAA, and include the following:

(1) The identity of the product on which the part is to be installed.

(2) The name and address of the manufacturing facilities at which these parts are to be manufactured.

(3) The design of the part, which consists of—

(i) Drawings and specifications necessary to show the configuration of the part; and

(ii) Information on dimensions, materials, and processes necessary to define the structural strength of the part.

(4) Test reports and computations necessary to show that the design of the part meets the airworthiness requirements of this subchapter. The test reports and computations must be applicable to the product on which the part is to be installed, unless the applicant shows that the design of the part is identical to the design of a part that is covered under a type certificate. If the design of the part was obtained by a licensing agreement, the applicant must provide evidence of that agreement.

(5) An applicant for a PMA based on test reports and computations must provide a statement certifying that the applicant has complied with the airworthiness requirements of this subchapter.

(b) Each applicant for a PMA must make all inspections and tests necessary to determine—

(1) Compliance with the applicable airworthiness requirements;

(2) That materials conform to the specifications in the design;

(3)That the part conforms to its approved design; and

(4) That the manufacturing processes, construction, and assembly conform to those specified in the design.

§ 21.305 Organization.

Each applicant must provide the FAA with a document describing how the applicant's organization will ensure compliance with the provisions of this subpart. At a minimum, the document must describe assigned responsibilities and delegated authority, and the

functional relationship of those responsible for quality to management and other organizational components.

§ 21.307 Quality system.

Each applicant must establish a quality system that meets the requirements of § 21.137.

§ 21.308 Quality manual.

Each applicant must provide a manual describing its quality system to the FAA for approval. The manual must be in the English language and retrievable in a form acceptable to the FAA.

§ 21.309 Location of or change to manufacturing facilities.

(a) If the FAA finds no undue burden in administering the applicable requirements of Title 49 U.S.C. and this subchapter, an applicant may obtain a PMA for manufacturing facilities located outside of the United States.

(b) The PMA holder must obtain FAA approval before making any changes to its manufacturing facilities that could affect the inspection or airworthiness of its parts, including changes to the location of any of its manufacturing facilities.

§ 21.310 Inspections and tests.

(a) Each applicant for or holder of a PMA must allow the FAA to inspect its quality system, facilities, technical data, and any manufactured parts and witness any tests, including any inspections or tests at a supplier facility, necessary to determine compliance with this subchapter.

(b) Unless otherwise authorized by the FAA, the applicant or holder—

(1) May not present any part to the FAA for an inspection or test unless compliance with § 21.303(b)(2) through (4) has been shown for that part; and

(2) May not make any change to a part between the time that compliance with § 21.303(b)(2) through (4) is shown for that part and the time that the part is presented to the FAA for the inspection or test.

§ 21.311 Issuance.

The FAA issues a PMA after finding that the applicant complies with the requirements of this subpart and the design complies with the requirements of this chapter applicable to the product on which the part is to be installed.

§ 21.313 Duration.

A PMA is effective until surrendered, withdrawn, or the FAA otherwise terminates it.

§ 21.314 Transferability.

The holder of a PMA may not transfer the PMA.

§ 21.316 Responsibility of holder.

Each holder of a PMA must—

(a) Amend the document required by § 21.305 as necessary to reflect changes in the organization and provide these amendments to the FAA.

(b) Maintain the quality system in compliance with the data and procedures approved for the PMA;

(c) Ensure that each part conforms to its approved design and is in a condition for safe operation;

(d) Issue an airworthiness approval for each part produced under that PMA that conforms to its approved design and is in a condition for safe operation;

(e) Maintain complete and current design data for each part produced under the PMA;

(f) Retain each document granting PMA and make it available to the FAA upon request; and

(g) Make available to the FAA information regarding all delegation of authority to suppliers.

§ 21.319 Design changes.

(a) *Classification of design changes.* (1) A ''minor change'' to the design of a part produced under a PMA is one that has no appreciable effect on the weight, balance, structural strength, reliability, operational characteristics, or other characteristics affecting the airworthiness of the part.

(2) A ''major change'' to the design of a part produced under a PMA is any change that is not minor.

(b) *Approval of design changes.* (1) The PMA holder must approve minor changes using a method acceptable to the FAA.

(2) The PMA holder must obtain FAA approval of any major change before including it in the design of a part produced under a PMA.

§ 21.320 Changes in quality system.

After the issuance of a PMA—

(a) Each change to the quality system is subject to review by the FAA; and

(b) The holder of the PMA must immediately notify the FAA, in writing, of any change that may affect the inspection, conformity, or airworthiness of its part.

46. Revise subpart L to read as follows:

Subpart L—Export Airworthiness Approvals

Sec.

21.321 Applicability.
21.325 Export airworthiness approvals.
21.327 Application.
21.329 Issuance of export certificates of airworthiness.
21.331 Issuance of export airworthiness approvals for aircraft engines, propellers, and articles.
21.335 Responsibilities of exporters.

§ 21.321 Applicability.

This subpart prescribes—

(a) Procedural requirements for issuing export airworthiness approvals; and

(b) Rules governing the holders of those approvals.

§ 21.325 Export airworthiness approvals.

(a) An export airworthiness approval for an aircraft is issued in the form of an export certificate of airworthiness. This certificate does not authorize operation of that aircraft.

(b) The FAA prescribes the form and manner in which an export airworthiness approval for an aircraft engine, propeller, or article is issued.

(c) If the FAA finds no undue burden in administering the applicable requirements of Title 49 U.S.C. and this subchapter, an export airworthiness approval may be issued for a product or article located outside of the United States.

§ 21.327 Application.

Any person may apply for an export airworthiness approval. Each applicant must apply in a form and manner prescribed by the FAA.

§ 21.329 Issuance of export certificates of airworthiness.

(a) The FAA issues an export certificate of airworthiness for an aircraft if—

(1) A new or used aircraft manufactured under subpart F or G of this part meets the airworthiness requirements under subpart H of this part for a—

(i) Standard airworthiness certificate; or

(ii) Special airworthiness certificate in either the ''primary'' or the ''restricted'' category; or

(2) A new or used aircraft not manufactured under subpart F or G of this part has a valid—

(i) Standard airworthiness certificate; or

(ii) Special airworthiness certificate in either the ''primary'' or the ''restricted'' category; and

(3) Each requirement of the importing country or jurisdiction has been met.

(b) An aircraft need not meet a requirement specified in paragraph (a) of this section, as applicable, if—

(1) The importing country or jurisdiction accepts, in a form and manner acceptable to the FAA, a deviation from that requirement; and

(2) The export certificate of airworthiness lists as an exception each difference, if any, between the aircraft to be exported and its type design.

§ 21.331 Issuance of export airworthiness approvals for aircraft engines, propellers, and articles.

(a) A production approval holder may issue an export airworthiness approval under this subpart to export a new aircraft engine, propeller, or article that it manufactured under this part and that—

(1) Conforms to its approved design and is in a condition for safe operation; and

(2) Meets each requirement of the importing country or jurisdiction.

(b) An aircraft engine, propeller, or article need not meet a requirement of paragraph (a) of this section if—

(1) The importing country or jurisdiction accepts, in a form and manner acceptable to the FAA, a deviation from that requirement; and

(2) The export airworthiness approval lists as an exception each—

(i) Requirement specified by this section that is not met; and

(ii) Difference, if any, between the aircraft engine, propeller, or article to be exported and its approved design.

(c) A person who is not a production approval holder may obtain from the FAA or its designee an export airworthiness approval under this subpart to export a new aircraft engine, propeller, or article.

(d) A person may obtain from the FAA or its designee an export airworthiness approval under this subpart to export a used aircraft engine, propeller, or article that—

(1) Conforms to its approved design and is in a condition for safe operation; and

(2) Meets each requirement of the importing country or jurisdiction.

§ 21.335 Responsibilities of exporters.

Unless otherwise agreed to by the importing country or jurisdiction, each exporter must—

(a) Forward to the importing country or jurisdiction all documents specified by that country or jurisdiction;

(b) Preserve and package products and articles as necessary to protect them against corrosion and damage during transit or storage and state the duration of effectiveness of such preservation and packaging;

(c) Remove or cause to be removed any temporary installation incorporated on an aircraft for the purpose of export delivery and restore the aircraft to the approved configuration upon completion of the delivery flight;

(d) Secure all proper foreign entry clearances from all the countries or jurisdictions involved when conducting sales demonstrations or delivery flights; and

(e) When title to an aircraft passes or has passed to a foreign purchaser—

(1) Request cancellation of the U.S. registration and airworthiness certificates from the FAA, giving the date of transfer of title, and the name and address of the foreign owner;

(2) Return the Registration and Airworthiness Certificates to the FAA; and

(3) Provide a statement to the FAA certifying that the U.S. identification and registration numbers have been removed from the aircraft in compliance with § 45.33.

47. Revise subpart N to read as follows:

Subpart N—Acceptance of Aircraft Engines, Propellers, and Articles for Import

§ 21.500 Acceptance of aircraft engines and propellers.

An aircraft engine or propeller manufactured in a foreign country or jurisdiction meets the requirements for acceptance under this subchapter if—

(a) That country or jurisdiction is subject to the provisions of an agreement with the United States for the acceptance of that product;

(b) That product is identified in accordance with part 45 of this chapter; and

(c) The holder or licensee of a U.S. type certificate for that product furnishes with each such aircraft engine or propeller imported into the United States, an export airworthiness approval issued in accordance with the provisions of that agreement certifying that the individual aircraft engine or propeller—

(1) Conforms to its U.S. type certificate and is in condition for safe operation; and

(2) Has been subjected by the manufacturer to a final operational check.

§ 21.502 Acceptance of articles.

An article (including an article produced under a letter of TSO design approval) manufactured in a foreign country or jurisdiction meets the requirements for acceptance under this subchapter if—

(a) That country or jurisdiction is subject to the provisions of an agreement with the United States for the acceptance of that article;

(b) That article is marked in accordance with part 45 of this chapter; and

(c) An airworthiness approval has been issued in accordance with the provisions of that agreement for that article for import into the United States.

48. Revise subpart O to read as follows:

Subpart O—Technical Standard Order Approvals

Sec.

21.601 Applicability and definitions.
21.603 Application.
21.605 Organization.
21.607 Quality system.
21.608 Quality manual.
21.609 Location of or change to manufacturing facilities.
21.610 Inspections and tests.
21.611 Issuance.
21.613 Duration.
21.614 Transferability.
21.616 Responsibility of holder.
21.618 Approval for deviation.
21.619 Design changes.
21.620 Changes in quality system.
21.621 Issue of letters of TSO design approval: import articles.

§ 21.601 Applicability and definitions.

(a) This subpart prescribes—

(1) Procedural requirements for issuing TSO authorizations;

(2) Rules governing the holders of TSO authorizations; and

(3) Procedural requirements for issuing letters of TSO design approval.

(b) For the purposes of this subpart—

(1) A TSO issued by the FAA is a minimum performance standard for specified articles used on civil aircraft;

(2) A TSO authorization is an FAA design and production approval issued to the manufacturer of an article that has been found to meet a specific TSO;

(3) A letter of TSO design approval is an FAA design approval for an article that has been found to meet a specific TSO in accordance with the procedures of § 21.621;

(4) An article manufactured under a TSO authorization, an FAA letter of acceptance as described in § 21.613(b), or an article manufactured under a letter of TSO design approval described in § 21.621 is an approved article for the purpose of meeting the regulations of this chapter that require the article to be approved; and

(5) An article manufacturer is the person who controls the design and quality of the article produced (or to be produced, in the case of an application), including any related parts, processes, or services procured from an outside source.

§ 21.603 Application.

(a) An applicant for a TSO authorization must apply to the appropriate aircraft certification office in the form and manner prescribed by the FAA. The applicant must include the following documents in the application:

(1) A statement of conformance certifying that the applicant has met the requirements of this subpart and that the article concerned meets the applicable TSO that is effective on the date of application for that article.

(2) One copy of the technical data required in the applicable TSO.

(b) If the applicant anticipates a series of minor changes in accordance with § 21.619, the applicant may set forth in its application the basic model number of the article and the part number of the components with open brackets after it to denote that suffix change letters or numbers (or combinations of them) will be added from time to time.

(c) If the application is deficient, the applicant must, when requested by the FAA, provide any additional information necessary to show compliance with this part. If the applicant fails to provide the additional information within 30 days after the FAA's request, the FAA denies the application and notifies the applicant.

§ 21.605 Organization.

Each applicant must provide the FAA with a document describing how the applicant's organization will ensure compliance with the provisions of this subpart. At a minimum, the document must describe assigned responsibilities and delegated authority, and the functional relationship of those responsible for quality to management and other organizational components.

§ 21.607 Quality system.

Each applicant must establish a quality system that meets the requirements of § 21.137.

§ 21.608 Quality manual.

Each applicant must provide a manual describing its quality system to the FAA for approval. The manual must be in the English language and retrievable in a form acceptable to the FAA.

§ 21.609 Location of or change to manufacturing facilities.

(a) If the FAA finds no undue burden in administering the applicable requirements of Title 49 U.S.C. and this subchapter, an applicant may obtain a TSO authorization for manufacturing facilities located outside of the United States.

(b) The holder of a TSO authorization must obtain FAA approval before making any changes to its manufacturing facilities that could affect the inspection or airworthiness of its TSO articles, including changes to the location of any of its manufacturing facilities.

§ 21.610 Inspections and tests.

Each applicant for or holder of a TSO authorization must allow the FAA to inspect its quality system, facilities, technical data, and any manufactured articles and witness any tests, including any inspections or tests at a supplier facility, necessary to determine compliance with this subchapter.

§ 21.611 Issuance.

If the FAA finds that the applicant complies with the requirements of this subchapter, the FAA issues a TSO authorization to the applicant (including all TSO deviations granted to the applicant).

§ 21.613 Duration.

(a) A TSO authorization or letter of TSO design approval is effective until surrendered, withdrawn, or otherwise terminated by the FAA.

(b) If a TSO is revised or canceled, the holder of an affected FAA letter of acceptance of a statement of conformance, TSO authorization, or letter of TSO design approval may continue to manufacture articles that meet the original TSO without obtaining a new acceptance, authorization, or approval but must comply with the requirements of §§ 21.3, 21.137(l), 21.610, 21.613 through 21.619, and 45.15(b).

§ 21.614 Transferability.

The holder of a TSO authorization or letter of TSO design approval may not transfer the TSO authorization or letter of TSO design approval.

§ 21.616 Responsibility of holder.

Each holder of a TSO authorization must—

(a) Amend the document required by § 21.605 as necessary to reflect changes in the organization and provide these amendments to the FAA;

(b) Maintain a quality system in compliance with the data and procedures approved for the TSO authorization;

(c) Ensure that each manufactured article conforms to its approved design, is in a condition for safe operation, and meets the applicable TSO;

(d) Issue an airworthiness approval for each article or part produced under that TSO authorization that conforms to its approved design, is in a condition for safe operation, and meets the applicable TSO;

(e) Maintain complete and current design data for each article produced under the TSO authorization. The manufacturer must retain this data until it no longer manufactures the article. At that time, copies of the data must be sent to the FAA;

(f) Retain its TSO authorization and make it available to the FAA upon request; and

(g) Make available to the FAA information regarding all delegation of authority to suppliers.

§ 21.618 Approval for deviation.

(a) Each manufacturer who requests approval to deviate from any performance standard of a TSO must show that factors or design features providing an equivalent level of safety compensate for the standards from which a deviation is requested.

(b) The manufacturer must send requests for approval to deviate, together with all pertinent data, to the appropriate aircraft certification office. If the article is manufactured under the authority of a foreign country or jurisdiction, the manufacturer must send requests for approval to deviate, together with all pertinent data, through the civil aviation authority of that country or jurisdiction to the FAA.

§ 21.619 Design changes.

(a) *Minor changes by the manufacturer holding a TSO authorization.* The manufacturer of an article under an authorization issued under this part may make minor design changes (any change other than a major change) without further approval by the FAA. In this case, the changed article keeps the original model number (part numbers may be used to identify minor changes) and the manufacturer must forward to the appropriate aircraft certification office, any revised data that are necessary for compliance with § 21.603(b).

(b) *Major changes by the manufacturer holding a TSO authorization.* Any design change by the manufacturer extensive enough to require a substantially complete investigation to determine compliance with a TSO is a major change. Before making a major change, the manufacturer must assign a new type or model designation to the article and apply for an authorization under § 21.603.

(c) *Changes by persons other than the manufacturer.* No design change by any person (other than the manufacturer who provided the statement of conformance for the article) is eligible for approval under this part unless the person seeking the approval is a manufacturer and applies under § 21.603(a) for a separate TSO authorization. Persons other than a manufacturer may obtain approval for design changes under part 43 or under the applicable airworthiness regulations of this chapter.

§ 21.620 Changes in quality system.

After the issuance of a TSO authorization—

(a) Each change to the quality system is subject to review by the FAA; and

(b) The holder of the TSO authorization must immediately notify the FAA, in writing, of any change that may affect the inspection, conformity, or airworthiness of its article.

§ 21.621 Issue of letters of TSO design approval: Import articles.

(a) The FAA may issue a letter of TSO design approval for an article—

(1) Designed and manufactured in a foreign country or jurisdiction subject to the provisions of an agreement with the United States for the acceptance of these articles for export and import; and

(2) For import into the United States if—

(i) The State of Design certifies that the article has been examined, tested, and found to meet the applicable TSO or the applicable performance standards of the State of Design and any other performance standards the FAA may prescribe to provide a level of safety equivalent to that provided by the TSO; and

(ii) The manufacturer has provided to the FAA one copy of the technical data required in the applicable performance standard through its State of Design.

(b) The FAA issues the letter of TSO design approval that must list any deviation granted to the manufacturer under § 21.618.

PART 43—MAINTENANCE, PREVENTIVE MAINTENANCE, REBUILDING, AND ALTERATION

49. The authority citation for part 43 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44703, 44705, 44707, 44711, 44713, 44717, 44725.

50. Amend § 43.2(a)(2) by removing the reference to ''§ 21.305 of this chapter'' and adding in its place ''part 21 of this chapter.''

51. Revise § 43.3(j)(3) to read as follows:

§ 43.3 Persons authorized to perform maintenance, preventive maintenance, rebuilding, and alterations.

* * * * *

(j) A manufacturer may—

(1) * * *

(2) * * *

(3) Perform any inspection required by part 91 or part 125 of this chapter on aircraft it manufactured under a type certificate, or currently manufactures under a production certificate.

PART 45—IDENTIFICATION AND REGISTRATION MARKING

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

Authority: 49 U.S.C. 106(g), 40103, 40113–40114, 44101–44105, 44107–44111, 44504, 44701, 44708–44709, 44711–44713, 44725, 45302–45303, 46104, 46304, 46306, 47122.

PART 45—[NOMENCLATURE CHANGE]

53. Amend part 45 by removing the word ''Administrator'' and the words ''Administrator of the FAA'' and adding, in their place, the word ''FAA'' wherever they appear.

54. Amend part 45 by removing the word ''shall'' and adding, in its place, the word ''must'' wherever it appears

55. Revise § 45.1 to read as follows:

§ 45.1 Applicability′.

This part describes the requirements for—

(a) Identifying products, parts, appliances, and TSO articles manufactured under—

(1) A type certificate;

(2) A production approval as defined under part 21 of this chapter; and

(3) The provisions of an agreement between the United States and another country or jurisdiction for the acceptance of products, parts, appliances, and articles; and

(b) Nationality and registration marking of U.S. registered aircraft.

Subpart B—Identification of Products, Parts, Appliances, and TSO Articles

56. Revise the heading of subpart B to read as set forth above.

57. Amend subpart B by adding § 45.10 to read as follows:

§ 45.10 Identification.

No person may identify a product, part, appliance, or TSO article in accordance with this subpart unless—

(a) That person produced the product, part, appliance, or TSO article—

(1) Under part 21, subpart F, G, K, or O of this chapter; or

(2) For export to the United States under the provisions of an agreement between the United States and another country or jurisdiction for the acceptance of products, parts, appliances, and TSO articles; and

(b) That product, part, appliance, or TSO article conforms to its approved design, and is in a condition for safe operation; and, for a TSO article; that TSO article meets the applicable performance standards.

58. Revise § 45.11 to read as follows:

§ 45.11 Identification of products.

(a) *Aircraft.* A manufacturer of aircraft covered under § 21.182 of this chapter must identify each aircraft by a fireproof identification plate that—

(1) Must be marked with the information specified in § 45.13 using an approved method of fireproof marking;

(2) Must be secured in such a manner that it will not likely be defaced or removed during normal service, or lost or destroyed in an accident; and

(3) Except as provided in paragraphs (d) through (h) of this section, must be secured to the aircraft fuselage exterior so that it is legible to a person on the ground, and must be either adjacent to and aft of the rear-most entrance door or on the fuselage surface near the tail surfaces.

(b) *Aircraft engines.* A manufacturer of an aircraft engine or module of a modular engine configuration, as defined by the type design, produced under a type certificate or production certificate must identify each engine or module by a fireproof identification plate that—

(1) Must be marked with the information specified in § 45.13 using an approved method of fireproof marking;

(2) Must be affixed to the engine at an accessible location; and

(3) Must be secured in such a manner that it will not likely be defaced or removed during normal service, or lost or destroyed in an accident.

(c) *Propellers and propeller blades and hubs.* Each person who produces a propeller, propeller blade, or propeller hub under a type certificate or production certificate must identify each product or part using an approved fireproof method. This identification must—

(1) Be placed on a non-critical surface;

(2) Contain the information specified in § 45.13;

(3) Not likely be defaced or removed during normal service; and

(4) Not likely be lost or destroyed in an accident.

(d) *Manned free balloons.* A manufacturer of manned free balloons must identify each balloon by the identification plate required by paragraph (a) of this section. The plate must be secured to the balloon envelope and must be located, if practicable, where it is legible to the operator when the balloon is inflated. In addition, the basket and heater assembly must be permanently and legibly marked with the manufacturer's name, part number (or equivalent), and serial number (or equivalent).

(e) *Aircraft manufactured before March 7, 1988.* The owner or operator of an aircraft manufactured before March 7, 1988, must identify the aircraft by the identification plate required by paragraph (a) of this section. The plate must be secured at an accessible exterior or interior location near an entrance, if the model designation and builder's serial number are also displayed on the exterior of the aircraft fuselage. The model designation and builder's serial number must be—

(1) Legible to a person on the ground;

(2) Located either adjacent to and aft of the rear-most entrance door or on the fuselage near the tail surfaces; and

(3) Displayed in such a manner that they are not likely to be defaced or removed during normal service.

(f) For powered parachutes and weight-shift-control aircraft, the identification plate required by paragraph (a) of this section must be secured to the exterior of the aircraft fuselage so that it is legible to a person on the ground.

(g) The identification plate required by paragraph (a)(3) of this section may be secured to the aircraft at an accessible location near an entrance for—

(1) Aircraft produced for—

(i) Operations under part 121 of this chapter;

(ii) Commuter operations (as defined in § 119.3 of this chapter); or

(iii) Export.

(2) Aircraft operating under part 121 of this chapter and under an FAA-approved continuous airworthiness maintenance program; or

(3) Aircraft operating in commuter air carrier operations (as defined in § 119.3 of this chapter) under an FAA-approved continuous airworthiness maintenance program.

(h) *Gliders.* Paragraphs (a)(3) and (e) of this section do not apply to gliders registered or to be registered in the United States.

59. Amend § 45.13 as follows:

(a) Revise the heading to read as set forth below.

(b) Remove the words ''and (b)'' from paragraph (a) introductory text and add in their place the words ''through (c).''

(c) Remove the words ''of this part'' from paragraph (c).

§ 45.13 Product identification data.

* * * * *

§ 45.14 [Removed]

60. Remove § 45.14.

61. Revise § 45.15 to read as follows:

§ 45.15 Identification requirements for parts, appliances, and TSO articles.

(a) *Parts and appliances.* The manufacturer of a part or appliance must permanently and legibly mark each part or appliance and each component of each part or appliance with the following:

(1) The name, trademark, symbol of the production approval holder, or the FAA-issued production approval number; and

(2) Part number.

(b) *TSO articles.* The manufacturer of a TSO article must permanently and legibly mark—

(1) Each TSO article and each component of a TSO article according to the requirements of paragraph (a) of this section; and

(2) Each TSO article, unless otherwise specified in the applicable TSO, with the TSO number and letter of designation, all markings specifically required by the applicable TSO, and the serial number or the date of manufacture of the article or both.

(c) *Critical parts.* Each person who manufactures a part or component for which a replacement time, inspection interval, or related procedure is specified in the Airworthiness Limitations section of a manufacturer's maintenance manual or Instructions for Continued Airworthiness must permanently and legibly mark that part or component with a serial number (or equivalent) in addition to the other applicable requirements of this section.

(d) If the FAA finds a part or component is too small or otherwise impractical to mark with any of the information required by this part, the manufacturer must attach that information to the part or component or its container.

§ 45.16 [Amended]

62. Amend § 45.16 by removing the last sentence.

Issued in Washington, DC on September 21, 2006.

John J. Hickey,

Director, Aircraft Certification Service.

[FR Doc. 06–8281 Filed 10–4–06; 8:45 am]

BILLING CODE 4910–13–P

Federal Register

Thursday,
October 5, 2006

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Guajón (Eleutherodactylus cooki); Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AU78

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Guajón (*Eleutherodactylus cooki*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to designate critical habitat for the threatened guajón (*Eleutherodactylus cooki*), a frog endemic to Puerto Rico, under the Endangered Species Act of 1973, as amended (Act). In total, approximately 217.2 acres (ac) (88 hectares (ha)) fall within the boundaries of the proposed critical habitat designation. The proposed critical habitat is located in the municipalities of Humacao, Las Piedras, Maunabo, Patillas, and Yabucoa, Puerto Rico.

DATES: We will accept comments from all interested parties until December 4, 2006. We must receive requests for public hearings, in writing, at the address shown in the **ADDRESSES** section by November 20, 2006.

ADDRESSES: If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods:

1. You may submit written comments and information to Edwin E. Muñiz, Field Supervisor, U.S. Fish and Wildlife Service, Boquerón Field Office, P.O. Box 491, Boquerón, Puerto Rico 00622.

2. You may hand-deliver written comments to us at the following address: Cabo Rojo National Wildlife Refuge Visitor Center, Ecological Services Field Office, PR–301, km. 5.1, Boquerón, Puerto Rico.

3. You may send comments by electronic mail (e-mail) to *jorge_saliva@fws.gov.* Please see the Public Comments Solicited section below for file format and other information about electronic filing.

4. You may fax your comments to 787–851–7440.

5. You may submit comments via the Federal Rulemaking portal at *www.regulations.gov.* Follow the instructions on the site for submitting comments.

Comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours at the Boquerón Field Office, Road 301 km. 5.1, Boquerón Ward (telephone 787–851–7297).

FOR FURTHER INFORMATION CONTACT: Jorge E. Saliva, Ph.D., Boquerón Field Office, P.O. Box 491, Boquerón, Puerto Rico 00622 (telephone 787–851–7297 x224; facsimile (787–851–7440).

SUPPLEMENTARY INFORMATION:

Public Comments Solicited

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) The reasons any habitat should or should not be determined to be critical habitat for the guajón as provided by section 4 of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et. seq.*), including whether it is prudent to designate critical habitat;

(2) Specific information on the amount and distribution of guajón habitat, and what areas should be included in the designation that were occupied at the time of listing that contain the features that are essential for the conservation of the species and why, and what areas that were not occupied at the time of listing are essential to the conservation of the species and why;

(3) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat;

(4) Any foreseeable economic, national security, or other potential impacts resulting from the proposed designation and, in particular, any impacts on small entities;

(5) Whether the benefit of exclusion of any particular area outweigh the benefits of inclusion under section 4(b)(2) of the Act; and

(6) Whether our approach to designating critical habitat could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concerns and comments.

If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods (see **ADDRESSES** section). Please submit Internet comments to *jorge_saliva@fws.gov* in ASCII file format and avoid the use of special characters or any form of encryption. Please also include ''Attn: guajón proposed rule'' in your e-mail subject header, and your name and return address in the body of your message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly by calling our Boquerōn Field Office at telephone number (787) 851–7297.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their names and/or home addresses, etc. but if you wish us to consider withholding this information you must state this prominently at the beginning of your comments. In addition, you must present rationale for withholding this information. This rationale must demonstrate that disclosure would constitute a clearly unwarranted invasion of privacy. Unsupported assertions will not meet this burden. In the absence of exceptional, documentable circumstances, this information will be released. We will always make submissions from organizations or businesses, and from individuals identifying themselves as representatives of or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the address in the **ADDRESSES** section.

Role of Critical Habitat in Actual Practice of Administering and Implementing the Act

Attention to and protection of habitat is paramount to successful conservation actions. The role that designation of critical habitat plays in protecting habitat of listed species, however, is often misunderstood. As discussed in more detail below in the discussion of exclusions under ESA section 4(b)(2), there are significant limitations on the regulatory effect of designation under ESA section 7(a)(2). In brief, (1) Designation provides additional protection to habitat only where there is a federal nexus; (2) the protection is relevant only when, in the absence of designation, destruction or adverse modification of the critical habitat would in fact take place (in other words, other statutory or regulatory protections, policies, or other factors relevant to agency decision-making would not prevent the destruction or adverse modification); and (3) designation of critical habitat triggers the prohibition

of destruction or adverse modification of that habitat, but it does not require specific actions to restore or improve habitat.

Currently, only 470 species or 37 percent of the 1,264 listed species in the United States under the jurisdiction of the Service, have designated critical habitat. We address the habitat needs of all 1,264 listed species through conservation mechanisms such as listing, section 7 consultations, the Section 4 recovery planning process, the Section 9 protective prohibitions of unauthorized take, Section 6 funding to the States, the Section 10 incidental take permit process, and cooperative, non-regulatory efforts with private landowners. The Service believes that it is these measures that may make the difference between extinction and survival for many species.

In considering exclusions of areas proposed for designation, we evaluated the benefits of designation in light of *Gifford Pinchot Task Force* v. *U.S. Fish and Wildlife Service*, 378 F.3d 1059 (9th Cir 2004). In that case, the Ninth Circuit invalidated the Service's regulation defining ''destruction or adverse modification'' of critical habitat. In response, on December 9, 2004, the Director issued guidance to be considered in making section 7 adverse modification determinations. This proposed critical habitat designation does not use the invalidated regulation in our consideration of the benefits of including areas in this final designation. Rather, it relies on the guidance issued by the Director in response to the *Gifford Pinchot* decision (see ''Adverse Modification Standard'' discussion below). The Service will carefully manage future consultations that analyze impacts to designated critical habitat, particularly those that appear to be resulting in an adverse modification determination. Such consultations will be reviewed by the Regional Office prior to finalizing to ensure that an adequate analysis has been conducted that is informed by the Director's guidance.

On the other hand, to the extent that designation of critical habitat provides protection, that protection can come at significant social and economic cost. In addition, the mere administrative process of designation of critical habitat is expensive, time-consuming, and controversial. The current statutory framework of critical habitat, combined with past judicial interpretations of the statute, make critical habitat the subject of excessive litigation. As a result, critical habitat designations are driven by litigation and courts rather than biology, and made at a time and under a time frame that limits our ability to obtain and evaluate the scientific and other information required to make the designation most meaningful.

In light of these circumstances, the Service believes that additional agency discretion would allow our focus to return to those actions that provide the greatest benefit to the species most in need of protection.

Procedural and Resource Difficulties in Designating Critical Habitat

We have been inundated with lawsuits for our failure to designate critical habitat, and we face a growing number of lawsuits challenging critical habitat determinations once they are made. These lawsuits have subjected the Service to an ever-increasing series of court orders and court-approved settlement agreements, compliance with which now consumes nearly the entire listing program budget. This leaves the Service with little ability to prioritize its activities to direct scarce listing resources to the listing program actions with the most biologically urgent species conservation needs.

The consequence of the critical habitat litigation activity is that limited listing funds are used to defend active lawsuits, to respond to Notices of Intent (NOIs) to sue relative to critical habitat, and to comply with the growing number of adverse court orders. As a result, listing petition responses, the Service's own proposals to list critically imperiled species, and final listing determinations on existing proposals are all significantly delayed.

The accelerated schedules of court-ordered designations have left the Service with limited ability to provide for public participation or to ensure a defect-free rulemaking process before making decisions on listing and critical habitat proposals, due to the risks associated with noncompliance with judicially imposed deadlines. This in turn fosters a second round of litigation in which those who fear adverse impacts from critical habitat designations challenge those designations. The cycle of litigation appears endless, and is very expensive, thus diverting resources from conservation actions that may provide relatively more benefit to imperiled species.

The costs resulting from the designation include legal costs, the cost of preparation and publication of the designation, the analysis of the economic effects and the cost of requesting and responding to public comment, and in some cases the costs of compliance with the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*). These costs, which are not required for many other conservation actions, directly reduce the funds available for direct and tangible conservation actions.

Background

In this proposed rule, we intend to discuss only those topics directly relevant to the designation of critical habitat. For more information on the guajón (which is also known as the Puerto Rican demon), refer to the final listing rule published in the **Federal Register** on June 11, 1997 (62 FR 31757).

The guajón is a petricolous (*i.e.,* inhabiting rocks) frog species endemic to the southeastern part of Puerto Rico. This species is one of 16 species of the genus *Eleutherodactylus,* commonly known as ''coquíes,'' that inhabit the island. It is the second largest species of *Eleutherodactylus* in Puerto Rico. The guajón has solid brown dorsal coloration, white-rimmed eyes, and large, truncate (*i.e.,* partially cut) disks on its feet (Rivero 1998, p. 13; Joglar 1986, p. 386). The species exhibits sexual dimorphism (separate female and male forms) in size, vocalization, and coloration (Burrowes 2000, pp. 376, 380; Burrowes 1997, p. 26). Females are larger than males. The mean size (snout-vent length) for females is 2.01 inches (in) (50.94 millimeters (mm)) and for males is 1.71 in (43.43 mm). The ventral coloration of females is uniformly white, while males are yellow extending from the vocal sac to the abdomen and flanks. Males call for mates by producing 3 to 7 similar notes (Drewry and Rand 1983, p. 944). Females produce only a short, acute call when distressed (Burrowes 2000, p. 383). Juveniles are brown in color with a dorsal pattern of dark brown inverted parentheses (Joglar *et al.* 1996, p. 254; Joglar 1998, p. 68).

The guajón was thought to be limited in distribution by the presence of caves, grottoes, and rock formations (Rivero 1998, p. 13; Joglar 1998, p. 62). At the time of listing in 1997 (62 FR 31757), the guajón was known to be found in the Cuchilla de Panduras mountain range (municipalities of Maunabo, San Lorenzo, and Yabucoa), and in the municipalities of Patillas, Humacao, and Las Piedras (Moreno 1991, p. 9; Joglar 1992, p. 40; Joglar *et al.* 1996, p. 253; F. Bird, pers. comm. 1995; C. Ruiz-Lebrón, pers. comm. 2006). For many years, the guajón was believed to be a highly localized species that occurred exclusively inside caves (Joglar 1998, pp. 62, 71; Joglar *et al.* 1996, p. 256; Burrowes 1997, p. 6; Burrowes 2000, p. 376), but additional habitat studies of this species (Vega-Castillo 2000, pp. 36–37, 40) have shown that the guajón also

lives in rocky streams. Since listing, we have discovered additional populations in three areas: (1) In Tejas Ward (Las Piedras) in an area bounded by Road PR–905 to the east, Road PR–908 to the west, Road PR–9921 to the north, and Road PR–9904 to the south; (2) in Guayabota Ward (Yabucoa) in an area south of Road PR–900 and north of the Maunabo boundary; and (3) within Guayabota Ward (Yabucoa), in an area that crosses Road PR–900 north of the Maunabo boundary, and is about 3,000 ft (900 m) west of proposed critical habitat Unit 11.

The guajón is found at low and intermediate elevations where it inhabits caves formed by large boulders of granite rock, and associated streams with patches of rock without cave systems (Burrowes and Joglar 1999, p. 706; Vega-Castillo 2000, p. 35; C. Ruiz-Lebrón, pers. comm., 2006). Structurally, the caves are complex, having several chambers of irregular shape and size, and may be at different depths between the surface of the ground and stream (Burrowes 2000, p. 376). The ecological conditions of the caves are relatively uniform; mean temperature and relative humidity are the same at any given month of the year, and they do not have thermal stratification (*i.e.,* no marked temperature differences between the floor and ceiling of the cave) (Rogowitz *et al.* 1999, p. 179; Rogowitz *et al.* 2001, pp. 542, 545; Burrowes 1997, p. 74). Like most of the *Eleutherodactylus*, the guajón has direct development of eggs, which are laid on humid boulders within grottoes and on cracks, depressions, or flat vertical surfaces (Joglar *et al.* 1996, p. 253; Burrowes 1997, pp. 21–22). The preference for this type of microhabitat probably reduces evaporative water loss and egg predation (Joglar 1998, pp. 64, 68).

Vega-Castillo (2000, pp. 36, 40) reported that, in streams, the guajón has been found only in patches of rock in the streambed. The streams can be perennial or they can be ephemeral, formed during heavy rain; the streams are also surrounded by secondary forest. Rocks in the streambed form crevices and grottoes. Streams provide a wide variety of retreat sites for the species, such as vegetation-covered rocks (*e.g.,* rocks covered with moss, ferns, and liverworts) that help conserve humidity. In rocky stream habitat, the frogs exit their retreat site at dusk to forage actively over rocks and vegetation. In both types of habitat, the species exhibits site fidelity and homing behavior. Reproductive activity is correlated with precipitation and air temperature (Rogowitz *et al.* 2001, pp. 543–546; Joglar *et al.* 1996, p. 254), and males defend and guard egg clutches (Joglar *et al.* 1996, p. 255; Burrowes 1997, p. 35).

The guajón was listed as threatened under the Act primarily due to its highly restricted geographical distribution and habitat requirements (Joglar 1998, p. 73). The habitat of this species is naturally fragmented and the majority of the known populations are on private land in southeastern Puerto Rico, where the increased levels of land development threaten to further reduce and fragment the species habitat, distribution, and survival (Joglar 1998, p. 73). Being a habitat specialist, the guajón is adapted to particular environmental conditions, and abrupt changes in these conditions could result in population declines or extirpation.

Road and urban development can cause earth movement and modification of vegetation and streams, resulting in habitat fragmentation that may interrupt the connection between subpopulations, affecting the genetic variability and population numbers of the guajón (Burrowes 1997, p. 71; Joglar 1998, p. 73). Amphibian populations unable to disperse because of barriers may experience genetic isolation resulting in reduced heterozygosity (*i.e.*, potential reduction in genetic variability and evolutionary fitness). Fragmenting habitat through human activity such as roads makes populations less resilient to natural population declines (Pechman *et al.* 1991, p. 895).

Deforestation near streams can result in erosion and increase flash flooding. Runoff water from slopes during flash flooding may disturb the habitat of the guajón, and high levels of sediment introduced into streams can fill spaces between rocks and decrease the availability of retreat sites among the boulders. Another potential effect of flash flooding is the flushing and drowning of adults, as well as the destruction of nests.

The use of pesticides, herbicides, and fertilizers in agricultural fields could have detrimental effects on survival of the guajón from runoff into waterways adjacent to guajón habitat. Many studies have documented negative impacts of agrochemicals on frogs; impacts include deformities, abnormal immune system functions, diseases, injury and death (Cooke 1981, pp. 123, 125, 127, 130, 131; Reeder *et al.* 1998, p. 264). Also, any stream modification (*e.g.*, embankment, channelization) or development (*e.g.*, tourist, urban) within the watershed where the guajón exists could result in an increase of chemical-laden sediments and alteration of the streams' quality.

Recreational use of streams may degrade the habitat quality for the guajón. People that live adjacent to guajón habitat may collect crabs and shrimp by pouring chemicals into the water (*e.g.*, chlorine). Aquatic species exit their retreats to the surface for breathing. These chemicals may directly affect water and habitat quality for the guajón. A decrease in water and habitat quality may have a serious impact on this species and other amphibians that inhabit streams. Recreational use of streams may introduce trash and waste to the water flow impacting the water quality and habitat (Joglar 1993, pp. 27, 33; Joglar *et al.* 1996, p. 258; Rivero 1991, p. 55). For example, caves in the Cuchilla de Panduras mountain range are used as garbage dumps (Joglar 1998, p. 75), attracting potential predators and diseases for the guajón.

Burrowes (1997, pp. 60–64) and Burrowes and Joglar (1999, pp. 709–710) assessed the genetic variation within and among populations of the guajón in separate cave systems within the historic geographic range of the species and found a high degree of genetic variation and lack of population differentiation in the species. These studies also documented that genetic flow among populations of the guajón is necessary to maintain the high genetic variability observed in the species. This genetic variability depends on interconnection between caves, and the availability of clean subterranean waterways as indirect dispersal routes necessary for out-crossing (Burrowes 1997, p. 73; Burrowes and Joglar 2000, p. 709). These studies also suggested that the guajón is perfectly adapted to the existing environmental conditions in the caves. Thus, habitat conditions, *e.g.*, clean waterways between the guajonales (the caves and grottoes where the guajón lives), are important to maintain a high degree of genetic variation among the guajón populations.

Previous Federal Actions

The guajón was listed as threatened under the Act on June 11, 1997 (62 FR 31757), due to its restricted distribution, specialized habitat utilization, and threats to its habitat. The Service determined that designation of critical habitat was not prudent at the time of listing because of increased risks of vandalism and illegal collection should the exact location of individuals be made public. On June 10, 2003, the Center for Biological Diversity filed a lawsuit against the Department of the Interior and the Service, alleging, among other things, failure to designate critical habitat for the guajón. In a settlement agreement dated February 5, 2004, the

Service agreed to reevaluate the need for critical habitat for this species and, if prudent, submit a proposed designation of critical habitat to the **Federal Register** by September 30, 2006, and a final designation by October 1, 2007. This document constitutes our new prudency determination and our proposed rule to designate critical habitat for the guajón, and fulfills the settlement agreement. For more information on previous Federal actions concerning the guajón, refer to the final listing rule (62 FR 31757).

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) Essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures that are necessary to bring an endangered or a threatened species to the point at which listing under the Act is no longer necessary.

Critical habitat receives protection under section 7 of the Act through the prohibition against destruction or adverse modification of critical habitat with regard to actions carried out, funded, or authorized by a Federal agency. Section 7 requires consultation on Federal actions that are likely to result in the destruction or adverse modification of critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation does not allow government or public access to private lands. Section 7 is a purely protective measure and does not require implementation of restoration, recovery, or enhancement measures.

To be included in a critical habitat designation, the habitat within the area occupied by the species at the time of listing must first have features that are essential to the conservation of the species. Critical habitat designations identify, to the extent known using the best scientific data available, habitat areas that provide essential life cycle needs of the species (*i.e.*, areas on which are found the primary constituent elements or PCEs, as defined at 50 CFR 424.12(b)).

Habitat occupied at the time of listing may be included in critical habitat only if the essential features thereon may require special management or protection. Thus, we do not include areas where existing management is sufficient to conserve the species. (As discussed below, such areas may also be excluded from critical habitat under section 4(b)(2) of the Act.) Furthermore, when the best available scientific data do not demonstrate that the conservation needs of the species require additional areas, we will not designate critical habitat in areas outside the geographical area occupied by the species at the time of listing. However, an area that is currently occupied by the species but was not known to be occupied at the time of listing will likely be essential to the conservation of the species and, therefore, typically included in the critical habitat designation.

The Service's Policy on Information Standards under the Endangered Species Act, published in the **Federal Register** on July 1, 1994 (59 FR 34271), and Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658) and the associated Information Quality Guidelines issued by the Service, provide criteria, establish procedures, and provide guidance to ensure that decisions made by the Service represent the best scientific data available. They require Service biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat. When determining which areas are critical habitats, a primary source of information is generally the listing package for the species. Additional information sources include the recovery plan for the species, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, biological assessments, or other unpublished materials and expert opinion or personal knowledge. All information is used in accordance with the provisions of Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658) and the associated Information Quality Guidelines issued by the Service.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific data available. Habitat is often dynamic, and species may move from one area to another over time. Furthermore, we recognize that designation of critical habitat may not include all of the habitat areas that may eventually be determined to be necessary for the recovery of the species. For these reasons, critical habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery.

Areas that support populations, but are outside the critical habitat designation, will continue to be subject to conservation actions implemented under section 7(a)(1) of the Act and to the regulatory protections afforded by the section 7(a)(2) jeopardy standard, as determined on the basis of the best available information at the time of the action. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans, or other species conservation planning efforts if new information available to these planning efforts calls for a different outcome.

Prudency Determination

Section 4(a)(3) of the Act and its implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, we designate critical habitat at the time a species is listed as endangered or threatened. Our regulations at 50 CFR 424.12(a)(1) state that the designation of critical habitat is not prudent when one or both of the following situations exist: (1) The species is threatened by taking or other activity and the identification of critical habitat can be expected to increase the degree of threat to the species; or (2) such designation of critical habitat would not be beneficial to the species. In our June 11, 1997 final rule (62 FR 31757), we determined that designation of critical habitat for the guajón was not prudent because of increased risks of vandalism and illegal collection should the exact location of individuals be made public.

Critical habitat designation may provide additional information to individuals, local and State governments, and other entities engaged in long-range planning, because areas with features essential to the conservation of the guajón are clearly delineated and the primary constituent elements of the habitat necessary for the survival of the species are specifically identified. Moreover, we do not have specific evidence of taking, collection,

vandalism, trade, or unauthorized human disturbance affecting the guajón. Without such evidence, we cannot say that designation would increase the likelihood of take. Accordingly, we withdraw our previous determination that the designation of critical habitat will increase the degree of threat to the species. We determine that the designation of critical habitat is prudent for this species. At this time, we have sufficient information necessary to identify specific areas that meet the definition of critical habitat and are, therefore, proposing critical habitat for the guajón.

Methods

As required by section 4(b) of the Act, we used the best scientific data available in determining areas that contain the physical and biological features essential to the conservation of the guajón (see Primary Constituent Elements section) and other areas that are essential to the conservation of this species. We have also reviewed available information that pertains to the habitat requirements of this species. This information included peer-reviewed scientific publications; unpublished reports from resource agencies and universities; field surveys and reports; information and maps from Puerto Rico Department of Natural and Environmental Resources, the Puerto Rico Planning Board, Puerto Rico Conservation Trust (PRCT), and U.S. Geological Survey topographic maps (scale 1:20,000); recent aerial photos; unpublished data and observations collected by Service biologists during recent field surveys; forest management plans from local agencies; the species' recovery plan; information received from local biologists and researchers who have worked with the species and its habitat; and information gathered during site visits to currently occupied sites. All information was used to determine the guajón's currently occupied range and habitat features needed to support the necessary biological functions of the species. We are not proposing any areas outside the geographical area presently occupied by the species because none were found to be essential to the conservation of the species, however, we are proposing three small units that were not known to be occupied at the time of listing but are currently occupied.

Primary Constituent Elements for the Guajón

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12, we are required to base critical habitat determinations on the best scientific data available and to consider, within areas occupied by the species at the time of listing, those physical and biological features that are essential to the conservation of the species (PCEs), and that may require special management considerations and protection. These include, but are not limited to, space for individual and population growth and for normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, and rearing (or development) of offspring; and habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species. All areas proposed as critical habitat for the guajón are currently occupied, within the species' historic geographic range, and contain sufficient PCEs to support at least one life history function.

The distribution of the guajón is associated with the granitic and plutonic rocks found in the Cuchilla de Panduras mountain range in southeastern Puerto Rico. The habitat of the guajón lies within several life zones as described by Ewel and Whitmore (1973, pp. 20–49). The variables used to delineate any given life zone are mean annual precipitation and mean annual temperature. The two predominant life zones found within guajón habitat are Subtropical Moist and Subtropical Wet forests. Trees up to 65.6 ft (20 m) tall, with rounded crowns, characterize the Subtropical Moist Forest life zone. Many of the woody species are deciduous during the dry season. The abundant moisture of the Subtropical Wet Forest life zone is evident in the character of its vegetation. Epiphytic ferns, bromeliads, and orchids are common, the forests are relatively rich in plant species, and the growth rates of successional trees are rapid. This type of forest contains more than 150 species of trees that form a dark, complete canopy at about 65.6 ft (20 m).

The guajón is found at low and intermediate elevations up to 1,312.3 ft (400 m) above sea level (Burrowes 1997, p. 52; Burrowes *et al.* 2004, p. 145; Rivero 1998, p. 13), where it inhabits caves formed by large boulders of granite rock, and in associated streams with patches of rock without cave systems (Burrowes and Joglar 1999, p. 706; Vega-Castillo 2000, p. 35; C. Ruiz-Lebrón, pers. comm., 2006). Caves are dark inside, although some light enters through gaps formed from the union of two or more boulders. Structurally, the caves are complex, having several chambers of irregular shape and size, and may be at different depths between the surface of the ground and stream (Burrowes 2000, p. 376). The ecological conditions of the caves are relatively uniform; mean temperature and relative humidity are the same at any given month of the year, and the caves do not have thermal stratification (Rogowitz *et al.* 1999, p. 179; Rogowitz *et al.* 2001, pp. 542, 545; Burrowes 1997, p. 74).

In streams, the guajón has been found only in patches of rock in the streambed (Vega-Castillo 2000, pp. 36, 40). The streams can be perennial, or they can be ephemeral, formed during heavy rain. The streams are surrounded by secondary forest. Rocks in the streambed form crevices and grottoes. Streams provide a wide variety of retreat sites for the species, such as vegetation-covered rocks (*e.g.*, rocks covered with moss, ferns, and liverworts) that help conserve humidity. Temperature and relative humidity at streams vary with the months of the year. The foraging habitat of the guajón may extend laterally from the edge of streambed (or other water source) as far as 66 to 99 ft (20 to 30 m) into adjacent vegetated areas (Vega-Castillo, pers. obs., 2001). In rocky stream habitat, frogs leave their retreat site at dusk to forage actively over rocks and vegetation.

Based on our current knowledge of the life history, biology, and ecology of the species and the requirements of the habitat to sustain the essential life history functions of the species, we have determined that PCEs for the guajón are:

(1) Subtropical forest (which may include trees such as *Cecropia schreberiana, Dendropanax arboreus, Guarea guidonia, Piper aduncum, Spathodea campanulata, Syzygium jambos,* and *Thespesia populnea*) at elevations from 118 to 1,183 ft (36 to 361 m) above sea level.

(2) Plutonic, granitic, or sedimentary rocks/boulders that form caves, crevices, and grottoes (interstitial spaces) in a streambed; and that are in proximity, or connected, to a permanent, ephemeral, or subterranean clear-water stream or water source. The interstitial spaces between or underneath rocks provide microenvironments characterized by generally higher humidity and cooler temperatures than outside the rock formations.

(3) Vegetation-covered rocks (the vegetation typically includes moss, ferns, and hepatics such as *Thuidium urceolatum, Taxilejeunea sulphurea,* and *Huokeria acutifolia*) extending laterally to a maximum of 99 ft (30 m) on each bank of the stream; these rocks provide cover and foraging sites and help conserve humidity.

This proposed designation is designed for the conservation of PCEs necessary

to support the life history functions of the guajón. Because not all life history functions require all the PCEs, not all proposed critical habitat will contain all the PCEs.

Units are designated based on sufficient PCEs being present to support one or more of the species' life history functions. Some units contain all PCEs and support multiple life processes, while some units contain only a portion of the PCEs necessary to support the species' particular use of that habitat. Where a subset of the PCEs is present at the time of designation, this rule protects those PCEs and thus the conservation function of the habitat.

Criteria Used To Identify Critical Habitat

As required by section 4(b)(1)(A) of the Act, we used the best scientific data available in determining areas that contain the features that are essential to the conservation of the guajón. We are not proposing to designate any areas outside the geographical area presently occupied by the species.

We began our analysis by considering the historic distribution of and sites occupied by the species at the time of listing. We reviewed existing information to identify the historic distribution and sites occupied by the guajón at the time of listing. We also reviewed available information pertaining to the habitat requirements of this species. This information included literature cited in the final listing rule and the final recovery plan, site records, published scientific reports, recent aerial photos, materials submitted by other agencies for development project reviews, U.S. Geological Survey (USGS) topographic maps (scale 1:20,000), and office Geographic Information System (GIS) layers.

An area was considered for designation if: (1) It was occupied by the guajón at the time of listing and possessed at least one or more of the PCEs; or (2) was not occupied at the time of listing, but is currently occupied by the guajón, and has been determined to be essential to the conservation of the species. These areas were deemed essential based on their ability to support life history and population-level functions for the guajón, as well as the need for sufficient habitat to protect existing populations.

We selected areas of habitat known to be currently occupied by the species, based on field reports from the Puerto Rico Department of Natural and Environmental Resources (DNER) and the PRCT, field visits from Service personnel, information from species' experts, and data cited in the scientific literature. Field reconnaissance was done in all areas for verification of presence/absence. Presence of the guajón was documented by listening to the distinctive call of the males.

Based on this review and visual inspection of sites where the guajón was found, we identified 12 units that contain one or more of the PCEs. Areas not containing the PCEs are not included in the proposal. Such areas include high-flow streams and rivers; drainages with little or no vegetative cover; and drainages with rocks that were small, dispersed, or not forming crevices and grottoes. One area in the municipality of Maunabo and one area in the municipality of Patillas that were occupied by the guajón at the time of listing do not currently contain PCEs and the guajón was not observed or recorded in consecutive visits to these sites in March and April 2006. Therefore we are not including either of these areas in our proposed designation.

Boundaries for each unit were determined based on known guajón sightings, topographical features known to be needed by the species, the range of elevations used by the species, and visual inspection of the units. This habitat includes streams with patches of rocks and associated riparian vegetation that provides foraging habitat for the guajón. We have included a foraging area of 99 ft (30 m) along creeks and drainages as a result of observations by experts that the foraging habitat of the guajón may extend outside the streambed in vegetated areas as far as 30 meters from the water source (Vega-Castillo, pers. obs., 2001). Data layers defining map units were created by delineating habitats that contained at least one or more of the PCEs identified above over USGS topographic maps (UTM 19, NAD 83). Municipal boundaries, rivers, and creeks layers were provided by the Puerto Rico Planning Board (PRPB) but adapted and verified over a base map of USGS 1:20,000 quadrangles. The roads layer was created at the Boquerón Field Office using a base map of USGS 1:20,000 quadrangles. Quadrangles used were: Humacao, Punta Guayanés, Juncos, Yabucoa, Punta Tuna, and Patillas.

We propose to designate critical habitat on lands that we have determined were occupied at the time of listing and contain sufficient primary constituent elements to support life history functions essential for the conservation of the species (9 units), and additional areas not occupied at the time of listing that provide habitat essential to the conservation of the species (3 units). The 12 units that we are proposing as critical habitat encompass approximately 217.2 ac (88 ha) within the municipalities of Humacao, Las Piedras, Maunabo, Patillas, and Yabucoa. The proposed units contain habitat that supports biological and population-level functions (including needs for food, shelter, breeding sites, foraging, and population expansion) of the guajón. Changes in the composition and abundance of vegetation surrounding guajón habitat, degradation of water quality due to agricultural practices (*e.g.,* use of herbicides, fertilizers, or insecticides), and pollution of streams caused by human refuse are threats to the guajón that require special management. A brief discussion of each unit proposed as critical habitat is provided in the unit descriptions below.

When determining proposed critical habitat boundaries, we made every effort to avoid proposing the designation of developed areas such as buildings or houses, paved areas, and other structures that lack PCEs for the guajón. When it has not been possible to map out these structures and the land upon which they are sited because of scale issues, they have been excluded from the proposed designation by rule text. Therefore, Federal actions limited to these areas would not trigger section 7 consultation, unless they affect the species and/or PCEs in adjacent critical habitat.

Special Management Considerations or Protection

When designating critical habitat, we assess whether the areas determined to be occupied at the time of listing and containing the PCEs may require special management considerations or protection. As discussed in more detail in the unit description below, we find that units occupied at the time of listing (Units 1, 2, 4, 5, 6, 7, 8, 9, and 10) may require special management considerations or protection due to threats to the guajón and/or its habitat. All these proposed units are adjacent to agricultural lands, roads, trails, homes, or other manmade structures. Management considerations and protection include protection of the guajón and its habitat from threats posed by deforestation and earth movement near streams for road construction, and for agricultural, urban, and rural development. These threats may result in changes in the composition and abundance of vegetation surrounding guajón habitat, as well as degradation of water quality from illegal garbage dumping, untreated sewage, and agricultural practices (*e.g.*, use of herbicides, fertilizers, or insecticides).

Proposed Critical Habitat Designation

We are proposing 12 units as critical habitat for the guajón. The critical habitat areas described below constitute our best assessment at this time of areas determined to be occupied at the time of listing, contain the primary constituent elements, and that may require special management (9 units), and those additional areas that were not occupied at the time of listing but were found to be essential to the conservation of the guajón (3 units). The 12 areas proposed as critical habitat are: Mariana, Montones, Tejas, Emajagua, Jacaboa, Calabazas, Guayanés, Panduras, Talante, Guayabota, Guayabito, and Guayabo Units.

TABLE 1.—AREAS PROPOSED AS CRITICAL HABITAT FOR THE GUAJÓN.

[Area estimates reflect all land within critical habitat unit boundaries]

Proposed critical habitat unit	Land ownership	Area (ac (ha))
1. Mariana, Humacao, PR	Private	23.6 (9.6)
2. Montones, Las Piedras, PR	Private	31.1 (12.6)
3. Tejas, Las Piedras, PR	Private	5.2 (2.1)
4. Emajagua, Maunabo, PR	Private	33.0 (13.4)
5. Jacaboa, Patillas, PR	Private	10.3 (4.2)
6. Calabazas, Yabucoa, PR	Private	13.8 (5.6)
7. Guayanés, Yabucoa, PR	Private	7.9 (3.2)
8. Panduras, Yabucoa, PR	Private	28.6 (11.6)
9. Talante, Yabucoa, PR	Private	23.5 (9.5)
10. Guayabota, Yabucoa, PR	Private	13.1 (5.3)
11. Guayabito, Yabucoa, PR	Private	17.3 (7.0)
12. Guayabo, Yabucoa, PR	Private	9.8 (3.9)
Total		217.2 ac (88 ha)

We present brief descriptions of all units, the primary constituent elements they contain, and reasons why they meet the definition of critical habitat for the guajón, below. Universal Transverse Mercator (UTM) coordinates and more precise legal descriptions of each unit are provided in the Proposed Regulation Promulgation section.

Unit 1: Mariana Unit

Unit 1 consists of approximately 23.6 ac (9.6 ha) located south of Road PR–909, west of Road PR–3, and north of Quebrada Catañao within Mariana Ward, Humacao. Unit 1 contains 5,412.8 ft (1,649.8 m) of an unnamed, rocky stream with abundant water, a guajón foraging area extending laterally 99 ft (30 m) from each bank of the stream, and secondary forest on all sides of the stream. This unit was known to be occupied at the time of listing (J. Sustache, DNER database, 1996). Every PCE is found within this unit, and presence of the species and PCEs at this site was confirmed by the Service in March 2006. Threats that may require special management considerations, due to the proximity of Unit 1 to urbanized areas and infrastructure (*e.g.*, major roads), include changes in the composition and abundance of vegetation surrounding guajón habitat (PCEs 1 and 3), degradation of water quality due to agricultural practices (*e.g.*, use of herbicides, fertilizers, or insecticides), and pollution of streams caused by human refuse (PCE 2).

Unit 2: Montones Unit

Unit 2 consists of approximately 31.1 ac (12.6 ha) in Montones Ward, Las Piedras. It contains 6,941.7 ft (2,115.8 m) of the headwaters of the Valenciano River in the vicinity of PR 917 Km 9.7, and a guajón foraging area of 99 ft (30 m) on each side of the river. This unit was known to be occupied at the time of listing (F. Bird-Picó, DNER database, 1996). Although some sections of this unit do not contain PCE 1, all other PCEs are found within this unit (a rocky stream with abundant water surrounded by secondary forest, and a rocky creek surrounded by vines, herbaceous vegetation, shrubs, and trees). In some areas of the creek, the water disappears underground and reappears at various intervals. The presence of the species and PCEs at this site was confirmed by the Service in March 2006. Threats that may require special management considerations, due to the proximity of Unit 2 to urbanized areas and infrastructure (*e.g.*, roads), include changes in the composition and abundance of vegetation surrounding guajón habitat (PCE 1 and 3), degradation of water quality due to agricultural practices (*e.g.*, use of herbicides, fertilizers, or insecticides), and pollution of streams caused by human refuse (PCE 2).

Unit 3: Tejas Unit

Unit 3 consists of approximately 5.2 ac (2.1 ha) located between Road PR–905 to the east, Road PR–908 to the west, Road PR–9921 to the north, and Road PR–9904 to the south within Tejas Ward, Las Piedras. It contains 1,312 ft (400 m)) of an unnamed tributary of the Río Humacao, and a guajón foraging area of 99 ft (30 m) on each side of the tributary. This unit was not known to be occupied at the time of listing. Every PCE is found within this unit (the area contains a rocky creek surrounded by vines, herbaceous vegetation, shrubs, and trees), and this was confirmed by the Service in March 2006. Unit 3 is essential to the conservation of the guajón. The guajón was listed under the Act primarily due to its highly restricted geographical distribution and its specialized habitat requirements (Joglar 1998, p. 73). Thus, protection of all existing populations of the guajón is important to the conservation of the species. The habitat of this species is naturally fragmented, and the majority of the known populations are on private land where increased levels of land development in southeastern Puerto Rico are occurring where the species occurs, and threaten to further reduce and fragment the species' habitat, distribution, and survival (Joglar 1998, p. 73). Being a habitat specialist, the guajón is adapted to particular environmental conditions, and abrupt changes in these conditions could result in population declines. Additionally, fragmenting habitat through human intrusions, such as roads, makes populations less resilient to natural population declines (Pechman *et al.* 1991, p. 895). Because it is occupied by the species and contains sufficient PCEs

to support the life functions of the species, Unit 3 is essential to the conservation of the species.

Unit 4: Emajagua Unit

Unit 4 consists of approximately 33.0 ac (13.4 ha) between Quebrada Arenas and Quebrada Emajagua, north of Road PR–901 (on the periphery of an underground tunnel under construction), within Emajagua Ward, Maunabo. It contains three connected, unnamed streams/drainages totaling about 7,400 ft (2,256 m), and a guajón foraging area of 99 ft (30 m) on each side of the streams/drainages. This unit was known to be occupied at the time of listing (R. Thomas, DNER database, 1965). Every PCE is found within this unit, and presence of the species and PCEs at this site was confirmed by the Service in April 2006. Threats that may require special management considerations, due to the proximity of Unit 4 to urbanized areas and infrastructure (*e.g.*, major roads), include changes in the composition and abundance of vegetation surrounding guajón habitat (PCEs 1 and 3) and pollution of streams caused by human refuse (PCE 2).

Unit 5: Jacaboa Unit

Unit 5 consists of approximately 10.3 ac (4.2 ha) northwest of road PR–758 within Ríos Ward, Patillas. It contains 2,334.6 ft (711.6 m) of an unnamed rocky drainage to the Jacaboa River, and a guajón foraging area of 99 ft (30 m) on each side of the drainage. This unit was known to be occupied at the time of listing (R. Thomas, DNER database, 1965). Every PCE is found within this unit (it contains a rocky creek with small and large sedimentary rocks and boulders, closed forest canopy over the creek, and closed, mature forest along the shores, including some bamboo stands). The presence of the species and PCEs at this site was confirmed by the Service in April 2006. Threats that may require special management considerations, due to the proximity of Unit 5 to urbanized areas and infrastructure (*e.g.*, roads), include changes in the composition and abundance of vegetation surrounding guajón habitat (PCEs 1 and 3), degradation of water quality due to agricultural practices (*e.g.*, use of herbicides, fertilizers, or insecticides) and pollution of streams caused by human refuse (PCE 2).

Unit 6: Calabazas Unit

Unit 6 consists of approximately 13.8 ac (5.6 ha) located northeast of road PR–900, between Quebrada Guayabo to the south and Río Guayanés to the north, within Calabazas Ward, Yabucoa. The unit contains a 3,198 ft (975 m) stretch of a rocky creek surrounded by vines, herbaceous vegetation, shrubs, and trees, and a guajón foraging area of 99 ft (30 m) on each side of the drainage. This unit was known to be occupied at the time of listing (J. Montero, DNER database, 1988). Every PCE is found within this unit, and presence of the species and PCEs at this site was confirmed by the Service in March 2006. Threats that may require special management considerations, due to the proximity of Unit 6 to urbanized areas and infrastructure (*e.g.*, roads), include changes in the composition and abundance of vegetation surrounding guajón habitat (PCEs 1 and 3), degradation of water quality due to agricultural practices (*e.g.*, use of herbicides, fertilizers, or insecticides), and pollution of streams caused by human refuse (PCE 2).

Unit 7: Guayanés Unit

Unit 7 consists of approximately 7.9 ac (3.2 ha) northeast of Road PR–900 between Quebrada Guayabo to the south and Río Guayanés to the north, and north of Unit 6, within Calabazas Ward, Yabucoa. It contains 4,265 ft (1,300 m) of an unnamed drainage, and a guajón foraging area of 99 ft (30 m) on each side of the drainage. This unit was known to be occupied at the time of listing (J. Montero, DNER database, 1988). Every PCE is found within this unit (it contains a rocky creek surrounded by vines, herbaceous vegetation, shrubs, and trees). The presence of the species and PCEs at this site was confirmed by the Service in March 2006. Threats that may require special management considerations, due to the proximity of Unit 7 to urbanized areas and infrastructure (*e.g.*, roads), include changes in the composition and abundance of vegetation surrounding guajón habitat (PCEs 1 and 3), degradation of water quality due to agricultural practices (*e.g.*, use of herbicides, fertilizers, or insecticides), and pollution of streams caused by human refuse (PCE 2).

Unit 8: Panduras Unit

Unit 8 consists of approximately 28.6 ac (11.6 ha) to the northwest and southeast of Road PR–3 within Calabazas Ward, Yabucoa. It contains 2,314.1 ft (705.6 m) of an unnamed drainage, a guajón foraging area of 99 ft (30 m) on each side of the drainage, and 18.2 ac (7.4 ha) of lands owned by the PRCT near the top of Cerro La Pandura. This unit was known to be occupied at the time of listing (J. Rivero 1998, DNER database, 1978). Every PCE is found within this unit (it contains a rocky area with medium and large granite boulders, a drainage with closed-canopy forest over the drainage, and closed, mature forest along the edges). The presence of the species and PCEs at this site was confirmed by the Service in March 2006. Threats that may require special management considerations, due to the proximity of Unit 8 to urbanized areas and infrastructure (*e.g.*, roads), include changes in the composition and abundance of vegetation surrounding guajón habitat (PCEs 1 and 3) and pollution of streams caused by human refuse (PCE 2). This area does not currently have a management plan (Fernando Silva, pers. comm., 2006).

Unit 9: Talante Unit

Unit 9 consists of approximately 23.5 ac (9.5 ha) east of Road PR–3 within Calabazas Ward and Talante Ward, Yabucoa. It contains the headwaters of the Talante Creek, five unnamed drainages (totaling about 3,500 ft (1,061 m)), and a guajón foraging area of 99 ft (30 m) on each side of the creek and drainages. About 2.8 ac (1.1 ha) of Unit 9 are within Calabazas Ward, and the remaining 21.6 ac (8.7 ha) are within Talante Ward. This unit was known to be occupied at the time of listing (J. Rivero 1998, DNER database, 1978). Every PCE is found within this unit (it contains drainages with medium and large granite boulders that are surrounded by vines, herbaceous vegetation, shrubs, and trees, and that connect to a small rocky creek; some patches contain big rocks that are completely exposed to the sun or covered with vines). The presence of the species and PCEs at this site was confirmed by the Service in April 2006. Threats that may require special management considerations, due to the proximity of Unit 9 to urbanized areas and infrastructure (*e.g.*, major roads), include changes in the composition and abundance of vegetation surrounding guajón habitat (PCEs 1 and 3), degradation of water quality due to agricultural practices (*e.g.*, use of herbicides, fertilizers, or insecticides) and pollution of streams caused by human refuse (PCE 2).

Unit 10: Guayabota Unit

Unit 10 consists of approximately 13.1 ac (5.3 ha) northeast of intersection of roads PR–181 and PR–182, and south of the municipal boundary with San Lorenzo, within Guayabota Ward, Yabucoa. It contains a small unnamed creek (about 700 ft (212 m)), and a guajón foraging area of 99 ft (30 m) on each side of the creek. This unit was known to be occupied at the time of

listing (J. Rivero, DNER database, 1980; Burrowes 1997). Every PCE is found within this unit. The northwest section of the rocky creek (large and medium granite boulders) is surrounded by closed canopy over the creek, with herbaceous vegetation and some trees along the shore. The southeastern section of the rocky creek has large and medium sedimentary boulders and is surrounded by semi-closed canopy over the creek and shores that are primarily exposed to the sun, with some areas covered with grass. The presence of the species and PCEs at this site was confirmed by the Service in April 2006. Threats that may require special management considerations, due to the proximity of this unit to urbanized areas and infrastructure (*e.g.*, roads), include changes in the composition and abundance of vegetation surrounding guajón habitat (PCEs 1 and 3), degradation of water quality due to agricultural practices (*e.g.*, use of herbicides, fertilizers, or insecticides), and pollution of streams caused by human refuse (PCE 2).

Unit 11: Guayabito Unit

Unit 11 consists of approximately 17.3 ac (7.0 ha) south of Road PR–900 and north of the Maunabo boundary, within Guayabota Ward, Yabucoa. It contains 1,232.6 ft (4,042 m) of an unnamed drainage and tributary that connect to Quebrada Guayabo, and a guajón foraging area of 99 ft (30 m) on each side of both the drainage and tributary. This unit was not known to be occupied at the time of listing. The unit is split into a rocky drainage to the west (large, clumped, granite boulders), and a rocky creek to the east (large granite boulders). Both are surrounded by closed canopy over the drainage and creek, and closed mature forest along the shores. Thus, every PCE is found within this unit, and presence of the species and PCEs at this site was confirmed by the Service in April 2006. Unit 11 is essential to the conservation of the guajón for several reasons. The boulders and closed canopy provide the essential habitat for guajón reproduction and foraging. The guajón was listed primarily due to its highly restricted geographical distribution and habitat requirements (Joglar 1998, p. 73). The habitat of this species is naturally fragmented, and the majority of the known populations are on private land, where the increased levels of land development currently occurring in southeastern Puerto Rico threatens to further reduce and fragment the species' habitat, distribution, and survival (Joglar 1998, p. 73). Being a habitat specialist, the guajón is adapted to particular environmental conditions, and abrupt changes in these conditions could result in population declines. Additionally, fragmenting habitat through human intrusions such as roads makes populations less resilient to natural population declines (Pechman *et al.* 1991, p. 895). Protection of all existing populations of the guajón is extremely important due to its limited distribution and the specialized habitat it occupies.

Unit 12: Guayabo Unit

Unit 12 consists of approximately 9.8 ac (3.9 ha) along Quebrada Guayabo, along and south of Road PR–900 in Guayabota Ward, Yabucoa. It contains 2,247.5 ft (685 m) of the southwesternmost section of Quebrada Guayabo, and a guajón foraging area of 99 ft (30 m) on each side of the stream. This unit was not known to be occupied at the time of listing. Every PCE is found within this unit and presence of the species and PCEs at this site was confirmed by the Service in April 2006. Unit 12 is essential to the conservation of the guajón because it contains the PCEs (a rocky stream surrounded by closed canopy over the stream, and closed mature forest along the shores that provide the habitat essential to the guajón for food, shelter, breeding, foraging, and population expansion), and because it is occupied. Due to the species' limited distribution and the specialized habitat it occupies, protection of all existing populations of the guajón is extremely important to conservation of the species.

The habitat of this species is naturally fragmented, and remaining habitat is threatened by land development which can further reduce and fragment the species' habitat, distribution, and survival (Joglar 1998, p. 73). Being a habitat specialist, the guajón is adapted to particular environmental conditions, and abrupt changes in these conditions could result in population declines. Additionally, fragmenting habitat through human intrusions, such as roads, makes populations less resilient to natural population declines (Pechman *et al.* 1991, p. 895).

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7 of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out are not likely to destroy or adversely modify critical habitat. In our regulations at 50 CFR 402.02, we define destruction or adverse modification as ''a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical.'' However, recent decisions by the 5th and 9th Circuit Court of Appeals have invalidated this definition (see *Gifford Pinchot Task Force* v. *U.S. Fish and Wildlife Service*, 378 F. 3d 1059 (9th Cir 2004) and *Sierra Club* v. *U.S. Fish and Wildlife Service et al.*, 245 F.3d 434, 442F (5th Cir 2001)). Under current national policy and the statutory provisions of the Act, destruction or adverse modification is determined on the basis of whether, with implementation of the proposed Federal action, the affected critical habitat would remain functional (or retain the current ability for the PCEs to be functionally established) to serve the intended conservation role for the species.

Section 7(a) of the Act requires Federal agencies, including the Service, to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is proposed or designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402.

Section 7(a)(4) of the Act requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. This is a procedural requirement only. However, once proposed species become listed, or proposed critical habitat is designated as final, the full prohibitions of section 7(a)(2) apply to any Federal action. The primary utility of the conference procedures is to maximize the opportunity for a Federal agency to adequately consider proposed species and critical habitat and avoid potential delays in implementing their proposed action as a result of the section 7(a)(2) compliance process, should those species be listed or the critical habitat designated.

Under conference procedures, the Service may provide advisory conservation recommendations to assist the agency in eliminating conflicts that may be caused by the proposed action. The Service may conduct either informal or formal conferences. Informal conferences are typically used if the proposed action is not likely to have any adverse effects to the proposed species or proposed critical habitat. Formal conferences are typically used when the Federal agency or the Service believes

the proposed action is likely to cause adverse effects to proposed species or critical habitat, inclusive of those that may cause jeopardy or adverse modification.

The results of an informal conference are typically transmitted in a conference report, while the results of a formal conference are typically transmitted in a conference opinion. Conference opinions on proposed critical habitat are typically prepared according to 50 CFR 402.14, as if the proposed critical habitat were designated. We may adopt the conference opinion as the biological opinion when the critical habitat is designated; if no substantial new information or changes in the action alter the content of the opinion (see 50 CFR 402.10(d)). As noted above, any conservation recommendations in a conference report or opinion are strictly advisory.

If a species is listed or critical habitat is designated, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. As a result of this consultation, compliance with the requirements of section 7(a)(2) will be documented through the Service's issuance of: (1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or critical habitat; or (2) a biological opinion for Federal actions that may affect, but are likely to adversely affect, listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to result in jeopardy to a listed species or the destruction or adverse modification of critical habitat, we also provide reasonable and prudent alternatives to the project, if any are identifiable. ''Reasonable and prudent alternatives'' are defined at 50 CFR 402.02 as alternative actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that the Director believes would avoid jeopardy to the listed species or destruction or adverse modification of critical habitat. Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where a new species is listed or critical habitat is subsequently designated that may be affected and the Federal agency has retained discretionary involvement or control over the action or such discretionary involvement or control is authorized by law. Consequently, some Federal agencies may request reinitiation of consultation with us on actions for which formal consultation has been completed, if those actions may affect subsequently listed species or designated critical habitat or adversely modify or destroy proposed critical habitat.

Federal activities that may affect the guajón or its designated critical habitat will require section 7 consultation under the Act. Activities on State, tribal, local, or private lands requiring a Federal permit (such as a permit from the Army Corps of Engineers under section 404 of the Clean Water Act or a permit under section 10(a)(1)(B) of the Act from the Service) or involving some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency) will also be subject to the section 7 consultation process. Federal actions not affecting listed species or critical habitat, and actions on State, tribal, local, or private lands that are not federally funded, authorized, or permitted, do not require section 7 consultations.

Application of the Jeopardy and Adverse Modification Standards for Actions Involving Effects to the Guajón and Its Critical Habitat

Jeopardy Standard

Prior to and following designation of critical habitat, the Service has applied an analytical framework for guajón jeopardy analyses that relies heavily on the importance of populations to the survival and recovery of the guajón. The section 7(a)(2) analysis is focused not only on these populations but also on the habitat conditions necessary to support them.

The jeopardy analysis usually expresses the survival and recovery needs of the guajón in a qualitative fashion without making distinctions between what is necessary for survival and what is necessary for recovery. Generally, if a proposed Federal action is incompatible with the viability of the affected population(s), inclusive of associated habitat conditions, a jeopardy finding is considered to be warranted, because of the relationship of each population to the survival and recovery of the species as a whole.

Adverse Modification Standard

The analytical framework described in the Director's December 9, 2004, memorandum is used to complete section 7(a)(2) analyses for Federal actions affecting critical habitat for the guajón. The key factor related to the adverse modification determination is whether, with implementation of the proposed Federal action, the affected critical habitat would remain functional (or retain the current ability for the primary constituent elements to be functionally established) to serve the intended conservation role for the species. Generally, the conservation role of critical habitat units is to support viable populations of the guajón.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe in any proposed or final regulation that designates critical habitat those activities involving a Federal action that may destroy or adversely modify such habitat, or that may be affected by such designation. Activities that may destroy or adversely modify critical habitat may also jeopardize the continued existence of the species. Activities that may destroy or adversely modify critical habitat are those that alter the PCEs to an extent that the conservation value of critical habitat for the guajón is appreciably reduced. Activities that, when carried out, funded, or authorized by a Federal agency, may affect critical habitat for the guajón include, but are not limited to:

(1) Activities that would significantly alter the vegetation structure in and around creeks, streams, and drainages. Such activities could include, but are not limited to, vegetation cutting for expanding or maintaining roads, development of new roads and trails, and construction of new homes and commercial establishments. The elimination or alteration of vegetation structure could result in habitat fragmentation that may interrupt the connection between populations, alter guajón foraging activities and the availability of foraging resources, reduce the quality of breeding microhabitat (*e.g.*, change in temperature and humidity levels within breeding crevices and caves), and result in direct mortality of individuals through trampling or crushing, or desiccation from sun exposure.

(2) Activities that may alter the natural flow of water. Such activities could include, but are not limited to, stream modifications related to the expansion or maintenance of roads, development of new roads and trails, and construction of new homes and commercial establishments. Alteration of water flow may result in drowning of adults and loss of egg clutches through erosion and increase flash flooding, abandonment of suitable habitat and establishment into less-favorable areas, and reduction of breeding activities (*e.g.*, insufficient or excessive humidity for proper egg development).

(3) Activities that may reduce the quality of water. Such activities could include, but are not limited to, recreational activities within major streams and rivers connecting drainages and tributaries used by the species, agricultural practices (*e.g.*, use of pesticides, herbicides, or fertilizers), and pollution of streams caused by human refuse.

(4) Activities that eliminate or degrade the natural connection between guajón populations. Such activities could include, but are not limited to, vegetation cutting for expanding or maintaining roads, development of new roads and trails, and construction of new homes and commercial establishments. These activities may interrupt the connection between existing populations; thus, dispersal and interaction between sub-populations could be affected, restricting gene flow and jeopardizing the integrity of the species' gene pool.

We consider the proposed 12 critical habitat units to be currently occupied by the guajón, based on peer-reviewed scientific publications; unpublished reports from resource agencies, non-government organizations, and universities; field surveys and reports; and field inspections by Service personnel. All of the units included in this proposed designation contain the features that are essential to the conservation of the guajón or are essential to the conservation of the species. Federal agencies already consult with us on activities in areas currently occupied by the guajón, or if the species may be affected by the action, to ensure that their actions do not jeopardize the continued existence of the guajón.

Application of Section 3(5)(A) and Exclusions Under Section 4(b)(2) of the Act

Section 3(5)(A) of the Act defines critical habitat as the specific areas within the geographical area occupied by the species on which are found those physical and biological features (i) Essential to the conservation of the species, and (ii) which may require special management considerations or protection. Therefore, areas within the geographical area occupied by the species that do not contain the features essential to the conservation of the species are not, by definition, critical habitat. Similarly, areas within the geographical area occupied by the species that require no special management or protection also are not, by definition, critical habitat. Thus, for example, areas that do not need special management may not need protection if there is lack of pressure for change, such as areas too remote for anthropogenic disturbance.

There are multiple ways to provide management for species' habitat. Statutory and regulatory frameworks that exist at a local level can provide such protection and management, as can lack of pressure for change, such as in areas too remote for anthropogenic disturbance. Finally, State, local, or private management plans as well as management under Federal agencies' jurisdictions can provide protection and management to avoid the need for designation of critical habitat. When we consider a plan to determine its adequacy in protecting habitat, we consider whether the plan, as a whole will provide the same level of protection that designation of critical habitat would provide. The plan need not lead to exactly the same result as a designation in every individual application, as long as the protection it provides is equivalent overall. In making this determination, we examine whether the plan provides management or protection of the PCEs that is at least equivalent to that provided by a critical habitat designation, and whether there is a reasonable expectation that the management or protection actions will continue into the foreseeable future. Each review is particular to the species and the plan, and some plans may be adequate for some species and inadequate for others. In this proposed designation of critical habitat for the guajón, we are not considering the non-inclusion of any units on the basis of adequate management plans, under section 3(5)(A) of the Act.

Section 4(b)(2) of the Act states that critical habitat shall be designated, and revised, on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact, of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless he determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species. In making that determination, the Secretary is afforded broad discretion and the Congressional record is clear that in making a determination under section 4(b)(2) the Secretary has discretion as to which factors to consider and how much weight will be given to any factor. Under section 4(b)(2), in considering whether to exclude a particular area from the designation, we must identify the benefits of including the area in the designation, identify the benefits of excluding the area from the designation, and determine whether the benefits of exclusion outweigh the benefits of inclusion. If an exclusion is contemplated, then we must determine whether excluding the area would result in the extinction of the species. In this proposed designation of critical habitat for the guajón, we are not considering or proposing any exclusions pursuant to section 4(b)(2) of the Act. However, we will be conducting an economic analysis of the impacts of the proposed critical habitat designation and related factors, which will be made available for public review and comment. Based on public comment on that document, the proposed designation, and the information in the final economic analysis, areas may be excluded from critical habitat by the Secretary under the provisions of section 4(b)(2) of the Act. This is provided for in the Act, and in our implementing regulations at 50 CFR 424.19. Under 50 CFR 424.19, we must propose an area as critical habitat, and receive public comment on that action, prior to making an exclusion of that area under section 4(b)(2) of the Act from the final critical habitat designation.

Economic Analysis

An analysis of the economic impacts of proposing critical habitat for the guajón is being prepared. We will announce the availability of the draft economic analysis as soon as it is completed, at which time we will seek public review and comment. At that time, copies of the draft economic analysis will be available for downloading from the Internet at *http://www.southeast.fws.gov,* or by contacting the Boquerón Field Office directly (see **ADDRESSES**).

Peer Review

In accordance with our joint policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. The purpose of such review is to ensure that our critical habitat designation is based on scientifically sound data, assumptions, and analyses. Copies of this proposed rule will be sent to these peer reviewers, immediately following publication in the **Federal Register.** We will invite these peer reviewers to comment, during the public comment period, on the specific assumptions and conclusions regarding the proposed designation of critical habitat.

We will consider all comments and information received during the comment period on this proposed rule during preparation of a final rulemaking. Accordingly, the final decision may differ from this proposal.

Public Hearings

The Act provides for one or more public hearings on this proposal, if requested. Requests for public hearings must be made in writing at least 15 days prior to the close of the public comment period. We will schedule public hearings on this proposal, if any are requested, and announce the dates, times, and places of those hearings in the **Federal Register** and local newspapers at least 15 days prior to the first hearing.

Clarity of the Rule

Executive Order 12866 requires each agency to write regulations and notices that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed rule clearly stated? (2) Does the proposed rule contain technical jargon that interferes with the clarity? (3) Does the format of the proposed rule (grouping and order of the sections, use of headings, paragraphing, and so forth) aid or reduce its clarity? (4) Is the description of the notice in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposed rule? (5) What else could we do to make this proposed rule easier to understand?

Send a copy of any comments on how we could make this proposed rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may e-mail your comments to this address: *Exsec@ios.doi.gov.*

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order 12866, this document is a significant rule in that it may raise novel legal and policy issues, but it is not anticipated to have an annual effect on the economy of $100 million or more or affect the economy in a material way. Due to the tight timeline for publication in the **Federal Register,** the Office of Management and Budget (OMB) has not formally reviewed this rule. We are preparing a draft economic analysis of this proposed action, which will be available for public comment, to determine the economic consequences of designating the specific area as critical habitat. This economic analysis also will be used to determine compliance with Executive Order 12866, Regulatory Flexibility Act, Small Business Regulatory Enforcement Fairness Act, and Executive Order 12630.

Within these areas, the types of Federal actions or authorized activities that we have identified as potential concerns are listed above in the ''Adverse Modification Standard'' section. An announcement will be made in the **Federal Register** and in local newspapers when the draft economic analysis is available for public review and comment. When it is completed, the draft economic analysis will be available from the Internet Web site at *http://www.southeast.fws.gov* or by contacting the Boquerón Field Office directly (see **ADDRESSES**).

Further, Executive Order 12866 directs Federal Agencies promulgating regulations to evaluate regulatory alternatives (Office of Management and Budget, Circular A–4, September 17, 2003). Pursuant to Circular A–4, once it has been determined that the Federal regulatory action is appropriate, the agency will need to consider alternative regulatory approaches. Since the determination of critical habitat is a statutory requirement pursuant to the Act, we must then evaluate alternative regulatory approaches, where feasible, when promulgating a designation of critical habitat.

In developing our designations of critical habitat, we consider economic impacts, impacts to national security, and other relevant impacts pursuant to section 4(b)(2) of the Act. Based on the discretion allowable under this provision, we may exclude any particular area from the designation of critical habitat providing that the benefits of such exclusion outweigh the benefits of specifying the area as critical habitat and that such exclusion would not result in the extinction of the species. As such, we believe that the evaluation of the inclusion or exclusion of particular areas, or combination thereof, in a designation constitutes our regulatory alternative analysis.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (*i.e.,* small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the Regulatory Flexibility Act (RFA) to require Federal agencies to provide a statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

At this time, the Service lacks the available economic information necessary to provide an adequate factual basis for the required RFA finding. Therefore, the RFA finding is deferred until completion of the draft economic analysis prepared under section 4(b)(2) of the Act and E.O. 12866. This draft economic analysis will provide the required factual basis for the RFA finding. Upon completion of the draft economic analysis, the Service will publish a notice of availability of the draft economic analysis of the proposed designation and reopen the public comment period for the proposed designation for an additional 60 days. The Service will include with the notice of availability, as appropriate, an initial regulatory flexibility analysis or a certification that the rule will not have a significant economic impact on a substantial number of small entities accompanied by the factual basis for that determination. The Service has concluded that deferring the RFA finding until completion of the draft economic analysis is necessary to meet the purposes and requirements of the RFA. Deferring the RFA finding in this manner will ensure that the Service makes a sufficiently informed determination based on adequate economic information and provides the necessary opportunity for public comment.

Executive Order 13211

On May 18, 2001, the President issued an Executive Order (E.O. 13211) on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This proposed rule to designate critical habitat for the guajón is not a significant regulatory action under Executive Order 12866, and it is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501), the Service makes the following findings:

(a) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute or regulation that would impose an enforceable duty upon State, local, tribal governments, or the private sector and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or tribal governments'' with two exceptions. It excludes ''a condition of Federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding,'' and the State, local, or tribal governments ''lack authority'' to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; AFDC work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) A condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program.''

The designation of critical habitat does not impose a legally binding duty on non-Federal government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply; nor would critical habitat shift the costs of the large entitlement programs listed above on to State governments.

(b) We do not believe that this rule will significantly or uniquely affect small governments due to current public knowledge of the species' protection, the prohibition against take of the species both within and outside of the designated areas, and the fact that critical habitat provide no incremental restrictions, we do not anticipate that this rule will significantly or uniquely affect small governments. As such, a Small Government Agency Plan is not required. We will, however, further evaluate this issue as we conduct our economic analysis and revise this assessment if appropriate.

Executive Order 12630—Takings

In accordance with Executive Order 12630 (''Government Actions and Interference with Constitutionally Protected Private Property Rights''), we have analyzed the potential takings implications of proposing critical habitat for the guajón in a takings implications assessment. The takings implications assessment concludes that this designation of critical habitat for the guajón does not pose significant takings implications.

Federalism

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with DOI and Department of Commerce policy, we requested information from, and coordinated development of, this proposed critical habitat designation with appropriate State resource agencies in Puerto Rico. The designation of critical habitat in areas currently occupied by the guajón imposes no additional restrictions to those currently in place and, therefore, has little incremental impact on State and local governments and their activities. The designation may have some benefit to these governments in that the areas that contain the features essential to the conservation of the species are more clearly defined, and the primary constituent elements of the habitat necessary to the conservation of the species are specifically identified. While making this definition and identification does not alter where and what federally sponsored activities may occur, it may assist these local governments in long-range planning (rather than waiting for case-by-case section 7 consultations to occur).

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. We propose designating critical habitat in accordance with the provisions of the Act. This proposed rule uses standard property descriptions and identifies the primary constituent elements within the designated areas to assist the public in understanding the habitat needs of the guajón.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act. This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. 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.

National Environmental Policy Act

It is our position that, outside the Tenth Circuit, we do not need to prepare environmental analyses as defined by the NEPA in connection with designating critical habitat under the Endangered Species Act of 1973, as amended. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This assertion was upheld in the courts of the Ninth Circuit (*Douglas County* v. *Babbitt*, 48 F.3d 1495 (9th Cir. Ore.

1995), cert. denied 116 S. Ct. 698 (1996)).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and the Department of Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. We have determined that there are no tribal lands with features essential for the conservation of the guajón. Therefore, critical habitat for the guajón has not been designated on Tribal lands.

References Cited

A complete list of all references cited in this rulemaking is available upon request from the Field Supervisor, Boquerón Field Office (see **ADDRESSES** section).

Author

The primary author of this package is Dr. Jorge E. Saliva, Boquerón Field Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

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

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. In § 17.11(h), revise the entry for ''Guajón'' under ''AMPHIBIANS'' in the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rule
Common name	Scientific name						
*	*	*	*	*	*		*
AMPHIBIANS							
*	*	*	*	*	*		*
Guajón	*Eleutherodactylus cooki.*	U.S.A (PR)	Entire	T	617	17.95(d)	NA
*	*	*	*	*	*		*

3. In § 17.95, amend paragraph (d) by adding an entry for ''Guajón (*Eleutherodactylus cooki*)'' in the same order that the species appears in the table at § 17.11(h) to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(d) *Amphibians.*

* * * * *

Guajón (*Eleutherodactylus cooki*)

(1) Critical habitat units are depicted for Humacao, Las Piedras, Maunabo, Patillas, and Yabucoa, Puerto Rico, on the maps below.

(2) The primary constituent elements of critical habitat for the guajón are the habitat components that provide:

(i) Subtropical forest (which may include trees such as *Cecropia schreberiana, Dendropanax arboreus, Guarea guidonia, Piper aduncum, Spathodea campanulata, Syzygium jambos*, and *Thespesia populnea*) at elevations from 118 to 1,183 ft (36 to 361 m) above sea level;

(ii) Plutonic, granitic, or sedimentary rocks/boulders that form caves, crevices, and grottoes (interstitial spaces) in a streambed, and that are in proximity, or connected, to a permanent, ephemeral, or subterranean clear-water stream or water source. The interstitial spaces between or underneath rocks provide microenvironments characterized by generally higher humidity and cooler temperatures than outside the rock formations; and

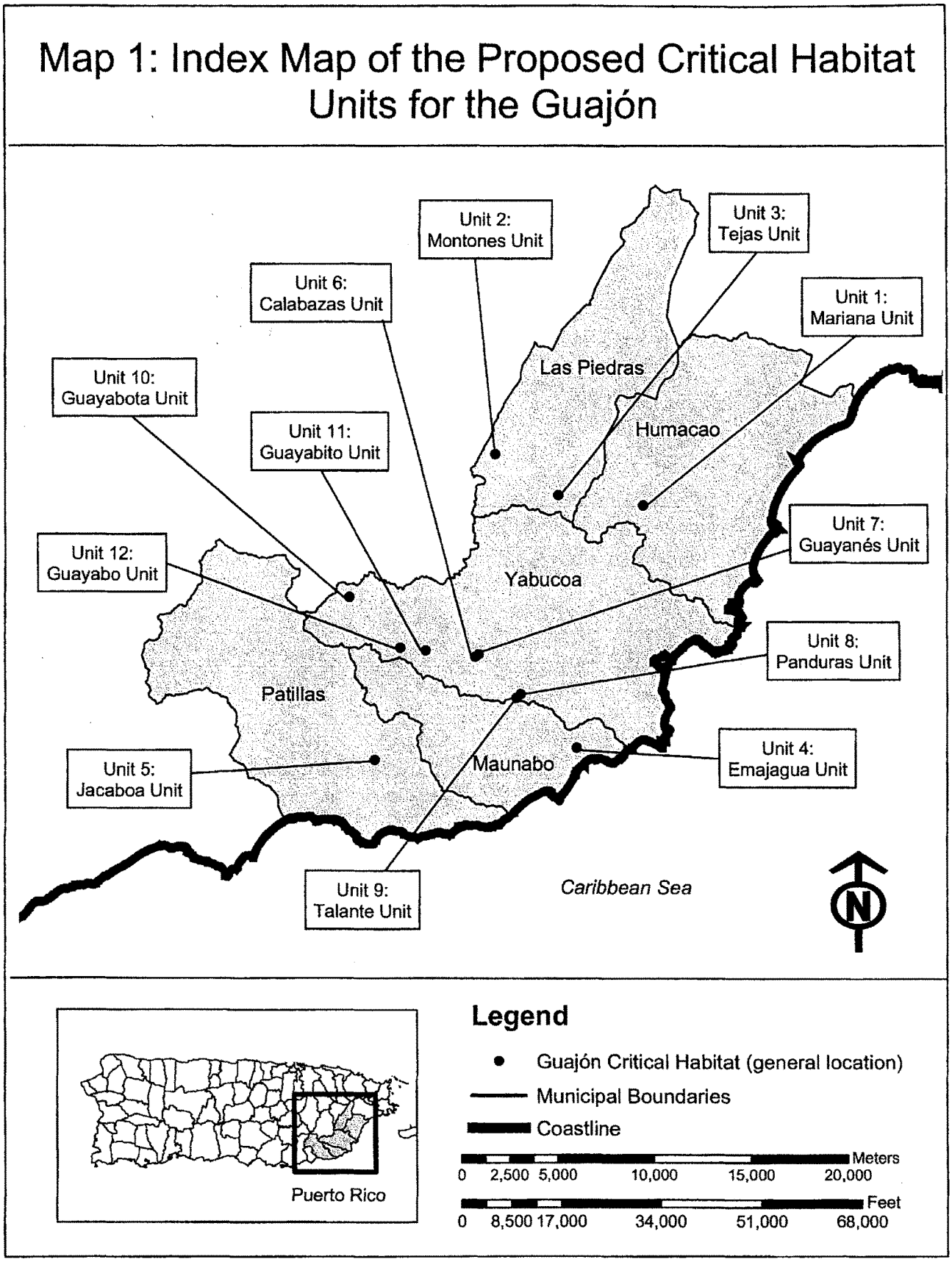
(iii) Vegetation-covered rocks (the vegetation typically includes moss, ferns, and hepatics such as *Thuidium urceolatum, Taxilejeunea sulphurea*, and *Huokeria acutifolia*) extending laterally to a maximum of 99 feet (30 meters) on each bank of the stream. These rocks provide cover and foraging sites and help conserve humidity.

(3) Critical habitat does not include manmade structures existing on the effective date of this rule and not containing one or more of the primary constituent elements, such as buildings, driveways, lawns, aqueducts, airports, and roads, and the land on which such structures are located.

(4) *Critical habitat maps.* Data layers defining map units were created by delineating habitats that contain at least one or more of the PCEs defined in paragraph (2) of this entry, over United States Geological Survey topographic maps (UTM 19, NAD 83). USGS 1:20,000 quadrangles used in the base map were: Humacao, Punta Guayanés, Juncos, Yabucoa, Punta Tuna, and Patillas.

(5) **Note:** Index map (Map 1) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(6) Unit 1: Mariana, Humacao, Puerto Rico.

(i) *General Description:* Unit 1 consists of approximately 23.6 acres (ac) (9.6 hectares (ha)) located south of Road PR–909, west of Road PR–3, and north of Quebrada Cataño within Mariana Ward, Humacao.

(ii) *Coordinates:* From Humacao and Punta Guayanés USGS 1:20,000 quadrangle maps. Unit 1 bounded by the following UTM 19 NAD 83 coordinates (E, N): 833916.64, 2007339.77; 833916.67, 2007341.73; 833916.83, 2007343.69; 833917.12, 2007345.64; 833917.53, 2007347.56; 833918.07, 2007349.45; 833918.73, 2007351.30; 833919.51, 2007353.10; 833920.41, 2007354.85; 833921.42, 2007356.54; 833922.53, 2007358.15; 833923.65, 2007359.57; 833989.83, 2007438.54; 833989.93, 2007438.66; 833991.25, 2007440.12; 833992.66, 2007441.48; 833994.16, 2007442.76; 833995.73, 2007443.93; 833997.38, 2007444.99; 833999.10, 2007445.95; 834000.88, 2007446.79; 834002.70, 2007447.51; 834004.57, 2007448.12; 834006.48, 2007448.60; 834008.41, 2007448.95; 834010.36, 2007449.18; 834012.33, 2007449.27; 834014.29, 2007449.24; 834016.25, 2007449.08; 834018.19, 2007448.80; 834020.12, 2007448.38; 834022.01, 2007447.85; 834023.86, 2007447.19; 834025.66, 2007446.41; 834027.41, 2007445.51; 834029.10, 2007444.50; 834030.71, 2007443.38; 834032.25, 2007442.16; 834033.71, 2007440.84; 834035.08, 2007439.43; 834036.35, 2007437.94; 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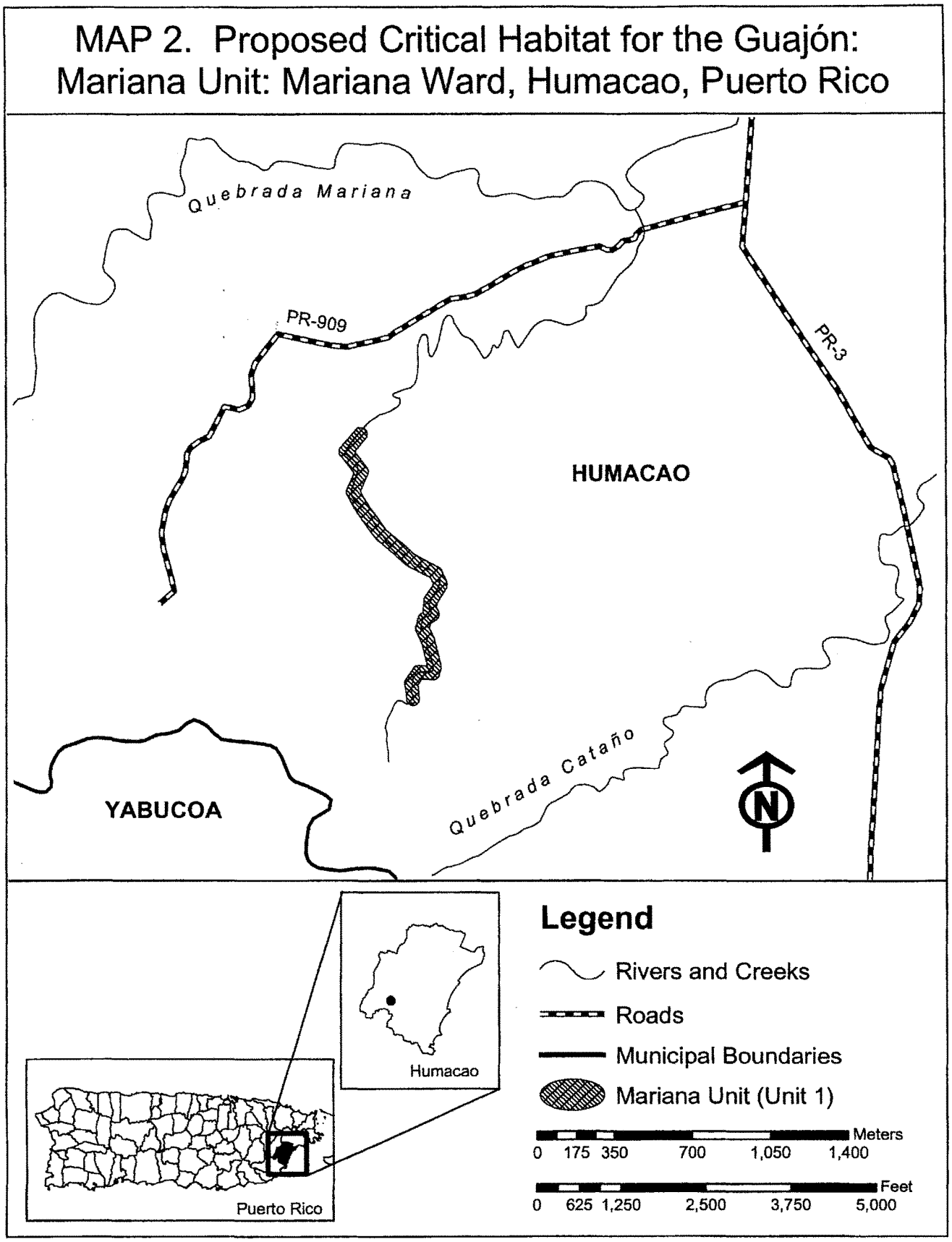
(iii) **Note:** Map of Unit 1 (Map 2) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(7) Unit 2: Montones, Las Piedras, Puerto Rico.

(i) *General Description:* Unit 2 consists of approximately 31.1 ac (12.6 ha) along the headwaters of the Valenciano River at PR 917 Km 9.7, Montones Ward, Las Piedras.

(ii) *Coordinates:* From Juncos USGS 1:20,000 quadrangle map. Unit 2 bounded by the following UTM 19 NAD 83 coordinates (E, N): 825191.05, 2008735.38; 825191.08, 2008737.35; 825191.17, 2008738.56; 825197.07, 2008804.62; 825197.15, 2008805.37; 825197.43, 2008807.31; 825197.85, 2008809.23; 825198.39, 2008811.12; 825199.05, 2008812.97; 825199.83, 2008814.78; 825200.73, 2008816.52; 825201.74, 2008818.21; 825202.09, 2008818.75; 825237.76, 2008871.58; 825238.52, 2008872.65; 825239.74, 2008874.19; 825241.06, 2008875.65; 825242.47, 2008877.02; 825243.97, 2008878.29; 825245.55, 2008879.46; 825247.20, 2008880.53; 825248.91, 2008881.48; 825249.96, 2008881.99; 825516.70, 2009006.30; 825517.43, 2009006.63; 825519.26, 2009007.35; 825521.13, 2009007.95; 825523.03, 2009008.43; 825524.97, 2009008.78; 825526.92, 2009009.01; 825528.88, 2009009.11; 825530.85, 2009009.08; 825532.58, 2009008.94; 825607.77, 2009000.89; 825608.00, 2009000.86; 825609.94, 2009000.58; 825611.86, 2009000.16; 825613.75, 2008999.62; 825615.60, 2008998.96; 825617.41, 2008998.18; 825619.15, 2008997.28; 825619.44, 2008997.12; 825657.84, 2008975.25; 825735.16, 2008935.69; 825736.06, 2008935.21; 825737.74, 2008934.20; 825739.36, 2008933.08; 825740.90, 2008931.86; 825742.35, 2008930.54; 825742.41, 2008930.48; 825805.54, 2008869.09; 825875.41, 2008891.79; 825982.60, 2009016.88; 826011.34, 2009100.61; 826011.81, 2009101.89; 826012.60, 2009103.69; 826013.49, 2009105.44; 826014.50, 2009107.13; 826015.62, 2009108.74; 826015.93, 2009109.15; 826234.92, 2009394.34; 826235.83, 2009395.46; 826237.15, 2009396.92; 826238.56, 2009398.29; 826240.06, 2009399.56; 826241.64, 2009400.73; 826243.28, 2009401.79; 826332.44, 2009455.31; 826363.91, 2009522.58; 826363.96, 2009522.68; 826364.85, 2009524.43; 826365.86, 2009526.12; 826366.98, 2009527.74; 826368.20, 2009529.27; 826369.52, 2009530.73; 826370.93, 2009532.10; 826372.43, 2009533.37; 826374.01, 2009534.54; 826375.66, 2009535.61; 826377.38, 2009536.56; 826379.15, 2009537.40; 826380.92, 2009538.11; 826507.54, 2009583.75; 826584.65, 2009645.47; 826584.74, 2009645.54; 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826626.32, 2009602.61; 826625.00, 2009601.16; 826623.59, 2009599.79; 826622.18, 2009598.59; 826541.17, 2009533.75; 826541.08, 2009533.68; 826539.51, 2009532.51; 826537.86, 2009531.45; 826536.14, 2009530.49; 826534.36, 2009529.65; 826532.59, 2009528.95; 826413.02, 2009485.84; 826382.96, 2009421.56; 826382.91, 2009421.45; 826382.01, 2009419.71; 826381.00, 2009418.02; 826379.88, 2009416.40; 826378.66, 2009414.86; 826377.34, 2009413.41; 826375.93, 2009412.04; 826374.43, 2009410.77; 826372.86, 2009409.60; 826371.21, 2009408.54; 826279.08, 2009353.24; 826066.55, 2009076.47; 826037.54, 2008991.95; 826037.07, 2008990.68; 826036.29, 2008988.88; 826035.39, 2008987.13; 826034.38, 2008985.44; 826033.26, 2008983.83; 826032.04, 2008982.29; 826031.94, 2008982.17; 825915.52, 2008846.30; 825914.31, 2008844.97; 825912.90, 2008843.60; 825911.40, 2008842.33; 825909.82, 2008841.16; 825908.17, 2008840.09; 825906.45, 2008839.14; 825904.68, 2008838.30; 825902.85, 2008837.57; 825902.00, 2008837.28; 825806.87, 2008806.38; 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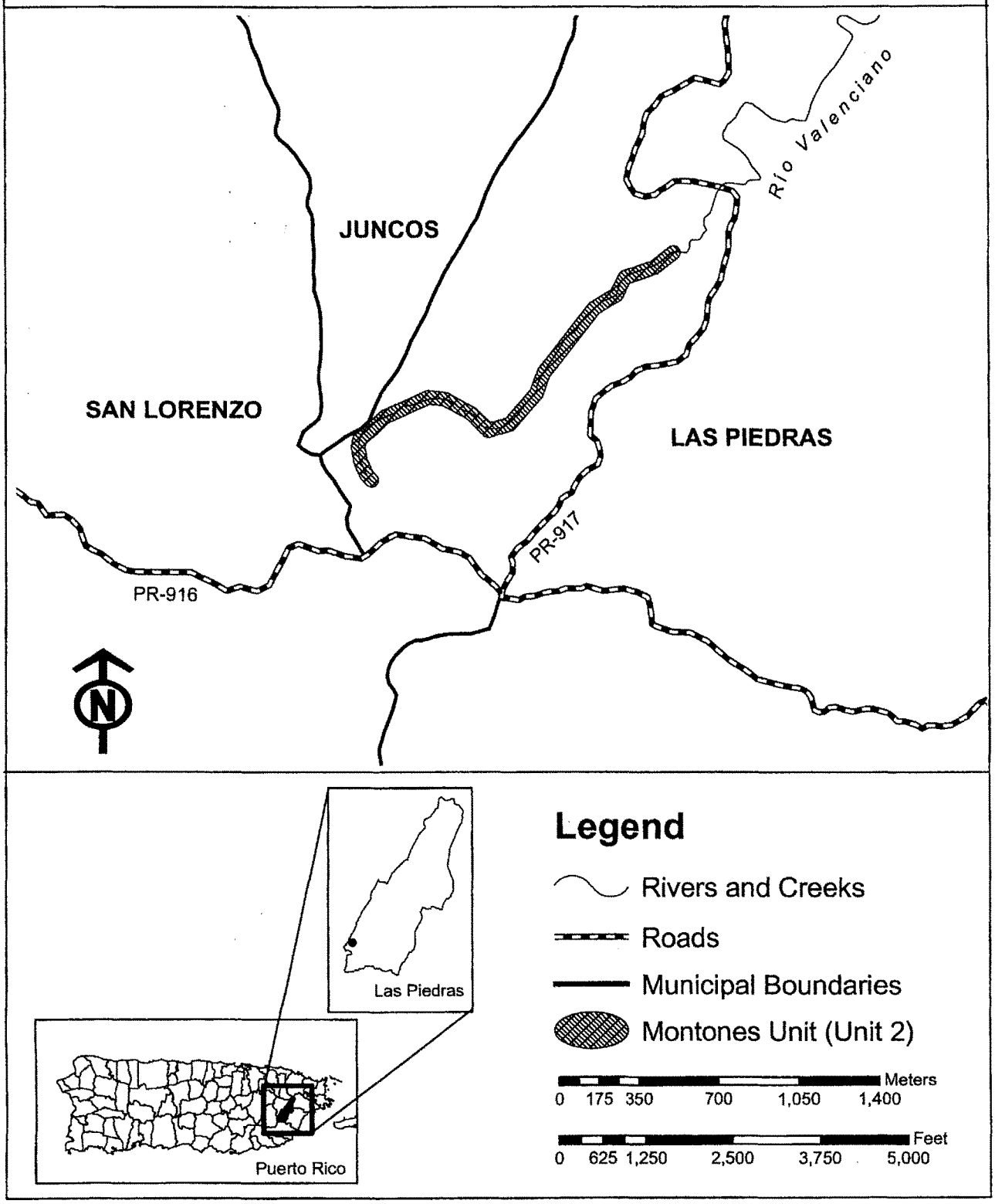
825311.09, 2008604.31; 825310.55, 2008602.43; 825309.89, 2008600.57; 825309.11, 2008598.77; 825308.22, 2008597.02; 825307.21, 2008595.34; 825306.09, 2008593.72; 825304.87, 2008592.18; 825303.55, 2008590.73; 825302.14, 2008589.36; 825300.64, 2008588.09; 825299.06, 2008586.92; 825297.41, 2008585.85; 825295.69, 2008584.90; 825293.92, 2008584.05; 825292.09, 2008583.33; 825290.22, 2008582.73; 825288.31, 2008582.25; 825286.38, 2008581.90; 825284.43, 2008581.67; 825282.47, 2008581.58; 825280.50, 2008581.61; 825278.54, 2008581.77; 825276.60, 2008582.06; 825274.68, 2008582.47; 825272.79, 2008583.01; 825270.94, 2008583.67; 825269.14, 2008584.45; 825267.39, 2008585.35; 825265.70, 2008586.36; 825264.09, 2008587.47; 825262.55, 2008588.70; 825261.09, 2008590.01; 825259.72, 2008591.43; 825259.17, 2008592.06; 825236.04, 2008619.04; 825235.32, 2008619.90; 825234.15, 2008621.48; 825233.09, 2008623.13; 825232.13, 2008624.85; 825231.75, 2008625.62; 825203.63, 2008684.38; 825203.17, 2008685.39; 825202.45, 2008687.22; 825201.84, 2008689.09; 825201.58, 2008690.06; 825191.94, 2008728.60; 825191.73, 2008729.54; 825191.37, 2008731.47; 825191.15, 2008733.42; 825191.05, 2008735.38.

(iii) **Note:** Map of Unit 2 (Map 3) follows:

BILLING CODE 4310–55–P

MAP 3. Proposed Critical Habitat for the Guajón: Montones Unit: Montones Ward, Las Piedras, Puerto Rico



BILLING CODE 4310–55–C

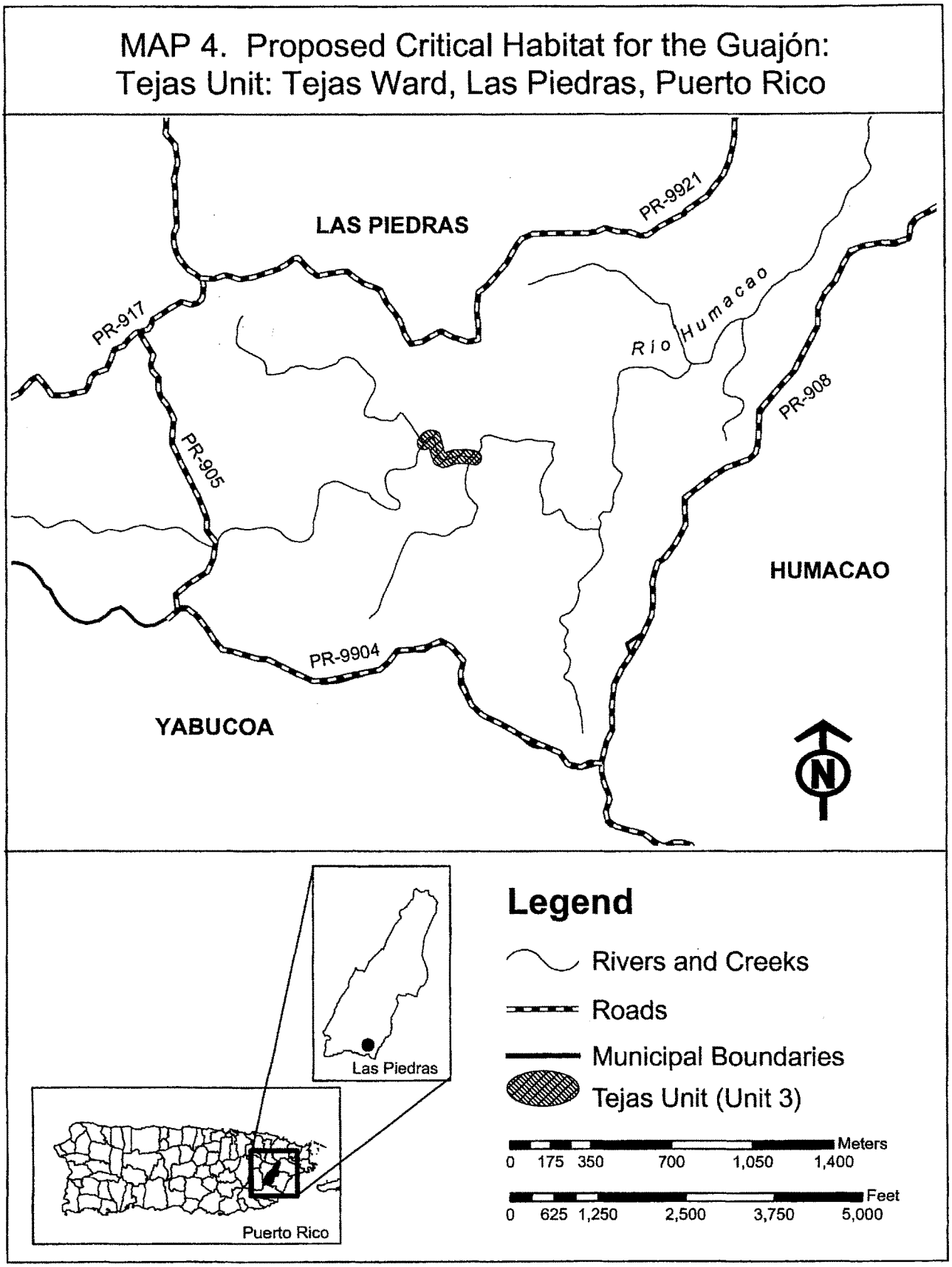
(8) Unit 3: Tejas, Las Piedras, Puerto Rico.

(i) *General Description:* Unit 3 consists of approximately 5.2 ac (2.1 ha) between Road PR–905 to the east, Road PR–908 to the west, Road PR–9921 to the north, and Road PR–9904 to the south within Tejas Ward, Las Piedras.

(ii) *Coordinates:* From Yabucoa, Humacao, Juncos, and Punta Guayanés USGS 1:20,000 quadrangle maps. Unit 3 bounded by the following UTM 19 NAD 83 coordinates (E, N): 829623.13, 2007423.98; 829623.16, 2007425.95; 829623.32, 2007427.91; 829623.60, 2007429.85; 829624.02, 2007431.77; 829624.56, 2007433.66; 829625.22, 2007435.51; 829626.00, 2007437.32; 829626.90, 2007439.06; 829627.90, 2007440.75; 829629.02, 2007442.37; 829629.38, 2007442.84; 829643.74, 2007461.45; 829644.61, 2007462.52; 829645.93, 2007463.98; 829647.34, 2007465.35; 829648.84, 2007466.62; 829650.41, 2007467.79; 829652.06, 2007468.86; 829653.78, 2007469.81; 829654.23, 2007470.04; 829665.53, 2007475.61; 829666.85, 2007476.23; 829668.68, 2007476.95; 829670.55, 2007477.55; 829672.46, 2007478.03; 829674.39, 2007478.39; 829676.34, 2007478.61; 829678.31, 2007478.71; 829680.27, 2007478.68; 829682.23, 2007478.52; 829682.50, 2007478.49; 829698.24, 2007476.54; 829699.91, 2007476.28; 829701.83, 2007475.87; 829703.72, 2007475.33; 829705.57, 2007474.67; 829707.37, 2007473.89; 829709.12, 2007472.99; 829710.81, 2007471.98; 829712.42, 2007470.87; 829713.96, 2007469.65; 829715.42, 2007468.33; 829716.79, 2007466.92; 829718.06, 2007465.42; 829719.23, 2007463.84; 829720.30, 2007462.19; 829721.25, 2007460.47; 829722.09, 2007458.70; 829722.82, 2007456.87; 829723.42, 2007455.00; 829723.52, 2007454.66; 829736.51, 2007407.12; 829744.37, 2007381.77; 829781.75, 2007394.68; 829783.28, 2007395.17; 829785.19, 2007395.65; 829787.12, 2007396.00; 829789.08, 2007396.22; 829791.04, 2007396.32; 829791.73, 2007396.33; 829845.90, 2007396.00; 829847.17, 2007395.96; 829849.13, 2007395.80; 829849.83, 2007395.71; 829881.85, 2007391.29; 829883.10, 2007391.09; 829885.02, 2007390.67; 829886.91, 2007390.13; 829888.76, 2007389.47; 829890.56, 2007388.69; 829892.31, 2007387.80; 829894.00, 2007386.79; 829895.61, 2007385.67; 829897.15, 2007384.45; 829898.61, 2007383.13; 829899.98, 2007381.72; 829901.25, 2007380.22; 829902.42, 2007378.64; 829903.49, 2007376.99; 829904.44, 2007375.28; 829905.28, 2007373.50; 829906.01, 2007371.67; 829906.61, 2007369.80; 829907.09, 2007367.90; 829907.44, 2007365.96; 829907.67, 2007364.01; 829907.76, 2007362.05; 829907.73, 2007360.08; 829907.57, 2007358.13; 829907.28, 2007356.18; 829906.87, 2007354.26; 829906.33, 2007352.37; 829905.67, 2007350.52; 829904.89, 2007348.72; 829903.99, 2007346.97; 829902.99, 2007345.28; 829901.87, 2007343.67; 829900.65, 2007342.13; 829899.33, 2007340.67; 829897.92, 2007339.30; 829896.42, 2007338.03; 829894.84, 2007336.86; 829893.19, 2007335.79; 829891.47, 2007334.84; 829889.70, 2007334.00; 829887.87, 2007333.27; 829886.00, 2007332.67; 829884.09, 2007332.19; 829882.16, 2007331.84; 829880.21, 2007331.61; 829878.25, 2007331.52; 829876.28, 2007331.55; 829874.32, 2007331.71; 829873.62, 2007331.80; 829843.56, 2007335.95; 829796.50, 2007336.24; 829750.67, 2007320.42; 829749.14, 2007319.93; 829747.23, 2007319.45; 829745.30, 2007319.10; 829743.34, 2007318.87; 829741.38, 2007318.78; 829739.42, 2007318.81; 829737.46, 2007318.97; 829735.51, 2007319.25; 829733.59, 2007319.67; 829731.70, 2007320.21; 829729.98, 2007320.82; 829709.83, 2007328.66; 829709.70, 2007328.71; 829707.90, 2007329.49; 829706.15, 2007330.39; 829704.46, 2007331.40; 829702.85, 2007332.51; 829701.31, 2007333.73; 829699.85, 2007335.05; 829698.48, 2007336.46; 829697.21, 2007337.96; 829696.04, 2007339.54; 829694.98, 2007341.19; 829694.02, 2007342.91; 829693.18, 2007344.68; 829692.46, 2007346.51; 829692.04, 2007347.75; 829679.00, 2007389.82; 829678.81, 2007390.45; 829678.71, 2007390.79; 829675.10, 2007404.00; 829674.74, 2007403.62 829673.33, 2007402.26; 829671.83, 2007400.98; 829670.25, 2007399.81; 829668.60, 2007398.75; 829666.89, 2007397.79; 829665.11, 2007396.95; 829663.28, 2007396.23; 829661.41, 2007395.62; 829659.51, 2007395.15; 829657.57, 2007394.79; 829655.62, 2007394.57; 829653.66, 2007394.47; 829651.69, 2007394.50; 829649.74, 2007394.66; 829647.79, 2007394.95; 829645.87, 2007395.36; 829643.98, 2007395.90; 829642.13, 2007396.56; 829640.33, 2007397.34; 829638.58, 2007398.24; 829636.89, 2007399.25; 829635.28, 2007400.36; 829633.74, 2007401.58; 829632.28, 2007402.90; 829630.91, 2007404.31; 829629.64, 2007405.81; 829628.47, 2007407.39; 829627.40, 2007409.04; 829626.45, 2007410.76; 829625.61, 2007412.53; 829624.88, 2007414.36; 829624.28, 2007416.23; 829623.80, 2007418.14; 829623.45, 2007420.07; 829623.22, 2007422.02; 829623.13, 2007423.98.

(iii) **Note:** Map of Unit 3 (Map 4) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(9) Unit 4: Emajagua, Maunabo, Puerto Rico.

(i) *General Description:* Unit 4 consists of approximately 33.0 ac (13.4 ha) between Quebrada Arenas and Quebrada Emajagua, north of Road PR–901 within Emajagua Ward, Maunabo.

(ii) *Coordinates:* From Yabucoa and Punta Guayanés USGS 1:20,000 quadrangle maps. Unit 4 bounded by the following UTM 19 NAD 83 coordinates (E, N): 830301.03, 1993842.17; 830301.06, 1993844.14; 830301.22, 1993846.10; 830301.51, 1993848.04; 830301.93, 1993849.96; 830302.46, 1993851.85; 830303.12, 1993853.70; 830303.91, 1993855.50; 830304.80, 1993857.25; 830305.10, 1993857.77; 830382.85, 1993991.51; 830383.56, 1993992.68; 830384.68, 1993994.30; 830385.90, 1993995.83; 830387.22, 1993997.29; 830388.63, 1993998.66; 830389.55, 1993999.46; 830491.53, 1994084.69; 830602.31, 1994239.62; 830670.30, 1994401.70; 830645.67, 1994534.02; 830645.49, 1994535.09; 830645.27, 1994537.04; 830645.17, 1994539.01; 830645.20, 1994540.97; 830645.36, 1994542.93; 830645.65, 1994544.87; 830646.06, 1994546.79; 830646.60, 1994548.68; 830647.26, 1994550.53; 830648.04, 1994552.34; 830648.94, 1994554.09; 830649.02, 1994554.22; 830603.53, 1994664.55; 830603.03, 1994665.86; 830602.43, 1994667.73; 830601.95, 1994669.64; 830601.59, 1994671.57; 830601.37, 1994673.52; 830601.27, 1994675.49; 830601.30, 1994677.45; 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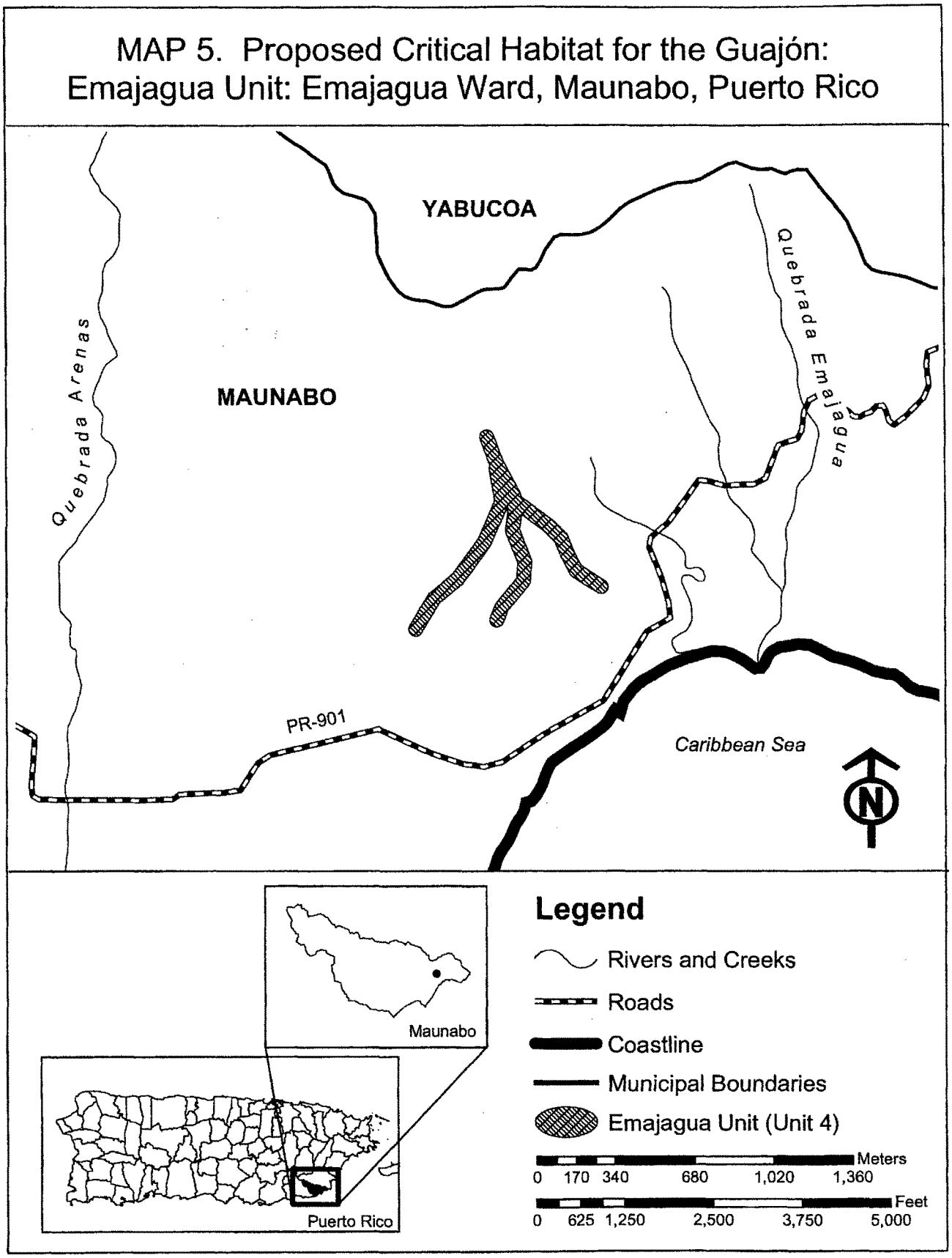
(iii) **Note:** Map of Unit 4 (Map 5) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

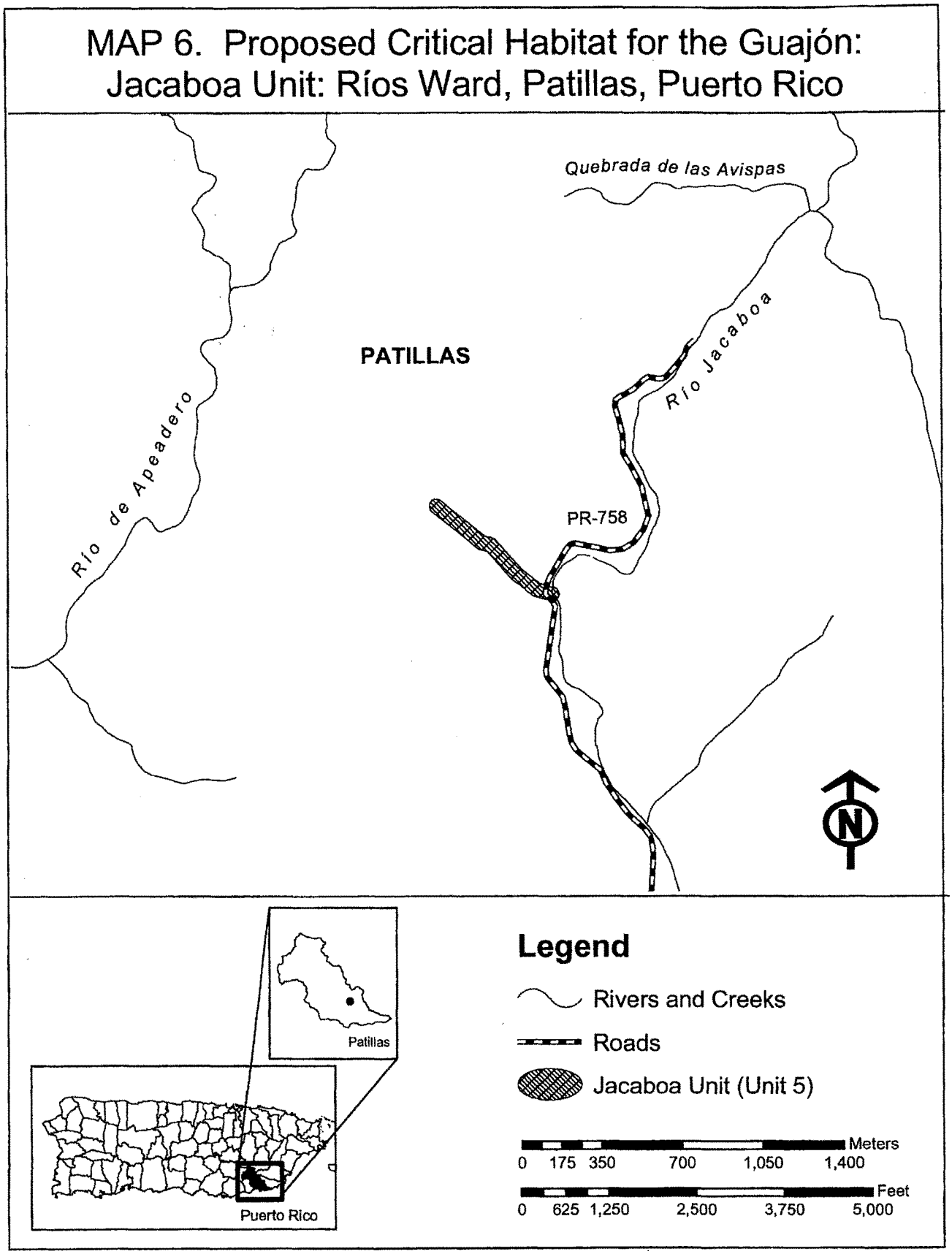
(10) Unit 5: Jacaboa, Patillas, Puerto Rico.

(i) *General Description:* Unit 5 consists of approximately 10.3 ac (4.2 ha) northwest of road PR–758 within Ríos Ward, Patillas.

(ii) *Coordinates:* From Yabucoa and Punta Tuna USGS 1:20,000 quadrangle maps. Unit 5 bounded by the following UTM 19 NAD 83 coordinates (E, N): 820101.76, 1993627.91; 820101.80, 1993629.87; 820101.96, 1993631.83; 820102.25, 1993633.77; 820102.66, 1993635.69; 820103.20, 1993637.58; 820103.86, 1993639.43; 820104.64, 1993641.24; 820105.54, 1993642.98; 820106.55, 1993644.67; 820107.67, 1993646.28; 820108.89, 1993647.82; 820110.21, 1993649.28; 820111.62, 1993650.65; 820113.12, 1993651.92; 820114.70, 1993653.09; 820116.35, 1993654.15; 820118.07, 1993655.11; 820119.84, 1993655.95; 820121.67, 1993656.67; 820123.54, 1993657.27; 820125.45, 1993657.75; 820127.38, 1993658.10; 820129.33, 1993658.32; 820131.30, 1993658.42; 820133.26, 1993658.39; 820135.22, 1993658.23; 820137.16, 1993657.94; 820139.08, 1993657.52; 820140.97, 1993656.98; 820142.82, 1993656.32; 820144.62, 1993655.54; 820146.37, 1993654.64; 820148.06, 1993653.63; 820149.67, 1993652.51; 820149.79, 1993652.43; 820252.55, 1993575.46; 820252.92, 1993575.18; 820351.83, 1993498.67; 820380.40, 1993494.03; 820380.96, 1993493.93; 820382.88, 1993493.52; 820384.77, 1993492.98; 820386.62, 1993492.32; 820388.43, 1993491.53; 820390.17, 1993490.64; 820391.86, 1993489.63; 820393.47, 1993488.51; 820395.01, 1993487.29; 820396.47, 1993485.97; 820397.77, 1993484.63; 820514.21, 1993356.97; 820592.94, 1993297.68; 820655.33, 1993281.06; 820656.79, 1993280.63; 820658.64, 1993279.97; 820660.44, 1993279.19; 820662.19, 1993278.29; 820663.87, 1993277.28; 820665.49, 1993276.16; 820667.03, 1993274.94; 820668.48, 1993273.62; 820669.85, 1993272.21; 820671.12, 1993270.71; 820672.29, 1993269.13; 820673.36, 1993267.48; 820674.31, 1993265.76; 820675.15, 1993263.99; 820675.87, 1993262.16; 820676.47, 1993260.29; 820676.95, 1993258.38; 820677.30, 1993256.45; 820677.53, 1993254.50; 820677.62, 1993252.54; 820677.59, 1993250.57; 820677.43, 1993248.61; 820677.14, 1993246.67; 820676.73, 1993244.75; 820676.19, 1993242.86; 820675.53, 1993241.01; 820674.74, 1993239.21; 820673.85, 1993237.46; 820672.84, 1993235.77; 820671.72, 1993234.16; 820670.50, 1993232.62; 820669.18, 1993231.16; 820667.76, 1993229.80; 820666.27, 1993228.53; 820664.69, 1993227.36; 820663.04, 1993226.29; 820661.32, 1993225.34; 820659.54, 1993224.50; 820657.72, 1993223.77; 820655.84, 1993223.17; 820653.94, 1993222.70; 820652.01, 1993222.34; 820650.05, 1993222.12; 820648.09, 1993222.02; 820646.13, 1993222.06; 820644.17, 1993222.22; 820642.22, 1993222.50; 820640.30, 1993222.92; 820639.87, 1993223.03; 820571.82, 1993241.16; 820570.37, 1993241.59; 820568.52, 1993242.25; 820566.71, 1993243.03; 820564.97, 1993243.93; 820563.28, 1993244.94; 820561.66, 1993246.06; 820561.49, 1993246.19; 820475.85, 1993310.68; 820474.48, 1993311.77; 820473.03, 1993313.09; 820471.73, 1993314.43; 820360.45, 1993436.43; 820334.68, 1993440.61; 820334.11, 1993440.71; 820332.19, 1993441.12; 820330.30, 1993441.66; 820328.45, 1993442.32; 820326.65, 1993443.11; 820324.90, 1993444.00; 820323.22, 1993445.01; 820321.60, 1993446.13; 820321.12, 1993446.50; 820216.36, 1993527.53; 820113.79, 1993604.37; 820112.36, 1993605.50; 820110.90, 1993606.82; 820109.54, 1993608.23; 820108.27, 1993609.73; 820107.10, 1993611.31; 820106.03, 1993612.96; 820105.08, 1993614.68; 820104.24, 1993616.46; 820103.52, 1993618.28; 820102.91, 1993620.15; 820102.44, 1993622.06; 820102.09, 1993623.99; 820101.86, 1993625.94; 820101.76, 1993627.91.

(iii) **Note:** Map of Unit 5 (Map 6) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(11) Unit 6: Calabazas, Yabucoa, Puerto Rico.

(i) *General Description:* Unit 6 consists of approximately 13.8 ac (5.6 ha), including lands northeast of road PR–900, between Quebrada Guayabo to the south and Río Guayanés to the north, and south of Guayanés Unit, within Calabazas Ward, Yabucoa.

(ii) *Coordinates:* From Yabucoa USGS 1:20,000 quadrangle map. Unit 6 bounded by the following UTM 19 NAD 83 coordinates (E, N): 825303.81, 1999020.54; 825324.29, 1999071.68; 825361.95, 1999106.10; 825427.53, 1999113.37; 825493.52, 1999090.98; 825544.83, 1999057.79; 825546.92, 1999059.93; 825572.78, 1999028.51; 825577.55, 1998990.44; 825576.37, 1998922.62; 825547.19, 1998888.32; 825518.03, 1998851.89; 825465.30, 1998834.21; 825446.21, 1998836.06; 825416.29,1998854.72; 825377.77, 1998881.73; 825354.21, 1998900.47; 825325.99, 1998948.81; 825303.81, 1999020.54.

(iii) **Note:** The map depicting Unit 6 is provided at paragraph (12)(iii) of this entry.

(12) Unit 7: Guayanés, Yabucoa, Puerto Rico.

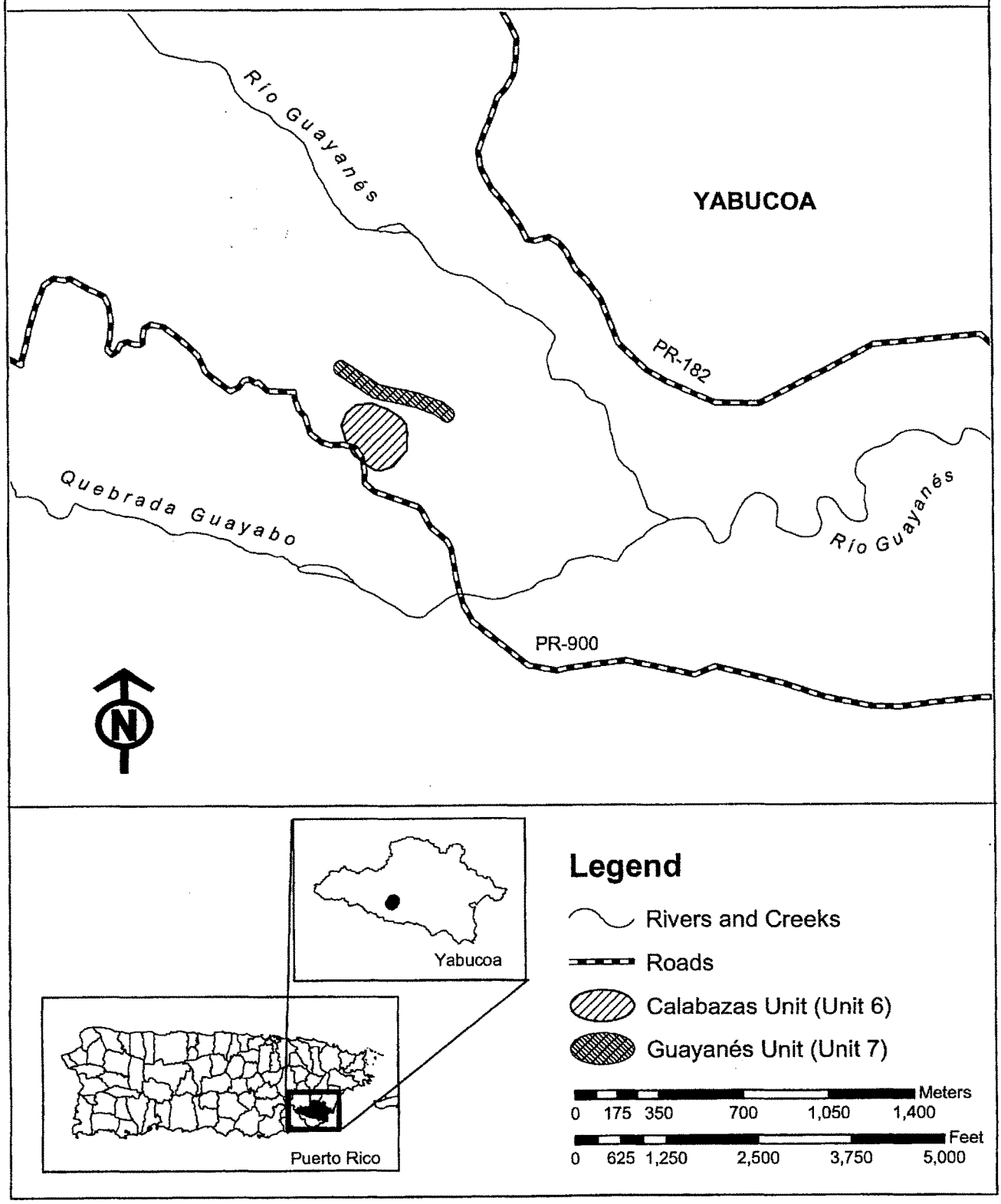
(i) *General Description:* Unit 7 consists of approximately 7.9 ac (3.2 ha) northeast of Road PR–900 between Quebrada Guayabo to the south and Río Guayanés to the north, and north of Unit 6, within Calabazas Ward, Yabucoa.

(ii) *Coordinates:* From Yabucoa USGS 1:20,000 quadrangle map. Unit 7 bounded by the following UTM 19 NAD 83 coordinates (E, N): 825269.89, 1999257.75; 825269.92, 1999259.72; 825270.08, 1999261.68; 825270.37, 1999263.62; 825270.78, 1999265.54; 825271.32, 1999267.43; 825271.98, 1999269.28; 825272.76, 1999271.09; 825273.66, 1999272.83; 825274.67, 1999274.52; 825275.79, 1999276.13; 825277.01, 1999277.67; 825278.33, 1999279.13; 825279.74, 1999280.50; 825281.24, 1999281.77; 825282.82, 1999282.94; 825284.47, 1999284.01; 825286.19, 1999284.96; 825287.96, 1999285.80; 825289.79, 1999286.52; 825291.66, 1999287.13; 825293.57, 1999287.60; 825295.50, 1999287.96; 825297.45, 1999288.18; 825299.41, 1999288.28; 825301.38, 1999288.25; 825303.34, 1999288.09; 825305.28, 1999287.80; 825307.20, 1999287.38; 825309.09, 1999286.85; 825310.94, 1999286.18; 825312.74, 1999285.40; 825314.49, 1999284.51; 825316.18, 1999283.50; 825316.22, 1999283.47; 825459.03, 1999191.10; 825625.66, 1999156.49; 825626.84, 1999156.22; 825628.73, 1999155.68; 825629.63, 1999155.37; 825721.19, 1999122.74; 825722.14, 1999122.38; 825723.95, 1999121.60; 825725.69, 1999120.71; 825727.38, 1999119.70; 825728.99, 1999118.58; 825729.55, 1999118.16; 825761.67, 1999093.18; 825762.66, 1999092.38; 825764.12, 1999091.06; 825765.49, 1999089.65; 825766.76, 1999088.15; 825767.93, 1999086.57; 825768.99, 1999084.92; 825769.95, 1999083.20; 825770.79, 1999081.43; 825771.51, 1999079.60; 825772.11, 1999077.73; 825772.59, 1999075.82; 825772.94, 1999073.89; 825773.17, 1999071.94; 825773.27, 1999069.98; 825773.23, 1999068.01; 825773.07, 1999066.05; 825772.79, 1999064.11; 825772.37, 1999062.19; 825771.83, 1999060.30; 825771.17, 1999058.45; 825770.39, 1999056.65; 825769.49, 1999054.90; 825768.48, 1999053.21; 825767.37, 1999051.60; 825766.15, 1999050.06; 825764.83, 1999048.60; 825763.41, 1999047.23; 825761.92, 1999045.96; 825760.34, 1999044.79; 825758.69, 1999043.72; 825756.97, 1999042.77; 825755.19, 1999041.93; 825753.37, 1999041.21; 825751.50, 1999040.60; 825749.59, 1999040.13; 825747.66, 1999039.77; 825745.71, 1999039.55; 825743.74, 1999039.45; 825741.78, 1999039.48; 825739.82, 1999039.64; 825737.88, 1999039.93; 825735.96, 1999040.35; 825734.07, 1999040.89; 825732.22, 1999041.55; 825730.41, 1999042.33; 825728.66, 1999043.22; 825726.98, 1999044.23; 825725.36, 1999045.35; 825724.81, 1999045.77; 825696.49, 1999067.79; 825611.42, 1999098.11; 825441.33, 1999133.44; 825440.15, 1999133.71; 825438.26, 1999134.25; 825436.41, 1999134.91; 825434.60, 1999135.69; 825432.86, 1999136.59; 825431.17, 1999137.60; 825431.13, 1999137.62; 825283.60, 1999233.04; 825282.03, 1999234.13; 825280.49, 1999235.35; 825279.04, 1999236.67; 825277.67, 1999238.08; 825276.40, 1999239.58; 825275.23, 1999241.16; 825274.16, 1999242.81; 825273.21, 1999244.53; 825272.37, 1999246.30; 825271.64, 1999248.13; 825271.04, 1999250.00; 825270.56, 1999251.91; 825270.21, 1999253.84; 825269.99, 1999255.79; 825269.89, 1999257.75.

(iii) **Note:** Map of Units 6 and 7 (Map 7) follows:

BILLING CODE 4310–55–P

MAP 7. Proposed Critical Habitat for the Guajón:Calabazas and Guayanés Units: Calabazas Ward, Yabucoa, Puerto Rico



BILLING CODE 4310–55–C

(13) Unit 8: Panduras, Yabucoa, Puerto Rico.

(i) *General Description:* Unit 8 consists of approximately 28.6 ac (11.6 ha) to the northwest and southeast of Road PR–3 within Calabazas Ward, Yabucoa, and 18.2 ac (7.4 ha) of lands owned by the Puerto Rico Conservation Trust near the top of Cerro La Pandura.

(ii) *Coordinates:* From Yabucoa USGS 1:20,000 quadrangle map. Unit 8 bounded by the following UTM 19 NAD 83 coordinates (E, N): 827566.07, 1997348.94; 827566.10, 1997350.90; 827566.26, 1997352.86; 827566.55, 1997354.81; 827566.96, 1997356.73; 827567.50, 1997358.62; 827568.16, 1997360.47; 827568.94, 1997362.27; 827569.84, 1997364.02; 827570.13, 1997364.53; 827611.88, 1997436.35; 827612.60, 1997437.52; 827613.72, 1997439.14; 827614.94, 1997440.68; 827616.26, 1997442.13; 827617.67, 1997443.50; 827619.16, 1997444.77; 827620.74, 1997445.94; 827622.39, 1997447.01; 827624.11, 1997447.96; 827625.89, 1997448.80; 827627.71, 1997449.53; 827629.58, 1997450.13; 827631.49, 1997450.61; 827633.42, 1997450.96; 827635.38, 1997451.18; 827637.34, 1997451.28; 827639.30, 1997451.25; 827641.26, 1997451.09; 827643.20, 1997450.80; 827645.13, 1997450.39; 827647.02, 1997449.85; 827648.87, 1997449.19; 827650.67, 1997448.41; 827652.42, 1997447.51; 827654.10, 1997446.50; 827655.72, 1997445.38; 827657.26, 1997444.16; 827658.72, 1997442.84; 827660.08, 1997441.43; 827661.35, 1997439.93; 827662.53, 1997438.36; 827663.59, 1997436.70; 827664.55, 1997434.99; 827665.39, 1997433.21; 827666.11, 1997431.38; 827666.71, 1997429.51; 827667.19, 1997427.61; 827667.54, 1997425.68; 827667.77, 1997423.72; 827667.86, 1997421.76; 827667.83, 1997419.80; 827667.67, 1997417.84; 827667.39, 1997415.89; 827666.97, 1997413.97; 827666.43, 1997412.08; 827665.77, 1997410.23; 827664.99, 1997408.43; 827664.09, 1997406.68; 827663.80, 1997406.17; 827627.55, 1997343.81; 827640.42, 1997269.96; 827711.77, 1997123.84; 827786.66, 1997042.73; 827883.73, 1996967.26; 827884.71, 1996966.46; 827886.17, 1996965.14; 827887.54, 1996963.73; 827888.44, 1996962.69; 827912.27, 1996933.87; 827952.33, 1996988.85; 827952.47, 1996989.05; 827953.69, 1996990.59; 827955.01, 1996992.05; 827956.43, 1996993.41; 827957.92, 1996994.69; 827959.50, 1996995.86; 827961.15, 1996996.92; 827962.87, 1996997.88; 827964.64, 1996998.72; 827966.47, 1996999.44; 827968.34, 1997000.04; 827968.39, 1997000.06; 828042.04, 1997020.99; 828043.90, 1997021.45; 828045.83, 1997021.80; 828047.79, 1997022.03; 828049.75, 1997022.12; 828051.71, 1997022.09; 828053.67, 1997021.93; 828055.62, 1997021.65; 828057.54, 1997021.23; 828059.35, 1997020.72; 828145.05, 1996993.46; 828145.12, 1996993.44; 828146.97, 1996992.78; 828148.78, 1996992.00; 828150.52, 1996991.10; 828152.21, 1996990.09; 828153.83, 1996988.97; 828155.37, 1996987.75; 828156.82, 1996986.43; 828158.19, 1996985.02; 828159.46, 1996983.52; 828160.63, 1996981.95; 828161.06, 1996981.32; 828201.73, 1996919.32; 828202.37, 1996918.29; 828203.33, 1996916.58; 828204.17, 1996914.80; 828204.82, 1996913.16; 828225.52, 1996856.56; 828225.58, 1996856.38; 828226.18, 1996854.51; 828226.66, 1996852.60; 828227.02, 1996850.67; 828227.24, 1996848.72; 828227.28, 1996848.25; 828230.87, 1996794.26; 828230.93, 1996792.77; 828230.90, 1996790.81; 828230.74, 1996788.85; 828230.45, 1996786.90; 828230.04, 1996784.98; 828229.50, 1996783.09; 828228.84, 1996781.24; 828228.06, 1996779.44; 828227.16, 1996777.69; 828226.15, 1996776.01; 828225.03, 1996774.39; 828223.81, 1996772.85; 828222.49, 1996771.39; 828221.16, 1996770.10; 828170.61, 1996723.90; 828170.53, 1996723.82; 828169.03, 1996722.55; 828167.45, 1996721.38; 828165.80, 1996720.31; 828164.09, 1996719.36; 828162.31, 1996718.52; 828162.31, 1996718.52; 828160.48, 1996717.80; 828158.61, 1996717.19; 828156.71, 1996716.72; 828154.77, 1996716.36; 828152.82, 1996716.14; 828150.86, 1996716.04; 828149.74, 1996716.04; 828067.24, 1996717.74; 828066.40, 1996717.77; 828064.44, 1996717.93; 828062.49, 1996718.22; 828060.57, 1996718.63; 828058.68, 1996719.17; 828056.83, 1996719.83; 828055.03, 1996720.61; 828054.09, 1996721.08; 827968.16, 1996765.39; 827967.35, 1996765.82; 827965.66, 1996766.83; 827964.05, 1996767.95; 827962.51, 1996769.17; 827961.05, 1996770.49; 827959.68, 1996771.90; 827958.41, 1996773.40; 827957.24, 1996774.98; 827956.17, 1996776.63; 827955.26, 1996778.28; 827922.76, 1996841.09; 827880.59, 1996878.48; 827879.64, 1996879.36; 827878.28, 1996880.77; 827877.37, 1996881.82; 827844.26, 1996921.88; 827747.85, 1996996.84; 827746.86, 1996997.64; 827745.40, 1996998.96; 827744.22, 1997000.18; 827664.66, 1997086.34; 827664.48, 1997086.53; 827663.21, 1997088.03; 827662.04, 1997089.61; 827660.97, 1997091.26; 827660.02, 1997092.98; 827659.74, 1997093.53; 827584.59, 1997247.43; 827584.03, 1997248.65; 827583.30, 1997250.48; 827582.70, 1997252.35; 827582.22, 1997254.26; 827581.99, 1997255.45; 827566.51, 1997344.29; 827566.39, 1997345.02; 827566.17, 1997346.98; 827566.07, 1997348.94.

(iii) **Note:** The map depicting Unit 8 is provided at paragraph (14)(iii) of this entry.

(14) Unit 9: Talante, Yabucoa-Maunabo, Puerto Rico.

(i) *General Description:* Unit 9 consists of approximately 23.5 ac (9.5 ha) east of Road PR–3, including the headwaters of the Talante Creek and five unnamed drainages. About 2.8 ac (1.1 ha) of Unit 9 are located within Calabazas Ward, Yabucoa, and the remaining 21.6 ac (8.7 ha) are located within Talante Ward, Maunabo.

(ii) *Coordinates:* From Yabucoa USGS 1:20,000 quadrangle map. Unit 9 bounded by the following UTM 19 NAD 83 coordinates (E, N): 827501.36, 1996260.52; 827501.40, 1996262.48; 827501.41, 1996262.67; 827503.20, 1996295.22; 827502.70, 1996331.19; 827502.73, 1996333.01; 827504.51, 1996371.21; 827504.52, 1996371.27; 827504.68, 1996373.23; 827504.96, 1996375.18; 827505.38, 1996377.10; 827505.92, 1996378.99; 827506.58, 1996380.84; 827506.64, 1996380.97; 827506.08, 1996421.48; 827506.11, 1996423.36; 827506.11, 1996423.48; 827507.89, 1996457.21; 827507.49, 1996486.28; 827507.52, 1996488.16; 827507.68, 1996490.12; 827507.97, 1996492.06; 827508.39, 1996493.99; 827508.93, 1996495.87; 827509.59, 1996497.73; 827510.37, 1996499.53; 827511.26, 1996501.28; 827512.08, 1996502.66; 827524.53, 1996522.50; 827524.72, 1996522.80; 827525.84, 1996524.42; 827527.06, 1996525.96; 827528.38, 1996527.41; 827529.79, 1996528.78; 827531.28, 1996530.04; 827548.77, 1996543.95; 827551.50, 1996556.77; 827550.16, 1996581.70; 827550.12, 1996582.81; 827550.15, 1996584.77; 827550.31, 1996586.73; 827550.60, 1996588.68; 827551.01, 1996590.60; 827551.01, 1996590.60; 827551.55, 1996592.49; 827552.11, 1996594.08; 827562.90, 1996622.18; 827570.11, 1996645.71; 827570.06, 1996646.71; 827570.05, 1996647.35; 827570.13, 1996664.90; 827554.06, 1996695.96; 827554.02, 1996696.03; 827553.61, 1996696.87; 827529.60, 1996747.39; 827529.18, 1996748.32; 827528.45, 1996750.15; 827527.85, 1996752.02; 827527.37, 1996753.93; 827527.02, 1996755.86; 827526.80, 1996757.81; 827526.70, 1996759.77; 827526.70, 1996761.01; 827528.06, 1996816.12; 827528.09, 1996816.85; 827528.25, 1996818.81; 827528.53,

1996820.75; 827528.95, 1996822.67; 827529.49, 1996824.56; 827529.57, 1996824.81; 827547.87, 1996880.16; 827548.45, 1996881.75; 827549.23, 1996883.56; 827550.13, 1996885.30; 827551.14, 1996886.99; 827552.25, 1996888.61; 827553.48, 1996890.15; 827554.80, 1996891.60; 827554.86, 1996891.66; 827590.37, 1996928.18; 827591.34, 1996929.13; 827639.45, 1996974.29; 827639.83, 1996974.64; 827641.33, 1996975.92; 827642.90, 1996977.09; 827644.56, 1996978.15; 827646.27, 1996979.11; 827648.05, 1996979.95; 827649.88, 1996980.67; 827651.75, 1996981.27; 827653.65, 1996981.75; 827655.58, 1996982.10; 827657.54, 1996982.33; 827659.50, 1996982.43; 827661.46, 1996982.39; 827663.42, 1996982.23; 827665.37, 1996981.95; 827667.29, 1996981.53; 827669.18, 1996980.99; 827671.03, 1996980.33; 827672.83, 1996979.55; 827674.58, 1996978.65; 827676.26, 1996977.65; 827677.88, 1996976.53; 827679.42, 1996975.31; 827680.88, 1996973.99; 827682.24, 1996972.58; 827683.52, 1996971.08; 827684.69, 1996969.50; 827685.75, 1996967.85; 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827688.79, 1996673.29; 827690.71, 1996672.87; 827692.60, 1996672.34; 827694.45, 1996671.67; 827694.45, 1996671.67; 827696.25, 1996670.89; 827698.00, 1996670.00; 827698.00, 1996670.00; 827699.69, 1996668.99; 827701.30, 1996667.87; 827702.84, 1996666.65; 827704.30, 1996665.33; 827705.66, 1996663.92; 827706.94, 1996662.42; 827708.11, 1996660.84; 827709.17, 1996659.19; 827709.17, 1996659.19; 827710.13, 1996657.47; 827710.97, 1996655.70; 827710.97, 1996655.70; 827711.69, 1996653.87; 827712.29, 1996652.00; 827712.77, 1996650.09; 827713.12, 1996648.16; 827713.35, 1996646.21; 827713.45, 1996644.25; 827713.42, 1996642.28; 827713.26, 1996640.32; 827712.97, 1996638.38; 827712.55, 1996636.46; 827712.01, 1996634.57; 827711.35, 1996632.72; 827711.35, 1996632.72; 827710.57, 1996630.92; 827709.68, 1996629.17; 827709.68, 1996629.17; 827708.67, 1996627.48; 827707.55, 1996625.87; 827706.33, 1996624.33; 827705.01, 1996622.87; 827703.60, 1996621.50; 827702.10, 1996620.23; 827700.52, 1996619.06; 827698.87, 1996617.99; 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827693.09, 1996486.55; 827692.68, 1996484.63; 827692.14, 1996482.74; 827691.48, 1996480.89; 827690.69, 1996479.09; 827689.80, 1996477.34; 827688.79, 1996475.65; 827687.67, 1996474.04; 827686.45, 1996472.50; 827685.13, 1996471.04; 827683.72, 1996469.67; 827682.22, 1996468.40; 827680.64, 1996467.23; 827678.99, 1996466.17; 827677.27, 1996465.21; 827675.50, 1996464.37; 827673.67, 1996463.65; 827671.80, 1996463.05; 827669.90, 1996462.57; 827667.96, 1996462.21; 827666.01, 1996461.99; 827664.05, 1996461.89; 827662.08, 1996461.92; 827660.12, 1996462.08; 827658.18, 1996462.37; 827656.26, 1996462.79; 827654.37, 1996463.32; 827652.59, 1996463.96; 827580.29, 1996492.29; 827572.67, 1996486.23; 827567.66, 1996478.25; 827567.96, 1996457.04; 827567.93, 1996455.16; 827567.92, 1996455.04; 827566.14, 1996421.31; 827566.34, 1996406.71; 827631.73, 1996413.78; 827632.50, 1996413.86; 827634.46, 1996413.95; 827636.42, 1996413.92; 827638.38, 1996413.76; 827640.33, 1996413.47; 827642.25, 1996413.06; 827644.14, 1996412.52; 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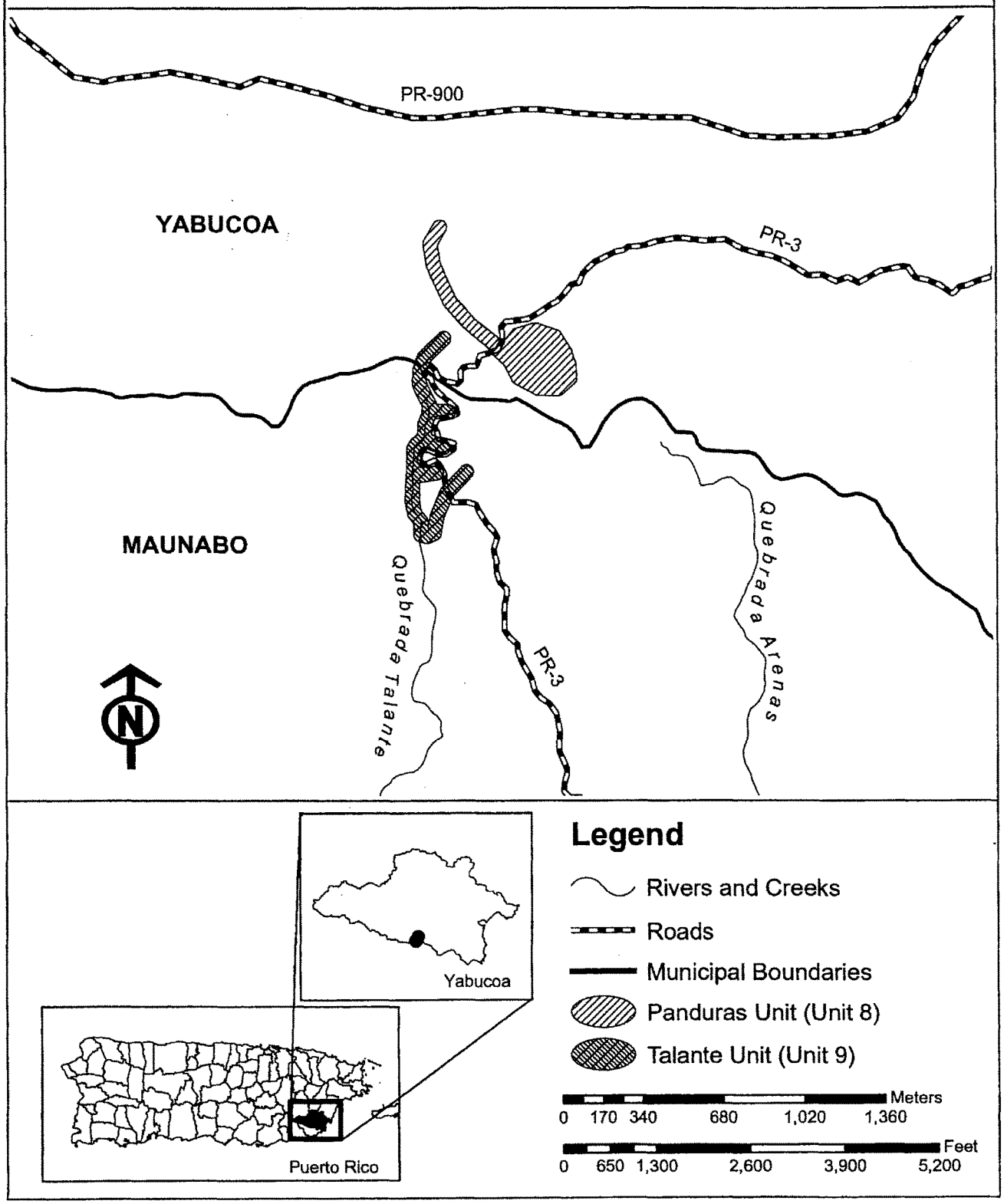
(iii) **Note:** Map of Units 8 and 9 (Map 8) follows:

BILLING CODE 4310–55–P

MAP 8. Proposed Critical Habitat for the Guajón: Panduras and Talante Units: Calabazas Ward, Yabucoa and Talante Ward, Maunabo, Puerto Rico



BILLING CODE 4310–55–C

(15) Unit 10: Guayabota, Yabucoa, Puerto Rico.

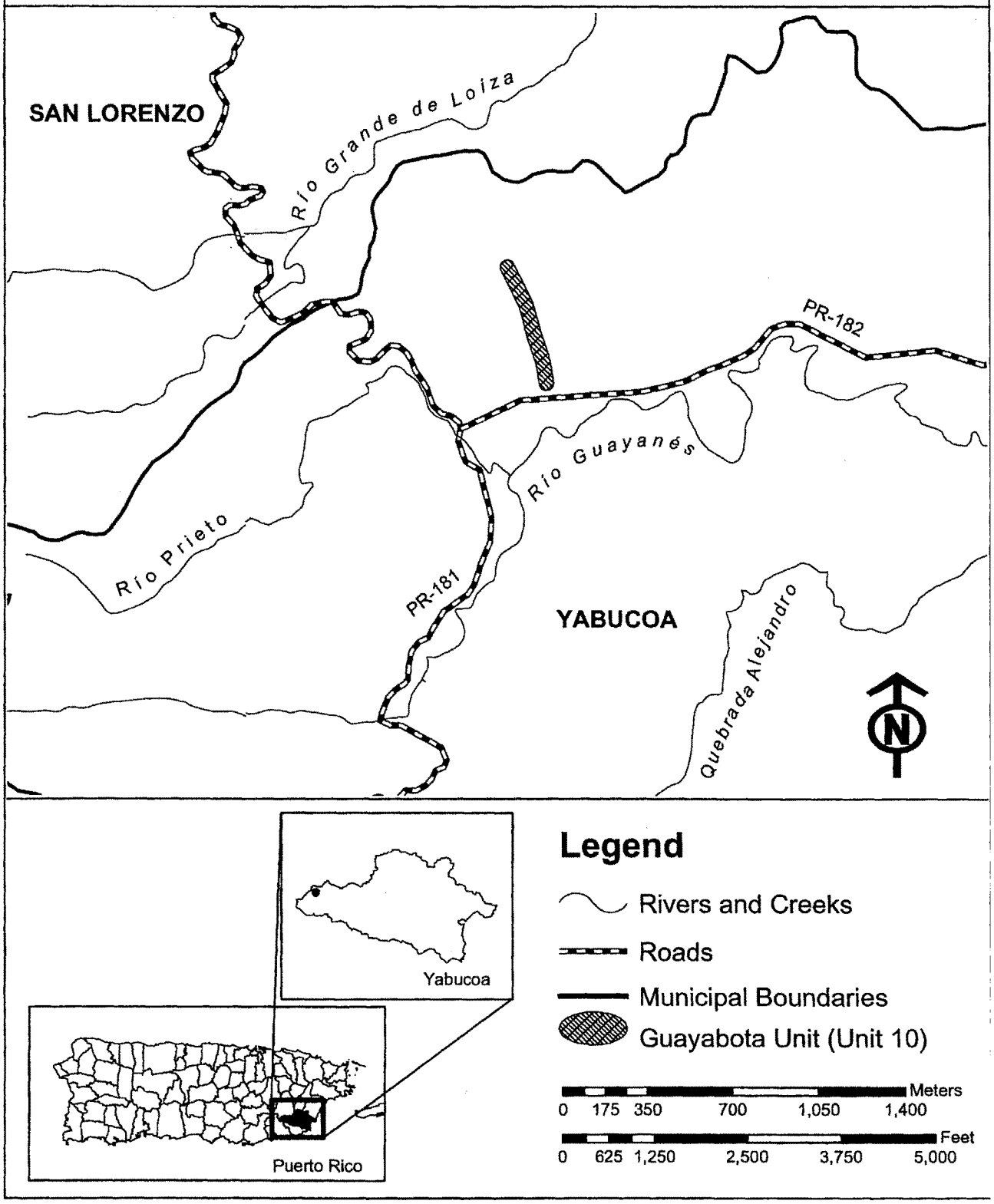
(i) *General Description:* Unit 10 consists of approximately 13.1 ac (5.3 ha) to the northeast of intersection of roads PR–181 to the east, and PR–182 and Río Guayanés to the south, and south of the municipal boundary with San Lorenzo, within Guayabota Ward, Yabucoa.

(ii) *Coordinates:* From Yabucoa and Patillas USGS 1:20,000 quadrangle maps. Unit 10 bounded by the following UTM 19 NAD 83 coordinates (E, N): 818663.90, 2001950.98; 818669.55, 2002001.91; 818692.20, 2002048.84; 818715.15, 2002074.58; 818757.13, 2002102.71; 818816.53, 2002097.18; 818863.37, 2002080.88; 818903.97, 2002056.02; 818923.80, 2002001.21; 818925.95, 2001999.12; 818936.95, 2001969.61; 818946.01, 2001927.36; 818917.06, 2001876.11; 818883.41, 2001858.69; 818834.74, 2001853.78; 818779.64, 2001855.13; 818739.10, 2001875.75; 818691.94, 2001915.35; 818689.82, 2001915.32; 818663.90, 2001950.98.

(iii) **Note:** Map of Unit 10 (Map 9) follows:

BILLING CODE 4310–55–P

MAP 9. Proposed Critical Habitat for the Guajón: Guayabota Unit: Guayabota Ward, Yabucoa, Puerto Rico



BILLING CODE 4310–55–C

(16) Unit 11: Guayabito, Yabucoa, Puerto Rico.

(i) *General Description:* Unit 11 consists of approximately 17.3 ac (7.0 ha) south of Road PR–900 and north of the Maunabo boundary, within Guayabota Ward, Yabucoa.

(ii) *Coordinates:* From Yabucoa USGS 1:20,000 quadrangle map. Unit 11 bounded by the following UTM 19 NAD 83 coordinates (E, N): 822520.09, 1998835.84; 822520.13, 1998837.81; 822520.29, 1998839.76; 822520.57, 1998841.71; 822520.99, 1998843.63; 822521.53, 1998845.52; 822522.19, 1998847.37; 822522.97, 1998849.17; 822523.87, 1998850.92; 822524.88, 1998852.61; 822526.00, 1998854.22; 822527.22, 1998855.76; 822528.54, 1998857.22; 822529.95, 1998858.58; 822531.45, 1998859.85; 822533.03, 1998861.02; 822534.68, 1998862.09; 822536.39, 1998863.04; 822538.17, 1998863.88; 822540.00, 1998864.61; 822541.87, 1998865.21; 822543.77, 1998865.69; 822545.32, 1998865.98; 822611.77, 1998876.73; 822655.55, 1998901.23; 822685.38, 1998957.12; 822733.68, 1999416.01; 822733.71, 1999416.30; 822734.00, 1999418.24; 822734.41, 1999420.16; 822734.95, 1999422.05; 822735.61, 1999423.90; 822736.39, 1999425.71; 822737.29, 1999427.45; 822738.30, 1999429.14; 822738.30, 1999429.14; 822739.42, 1999430.76; 822740.64, 1999432.30; 822741.96, 1999433.75; 822743.37, 1999435.12; 822744.87, 1999436.39; 822746.45, 1999437.56; 822746.45, 1999437.56; 822748.10, 1999438.62; 822749.81, 1999439.58; 822751.59, 1999440.42; 822753.42, 1999441.14; 822755.29, 1999441.74; 822757.19, 1999442.22; 822759.13, 1999442.57; 822761.08, 1999442.80; 822763.04, 1999442.89; 822765.01, 1999442.86; 822766.97, 1999442.70; 822768.91, 1999442.41; 822770.83, 1999442.00; 822772.72, 1999441.46; 822774.57, 1999440.80; 822776.37, 1999440.02; 822778.12, 1999439.12; 822779.81, 1999438.11; 822779.81, 1999438.11; 822781.42, 1999436.99; 822782.96, 1999435.77; 822783.85, 1999434.99; 822805.32, 1999415.26; 822805.89, 1999414.73; 822807.26, 1999413.32; 822808.53, 1999411.82; 822809.70, 1999410.24; 822810.76, 1999408.59; 822811.72, 1999406.87; 822812.56, 1999405.10; 822813.28, 1999403.27; 822813.88, 1999401.40; 822814.36, 1999399.49; 822814.71, 1999397.56; 822814.94, 1999395.61; 822815.03, 1999393.64; 822815.04, 1999393.56; 822815.59, 1999353.44; 822834.40, 1999326.93; 822859.47, 1999302.21; 822860.64, 1999300.99; 822861.91, 1999299.49; 822863.08, 1999297.91; 822864.14, 1999296.26; 822865.10, 1999294.55; 822865.94, 1999292.77; 822866.66, 1999290.94; 822867.26, 1999289.07; 822867.74, 1999287.17; 822868.09, 1999285.23; 822868.32, 1999283.28; 822868.41, 1999281.32; 822868.42, 1999280.68; 822868.13, 1999220.49; 822872.70, 1999182.15; 822872.81, 1999181.05; 822872.89, 1999179.72; 822875.48, 1999111.28; 822875.49, 1999110.64; 822875.46, 1999108.68; 822875.30, 1999106.72; 822875.01, 1999104.77; 822874.60, 1999102.85; 822874.06, 1999100.96; 822873.40, 1999099.11; 822873.18, 1999098.57; 822846.96, 1999035.79; 822846.40, 1999034.52; 822845.50, 1999032.78; 822844.49, 1999031.09; 822843.37, 1999029.48; 822842.15, 1999027.94; 822840.83, 1999026.48; 822840.54, 1999026.18; 822738.32, 1998923.47; 822737.20, 1998922.41; 822735.70, 1998921.14; 822734.13, 1998919.96; 822733.36, 1998919.47; 822704.39, 1998865.19; 822704.15, 1998864.75; 822703.14, 1998863.06; 822702.02, 1998861.45; 822700.80, 1998859.91; 822699.48, 1998858.45; 822698.06, 1998857.09; 822696.57, 1998855.82; 822694.99, 1998854.64; 822693.34, 1998853.58; 822692.56, 1998853.13; 822636.47, 1998821.73; 822635.52, 1998821.22; 822633.75, 1998820.38; 822631.92, 1998819.66; 822630.05, 1998819.06; 822628.14, 1998818.58; 822626.59, 1998818.29; 822554.91, 1998806.70; 822554.53, 1998806.64; 822552.57, 1998806.41; 822550.61, 1998806.31; 822548.65, 1998806.35; 822546.69, 1998806.51; 822544.75, 1998806.80; 822542.83, 1998807.21; 822540.94, 1998807.75; 822539.09, 1998808.41; 822537.28, 1998809.19; 822535.53, 1998810.09; 822533.85, 1998811.10; 822532.23, 1998812.22; 822530.69, 1998813.44; 822529.24, 1998814.76; 822527.87, 1998816.17; 822526.60, 1998817.67; 822525.43, 1998819.25; 822524.36, 1998820.90; 822523.41, 1998822.61; 822522.57, 1998824.39; 822521.85, 1998826.22; 822521.25, 1998828.09; 822520.77, 1998829.99; 822520.42, 1998831.93; 822520.19, 1998833.88; 822520.09, 1998835.84; 822752.71, 1999023.06; 822781.60, 1999297.57; 822786.94, 1999290.03; 822787.92, 1999288.73; 822789.19, 1999287.23; 822790.36, 1999286.02; 822808.30, 1999268.32; 822808.06, 1999218.93; 822808.07, 1999218.29; 822808.17, 1999216.32; 822808.28, 1999215.22; 822812.93, 1999176.24; 822815.22, 1999115.62; 822793.82, 1999064.36; 822752.71, 1999023.06.

(iii) **Note:** The map depicting Unit 11 is provided at paragraph (17)(iii) of this entry.

(17) Unit 12: Guayabo, Yabucoa, Puerto Rico.

(i) *General Description:* Unit 12 consists of approximately 9.8 ac (3.9 ha) within Guayabota Ward, Yabucoa, crossing Road PR–900, north of the Maunabo boundary, and about 3,025 ft (922 m) west of Unit 11.

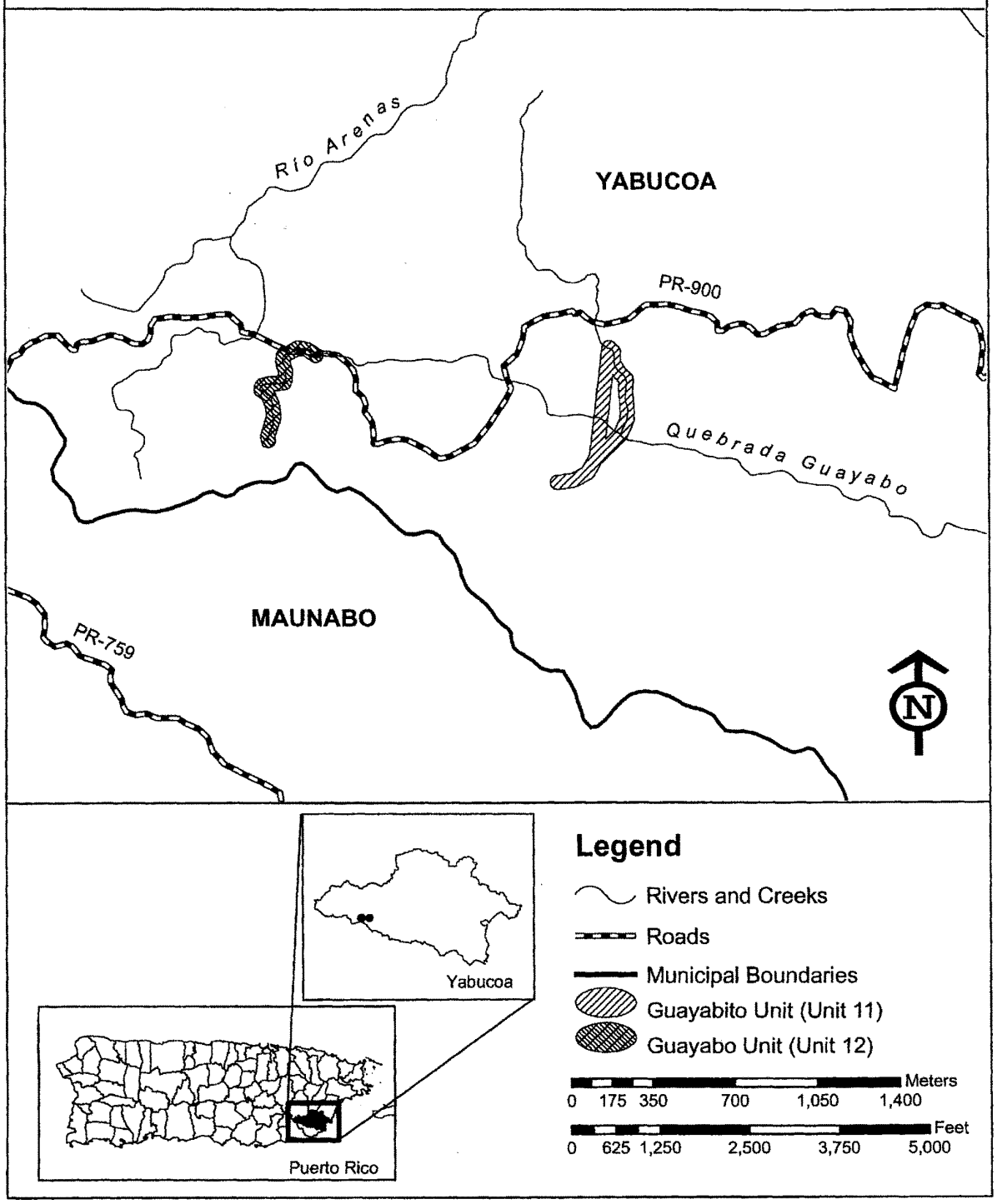
(ii) *Coordinates:* From Yabucoa USGS 1:20,000 quadrangle map. Unit 12 is bounded by the following UTM 19 NAD 83 coordinates (E, N): 821249.15, 1999215.02; 821249.18, 1999216.98; 821249.34, 1999218.94; 821249.63, 1999220.88; 821250.04, 1999222.80; 821250.19, 1999223.36; 821255.15, 1999241.68; 821255.54, 1999243.01; 821256.21, 1999244.86; 821256.99, 1999246.67; 821257.88, 1999248.41; 821258.89, 1999250.10; 821260.01, 1999251.72; 821261.23, 1999253.25; 821262.55, 1999254.71; 821263.97, 1999256.08; 821265.46, 1999257.35; 821267.04, 1999258.52; 821268.69, 1999259.58; 821270.41, 1999260.54; 821272.19, 1999261.38; 821274.01, 1999262.10; 821275.88, 1999262.70; 821276.77, 1999262.94; 821304.05, 1999269.84; 821305.07, 1999270.08; 821307.00, 1999270.43; 821308.01, 1999270.56; 821349.11, 1999275.25; 821350.61, 1999289.71; 821339.99, 1999325.55; 821339.91, 1999325.83; 821339.43, 1999327.74; 821339.08, 1999329.67; 821338.85, 1999331.62; 821338.76, 1999333.59; 821338.79, 1999335.55; 821338.95, 1999337.51; 821338.97, 1999337.72; 821342.49, 1999366.45; 821342.75, 1999368.18; 821343.16, 1999370.10; 821343.70, 1999371.99; 821344.36, 1999373.84; 821345.15, 1999375.64; 821346.04, 1999377.39; 821347.05, 1999379.08; 821348.17, 1999380.69; 821349.39, 1999382.23; 821350.71, 1999383.69; 821352.12, 1999385.05; 821353.62, 1999386.32; 821355.20, 1999387.50; 821356.85, 1999388.56; 821358.57, 1999389.51; 821359.49, 1999389.97; 821386.84, 1999402.86; 821418.08, 1999420.93; 821419.39, 1999421.65; 821421.17, 1999422.49; 821423.00, 1999423.21; 821424.87, 1999423.81; 821426.77, 1999424.29; 821428.71, 1999424.64; 821430.66, 1999424.86; 821432.62, 1999424.96; 821434.58, 1999424.93; 821436.54, 1999424.77; 821437.64, 1999424.62; 821476.83, 1999418.65; 821477.68, 1999418.51; 821479.60, 1999418.09; 821481.49, 1999417.55; 821483.34, 1999416.89; 821485.14, 1999416.11; 821486.89, 1999415.21; 821488.57, 1999414.20; 821488.70, 1999414.12; 821525.83, 1999389.92; 821527.32, 1999388.88; 821528.86, 1999387.66; 821530.31, 1999386.34; 821531.68, 1999384.93; 821532.95, 1999383.43; 821534.12, 1999381.85; 821535.19, 1999380.20; 821536.14, 1999378.48; 821536.98,

1999376.71; 821537.70, 1999374.88; 821538.30, 1999373.01; 821538.78, 1999371.10; 821539.13, 1999369.17; 821539.36, 1999367.22; 821539.45, 1999365.26; 821539.42, 1999363.29; 821539.26, 1999361.33; 821538.97, 1999359.39; 821538.56, 1999357.47; 821538.02, 1999355.58; 821537.36, 1999353.73; 821536.58, 1999351.93; 821535.68, 1999350.18; 821534.67, 1999348.49; 821533.55, 1999346.88; 821532.33, 1999345.34; 821531.01, 1999343.88; 821529.60, 1999342.52; 821528.10, 1999341.24; 821526.52, 1999340.07; 821524.87, 1999339.01; 821523.15, 1999338.05; 821521.38, 1999337.21; 821519.55, 1999336.49; 821517.68, 1999335.89; 821515.77, 1999335.41; 821513.84, 1999335.06; 821511.89, 1999334.84; 821509.93, 1999334.74; 821507.96, 1999334.77; 821506.00, 1999334.93; 821504.06, 1999335.22; 821502.14, 1999335.64; 821500.25, 1999336.17; 821498.40, 1999336.84; 821496.60, 1999337.62; 821494.85, 1999338.52; 821493.16, 1999339.53; 821493.04, 1999339.61; 821461.35, 1999360.26; 821439.02, 1999363.66; 821415.82, 1999350.25; 821414.50, 1999349.53; 821413.59, 1999349.08; 821400.08, 1999342.71; 821399.34, 1999336.63; 821409.88, 1999301.06; 821409.96, 1999300.78; 821410.44, 1999298.88; 821410.79, 1999296.94; 821411.01, 1999294.99; 821411.11, 1999293.03; 821411.08, 1999291.06; 821410.95, 1999289.44; 821406.35, 1999245.05; 821406.32, 1999244.72; 821406.03, 1999242.78; 821405.62, 1999240.85; 821405.08, 1999238.97; 821404.41, 1999237.12; 821403.63, 1999235.31; 821402.74, 1999233.56; 821401.73, 1999231.88; 821400.61, 1999230.26; 821399.39, 1999228.72; 821398.07, 1999227.27; 821396.65, 1999225.90; 821395.16, 1999224.63; 821393.58, 1999223.46; 821391.93, 1999222.39; 821390.21, 1999221.44; 821388.43, 1999220.60; 821386.61, 1999219.88; 821384.74, 1999219.28; 821382.83, 1999218.80; 821380.90, 1999218.45; 821379.89, 1999218.32; 821331.62, 1999212.81; 821331.68, 1999212.76; 821333.04, 1999211.35; 821334.31, 1999209.85; 821335.48, 1999208.27; 821336.55, 1999206.62; 821337.50, 1999204.90; 821338.34, 1999203.13; 821338.95, 1999201.61; 821353.85, 1999161.41; 821353.96, 1999161.09; 821354.56, 1999159.22; 821355.04, 1999157.32; 821355.39, 1999155.41; 821362.58, 1999107.28; 821362.58, 1999107.25; 821362.80, 1999105.30; 821362.90, 1999103.34; 821362.87, 1999101.37; 821362.71, 1999099.41; 821362.42, 1999097.47; 821362.01, 1999095.55; 821361.72, 1999094.50; 821339.65, 1999018.19; 821340.99, 1999002.89; 821341.00, 1999002.72; 821341.10, 1999000.76; 821341.07, 1998998.79; 821340.91, 1998996.83; 821340.62, 1998994.89; 821340.20, 1998992.97; 821339.66, 1998991.08; 821339.00, 1998989.23; 821338.22, 1998987.43; 821337.32, 1998985.68; 821336.31, 1998983.99; 821335.20, 1998982.38; 821333.97, 1998980.84; 821332.66, 1998979.38; 821331.24, 1998978.02; 821329.75, 1998976.75; 821328.17, 1998975.58; 821326.52, 1998974.51; 821324.80, 1998973.56; 821323.02, 1998972.72; 821321.19, 1998971.99; 821319.32, 1998971.39; 821317.42, 1998970.91; 821315.49, 1998970.56; 821313.53, 1998970.34; 821311.57, 1998970.24; 821309.61, 1998970.27; 821307.65, 1998970.43; 821305.70, 1998970.72; 821303.78, 1998971.14; 821301.89, 1998971.68; 821300.04, 1998972.34; 821298.24, 1998973.12; 821296.49, 1998974.02; 821294.81, 1998975.03; 821293.19, 1998976.15; 821291.65, 1998977.37; 821290.20, 1998978.69; 821288.83, 1998980.10; 821287.56, 1998981.60; 821286.39, 1998983.17; 821285.32, 1998984.83; 821284.37, 1998986.54; 821283.53, 1998988.32; 821282.81, 1998990.15; 821282.21, 1998992.02; 821281.73, 1998993.92; 821281.38, 1998995.86; 821281.17, 1998997.64; 821279.33, 1999018.53; 821279.32, 1999018.70; 821279.22, 1999020.66; 821279.26, 1999022.62; 821279.42, 1999024.58; 821279.70, 1999026.53; 821280.12, 1999028.45; 821280.40, 1999029.50; 821302.21, 1999104.89; 821296.46, 1999143.46; 821285.64, 1999172.65; 821260.86, 1999191.71; 821259.75, 1999192.61; 821258.29, 1999193.93; 821256.92, 1999195.35; 821255.65, 1999196.84; 821254.48, 1999198.42; 821253.42, 1999200.07; 821252.46, 1999201.79; 821251.62, 1999203.57; 821250.90, 1999205.39; 821250.30, 1999207.26; 821249.82, 1999209.17; 821249.47, 1999211.10; 821249.25, 1999213.06; 821249.15, 1999215.02.

(iii) **Note:** Map of Units 11 and 12 (Map 10) follows:

BILLING CODE 4310–55–P

MAP 10. Proposed Critical Habitat for the Guajón: Guayabito and Guayabo Units: Guayabota Ward, Yabucoa, Puerto Rico



* * * * *

Dated: September 25, 2006.

David M. Verhey,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 06–8482 Filed 10–4–06; 8:45 am]

BILLING CODE 4310–55–C

Federal Register

Thursday,
October 5, 2006

Part IV

Department of Housing and Urban Development

24 CFR Part 15

Revisions to the Public Access to HUD Records Under the Freedom of Information Act (FOIA) Regulations; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 15

[Docket No. FR–5069–P–01]

RIN 2501–AD22

Revisions to the Public Access to HUD Records Under the Freedom of Information Act (FOIA) Regulations

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would clarify and explain the procedures to be followed by requesters seeking a waiver or a reduction of fees under the Freedom of Information Act (FOIA). This proposed rule describes the information that must be included in a FOIA request and the demonstrations that must be made in order for a waiver or reduction in fees to be granted. This proposed rule would also revise the FOIA fee schedule, clarify the time at which HUD will begin processing a FOIA request, and modify HUD's policy on the use of outside contractors to fulfill FOIA requests. HUD is undertaking this effort in order to make the regulations governing fee waivers more informative and helpful in accordance with the President's recently issued Executive Order 13392, ''Improving Agency Disclosure of Information.''

DATES: *Comment Due Date:* December 4, 2006.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Office of General Counsel, Rules Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0001. Communications should refer to the above docket number and title and should contain the information specified in the ''Request for Comments'' section.

Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at *www.regulations.gov*. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make comments immediately available to the public. Comments submitted electronically through the *www.regulations.gov* Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable. In all cases, communications must refer to the docket number and title.

Public Inspection of Public Comments. All comments and communications submitted to HUD will be available, without charge, for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at (202) 708–3055 (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–(800) 877–8339. Copies of all comments submitted are available for inspection and downloading at *www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Holly Salamido, Assistant General Counsel for Litigation, Freedom of Information Act (FOIA) Division, Office of Litigation, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10248, Washington, DC 20410–5000; telephone (202) 708–3866 (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–(800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

On December 14, 2005, President Bush issued Executive Order 13392, entitled ''Improving Agency Disclosure of Information,'' which acknowledged the importance of participation by an informed citizenry in the effective functioning of our constitutional democracy. Executive Order 13392 was published in the **Federal Register** on December 19, 2005 (70 FR 75373). FOIA provides the means by which the public can obtain information regarding Federal agencies. Under FOIA, the public can request records from any agency, which the agency must provide, subject to certain exemptions and statutory exclusions.

In issuing Executive Order 13392, the President emphasized that agencies are providing a service to FOIA requesters and shall respond accordingly. The President also advised agencies to process requests under FOIA in an efficient and appropriate manner and to achieve tangible and measureable improvements in FOIA processing. According to the Executive Order, if agencies' FOIA programs are not meeting these goals, the programs should be reformed in order to better reflect the policy goals and objectives described in the Executive Order.

HUD's regulations at 24 CFR part 15, entitled ''Public Access to HUD Records under the Freedom of Information Act and Testimony and Production of Information by HUD Employees,'' describe the policies and procedures governing public access to HUD records under FOIA. Those regulations describe how the public is to make a FOIA request, what must be included in the request, how the request will be processed, any applicable fees that will be charged, and the process for appealing a denial of a request or a fee determination.

II. This Proposed Rule

The revisions contained in this proposed rule respond to Executive Order 13392, which has served as an impetus for each agency to review its FOIA regulations to determine whether its regulations are as helpful as they can be, especially since these regulations reach out to the public generally and are not specific to participants in particular government programs.

A. Revision to Fee Waiver Provisions

In its review of 24 CFR part 15, HUD determined that a good starting point for possible revisions to its FOIA regulations pertains to the regulatory provisions governing fee waiver and reduction of fees. HUD determined that these regulations could provide more helpful information and explanation about what a requester must include in its request for a fee waiver or fee reduction and the elements that HUD will evaluate in determining whether a waiver or reduction of fees should be granted. HUD recognizes that members of the public are not only interested in seeking information from HUD, but also are interested in the cost of obtaining that information.

This proposed rule would revise the regulations at 24 CFR part 15 to clarify the public interest provision governing waivers and reductions of fees. Section 15.110(h), entitled ''Waiver or reduction of fees in the public interest,'' would be revised to provide more detailed and illustrative information on the type of demonstrations that a requester must make in order to qualify for either a waiver or reduction of fees. The revisions would also clarify what is meant by seeking information that is in the public interest. HUD will make a

determination as to whether the disclosure of the information sought would be in the public interest and, if the necessary showings are made, HUD may waive or reduce the fee.

Currently, § 15.110(h) merely reiterates the statutory criteria contained in FOIA. The proposed revisions would not replace the statutory criteria as the basis of HUD's regulations, but instead would provide supplemental guidance as to the elements that a requester must establish, and the criteria HUD will consider in determining whether such demonstrations have been made. FOIA requires Federal departments and agencies to furnish documents at no charge or at a reduced fee provided that disclosure of the information contained therein is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. As proposed, HUD's regulations would address and explain this statutory mandate.

B. Other Revisions

In its review of the regulations governing public access to records under FOIA, HUD has also taken the opportunity to revise other regulatory provisions of FOIA to better reflect the policy goals expressed in Executive Order 13392. HUD proposes to amend other subparagraphs of § 15.110, which addresses fees, in general. In § 15.110(c), the hourly rates to be charged for search and review of requested documents by professional and clerical employees would be revised. Rather than listing a specific hourly rate, the regulations would be amended so that the actual salary rate of the employee involved, plus 16 percent of the salary rate, to cover employee benefits, would be assessed. This change would make the regulations more in line with actual costs. By inserting the proposed language, subsequent revisions to the regulation would not be needed to reflect future increases in salary costs.

Section 15.110(i) would be amended to clarify that if the estimated fee is more than $250.00 or if the requester has a history of failing to pay FOIA fees in a timely manner, HUD will not begin processing a FOIA request until payment of estimated fees and past due charges have been forwarded to HUD. This revision would make the processing of FOIA requests more efficient by avoiding the expenditure of time and resources on requests where the requester is not willing to pay the requisite cost.

Section 15.110(k) would be revised to notify requesters that HUD may contract with the private sector to fulfill FOIA requests, but would do so only if it would be the most efficient, least costly method, and will not cost more than if HUD had performed the services itself. HUD is conscientious in its effort to make its processing of FOIA requests more results-oriented and efficient.

III. Findings and Certifications

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The regulatory amendments that would be made by this proposed rule are procedural and explanatory in nature. The FOIA statute establishes criteria by which waivers of fees or reduction of fees may be obtained for a FOIA request. Furthermore, the fees charged under this rule are limited by FOIA to direct costs of searching for, reviewing, and duplicating the records processed for requesters and are not economically significant.

Accordingly, the undersigned certifies that this rule will not have a significant economic impact on a substantial number of small entities. Notwithstanding HUD's determination that this rule will not have a significant effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Paperwork Reduction Act

The Department has reviewed the proposed rule with reference to the Paperwork Reduction Act and has concluded that it does not involve a ''collection of information'' within the requirements of the Act.

The rule would not require any person to fill out a form or otherwise provide specific information (other than self-identification and appropriate certifications) to the Department in order to make a FOIA request or a request for a waiver or reduction in fees. Pursuant to regulations of the Office of Management and Budget (OMB) implementing the Paperwork Reduction Act, affidavits, oaths, affirmations, certifications, receipts, changes of address, consents, or acknowledgments are not ''information collections'' under the law (5 CFR 1320.3(h)(1)).

Consistent with the FOIA, the proposed rule would require those seeking fee waivers to address specific requirements set forth by the law. Each requester would need to address a different factual situation that is tailored to the issue in the specific request. Pursuant to OMB regulations implementing the Paperwork Reduction Act, facts or opinions requested from a single person are not ''information collections'' under the law (5 CFR 1320.3(h)(6)).

Environmental Impact

This proposed rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this proposed rule is categorically excluded from the requirements of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has Federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This proposed rule does not have Federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and on the private sector. This proposed rule does not impose any Federal mandates on any state, local, or tribal governments, or on the private sector, within the meaning of UMRA.

List of Subjects in 24 CFR Part 15

Classified information, Courts, Freedom of information, Government employees, Reporting and recordkeeping requirements.

Accordingly, for the reasons discussed in the preamble, HUD

proposes to amend 24 CFR part 15 to read as follows:

PART 15—PUBLIC ACCESS TO HUD RECORDS UNDER THE FREEDOM OF INFORMATION ACT AND TESTIMONY AND PRODUCTION OF INFORMATION BY HUD EMPLOYEES

1. The authority citation for part 15 continues to read as follows:

Authority: 42 U.S.C. 3535(d).

2. Revise § 15.103(d)(4) to read as follows:

§ 15.103 How can I get other records from HUD?

* * * * *

(d) * * *

(4) *State your agreement to pay the fee.* You may specify a dollar amount above which you want HUD to consult with you before you will agree to pay the fee. If you are seeking a waiver or reduction of fees, you must include such a request at the same time as your request for disclosure, and you must describe how the disclosure of the requested information is in the public interest and not primarily in the commercial interest of the requester (see section § 15.110(h));

* * * * *

3. In § 15.110(c), revise the FOIA Fee Schedule, chart, as follows:

a. Revise subparagraphs (1) through (4) so that the Rate column for each reads, ''Actual salary rate of employee involved, plus 16 percent of salary rate;'' and

b. Revise the Rate of subparagraph (7) to read, ''$0.18 per page.''

4. In § 15.110, revise paragraphs (h) and (i), and remove the first three sentences of (k) and add two new sentences in their place to read as follows:

§ 15.110 Fees.

* * * * *

(h) *Waiver or reduction of fees in the public interest.* If HUD determines that disclosure of the information you seek is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Federal government, and that you are not seeking the information primarily for your own commercial interests, HUD may waive or reduce the fee.

(1) In order to qualify for a waiver or a reduction of fees, a requester must make the following demonstrations in the FOIA request:

(i) Disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Federal government.

(A) *The subject of the request pertains to the operations or activities of the Federal government.* Requesters must be seeking documents and records that contain information regarding identifiable operations or activities of the Federal government. The connection between the content of the records and Federal governmental operations or activities must be direct and clear.

(B) *The informative value of the information to be disclosed is consequential.* The disclosable portions of the requested records must be meaningfully informative about Federal governmental operations or activities in order to be ''likely to contribute'' to an increased public understanding of those operations or activities. The disclosure of information that is already in the public domain, in either a duplicative or substantially identical form, would not be as likely to contribute to the public's understanding of Federal governmental operations or activities.

(C) *The disclosure is likely to contribute to an understanding of the subject by the public.* The disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester, in order to provide a great benefit to the public at large. A requester's expertise in the subject area and ability and intention to effectively convey the information will be considered.

(D) *The contribution to public understanding is significant.* The public's understanding of the subject in question, as compared to the level of public understanding existing prior to the disclosure, must be enhanced by the disclosure to a substantial degree. HUD will not make value judgments about whether the information to be disclosed is worthy or important enough to be made public, but rather whether it would contribute substantially to public understanding of the operations or activities of the government.

(ii) Disclosure of the information is not primarily in the commercial interest of the requester.

(A) *The existence and magnitude of a commercial interest.* The requester must describe and explain any commercial interest that would be furthered by the requested disclosure, whether personally benefiting the requester or any person on whose behalf the requester may be acting. See the definition of a ''commercial use requester'' in paragraph (b)(1) of this section for further explanation.

(B) *Primary interest in disclosure.* A fee waiver or reduction in fees is justified where the requester has demonstrated that the public interest in disclosure is greater in magnitude than that of any identified commercial interest in disclosure. However, disclosure to data brokers or others who merely compile and market government information for direct economic return will not be presumed to primarily serve the public interest.

(2) Requests for waivers must address the elements listed in paragraph (1) of this section, insofar as they apply to each request. HUD will exercise its discretion in considering the cost-effectiveness of its investment of administrative resources in deciding whether to grant waivers or reductions of fees, in consultation with appropriate offices as needed. Requests for the waiver or reduction of fees must be submitted with the request.

(3) When only some of the requested records satisfy the requirements for a waiver of fees, a waiver will be granted for only those records.

(4) When a fee waiver request is denied, HUD will do no further work on the request until it receives an assurance of payment, or an appeal of the fee waiver adverse determination is filed and HUD has made a final appeal determination pursuant to § 15.112.

(i) *When do I pay the fee?* HUD will bill you when it responds to your request. You must pay within 31 calendar days. If the estimated fee is more than $250.00 or you have a history of failing to pay FOIA fees to HUD in a timely manner, HUD will ask you to remit the estimated amount and any past due charges before processing and sending you the records.

* * * * *

(k) *Contract services.* HUD will contract with private sector sources to locate, reproduce, and disseminate records in response to FOIA requests when that is the most efficient and least costly method. HUD will ensure that the ultimate cost to the requester is no greater than it would be if the agency itself had performed these tasks. * * *

Dated: September 11, 2006.

Roy A. Bernardi,

Deputy Secretary.

[FR Doc. E6–16441 Filed 10–4–06; 8:45 am]

BILLING CODE 4210–67–P

Federal Register

Thursday,
October 5, 2006

Part V

The President

Proclamation 8059—National Breast Cancer Awareness Month, 2006

Proclamation 8060—National Disability Employment Awareness Month, 2006

Proclamation 8061—German-American Day, 2006

Federal Register
Vol. 71, No. 193
Thursday, October 5, 2006

Presidential Documents

Title 3—

The President

Proclamation 8059 of October 3, 2006

National Breast Cancer Awareness Month , 2006

By the President of the United States of America

A Proclamation

During National Breast Cancer Awareness Month, we underscore our commitment to advancing the fight against breast cancer and bringing hope to those affected by this deadly disease.

Breast cancer remains the second leading cause of cancer deaths among American women, and both men and women should be aware that age, obesity, genetics, and family history are factors that can contribute to the risk of developing this disease. Individuals may help reduce their personal risk of breast cancer through regular exercise and healthy lifestyle choices. Also, regular self-exams, clinical breast exams, and mammograms are vital since treatments are most effective when breast cancer is detected early.

Our Nation is making advances in the detection and treatment of breast cancer, and my Administration is committed to continuing this progress. In fiscal year 2007, the Department of Health and Human Services will spend nearly $844 million on breast cancer research and prevention activities. In addition, the Federal Government is promoting breast cancer screening services for low-income and uninsured women through outreach activities and educational materials.

Throughout our Nation, compassionate citizens provide love and encouragement to individuals living with breast cancer and their loved ones. Survivors of this disease show the world that life after breast cancer can be a reality, and we must continue to support these individuals and their families. Through medical advances, preventative programs, and quality health care, we can continue to make significant strides in the fight against this devastating disease and provide a brighter future for many Americans.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 2006 as National Breast Cancer Awareness Month. I call upon Government officials, businesses, communities, health care professionals, educators, volunteers, and all the people of the United States to continue our Nation's strong commitment to preventing and treating breast cancer and to finding a cure for this disease.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of October, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

[FR Doc. 06–8558
Filed 10–4–06; 11:47 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 8060 of October 3, 2006

National Disability Employment Awareness Month, 2006

By the President of the United States of America

A Proclamation

During National Disability Employment Awareness Month, we pay tribute to the accomplishments of the men and women with disabilities whose work helps keep America's economy strong, and we underscore our commitment to ensuring equal employment opportunity for all of our citizens.

Our country has made great progress to ensure that opportunities are accessible to everyone who is willing and able to work. Access to jobs was significantly expanded in 1990 when President George H. W. Bush signed the Americans with Disabilities Act (ADA) into law. This important legislation has served as a foundation for strengthening our Nation's workforce and advancing innovation and American leadership in a global marketplace.

In 2001, my Administration announced the New Freedom Initiative to build on the progress of the ADA and more fully integrate men and women with disabilities into all aspects of life. The New Freedom Initiative has helped expand access to technology, training, and education for citizens with disabilities. As a result, those who have a disability and seek employment are better able to compete for jobs. To assist in providing additional access to employment opportunities, we have also implemented the ''Ticket to Work'' program and strengthened training and employment services at One-Stop Career Centers. By visiting DisabilityInfo.gov, individuals and employers can learn more about the Federal Government's disability-related programs and receive information and resources they need to help achieve their personal and professional ambitions.

To recognize the contributions of Americans with disabilities and to encourage all citizens to ensure equal opportunity in the workforce, the Congress, by joint resolution approved as amended (36 U.S.C. 121), has designated October of each year as ''National Disability Employment Awareness Month.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 2006 as National Disability Employment Awareness Month. I call upon Government officials, labor leaders, employers, and the people of the United States to observe this month with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of October, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

[FR Doc. 06–8559
Filed 10–4–06; 11:47 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 8061 of October 3, 2006

German-American Day, 2006

By the President of the United States of America

A Proclamation

Throughout our history, the spirit and hard work of German Americans have been an important part of the cultural fabric of our Nation. On German-American Day, we celebrate German Americans and their many contributions to the character of our country.

Germans were among the first to settle in this great land of promise, and their talent, faith, and strong values helped establish this country as a place of freedom and opportunity. Today, millions of German Americans are adding to the success and prosperity of our Nation as leaders in government, sports, business, science, the arts, and many other fields.

In every generation, German Americans have courageously stepped forward to serve in our country's hour of need. During the Revolutionary War, General Friedrich von Steuben helped train the Continental Army for battle, and in World War II, great men like General Dwight Eisenhower and Admiral Chester Nimitz helped lead the Allied Forces to victory. Our Nation will always be grateful to the many German Americans who have selflessly answered the call to defend liberty and advance the cause of freedom as members of our Armed Forces. The sacrifices of these heroes help preserve the ideals of our country's founding and make the world a safer place.

German-American Day is also an opportunity to recognize the friendship between Germany and the United States. By working together as partners in peace with a mutual commitment to liberty, the United States and Germany can lay the foundation for a more hopeful tomorrow.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 6, 2006, as German-American Day. I encourage all Americans to celebrate our Nation's German heritage and the many ways German Americans have enriched and strengthened our country.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of October, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

[FR Doc. 06–8560
Filed 10–4–06; 11:47 am]
Billing code 3195–01–P

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