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LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

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Rules and Regulations

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

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS–2006–0073]

RIN 0579–AC17

Importation of Shelled Garden Peas From Kenya

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the fruits and vegetables regulations to allow the importation of shelled garden peas from Kenya into the continental United States. In order to be eligible for importation, the peas will have to be shelled, washed, and inspected and accompanied by a phytosanitary certificate issued by the Kenya Plant Health Inspectorate Service. This action will allow for the importation of shelled peas from Kenya into the continental United States while continuing to protect against the introduction of quarantine pests.

DATES: *Effective Date:* November 24, 2006.

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

SUPPLEMENTARY INFORMATION:

Background

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

On July 6, 2006, we published in the **Federal Register** (71 FR 38302–38304, Docket No. APHIS–2006–0073) a proposal [1] to amend the regulations to allow the importation of shelled garden peas from Kenya into the continental United States. We proposed that in order to be eligible for importation, the peas would have to be shelled, washed, and inspected and accompanied by a phytosanitary certificate issued by the Kenya Plant Health Inspectorate Service (KEPHIS). We proposed these changes to allow for the importation of shelled peas from Kenya into the continental United States while continuing to protect against the introduction of quarantine pests.

We solicited comments concerning our proposal for 60 days ending September 5, 2006. We did not receive any comments. Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule, without change.

Note: In our July 2006 proposed rule, we proposed to add the conditions governing the importation of shelled garden peas from Kenya as § 319.56–2ss. In this final rule, those conditions are added as § 319.56–2bb.

Executive Order 12866 and Regulatory Flexibility Act

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

We are amending the fruits and vegetables regulations to allow the importation of shelled garden peas from Kenya into the continental United States. In order to be eligible for importation, the peas will have to be shelled, washed, and inspected and accompanied by a phytosanitary certificate issued by KEPHIS. This action allows for the importation of shelled peas from Kenya into the continental United States while continuing to protect against the introduction of quarantine pests.

In accordance with 5 U.S.C. 604, we have performed a final regulatory flexibility analysis, which is set out below, regarding the economic effects of this rule on small entities.

In our proposed rule, we asked the public to provide any comments on the potential economic effects of allowing the importation into the continental United States of garden peas from Kenya, and on how the proposed rule could be modified to reduce expected costs or burdens for small entities consistent with its objectives. In addition, we invited the public to comment on the potential effects of the proposed rule on small entities, in particular the number and kind of small entities that may incur benefits or costs from the implementation of the proposed rule. However, we did not receive any additional information or data in response to those requests.

The United States is the third largest producer of garden peas after India and China. However, less than 1 percent of U.S. production goes into the fresh market, the reason being that fresh garden peas require harvesting by hand, whereas peas destined for processing can be machine-harvested. The cost of farm labor is considerably higher in the United States than in many other countries.

According to industry sources, fresh garden peas grown in the United States are mainly produced in California (more than 85 percent), with the rest grown mainly in Florida. Published data on domestic production of fresh garden peas exist only for two counties in California, San Luis Obispo County and Santa Barbara County.[2] Based on the 2000–2004 data for these two counties, California snow pea production declined over that 5-year period, while green pea production has expanded. The value of pea production in those two counties in 2004 was $29 million.

The United States is a net importer of fresh/chilled peas, and our major foreign supplier of fresh garden peas in 2005 was Guatemala, with a 45 percent share (by value) of U.S. imports, followed by Peru (29 percent) and Mexico (24 percent). Nearly all U.S. fresh pea exports go to Canada.

Our reported domestic supply of fresh garden peas (California production plus

[1] To view the proposed rule, go to *http://www.regulations.gov,* click on the ''Advanced Search'' tab, and select ''Docket Search.'' In the Docket ID field, enter APHIS–2006–0073, then click ''Submit.'' Clicking on the Docket ID link in the search results page will produce a list of all documents in the docket.

[2] Annual County Agricultural Commissioner Report Data (Sacramento: California Department of Food and Agriculture, 2000–2004).

net U.S. imports) in 2004 totaled about 39,700 metric tons, valued at $42.7 million. These totals exclude U.S. production that may have taken place outside of San Luis Obispo and Santa Barbara Counties.

If we include the 15 percent of unreported U.S. production of fresh garden peas thought to occur outside of the two California counties, then the 2004 domestic supply would total about 42,800 metric tons, with roughly 65 percent imported and 35 percent supplied by U.S. producers.

U.S. entities that could be affected by this final rule are domestic producers of fresh garden peas and wholesalers who import fresh garden peas. Businesses producing green peas and snow peas are classified in the North American Industry Classification System (NAICS) within the category of Other Vegetable (except Potato) and Melon Farming (NAICS code 111219). The Small Business Administration's (SBA) small entity definition for these producers is annual receipts of not more than $750,000. Firms that would import fresh, shelled garden peas from Kenya are defined as small entities if they have 100 or fewer employees (NAICS code 424480, Fresh Fruit and Vegetable Merchant Wholesalers).[3]

In general, firms engaged in production or importation of agricultural commodities are predominantly small. We believe that most if not all of the businesses affected by this final rule would be small.

We do not know the number of U.S. producers of fresh garden peas. According to the 2002 Census of Agriculture for California Counties, there were 327 vegetable farms in San Luis Obispo and Santa Barbara Counties, the two counties for which there are published fresh garden pea production data. We do not know how many of these vegetable farms produce fresh garden peas. Also, we do not know their size, but in general, such entities are predominantly small. As noted above, we asked for this type of information in our proposed rule and did not receive any comments.

This rule contains various recordkeeping requirements, which were described in our proposed rule, and which have been approved by the Office of Management and Budget (see ''Paperwork Reduction Act'' below).

[3] The wholesale sector comprises two types of wholesalers: Those that sell goods on their own account and those that arrange sales and purchases for others for a commission or fee. Importers are included in both cases.

Executive Order 12988

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

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.,*) the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579–0302.

E-Government Act Compliance

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

List of Subjects in 7 CFR Part 319

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

■ Accordingly, we are amending 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

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

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

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

§ 319.56–2bb Conditions governing the entry of shelled garden peas from Kenya.

Garden peas (*Pisum sativum*) may be imported into the continental United States from Kenya only under the following conditions:

(a) The peas must be shelled from the pod.

(b) The peas must be washed in disinfectant water at 3 to 5 °C containing 50 ppm chlorine.

(c) Each shipment of peas must be accompanied by a phytosanitary certificate of inspection issued by the national plant protection organization of Kenya bearing the following additional declaration: ''These peas have been shelled and washed in accordance with 7 CFR 319.56–2bb and have been inspected and found free of pests.''

(Approved by the Office of Management and Budget under control number 0579–0302)

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

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E6–17774 Filed 10–23–06; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. APHIS–2006–0037]

Change in Disease Status of Namibia With Regard to Foot-and-Mouth Disease and Rinderpest

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations to add Namibia, except the portion of the country north of the Veterinary Cordon Fence (VCF), to the list of regions that are considered free of foot-and-mouth disease (FMD), and to add the entire country to the list of regions that are considered free of rinderpest. We are taking this action because we have determined that the region in Namibia south of the VCF is now free of FMD and the entire country is free of rinderpest. We are also adding Namibia, except the region north of the VCF, to the list of FMD- and rinderpest-free regions that are subject to certain import restrictions on meat and other animal products because of their proximity to or trading relationships with rinderpest- or FMD-affected regions. This action relieves certain

restrictions due to FMD and rinderpest on the importation into the United States of certain live animals and animal products from all regions of Namibia except the region north of the VCF. However, because we consider Namibia to be affected with African swine fever, classical swine fever, and swine vesicular disease, the importation of live swine and pork and pork products will continue to be restricted. In addition, because we consider Namibia to be affected with other animal diseases that are exotic to the United States, the importation of live ruminants and germplasm will also continue to be restricted. These actions will update the disease status of Namibia with regard to FMD and rinderpest while continuing to protect the United States from an introduction of those diseases by providing additional requirements for any meat and meat products imported into the United States from Namibia.

DATES: *Effective Date:* November 24, 2006.

FOR FURTHER INFORMATION CONTACT: Mr. Javier Vargas, Animal Scientist, Regionalization Evaluation Services Staff, National Center for Import and Export, VS, APHIS, 4700 River Road, Unit 38, Riverdale, MD 20737–1231; (301) 734–0756.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of certain animals and animal products into the United States in order to prevent the introduction of various diseases, including rinderpest, foot-and-mouth disease (FMD), African swine fever, classical swine fever, and swine vesicular disease. These are dangerous and destructive communicable diseases of ruminants and swine. Section 94.1 of the regulations lists regions of the world that are declared free of rinderpest or free of both rinderpest and FMD. Rinderpest or FMD exists in all other parts of the world not listed. Section 94.11 of the regulations lists regions of the world that have been determined to be free of rinderpest and FMD, but that are subject to certain restrictions because of their proximity to or trading relationships with rinderpest- or FMD-affected regions.

On June 15, 2006, we published in the **Federal Register** (71 FR 34537–34549, Docket No. APHIS–2006–0037) a proposal [1] to amend the regulations by recognizing the entire country of Namibia as rinderpest-free and all of Namibia except the region north of the Veterinary Cordon Fence (VCF) as free of FMD. We also proposed to add Namibia, except the region north of the VCF, to the list of FMD- and rinderpest-free regions that are subject to certain import restrictions on meat and other animal products because of their proximity to or trading relationships with rinderpest- or FMD-affected regions. In our proposal, we noted that, because we consider Namibia to be affected with African swine fever, classical swine fever, and swine vesicular disease, the importation of live swine and pork and pork products would continue to be restricted. In addition, because we consider Namibia to be affected with other animal diseases that are exotic to the United States, the importation of live ruminants and germplasm would also continue to be restricted.

We solicited comments concerning our proposal for 60 days ending August 14, 2006. We did not receive any comments. Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule, without change.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

We are amending the regulations in § 94.1 to list Namibia as a region free of rinderpest and the region of Namibia south of the VCF as a region free of FMD. However, since Namibia borders on and trades with regions that the United States does not recognize as free of FMD and because its importation standards are less stringent than those of the United States, we are also listing the region of Namibia south of the VCF in § 94.11 as a region subject to the additional certification requirements of that section.

It should be noted that Namibia is not currently eligible to export ruminant meat products to the United States under the regulations of the United States Department of Agriculture's Food Safety Inspection Service (FSIS); there would, therefore, be no economic effects on U.S. entities until establishments in Namibia were approved to export ruminant meat and other products to the United States. The following analysis examines the potential economic impacts of the changes in the regulations that could occur if establishments in Namibia were approved to export under the FSIS regulations.

Namibia produces and internationally trades in beef, sheep, goat, and game meat. Namibia produced 134 million pounds of beef in 2004 and exported an average of 59.2 million pounds of beef and veal per year between 1994 and 2003. The country has established trading relationships with the Republic of South Africa and several western European countries. Namibia also produced 29.6 million pounds of mutton, lamb, and goat meat in 2003 and exported an average of 5.73 million pounds per year between 1994 and 2003, with most exports going to the Republic of South Africa. Namibia produced 8.8 million pounds of game meat in 2003.

Namibia's agricultural trade with the United States is small. In 2003, Namibia exported agricultural products worth a total $199,000, of which $21,000 was for hides and skins, and imported $5.443 million worth of agricultural products, of which $40,000 was for beef and veal. (*Sources:* FAO, FAOSTAT, 2004; UN/FAO, FAOSTAT Data, 2004; Hilda Hampweya, April 2005, personal communication, Namibia Division of Trade and Statistics.)

Possible economic effects of imports from Namibia would differ for beef and for sheep and goat meat imports. For beef imports, approximately 22 million pounds of beef could be imported annually from Namibia as a result of this rule (again, assuming FSIS approval) based on data collected from the Central Bureau of Statistics-Trade Statistics Division of Namibia. Based on 10-year average U.S. domestic supply, an import of about 22 million pounds of beef would result in a price decrease of less than $0.002 per pound at the wholesale level. If 50 percent of Namibia's 10-year average beef exports (29.6 million pounds) were diverted to the U.S. market, the result would be a price decline of only $0.0024 per pound (table 1).

As for sheep and goats, the estimated potential exports to the United States of these meats are about 15.43 million pounds per year according to data collected from the Central Bureau of Statistics-Trade Statistics Division of Namibia. If this supply were realized, U.S. sheep and goat meat prices could decline and sheep producers could be negatively affected, as the above figure represents about 4.35 percent of U.S. domestic supply. This could result in a

[1] To view the proposed rule, go to *http://www.regulations.gov,* click on the ''Advanced Search'' tab, and select ''Docket Search.'' In the Docket ID field, enter APHIS–2006–0037, then click ''Submit.'' Clicking on the Docket ID link in the search results page will produce a list of all documents in the docket.

price decline of $0.07 per pound (table 1). However, it is questionable whether Namibia would have the capacity to export this amount and maintain its trade with its established South African and European markets. Although several markets in the European Union are accessible to Namibia, the Republic of South Africa continues to be its major trading partner. Namibia exported 15.66 million pounds of sheep and goat meat to all countries in 2003, so to meet this goal of 15.43 million pounds exported to the United States, nearly all of the current exports would have to be diverted. Between 1994 and 2003, Namibian exports of sheep and goats have fluctuated, with a negative export growth rate in every year except for four: 1995, 1998, 1999, and 2001. The impact is not as large when based on the 10-year average quantity exported of 5.73 million pounds. Assuming this level of export to the United States, the estimated decline in price is between $0.02 and $0.03 per pound.

TABLE 1.—THE IMPACT OF THE IMPORTATION OF BEEF, SHEEP, AND GOAT MEAT FROM NAMIBIA TO THE UNITED STATES

Percentage diverted to U.S. market [1]	Beef				Sheep and goat meat			
	Million pounds	Change in price (%)	Decline in price (cents/pound)	Domestic producer loss (millions of $)	Million pounds	Change in price (%)	Decline in price (cents/pound)	Domestic producer loss (millions of $)
10	5.92	−0.0291	−0.0483	−11.902	0.573	−0.231	−0.261	−0.435
20	11.84	−0.0582	−0.0966	−23.795	1.146	−0.461	−0.521	−0.871
40	23.68	−0.1164	−0.1932	−47.586	2.293	−0.922	−1.042	−1.742
50	29.6	−0.1454	−0.2414	−59.479	2.865	−1.153	−1.303	−2.177
Designated	[2] 22.05	−0.1083	−0.1799	−44.309	[2] 15.43	−6.209	−7.016	−11.725

[1] The percentages are based on the 10-year average exports: 59.2 million pounds for beef and 5.73 million pounds for sheep and goat meat.
[2] Denotes the estimated amount indicated by Namibian agricultural specialists and the industry as being available for export to the United States.

The impacts depicted in table 1 are further considered in terms of effects for large and small entities in table 2 (beef producers) and table 3 (sheep and goat producers). In each case, impacts at various import levels are apportioned between large and small establishments by inventory share, according to the 2002 Census of Agriculture. Average effects per establishment are calculated based on numbers of large and small establishments with reported sales (2002 Census of Agriculture). As shown in table 2, if Namibia were to divert to the United States 22.05 million pounds of beef exports per year, as projected by that country's agricultural specialists, the average annual decline in revenue for U.S. small entities would be about $28. Similarly, if 15.43 million pounds of sheep and goat meat exports per year were diverted to the United States, as projected by Namibia, the average annual decline in revenue for U.S. small entities would be about $108.

TABLE 2.—POTENTIAL EFFECTS FOR LARGE AND SMALL BEEF CATTLE PRODUCERS

Percentage diverted to the U.S. market [1]	U.S. producer revenue loss (millions of $)	Large [2]		Small [2]	
		Revenue loss (millions of $)	Average revenue loss ($)	Revenue loss (millions of $)	Average revenue loss ($)
10	−11.902	−5.571	−860	−6.331	−8
20	−23.795	−11.138	−1,719	−12.657	−15
40	−47.586	−22.275	−3,437	−25.311	−30
50	−59.479	−27.642	−4,265	−31.637	−38
Designated	−44.309	−20.741	−3,200	−23.568	−28

[1] The percentages are based on the 10-year average exports: 59.2 million pounds for beef and 5.73 million pounds for sheep and goat meat.
[2] Revenue losses to large and small establishments are distributed according to inventory share (46.81 percent for large and 53.19 percent for small establishments). Averaged revenue losses are calculated by dividing by the number of establishments (845,490 and 6,481 for small and large establishments, respectively).

TABLE 3.—POTENTIAL EFFECTS FOR LARGE AND SMALL SHEEP AND GOAT PRODUCERS

Percentage diverted to the U.S. market [1]	U.S. producer revenue loss (millions of $)	Large [2]		Small [2]	
		Revenue loss (millions of $)	Average revenue loss ($)	Revenue loss (millions of $)	Average revenue loss ($)
10	−0.435	−0.114	−765	−0.321	−4
20	−0.871	−0.229	−1,537	−0.642	−8
40	−1.742	−0.458	−3,074	−1.284	−16
50	−2.177	−0.573	−3,846	−1.604	−20
Designated	−11.725	−3.084	−20,698	−8.641	−108

[1] The percentages are based on the 10-year average exports: 59.2 million pounds for beef and 5.73 million pounds for sheep and goat meat.
[2] Revenue losses to large and small establishments are distributed according to inventory share (26.3 percent for large and 73.7 percent for small establishments). Average revenue losses are calculated by dividing by the number of establishments (80,443 and 149 for small and large establishments, respectively).

According to the size standards established by the Small Business Administration (SBA) for livestock and animal specialties, producers of cattle and calves (North American Industry Classification System [NAICS] code 112111), game animals (NAICS 112990), sheep (NAICS 112410), and goats (NAICS 112420) with not more than $750,000 annual sales qualify as small entities. Based on data from the 2002 Census of Agriculture, 851,971 operations in the U.S. raised and sold 73 million cattle and calves in 2002. Small operations (over 99 percent of the farms) had an average of 68 cattle and an average income of $24,067, well below the SBA criterion of $750,000 in annual sales for businesses primarily engaged in cattle farming. Large operations had an annual income of $3,821,440. Similarly, over 99 percent of sheep and goat producers (80,443) are small. Small sheep and lamb producers had an average income of $7,520, while large ones had an average income of $1.042 million.

Meat processing entities (NAICS 311612), and meat and meat product merchant wholesalers (NAICS 424470) may be affected by this rule (Source: U.S. Census Bureau, 2002 Economic Census, Wholesale Trade-Subject Series, August 2006). Under SBA standards, meat processing establishments with no more than 500 employees and meat and meat product wholesalers with no more than 100 employees are considered small. In 2002, there were 1,335 companies in the United States that processed and sold meat. More than 97 percent of these establishments are considered to be small entities and had average sales of $15.4 million, while large meat processors had average sales of $188 million. In 2002, there were 2,535 meat and meat product wholesalers in the United States. (*Source:* SBA and 2002 Economic Census.) Of these establishments, 2,456 (97 percent) employed not more than 100 employees and are, thus, considered small by SBA standards. Small wholesalers had average sales of $9.3 million, while large entities had average sales of $131 million.[2]

The only alternative to the rule would involve not changing the current regulations regarding the importation of beef, sheep, and goat meat and game meat from Namibia. This alternative would not be appropriate in light of the findings of our risk analysis and our conclusion that the Namibian government has the laws, policies, and infrastructure to detect, respond to, and eliminate any reoccurrence of FMD. The rule provides the safeguarding measures appropriate to the animal disease risk associated with importation of this type of animal product. The rule also enhances a positive trade environment between Namibia and the United States. We note again that Namibia is not currently eligible to export ruminant meat products to the United States under the FSIS regulations cited earlier in this document; there would, therefore, be no economic effects on U.S. entities until establishments in Namibia were approved to export ruminant meat and other products to the United States.

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

[2] U.S. Census Bureau, 2002 Economic Census: Manufacturing-Industries Series, Wholesale Trade-Subject Series and Transportation and Warehousing-Subject Series, Issued December 2005.

Executive Order 12372

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

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

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

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

■ Accordingly, we are amending 9 CFR part 94 as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, CLASSICAL SWINE FEVER, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

■ 1. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

§ 94.1 [Amended]

■ 2. Section 94.1 is amended as follows:

■ a. In paragraph (a)(2), by adding the words ''Namibia (excluding the region north of the Veterinary Cordon Fence),'' after the word ''Mexico,''.

■ b. In paragraph (a)(3), by removing the words ''The Republic'' and adding the words ''Namibia and the Republic'' in their place.

§ 94.11 [Amended]

■ 3. In § 94.11, paragraph (a) is amended by adding the words ''Namibia (excluding the region north of the Veterinary Cordon Fence),'' before the words ''The Netherlands''.

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

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E6–17776 Filed 10–23–06; 8:45 am]

BILLING CODE 3410–34–P

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Regulation D; Docket No. R–1268]

Reserve Requirements of Depository Institutions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is amending Regulation D, Reserve Requirements of Depository Institutions, to reflect the annual indexing of the reserve requirement exemption amount and the low reserve tranche for 2007. The Regulation D amendments set the amount of total reservable liabilities of each depository institution that is subject to a zero percent reserve requirement in 2007 at $8.5 million, up from $7.8 million in 2006. This amount is known as the reserve requirement exemption amount. The Regulation D amendment also sets the amount of net

transaction accounts at each depository institution that is subject to a three percent reserve requirement in 2007 at $45.8 million, down from $48.3 million in 2006. This amount is known as the low reserve tranche. The adjustments to both of these amounts are derived using statutory formulas specified in the Federal Reserve Act.

The Board is also announcing changes in two other amounts, the nonexempt deposit cutoff level and the reduced reporting limit, that are used to determine the frequency at which depository institutions must submit deposit reports.

DATES: *Effective date:* November 24, 2006.

Compliance dates: For depository institutions that report deposit data weekly, the new low reserve tranche and reserve requirement exemption amount will apply to the fourteen-day reserve computation period that begins Tuesday, November 21, 2006, and the corresponding fourteen-day reserve maintenance period that begins Thursday, December 21, 2006. For depository institutions that report deposit data quarterly, the new low reserve tranche and reserve requirement exemption amount will apply to the seven-day reserve computation period that begins Tuesday, December 19, 2006, and the corresponding seven-day reserve maintenance period that begins Thursday, January 18, 2007. For all depository institutions, these new values of the nonexempt deposit cutoff level, the reserve requirement exemption amount, and the reduced reporting limit will be used to determine the frequency at which a depository institution submits deposit reports effective in either June or September 2007.

FOR FURTHER INFORMATION CONTACT: Heatherun Allison, Senior Counsel (202/452–3565), Legal Division, or Margaret Gillis, Financial Analyst (202/452–3139), Division of Monetary Affairs; for user of Telecommunications Device for the Deaf (TDD) only, contact (202/263–4869); Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Section 19(b)(2) of the Federal Reserve Act (12 U.S.C. 461(b)(2)) requires each depository institution to maintain reserves against its transaction accounts and nonpersonal time deposits, as prescribed by Board regulations, for the purpose of implementing monetary policy. Section 11(a)(2) of the Federal Reserve Act (12 U.S.C. 248(a)(2)) authorizes the Board to require reports of liabilities and assets from depository institutions to enable the Board to conduct monetary policy. The Board's actions with respect to each of these provisions are discussed in turn below.

1. Reserve Requirements

Pursuant to section 19(b) of the Federal Reserve Act (Act), transaction account balances maintained at each depository institution are subject to reserve requirement ratios of zero, three, or ten percent. Section 19(b)(11)(A) of the Act (12 U.S.C. 461(b)(11)(A)) provides that a zero percent reserve requirement shall apply at each depository institution to total reservable liabilities that do not exceed a certain amount, known as the reserve requirement exemption amount. Section 19(b)(11)(B) provides that, before December 31 of each year, the Board shall issue a regulation adjusting the reserve requirement exemption amount for the next calendar year if total reservable liabilities held at all depository institutions increase from one year to the next. No adjustment is made to the reserve requirement exemption amount if total reservable liabilities held at all depository institutions should decrease during the applicable time period. The Act requires the percentage increase in the reserve requirement exemption amount to be 80 percent of the increase in total reservable liabilities of all depository institutions over the one-year period that ends on the June 30 prior to the adjustment.

Total reservable liabilities of all depository institutions grew by 10.4 percent (from $3,361.8 billion to $3,712.7 billion) between June 30, 2005, and June 30, 2006. Accordingly, the Board is amending Regulation D to increase the reserve requirement exemption amount by $0.7 million, from $7.8 million for 2006 to $8.5 million for 2007.[1]

Pursuant to Section 19(b)(2) of the Act (12 U.S.C. 461(b)(2)), transaction account balances maintained at each depository institution over the reserve requirement exemption amount and up to a certain amount, known as the low reserve tranche, are subject to a three percent reserve requirement. Transaction account balances over the low reserve tranche are subject to a ten percent reserve requirement. Section 19(b)(2) also provides that, before December 31 of each year, the Board shall issue a regulation adjusting the low reserve tranche for the next calendar year. The Act requires the adjustment in the low reserve tranche to be 80 percent of the percentage increase or decrease in total transaction accounts of all depository institutions over the one-year period that ends on the June 30 prior to the adjustment.

Currently, the low reserve tranche is $48.3 million. Net transaction accounts of all depository institutions declined 6.4 percent (from $714.9 billion to $669.1 billion) between June 30, 2005 and June 30, 2006. Accordingly, the Board is amending Regulation D (12 CFR part 204) to decrease the low reserve tranche for net transaction accounts by $2.5 million, from $48.3 million for 2006 to $45.8 million for 2007.

For depository institutions that file deposit reports weekly, the new low reserve tranche and reserve requirement exemption amount will be effective for the fourteen-day reserve computation period beginning Tuesday, November 21, 2006, and for the corresponding fourteen-day reserve maintenance period beginning Thursday, December 21, 2006. For depository institutions that report quarterly, the new low reserve tranche and reserve requirement exemption amount will be effective for the seven-day reserve computation period beginning Tuesday, December 19, 2006, and for the corresponding seven-day reserve maintenance period beginning Thursday, January 18, 2007.

2. Deposit Reports

Section 11(b)(2) of the Federal Reserve Act authorizes the Board to require depository institutions to file reports of their liabilities and assets as the Board may determine to be necessary or desirable to enable it to discharge its responsibility to monitor and control the monetary and credit aggregates. The Board screens depository institutions each year and assigns them to one of four deposit reporting panels (weekly reporters, quarterly reporters, annual reporters, or nonreporters). The panel assignment for annual reporters is effective in June of the screening year; the panel assignment for weekly and quarterly reporters is effective in September of the screening year.

In order to ease reporting burden, the Board permits smaller depository institutions to submit deposit reports less frequently than larger depository institutions. In the past, the Board used the level of a depository institution's total deposits as one of the measures for determining the frequency at which a depository institution files deposit reports. With the elimination of M3, the Board announced in July 2006 that it

[1] Consistent with Board practice, the low reserve tranche and reserve requirement exemption amounts have been rounded to the nearest $0.1 million.

would use a measure of deposits based on M2 instead of total deposits. That measure of deposits is the sum of total transaction accounts, savings deposits, and small time deposits.[2]

The Board permits depository institutions with net transaction accounts above the reserve requirement exemption amount but with a sum of total transaction accounts, savings deposits, and small time deposits below a specified level (the ''nonexempt deposit cutoff'') to report deposit data quarterly. The Board requires certain large depository institutions to report weekly regardless of the level of their net transaction accounts if the sum of total transaction accounts, savings deposits, and small time deposits exceeds a specified level (the ''reduced reporting limit''). The nonexempt deposit cutoff level and the reduced reporting limit are adjusted annually, by an amount equal to 80 percent of the increase, if any, in the sum of total transaction accounts, savings deposits, and small time deposits of all depository institutions over the one-year period that ends on the June 30 prior to the adjustment. In the past, the Board has adjusted the nonexempt deposit cutoff level and the reduced reporting limit above their indexed levels as a part of its triennial review of the reports of deposit.

From June 30, 2005 to June 30, 2006, the sum of total transaction accounts, savings deposits, and small time deposits at all depository institutions increased 4.8 percent (from $5,598.0 billion to $5,867.1 billion). Accordingly, the Board is adjusting the nonexempt deposit cutoff level to $207.7 million for 2007. The Board is also adjusting the reduced reporting limit to $1.163 billion for 2007.[3]

Beginning in September 2007, the boundaries of the four deposit reporting panels will be defined as follows. Those depository institutions with net transaction accounts over $8.5 million (the reserve requirement exemption amount) or with the sum of total transaction accounts, savings deposits, and small time deposits greater than or equal to $1.163 billion (the reduced reporting limit) are subject to detailed reporting, and must file a Report of Transaction Accounts, Other Deposits and Vault Cash (FR 2900 report) either weekly or quarterly. Of this group, those with the sum of total transaction accounts, savings deposits, and small time deposits greater than or equal to $207.7 million (the nonexempt deposit cutoff level) are required to file the FR 2900 report each week, while those with the sum of total transaction accounts, savings deposits, and small time deposits less than $207.7 million are required to file the FR 2900 report each quarter. Those depository institutions with net transaction accounts less than or equal to $8.5 million (the reserve requirement exemption amount) and with the sum of total transaction accounts, savings deposits, and small time deposits less than $1.163 billion (the reduced reporting limit) are eligible for reduced reporting, and must either file a deposit report annually or not at all. Of this group, those with total deposits greater than $8.5 million (but less than $1.163 billion) are required to file the Annual Report of Deposits and Reservable Liabilities (FR 2910a) report annually, while those with total deposits less than or equal to $8.5 million are not required to file a deposit report. A depository institution that adjusts reported values on its FR 2910a report in order to qualify for reduced reporting will be shifted to an FR 2900 reporting panel.

Notice and Regulatory Flexibility Act. The provisions of 5 U.S.C. 553(b) relating to notice of proposed rulemaking have not been followed in connection with the adoption of these amendments. The amendments involve expected, ministerial adjustments prescribed by statute and by the Board's policy concerning reporting practices. The adjustments in the reserve requirement exemption amount, the low reserve tranche, the nonexempt deposit cutoff level, and the reduced reporting limit serve to reduce regulatory burdens on depository institutions. Accordingly, the Board finds good cause for determining, and so determines, that notice in accordance with 5 U.S.C. 553(b) is unnecessary. Consequently, the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601, do not apply to these amendments.

List of Subjects in 12 CFR Part 204

Banks, banking, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, the Board is amending 12 CFR part 204 as follows:

PART 204—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (REGULATION D)

■ 1. The authority citation for part 204 continues to read as follows:

Authority: 12 U.S.C. 248(a), 248(c), 371a, 461, 601, 611, and 3105.

■ 2. Section 204.9 is revised to read as follows:

§ 204.9 Reserve requirement ratios.

The following reserve requirement ratios are prescribed for all depository institutions, banking Edge and agreement corporations, and United States branches and agencies of foreign banks:

Category	Reserve requirement
Net transaction accounts:	
$0 to $8.5 million	0 percent of amount.
Over $8.5 million and up to $45.8 million	3 percent of amount.
Over $45.8 million	$1,119,000 plus 10 percent of amount over $45.8 million.
Nonpersonal time deposits	0 percent.
Eurocurrency liabilities	0 percent.

[2] This measure also includes ineligible acceptances and obligations issued by affiliates maturing in less than seven days.

[3] Consistent with Board practice, the nonexempt deposit cutoff level has been rounded to the nearest $0.1 million, and the reduced reporting limit has been rounded to the nearest $1 million.

By order of the Board of Governors of the Federal Reserve System, October 18, 2006.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E6–17737 Filed 10–23–06; 8:45 am]

BILLING CODE 6210–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

RIN: 3245–AE81

Small Business Size Standards; Surety Bond Guarantee Program

AGENCY: U.S. Small Business Administration.

ACTION: Final rule.

SUMMARY: This rule finalizes the U.S. Small Business Administration's (SBA) November 14, 2005 interim final rule that amended the small business size standard for its Surety Bond Guarantee (SBG) Program for construction (general or special trades) or service concerns performing contracts in the Presidentially-declared disaster areas resulting from the 2005 Hurricanes Katrina, Rita, and Wilma by allowing them to meet either the size standard for the primary industry in which it, together with its affiliates, is engaged, or the current $6.5 million standard for the SBG Program, whichever is higher. The size standard under this rule will remain in effect until SBA determines it is no longer necessary.

DATES: *Effective Date:* This regulation becomes effective on November 24, 2006.

FOR FURTHER INFORMATION CONTACT: Carl Jordan, Office of Size Standards, (202) 205–6618 or *sizestandards@sba.gov.*

SUPPLEMENTARY INFORMATION:

SBA's Surety Bond Guarantee Program and Size Standards

SBA, through its SBG Program, can guarantee bid, performance, payment and ancillary bonds for contracts up to $2 million for small contractors who otherwise cannot obtain surety bonds without SBA's guarantee. SBA's guarantee gives sureties an incentive to provide bonding for eligible contractors; it strengthens a contractor's ability to obtain bonding and provides greater access to contracting opportunities. A contractor applying for an SBA bond guarantee must qualify as a small business concern, in addition to meeting the surety company's underwriting requirements. Generally, except as modified by the November 14, 2005 interim final rule, businesses in construction and service industries can qualify as small for the SBG Program on commercial, local or State contracts, if their average annual receipts, including those of their affiliates, for the last 3 fiscal years do not exceed $6.5 million (13 CFR 121.301(d)(1) and 13 CFR 121.104(c)).

In addition, a concern that qualifies as small for a prime contract with the Federal Government is qualified as ''small for financial assistance that is directly and primarily related to the performance of that particular contract'' (13 CFR 121.305). Therefore, if the concern meets the small business size standard for the North American Industry Classification System (NAICS) code designated by the contracting officer for a specific procurement, the concern is eligible for SBA's financial assistance programs, including the SBG Program, even when its annual receipts exceed $6.5 million.

What This Final Rule Accomplishes

On November 14, 2005, SBA published an interim final rule (70 FR 69048) revising the size standards for the SBG Program applicable to construction (general or special trades) and service concerns performing contracts in the Gulf Coast Region of the United States and in Florida that the President declared disaster areas following Hurricanes Katrina, Rita and Wilma in 2005. When the contract meets the performance location requirement, that interim final rule established that an SBG Program applicant concern is small when it meets the small business size standard for either the primary industry in which it, together with its affiliates, is engaged, or the then current SBG $6.0 million size standard, whichever is higher. On December 6, 2005, SBA issued an interim final rule (70 FR 72577) adjusting its monetary based size standards for inflation. In that interim final rule, SBA changed the surety bond guarantee size standard from $6.0 million to $6.5 million. Today's final rule adopts the November 14, 2005 interim final rule, with the inflation adjusted size standard of $6.5 million. Surety companies with whom SBA has executed a Preferred Surety Bond (PSB) Agreement under 13 CFR part 115 are responsible for determining eligibility under this regulation. SBA surety bond personnel are responsible for determining eligibility under this regulation for those surety guarantees that require SBA's prior approval.

This final rule also states in section 121.301(d)(3) that the concern is small if, together with its affiliates, it meets the requisite size standard. This merely clarifies that the concern must include the annual receipts or number of employees of its affiliates when determining if it is small. This language is the same as in section 121.301(d)(1). In addition, under SBA's small business size regulations and for all SBA programs, concerns must always include the annual receipts or number of employees of affiliates to determine if they are small (13 CFR 121.103, 121.104 and 121.106).

In the Supplementary Information in the November 14, 2005 interim final rule, SBA stated that the amended size standards under the interim final rule are applicable until SBA determines that it is no longer necessary to expand the availability of SBG Program assistance for reconstruction and recovery of the Gulf Coast Region of the United States and in Florida that the President declared disaster areas following Hurricanes Katrina, Rita and Wilma in 2005. SBA further stated that the interim final rule was a specific response to those natural disasters. SBA recognizes that small construction and service contractors need this assistance now and in the very near future.

The need for this size standard for the SBG Program should be no longer necessary when expanded contractor participation has ceased or declined significantly relative to past experience. Because of ongoing major recovery efforts in the disaster areas where this size standard is valid, SBA cannot foresee precisely when the need for expanded SBG assistance in the disaster areas will end. Construction contracts can be long term, and subcontracts are sometimes not awarded or begun until well into the overall general contract. SBA does believe, however, that this could take at least three more years.

SBA will monitor the SBG Program, particularly the use of this modified size standard for work in the disaster areas. SBA's Office of Surety Guarantees will monitor annual Federal and State spending for rebuilding efforts, and as rebuilding approaches the desired end state, the office will continue to scrutinize the size and location of contracts bonded and the size of the small businesses that receive them. If SBA determines that this amended size standard causes an adverse effect on local small businesses or that the modified size standard is no longer needed, it will terminate or otherwise modify 13 CFR 121.301(d)(3).

However, SBA will not terminate this special size standard without first proposing to do so by publishing a proposed rule in the **Federal Register**. The proposed rule will seek public comment on discontinuing the size

standard, and it will propose a date on which it would cease to apply.

Cessation or withdrawal of this size standard will have no affect on outstanding surety bonds that SBA has guaranteed. Contractors for whom SBA has guaranteed their bid bonds will remain eligible for performance, payment, maintenance and other required ancillary bonds, regardless of when they are needed. Similarly, contractors for whom SBA has guaranteed performance and payment bonds, will remain eligible for guaranteed maintenance and the other ancillary bonds required by the contract.

Summary of Comments to the November 14, 2005 Interim Final Rule

In the November 14, 2005 interim final rule, SBA requested comments on how long the amended size standards should apply to construction and service concerns performing contracts or subcontracts in the specified disaster areas, factors SBA should consider before determining that the size standards are no longer necessary, and the appropriate Agency action after SBA makes that determination. SBA received three comments to the interim final rule: (1) Two surety associations and an insurance association filed joint comments on behalf of their member companies and their producers; (2) an association of small minority contractors filed comments on behalf of its members; and (3) an independent business submitted comments.

The surety and insurance associations' comments reflected their concern that expanding SBG assistance to more and larger construction and service concerns might dilute SBA financial resources and services available to the truly small and emerging contractor. However, as the association also noted, ''the SBA program currently is operating at only one-third of its capacity''. SBA believes that its financial resources are sufficient to absorb the additional obligations it may undertake under this regulation without adversely affecting other small businesses.

The surety and insurance industries also expressed concern that the rule could create added administrative burdens for surety companies participating in the PSB Program. The new burdens could involve determining that an applicant company is within its industry size standard and assuring the contractor performs the construction work within the designated disaster areas. SBA believes any additional burden will be minimal. Surety companies already collect substantial information on their clients before they extend surety credit, such as annual and interim financial statements, company location, past contract performance information, and contract performance location.

Furthermore, sureties already review an applicant's size. Determining whether a company meets a size standard is similar regardless of what the size standard is—$6.5 million or its industry standard, expressed in annual receipts or number of employees. Sureties collect and report to SBA the NAICS codes for their clients. SBA does not believe matching NAICS industry codes to their small business size standard constitutes a substantially increased burden. For construction, there are few size standards: $31 million for heavy and civil construction; $13 million for special trades; and $18.5 million for dredging. Size standards for service industries range from $3.5 million to $32.5 million in average annual receipts. SBA is not changing how to calculate whether a business concern is small. For receipts-based size standards, the calculation is still based upon the average annual receipts for the concern's 3 immediately preceding fiscal years. This is the same calculation used for the current $6.5 million size standard, and for those concerns and/or contracts that do not meet the location of contract performance criterion of this regulation. Thus, SBA does not believe there are substantial new burdens placed on the surety companies in this rule.

The surety and insurance industries also expressed concern that SBA would not honor a surety bond guarantee if a surety did not properly document that the bond the company issued and SBA guaranteed met the criteria required by this rule. However, the information that surety companies collect and maintain for this amended size standard is what they now collect to support SBA guaranteed surety bonds. SBA has specified in this rule that the place of performance must be within certain geographical areas in order to use the amended size standards. SBA expects that sureties know the place of performance when they issue surety bonds. So long as they retain that information in their underwriting files, and the place of contract performance is in fact within the declared disaster areas, SBA does not see this as jeopardizing its guarantee on those bonds.

Moreover, SBA's small business size regulations at 13 CFR 121.305 have permitted a small construction or service contractor with annual receipts greater than $6.5 million to qualify for its SBG Program when a concern is a prime contractor with the Federal Government and it meets the size standard corresponding to the NAICS code assigned to the procurement. Under such circumstances, the surety has been determining whether a construction or service concern meets the size standard for the Federal procurement for which it submits an offer as a prime contractor, regardless of whether or not the concern has receipts in excess of $6.5 million. Thus, SBA believes that this final rule creates no additional burdens on the surety companies, since they now use the same criteria under section 121.305. Because a surety must now determine a contractor's eligibility based on the NAICS code that the contracting officer specified, SBA does not believe there is a substantially increased burden under this final rule.

SBA also received comments from an association of small minority contractors. The association opposed the new SBG Program size standard and requested an immediate return to the prior size standard. In lieu of an immediate return, the association suggested terminating it 90 days from its effective date, which was November 14, 2005. The association expressed concern that increasing the size standard for these contracts unfairly increases competition for smaller businesses, specifically those below the current $6.5 million SBG size standard. The association was also concerned that the interim final rule rendered any construction or services concern eligible for SBG assistance, regardless of its principal place of business, so long as it performs its contract in the disaster area and meets the modified size standard. This would, according to the association, unnecessarily increase competition for contractors located in the disaster areas. The association believed these factors would negatively affect small minority contractors, who most need bond guarantees.

SBA takes very seriously the possibility of negative effects on smaller contractors. In this case, however, SBA does not believe that companies not located in the disaster areas, if they perform contracts in the disaster areas and meet the modified standard, will adversely affect local small businesses. Because of the extreme demand for construction and services in the disaster areas, SBA expects there will be more contracts. SBA believes that the priority should be to help restore and reconstruct the disaster areas, and all small businesses should have greater opportunities to participate in this effort. As SBA states above, it will monitor these bonded contracts. If SBA

finds that this rule has adversely affected local smaller businesses, then it will consider withdrawing or otherwise modifying this subsection.

The third commenter was a small business that fully supported this regulation. Based on the commenter's remarks, it would appear that this size standard would not apply to its businesses. As the commenter describes his company, it is a supplier of telecommunications equipment. Therefore, it is not subject to a receipts-based size standard. The company would not be categorized as a construction or services firm. Rather, it would be classified as a manufacturer or dealer subject to a size standard based on the number of employees. The SBG size standard that applies is the same as this rule establishes; that is, it must meet the size standards for the industry in which it, together with its affiliates, is engaged (13 CFR 121.301(d)(2)). The commenter included additional comments that were not germane to the specifics of this regulation, but rather related to the size standard for the SBG Program itself.

Compliance With Executive Orders 12866, 12988, and 13132, the Regulatory Flexibility Act (5 U.S.C. 601–612) and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

The Office of Management and Budget has determined that this rule is a significant regulatory action under section 3(f) of Executive Order 12866. A general discussion of the need for this regulatory action and its potential costs and benefits follows.

1. Is there a need for the regulatory action?

As discussed in the November 14, 2005 interim final rule, this rule is necessary to extend the Agency's SBG Program to certain construction and service contractors when they undertake contracts in the disaster areas. The amended SBG Program size standard has limited applicability; that is, to contracts in the areas that the President declared a disaster in the Gulf Coast Region of the United States and in Florida, following Hurricanes Katrina, Rita and Wilma in 2005.

The amended size standard enables as many small construction and service concerns as possible to help in the enormous task of renewing and reconstructing the disaster areas. This rule will increase available resources toward that end.

SBA's statutory mission is to aid and assist small businesses through a variety of financial, procurement, business development and advocacy programs. To assist intended beneficiaries of these programs effectively, SBA must establish distinct standards to define small businesses. The Small Business Act (Act) delegates responsibility for establishing small business definitions to the SBA Administrator (15 U.S.C. 632(a)). The Act also requires that small business definitions vary to reflect industry differences, as necessary. This modified size standard provides financial assistance to small businesses, a part of SBA's statutory mission.

2. What are the potential benefits and costs of this regulatory action?

Anticipated total recovery and reconstruction costs for the Gulf Coast and Florida will be in the billions of dollars. SBA cannot estimate the number or value of contracts, whether Federal or non-Federal, that small construction and service concerns will receive in this undertaking. SBA also cannot estimate the number or value of contracts that will require surety bonds or the number or value of surety bonds that SBA will guarantee. Nor can it estimate the number of small businesses that will participate in the SBG Program under the expanded eligibility this rule provides.

SBA can say, however, that given the possible volume and size of awards, it is probable that the needs of the disaster area exceed local available resources, at least to the extent necessary to accomplish the necessary work within a suitable time. SBA believes it is important to have as many small businesses as possible participating in renewing and reconstructing the disaster areas.

Broadening eligibility for its SBG Program will provide disaster victims with significant and timely benefits when and where the greatest needs exist. For example, disaster affected small business concerns can receive SBG Program assistance to restart their businesses. Small businesses eligible under this modified size standard will also participate, as either general contractors or subcontractors, in the reconstruction of the areas' infrastructure. More small business concerns may now qualify for surety bonds with SBA's guarantee, and recover from and help others recover from the hurricanes' effects.

SBA expects the number of SBA guaranteed bonds to increase under this regulation. Although SBA does not anticipate loss rates changing significantly, the Government may incur additional costs to honor its guarantee on a greater volume of (but stable percentage of) defaulted bonds. SBA must honor its guarantees to the sureties on defaulted bonds for the percentage of loss that it guaranteed. Guaranteed amounts vary as follows: (1) Under the PSB Program, 70 percent; and (2) under the prior approval program, contracts valued at $100,000 or less, or on behalf of a concern owned by a socially and economically disadvantaged individual, or a HUBZone qualified small business, 80 percent to 90 percent (13 CFR 115.31 and 115.68). For fiscal years 2003, 2004 and 2005, SBA's loss rates were 1.8 percent, 1.3 percent and 1.6 percent, respectively. SBA expects these rates to remain stable even though the volume of SBA guaranteed surety bonds may increase.

Among businesses seeking SBA's assistance through the SBG Program, there could be additional costs for professional time required to complete applications for the surety and the SBA guarantee. Businesses also incur costs through payment of fees to participate in the SBG Program. Surety companies pay SBA 26 percent of the bond premium they collect and contractors pay $7.29 per $1,000 of the contract value, which the surety companies remit to SBA (71 FR 9632, dated April 3, 2006). This rule does not affect these fees. Total fees will increase because aggregate contract values will increase as a result of greater usage of the SBG Program.

Although there have been no protests of an SBG Program participant's small business status in at least the last 5 years, businesses might also incur legal costs associated with defending themselves against size protests. Businesses may also incur legal costs associated with compliance.

Both surety companies and SBA could incur additional administrative costs associated with processing the anticipated increased volume of surety bond applications and applications for the SBA guarantee. There may be additional administrative costs for PSB surety bond companies because they must document the contractors' eligibility for the SBA guaranteed surety bond under the amended size standard. SBA anticipates, however, that these additional administrative costs will be minimal because surety companies and SBA already perform these administrative functions in the ordinary course of business. SBA does not anticipate an increase in its human resources with the related administrative costs. The increased surety fees, as described above, will also add to SBA's reserves and proportionately offset the additional guarantee payments, if any.

SBA anticipates little or no adverse effects on currently defined small

businesses because of the increased number of newly eligible small businesses. Potentially, a newly defined small business could obtain a contract that a currently defined small business might have received. SBA expects those cases to be few in number because the decision to award a contract is based on many considerations. This rule enhances the environment for small construction and service concerns to compete for opportunities and strengthens their competitiveness related to contracts in the Gulf Coast Region of the United States and in Florida that the President declared disaster areas following Hurricanes Katrina, Rita and Wilma in 2005.

For purposes of Executive Order 12988, SBA has drafted this rule, to the extent practicable, in accordance with the standards set forth in section 3 of that Order.

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

SBA has determined that this rule does not impose any new information collection requirements from SBA that require approval by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. Ch. 35.

Final Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act (RFA), this rule may have a significant impact on a substantial number of small entities. Immediately below, SBA sets forth a final regulatory flexibility analysis (FRFA). The FRFA addresses the reasons for promulgating the rule; the objectives of this rule; SBA's descriptions and estimate of the number of small entities to which the rule will apply; the projected reporting record keeping and other compliance requirements of the rule; the relevant Federal rules which may duplicate, overlap or conflict with the rule; and alternatives considered by SBA.

1. What is the reason for this action?

This rule increases contracting opportunities for more small businesses. It extends eligibility for SBG Program assistance to certain construction and service contractors that were previously ineligible for the program because their average annual receipts exceed $6.5 million. It provides eligibility under the same small business size standards that apply to applicants for all other SBA financial assistance programs. Construction and service concerns that will perform contracts in the Gulf Coast regions and in Florida that the President declared disaster areas following Hurricanes Katrina, Rita and Wilma in 2005 are eligible if they meet the size standard stated in the regulation.

The amended size standard will also assist small construction and service concerns in the disaster areas whose financial conditions suffered adverse effects from the disasters. SBA's SBG guarantee can afford surety companies added incentive to provide these companies surety bonds if they meet their other underwriting requirements.

2. What are the objectives and legal basis for the rule?

SBA intends to assist firms that will contribute to the recovery and reconstruction efforts in the Gulf Coast and Florida. SBA's objective is to involve as many small businesses as possible in that effort.

Section 3(a) of the Small Business Act (15 U.S.C. 632(a)) gives SBA authority to establish and change size standards. SBA is using this authority to provide SBG Program assistance to those who need it and who can help with recovery and reconstruction.

3. What is SBA's description and estimate of the number of small entities to which the rule will apply?

This rule applies to all construction (general and special trades) and service concerns that meet the amended size standard, regardless of their principal place of business, that will perform their SBA guaranteed bonded contracts in the declared disaster areas. As stated above, SBA will monitor the SBG Program, particularly the use of this modified size standard for work in the disaster areas. SBA has not assessed the number of small construction and service contractors to whom it will apply, because there is not yet any adequate data on which to make such an estimate. SBA cannot estimate how many small construction and service concerns are in and how many are outside of the declared disaster areas. In addition, while it does have data on small businesses on a national basis, it does not have such information by State or other political jurisdiction. These data are what SBA uses to evaluate and establish small business size standards, which apply on a national basis.

The scope of this amended size standard is limited to contracts performed in the Gulf Coast Region of the United States and in Florida that the President declared disaster areas following Hurricanes Katrina, Rita and Wilma in 2005.

The most significant benefits of this rule will flow to small construction and service contractors that had not been eligible for SBG assistance before this rule because their average annual receipts exceeded $6.5 million. Under this rule, they are eligible if they (together with their affiliates) meet the small business size standards for their primary industries or the current SBG $6.5 million standard, whichever is higher, as well as meet the other requirement as to place of contract performance. Benefits will also flow to other entities in the disaster areas that can use the services of contractors not eligible for the SBG Program until now.

SBA cannot estimate the number or value of Federal or non-Federal contracts that will require surety bonds. SBA cannot estimate the number of small businesses that will apply for SBG guarantees on their surety bonds or how many of those are located in the declared disaster areas. SBA believes, however, that increased contracting opportunities to participate in SBA's SBG Program will provide disaster victims with significant and timely benefits. Small construction and service contractors can receive SBG Program assistance to restart their businesses, if necessary, or help in their areas' reconstruction efforts. Under this size standard, more small business concerns may also qualify for more contracts and surety bonds with SBA's guarantee.

Entities that are not small businesses, such as not-for-profit entities, cities, towns, and other political subdivisions that often require contractors to provide surety bonds to guarantee their contract performance, will benefit as well, because there will be a larger pool of bondable contractors that can perform work as needed.

4. Summary of significant issues raised by the public in response to the Initial Regulatory Flexibility Analysis in the November 14, 2005 Interim Final Rule

SBA summarized above the three comments it received to the November 14, 2005 interim final rule. The surety and insurance industries' comments addressed a perceived increased recordkeeping burden on them to preserve SBA's guarantee on bonds they issue under this rule. However, SBA does not believe that this rule adds any additional recordkeeping requirements since it does not require sureties to maintain any information that they are not already required to maintain when they issue a bond with SBA's guarantee. The surety must document that the concern meets the small business size

standard, which will continue as a requirement. The surety also knows where the contractor will perform its contract or subcontract before it issues its bond. Under this modified size standard, before issuing a surety bond with SBA's guarantees, the surety must be sure the bond guarantees a contract in one or more of the counties or parishes that the President declared disaster areas following Hurricanes Katrina, Rita and Wilma in 2005. SBA has made the list of those counties and parishes readily available at *http://www.sba.gov/disaster_recov/katrina_rita_and_wilma_counties.pdf.*

The association of small minority contractors expressed concern that there will be increased competition for contracts in the disaster areas as a result of this rule. This competition could come both from larger small companies in the disaster areas and from out of state companies. As stated above, SBA takes very seriously the possibility of negative effects on smaller contractors. In this case, however, SBA does not believe that companies not located in the disaster areas, if they are performing contracts in the disaster areas and meet this modified standard, will adversely affect resident small businesses. Because of the extreme demand for construction and services in the disaster areas, SBA expects there will be more contracts in the affected areas. SBA believes that the priority should be to help restore and reconstruct the disaster areas, and all small businesses should have greater opportunities to participate in this. SBA will monitor bonded contracts for which SBA has extended its guarantee. If SBA finds that this rule has adversely affected local smaller businesses, then it will consider withdrawing or otherwise modifying this subsection.

5. Will this rule impose any additional reporting or recordkeeping requirements on small business entities?

This rule does not impose any new information collection requirements under the Paperwork Reduction Act of 1980, 44 U.S.C. Ch. 35. A new size standard does not impose any additional reporting, recordkeeping or compliance requirements on small entities. Increasing size standards expands access to SBA programs that assist small businesses, but does not impose a regulatory burden because small business size standards neither regulate nor control business behavior.

6. What are the relevant Federal rules that may duplicate, overlap or conflict with this rule?

This rule affects only SBA's SBG Program. This rule does not overlap with other Federal rules that use SBA's size standards to define a small business. Under § 632(a)(2)(C) of the Small Business Act, unless specifically authorized by statute, Federal agencies must use SBA's size standards to define a small business. SBA published in the November 24, 1995, **Federal Register** a table of statutory and regulatory size standards set by agencies other than SBA. (60 FR 57988–57991) SBA is not aware of any Federal rule that would duplicate or conflict with this rule.

7. What alternatives did SBA consider?

SBA considered establishing a termination date for application of this size standard. SBA is not adopting this approach because it has no data it can use to anticipate when the amended size standard should no longer be available. Because SBA will be monitoring use of this size standard, it will be able to determine in the future how long the Agency should retain it for the SBG Program. As discussed above in the Supplemental Information, SBA will not terminate or withdraw this size standard without first seeking public comment to a proposed rule to do so. SBA will publish, in accordance with the Administrative Procedure Act, its proposal in the **Federal Register.**

Another alternative SBA considered was limiting applicability to concerns that were located within or had a place of business in the disaster areas when the hurricanes occurred. As noted above, some commenters indicated a preference for limiting eligibility to small businesses located within the disaster areas. Because this is a specific response to the disasters' effects, SBA believes it must increase available resources for the recovery and reconstruction by increasing the number of small businesses that can participate in this work. SBA's Office of Surety Guarantees will continue to monitor the SBG Program, including in particular the use of this modified size standard, for work in the disaster areas. SBA will examine the size of contracts bonded and the size of the small businesses that receive them. If SBA determines that this amended size standard causes an adverse effect on local small businesses or that the modified size standard is no longer necessary, it will consider modifying the regulation.

SBA also considered applying this size standard to any contract, no matter where performed, provided it was directly and/or primarily related to the recovery and reconstruction efforts in the declared disaster areas. However, SBA believes that establishing a clear and direct nexus of a contract or subcontract to the recovery and reconstruction efforts in the disaster areas would not be practicable, and would cause an unnecessary burden on sureties.

List of Subjects in 13 CFR Part 121

Government procurement, Loan programs—business, Reporting and recordkeeping requirements, Small business.

■ For the reasons set forth in the preamble, amend part 121 of title 13 Code of Federal Regulations as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

■ 1. The authority citation for part 121 continues to read as follows:

Authority: 15 U.S.C. 632, 634(b)(6), 636(b), 637(a), 644, and 662(5); and Pub. L. 105–135, sec. 401 *et seq.*, 111 Stat. 2592.

■ 2. Amend § 121.301 by revising paragraph (d)(1) and paragraph (d)(3) to read as follows:

§ 121.301 What size standards are applicable to financial assistance programs?

* * * * *

(d) * * *

(1) Any construction (general or special trade) concern or concern performing a contract for services is small if, together with its affiliates, its average annual receipts do not exceed $6.5 million, except as provided in § 121.301(d)(3).

(2) * * *

(3) For any contract or subcontract, public or private, to be performed in the Presidentially-declared disaster areas resulting from the 2005 Hurricanes Katrina, Rita or Wilma, a construction (general or special trade) concern or concern performing a contract for services is small if, together with its affiliates, it meets the size standard for the primary industry in which it, together with its affiliates, is engaged, or if it meets the size standard set forth in paragraph (d)(1), whichever is higher.

* * * * *

Dated: October 13, 2006.

Steven C. Preston,

Administrator.

[FR Doc. E6–17682 Filed 10–23–06; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No. FAA–2004–19835]

RIN 2120–AH82

Disqualification for Airman and Medical Certificate Holders Based on Alcohol Violations and Refusals To Submit to Drug or Alcohol Testing

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correcting amendment.

SUMMARY: This document makes a correction to the final regulation published in the **Federal Register** on June 21, 2006. (71 FR 35760) This rule amended the airman medical certification standards to disqualify an airman based on an alcohol test result of 0.04 or greater breath alcohol concentration (BAC) or a refusal to take a drug or alcohol test required by the Department of Transportation (DOT) or a DOT agency.

DATES: Effective October 24, 2006.

FOR FURTHER INFORMATION CALL: Patrice M. Kelly, telephone (202) 267–8442.

SUPPLEMENTARY INFORMATION:

Need for Correction

As published, the final regulation contains an error referring to a drug test required that should read alcohol test required.

List of Subjects in 14 CFR Part 121

Air carriers, Aircraft, Airmen, Alcohol abuse, Aviation safety, Charter flights, Drug abuse, Drug testing, Reporting and recordkeeping requirements, Safety, Transportation.

■ Accordingly, 14 CFR part 121 is corrected by making the following correcting amendment:

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

■ 1. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 40119, 41706, 44101, 44701–44703, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44903–44904, 44912, 45101–45105, 46105.

■ 2. Revise paragraph D.1 of section V of Appendix J to Part 121 to read as follows:

Appendix J to Part 121—Alcohol Misuse Prevention Program

* * * * *

V. * * *

D. Notice of Refusals.

1. Each covered employer must notify the FAA within 2 working days of any employee who holds a certificate issued under part 61, part 63, or part 65 of this chapter who has refused to submit to an alcohol test required under this appendix. Notification must be sent to: Federal Aviation Administration, Office of Aerospace Medicine, Drug Abatement Division (AAM–800), 800 Independence Avenue, SW., Washington, DC 20591 or by fax to (202) 267–5200.

* * * * *

Issued in Washington, DC, on October 13, 2006.

Brenda D. Courtney,

Acting Director, Office of Rulemaking.

[FR Doc. E6–17823 Filed 10–23–06; 8:45 am]

BILLING CODE 4910–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Parts 1260 and 1274

RIN 2700–AD30

NASA Grant and Cooperative Agreement Handbook—Training Grant and Award Procedures

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This final rule makes the following administrative changes to NASA internal procedures: 14 CFR 1260.12(c)(3)(iii) is revised to identify the new name of the Science Mission Directorate's (SMD's) graduate fellowship program; and 14 CFR 1274.211(a) is revised to conform the HQ public announcement procedures to those in the NASA FAR Supplement (NFS).

DATES: *Effective Date:* This final rule is effective October 24, 2006.

FOR FURTHER INFORMATION CONTACT: Jamiel C. Commodore, NASA, Office of Procurement, Contract Management Division; (202) 358–0302; e-mail: *Jamiel.C.Commodore@nasa.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

Following a reorganization, the NASA Earth System Science Fellowship Program was renamed the NASA Earth and Space Science Fellowship Program. This final rule includes the administrative change to 14 CFR 1260.12(c)(3)(iii) to reflect the new program title.

Section 1805.303–71 of the NFS has been revised to require notification of the Administrator at least three days before the public announcement of contract award. This final rule makes an administrative change to the Grant Handbook to establish the same notification period for cooperative agreements with commercial firms.

B. Regulatory Flexibility Act

NASA certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq*, because the changes are merely administrative and affect only internal Agency procedures.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this rule does not impose any new recordkeeping or information collection requirements, or collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 14 CFR Parts 1260 and 1274

Grant programs—science and technology.

Tom Luedtke,

Assistant Administrator for Procurement.

■ Accordingly, 14 CFR parts 1260 and 1274 are amended as follows:

PART 1260–GRANTS AND COOPERATIVE AGREEMENTS

■ 1. The authority citation for 14 CFR Part 1260 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1), Public Law 97–258, 96 Stat. 1003 (31 U.S.C. 6301, *et seq*), and OMB Circular A–110.

■ 2. Amend § 1260.12 by revising paragraph (c)(3)(iii) to read as follows:

§ 1260.12 Choice of award instrument.

* * * * *

(c) * * *

(3) * * *

(iii) Students and faculty receiving direct support under a NASA training grant must be U.S. citizens, except for those supported by the NASA Earth and Space Science Fellowship Program, the NASA Earth System Science Fellowship Program, the Graduate Student Fellowship in Global Change Research Program, and the GLOBE Program.

* * * * *

PART 1274—COOPERATIVE AGREEMENTS WITH COMMERCIAL FIRMS

■ 3. The authority citation for 14 CFR part 1274 continues to read as follows:

Authority: 31 U.S.C. § 6301 to 6308; 42 U.S.C. § 2451, *et seq.*

■ 4. Amend § 1274.211 by revising paragraph (a) to read as follows:

§ 1274.211 Award procedures.

(a) In accordance with NFS 1805.303–71, the NASA Administrator shall be notified at least three (3) workdays before a planned public announcement for award of a cooperative agreement (regardless of dollar value), if it is thought the agreement may be of significant interest to Headquarters.

* * * * *

[FR Doc. E6–17801 Filed 10–23–06; 8:45 am]

BILLING CODE 7510–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 160

[USCG–2006–26016]

Notice of Arrival; Port or Place of Destination

AGENCY: Coast Guard, DHS.

ACTION: Notice of policy.

SUMMARY: The Coast Guard is announcing its policy regarding the term ''port or place of destination'' used in our notice of arrival regulations in 33 CFR Part 160, Subpart C. We are issuing this notice to provide clarification as to how that term will be used by Coast Guard personnel enforcing our notice of arrival regulations.

DATES: This notice is effective October 24, 2006.

FOR FURTHER INFORMATION CONTACT: If you have any questions regarding this document, contact Lieutenant Junior Grade Julie Miller, Office of Vessel Activities (G–PCV), Coast Guard, by e-mail, *Julie.E.Miller@uscg.mil,* or telephone 202–372–1244.

SUPPLEMENTARY INFORMATION:

Background and Purpose

Representatives from the maritime industry have requested clarification of the definition of ''port or place of destination'' found in 33 CFR 160.204. This term is defined as ''any port or place in which a vessel is bound to anchor or moor.'' These requests for clarification arise from two situations.

First, while many vessels arriving at a port or place of destination when operating solely between ports or places within a single Captain of the Port (COTP) zone are exempt from submitting a notice of arrival (NOA), 33 CFR 160.203(b)(2), vessels carrying certain dangerous cargo (CDC) are not. A vessel carrying CDC must submit a NOA for any port or place of destination, including movements within a COTP zone. Because of confusion about the term ''port or place of destination,'' some vessels carrying CDC submit NOAs every time the vessel changes berths or piers in the same port in certain COTP zones, while others only submit NOAs when they depart the current port and enter another port within the same COTP zone.

Second, in some U.S. ports, after entering the port, transit time or distance to the berth is lengthy. Ports in Portland, OR, and New Orleans, LA, are two examples. In such situations the cognizant COTP may have an interest in when certain vessels arrive at the sea buoy or pilot station. In other U.S. ports, where transits are short or where the vessel must transit through another COTP zone to arrive at its intended berth (for example, transiting Hampton Roads, VA to get to Baltimore, MD) the COTP uses the vessel's arrival time at the berth or dock as the basis for enforcing compliance with the NOA regulation submission requirements.

Policy

In the two situations described above, the Coast Guard will exercise its discretion in enforcing NOA regulations as follows.

A vessel required to submit a NOA for ports or places of destination within a single COTP zone (for example, a vessel carrying CDCs) need only do so if the vessel is actually moving from one port to another port within that COTP zone. The Coast Guard will not view the movement from one dock to another dock, one berth to another berth, or one anchorage to another anchorage within one port as being a transit from one ''port or place of destination'' to a different ''port or place of destination.''

A sea buoy or pilot station for a port will not be considered the arrival point for a vessel bound to anchor or moor in that port unless either the sea buoy or pilot station is the actual location where the vessel is bound to anchor or moor. If, based on information about a particular vessel, a COTP finds it necessary to know when that vessel reaches a sea buoy or pilot station, under separate authority he or she may issue an appropriate order specific to that vessel. The order may direct the vessel operator to advise the COTP when the vessel arrives, or is estimated to arrive, at the sea buoy or pilot station. It is anticipated this authority will be exercised only when necessary and will be specific to a particular vessel.

Dated: October 13, 2006.

F.J. Sturm,

Captain, U.S. Coast Guard, Acting Director of Inspections and Compliance.

[FR Doc. E6–17822 Filed 10–23–06; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2006–0607; FRL–8233–2]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; State Implementation Plan Revision for American Cyanamid Company, Havre de Grace, MD

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Maryland. The intended effect of this action is to remove an August 2, 1984 Secretarial Order (Order) from the Maryland SIP. The Order constituted a Plan for Compliance (PFC) and an alternative method of assessing compliance at an American Cyanamid Company (Company) facility located in Havre de Grace, Harford County, Maryland (the Facility). The Order allowed for certain volatile organic compound (VOC) emissions sources at the Facility to achieve compliance with emissions limits through averaging (or ''bubbling'') of emissions over a 24-hour period. Removal of the Order from the SIP will remove the ''bubbling'' compliance option for these sources at the Facility. In lieu of ''bubbling,'' the sources must comply with the approved and more stringent Maryland SIP provisions for the control of VOC emissions, which do not allow averaging or ''bubbling.'' This action is being taken under the Clean Air Act (CAA or the Act).

EFFECTIVE DATE: This final rule is effective on November 24, 2006.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA R03–OAR–2006–0607. All documents in the docket are listed in the *http://www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland.

FOR FURTHER INFORMATION CONTACT: Neil Bigioni, (215) 814–2781, or by e-mail at *bigioni.neil@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On August 23, 2006 (71 FR 49393), EPA published a notice of proposed rulemaking (NPR) for the State of Maryland. The NPR proposed approval of a SIP revision to remove the Order from the Maryland SIP. The formal SIP revision was submitted by Maryland on May 17, 2006.

The Order was approved into the Maryland SIP in a final rule published on May 16, 1990 (55 FR 20269). The Order provided the Company with a PFC and an alternative method of assessing compliance for certain installations located at the Facility by allowing the averaging or ''bubbling'' of the emissions of VOC over a 24-hour period. By allowing ''bubbling'' of VOC emissions the Company could over-control emissions at some units and under control at other units such that the overall emissions from the sources collectively would be the same as those that would be achieved utilizing traditional control strategies at each source. The VOC sources where ''bubbling'' was allowed at the Facility were components of the Facility's paper and fabric adhesive coating operation, and included Towers 2, 3, and 5 and the FM–1000 coater/dryer.

II. Summary of SIP Revision

Removal of the Order from the SIP will subject the VOC emissions sources at the Facility that were formerly subject to the ''bubbling'' provisions of the Order to the Maryland VOC regulations and limits codified at Code of Maryland Regulations (COMAR) 26.11.19.07. Those COMAR regulations are part of the Maryland SIP (65 FR 2334, January 14, 2000). The materials submitted by Maryland in support of the SIP revision indicate that the Facility currently intends to comply with the SIP-approved VOC limits by reducing VOC emissions through use of a regenerative thermal oxidizer, as allowed by COMAR 26.11.19.02B(2)(b)(ii) and the Maryland SIP (68 FR 9012, February 27, 2003). This SIP revision will remove the current ability for the current owner of the Facility, Cytec Engineered Materials, Inc., to comply with VOC emissions limits for the sources subject to the Order through averaging or ''bubbling'' of VOC emissions. The SIP-approved limits codified at COMAR 26.11.19.07C do not allow for compliance through averaging/''bubbling.'' The applicable COMAR 26.11.19.07C limits of 2.9 pounds of VOC per gallon of coating as applied (minus water), are also more stringent than the emissions limit of 3.2 pounds of VOC per gallon of coating as applied (minus water) imposed by the Order. No public comments were received on the NPR.

III. Final Action

EPA is approving the removal of the August 2, 1984 Secretarial Order as a revision to the Maryland SIP.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a State rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

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. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-

specific requirements for a named source.

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 26, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving the removal of the August 2, 1984 Secretarial Order as a revision to the Maryland SIP may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 16, 2006.

William Wisniewski,

Acting Regional Administrator, Region III.

■ For reasons set forth in the preamble, 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart V—Maryland

■ 2. In § 52.1070, the table in paragraph (d) is amended by removing the entry for American Cyanamid Co.

[FR Doc. E6–17795 Filed 10–23–06; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Parts 1150 and 1180

[STB Ex Parte No. 659]

Public Participation in Class Exemption Proceedings

AGENCY: Surface Transportation Board, Transportation.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board is modifying the timeframes in its rules for certain class exemptions to provide greater public notice in advance of the possible consummation of an exempt transaction. The proposed changes will ensure that the public is given notice of a proposed transaction before the exemption becomes effective; and that the Board may process such notices of exemption, and related petitions for stay, if any, in an orderly and timely fashion.

DATES: These rules are effective November 23, 2006.

ADDRESSES: Comments and material received from the public, as well as documents referred to herein, are part of STB Ex Parte No. 659 and are available for inspection or copying at the Board's Public Docket Room, Room 755, 1925 K Street, NW., Washington, DC 20423–0001, are posted on the Board's *http://www.stb.dot.gov* Web site, and are available from the Board's contractor, ASAP Document Solutions (mailing address: Suite 103, 9332 Annapolis Rd., Lanham, MD 20706; e-mail address: *asapdc@verizon.net;* telephone number: 202–306–4004).

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565–1609. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: The purpose for this rulemaking was set forth in the notice of proposed rulemaking (NPRM) served by the Board on March 10, 2006, and published in the **Federal Register** on March 16, 2006 (71 FR 13563–5). The Board is revising the class exemption procedures at 49 CFR 1150.31, *et seq.,* 49 CFR 1150.41, *et seq.,* and 49 CFR 1180.2(d), so that the exemptions will take effect 30 days (rather than 7 days) after a notice is filed, and **Federal Register** publication of the notice will precede the effective date of the exemption. The notice provisions at 49 CFR 1150.35 and 1150.45 (both of which involve transactions that would create a Class I or Class II carrier) also are revised, to allow transactions under these class exemptions to go forward in 45 days (rather than 21 days). The Board is adopting the changes as proposed in the NPRM. As indicated there, only the procedural timeframes for these rules are being revised—their scope, purpose and effect otherwise remain the same. This proceeding is based on the Board's exemption authority at 49 U.S.C. 10502.

Comments

The Board received comments on the proposed rules from the American Short Line and Regional Railroad Association; Association of American Railroads; John D. Fitzgerald; Genesee & Wyoming Inc.; the State of New Jersey; Rail Conference, International Brotherhood of Teamsters; Rail Labor Division, Transportation Trades Department, AFL–CIO; and Watco Companies, Inc. A summary of this rulemaking proceeding and a discussion of the comments received in response to it, are set forth in the Board's decision served on October 19, 2006. That decision also provides a discussion of the Board's reasons for adopting the rules as originally proposed. For further information on the decision, interested parties should consult the Board's Web site at *http://ww.stb.dot.gov.*

Regulatory Flexibility Analysis

The Board concludes that this action will not have a significant effect on a substantial number of small entities.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Parts 1150 and 1180

Administrative Practice and Procedure, Railroads.

Authority: 49 U.S.C. 10502 and 5 U.S.C. 553.

Decided: October 17, 2006.

By the Board, Chairman Nottingham, Vice Chairman Mulvey, Commissioner Buttrey.

Vernon A. Williams,

Secretary.

■ For the reasons set forth in the preamble, the Surface Transportation Board amends parts 1150 and 1180 of title 49, chapter X, of the Code of Federal Regulations as follows:

PART 1150—CERTIFICATE TO CONSTRUCT, ACQUIRE, OR OPERATE RAILROAD LINES.

■ 1. The authority citation for part 1150 continues to read as follows:

Authority: 49 U.S.C. 721(a), 10502, 10901, and 10902.

■ 2. Amend § 1150.32 as follows:

■ A. In paragraph (b), remove the words ''30 days'' and add, in their place the words ''16 days''.

■ B. In paragraph (b), remove the words ''7 days'' and add, in their place, the words ''30 days''.

■ C. In paragraph (c), add a new sentence to the end of the paragraph to read as follows:

§ 1150.32 Procedures and relevant dates—transactions that involve creation of Class III carriers.

* * * * *

(c) * * * Stay petitions must be filed at least 7 days before the exemption becomes effective.

* * * * *

■ 3. Amend § 1150.35 as follows:

■ A. In paragraph (e), remove the words ''21 days'' and add, in their place, the words ''45 days''.

■ B. In paragraph (e), remove the words ''30 days'' and add, in their place, the words ''16 days''.

■ C. In paragraph (f), revise the third sentence to read as follows:

§ 1150.35 Procedures and relevant dates—transactions that involve creation of Class I or Class II carriers.

* * * * *

(f) * * * Stay petitions must be filed at least 14 days before the exemption becomes effective. * * *

* * * * *

■ 4. Amend § 1150.42 as follows:

■ A. In paragraph (b), remove the words ''30 days'' and add, in their place, the words ''16 days''.

■ B. In paragraph (b), remove the words ''7 days'' and add, in their place, the words ''30 days''.

■ C. In paragraph (c), add a new sentence to the end of the paragraph to read as follows:

§ 1150.42 Procedures and relevant dates for small line acquisitions.

* * * * *

(c) * * * Stay petitions must be filed at least 7 days before the exemption becomes effective.

* * * * *

■ 5. Amend § 1150.45 as follows:

■ A. In paragraph (e), remove the words ''21 days'' and add, in their place, the words ''45 days''.

■ B. In paragraph (e), remove the words ''30 days'' and add, in their place, the words ''16 days''.

■ C. In paragraph (f), revise the third sentence to read as follows:

§ 1150.45 Procedures and relevant dates—transactions under section 10902 that involve creation of Class I or Class II rail carriers.

* * * * *

(f) * * * Stay petitions must be filed at least 14 days before the exemption becomes effective. * * *

* * * * *

PART 1180—RAILROAD ACQUISITION, CONTROL, MERGER, CONSOLIDATION PROJECT, TRACKAGE RIGHTS, AND LEASE PROCEDURES.

■ 6. The authority citation for part 1180 continues to read as follows:

Authority: 5 U.S.C. 553 and 559; 11 U.S.C. 1172; 49 U.S.C. 721, 10502, 11323–11325.

■ 7. Amend § 1180.4 as follows:

■ A. In paragraph (g)(1) introductory text, remove the words ''one week'' and add, in their place, the words ''30 days''.

■ B. In paragraph (g)(1)(ii), remove the words ''30 days'' and add, in their place, the words ''16 days''.

■ C. Redesignate paragraph (g)(1)(iii) as paragraph (g)(1)(iv) and add a new paragraph (g)(1)(iii).

■ D. Remove paragraph (g)(2)(ii).

■ E. Redesignate paragraph (g)(2)(iii) as paragraph (g)(2)(ii).

■ F. Remove paragraph (g)(2)(iv).

§ 1180.4 Procedures.

* * * * *

(g) * * *

(1) * * *

(iii) The filing of a petition to revoke under 49 U.S.C. 10502(d) does not stay the effectiveness of an exemption. Stay petitions must be filed at least 7 days before the exemption becomes effective.

* * * * *

[FR Doc. E6–17759 Filed 10–23–06; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 051130316–6047–02; I.D. 101706A]

Fisheries of the Northeastern United States; Atlantic Herring Fishery; Total Allowable Catch Harvested for Management Area 1A

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

ACTION: Closure of Atlantic herring fishery for Management Area 1A.

SUMMARY: NMFS announces that 95 percent of the Atlantic herring total allowable catch (TAC) allocated to Management Area 1A (Area 1A) for 2006 is projected to be harvested by October 21, 2006. Therefore, effective 0001 hours, October 21, 2006, federally permitted vessels may not fish for, catch, possess, transfer or land more than 2,000 lb (907.2 kg) of Atlantic herring in or from Area 1A per trip or calendar day until January 1, 2007, when the 2007 TAC becomes available, except for transiting purposes as described in this notice. Regulations governing the Atlantic herring fishery require publication of this notification to advise vessel and dealer permit holders that no TAC is available for the directed fishery for Atlantic herring harvested from Area 1A.

DATES: Effective 0001 hrs local time, October 21, 2006, through 2400 hrs local time, December 31, 2006.

FOR FURTHER INFORMATION CONTACT: Don Frei, Fishery Management Specialist, at (978) 281–9221.

SUPPLEMENTARY INFORMATION: Regulations governing the Atlantic herring fishery are found at 50 CFR part 648. The regulations require annual specification of optimum yield, domestic and foreign fishing, domestic and joint venture processing, and management area TACs. The 2006 TAC allocated to Area 1A (71 FR 10867, March 3, 2006) is 60,000 mt (132,277,621 lb).

The regulations at 50 CFR 648.202 require the Administrator, Northeast Region, NMFS (Regional Administrator) to monitor the Atlantic herring fishery in each of the four management areas designated in the Fishery Management Plan for the Atlantic Herring Fishery and, based upon dealer reports, state data, and other available information, to determine when the harvest of Atlantic herring is projected to reach 95 percent of the TAC allocated. When such a determination is made, NMFS is required to publish notification in the **Federal Register** of this determination. Effective upon a specific date, NMFS must notify vessel and dealer permit holders that vessels are prohibited from fishing for, catching, possessing, transferring or landing more than 2,000 lb (907.2 kg) of herring per trip or calendar day in or from the specified management area for the remainder of the closure period. Transiting of Area 1A with more than 2,000 lb (907.2 kg) of herring on board is allowed under the conditions specified below.

The Regional Administrator has determined, based upon dealer reports and other available information, that 95 percent of the total Atlantic herring TAC allocated to Area 1A for the 2006 fishing year is projected to be harvested by October 21, 2006. Therefore, effective 0001 hrs local time, October 21, 2006, federally permitted vessels may not fish for, catch, possess, transfer or land more than 2,000 lb (907.2 kg) of Atlantic herring in or from Area 1A per trip or calendar day through December 31, 2006; except a vessel may transit Area 1A with more than 2,000 lb (907.2 kg) of herring on board, or land more than 2,000 lb (907.2 kg) provided such herring were not caught in Area 1A, and provided all fishing gear is stowed and

not available for immediate use as required by § 648.23(b). Effective October 21, 2006, federally permitted dealers are also advised that they may not purchase Atlantic herring from federally permitted Atlantic herring vessels that harvest more than 2,000 lb (907.2 kg) of Atlantic herring from Area 1A through December 31, 2006, 2400 hrs local time.

Classification

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

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

Dated: October 18, 2006.

James P. Burgess

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

[FR Doc. 06–8830 Filed 10–18–06; 3:18 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 71, No. 205
Tuesday, October 24, 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 AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 3

[Docket No. APHIS–2006–0044]

Animal Welfare; Elephants

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of petition and request for comments; extension of comment period.

SUMMARY: We are extending the comment period for our notice of petition and request for comments concerning the handling, care, treatment, and transport of elephants covered by the Animal Welfare Act. This action will allow interested persons additional time to prepare and submit comments.

DATES: We will consider all comments that we receive on or before December 11, 2006.

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov*, select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click ''Submit.'' In the Docket ID column, select APHIS–2006–0044 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.
- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2006–0044, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2006–0044.

Reading Room: You may read any comments that we receive on Docket No. APHIS–2006–0044 in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Barbara Kohn, Senior Staff Veterinarian, Animal Care, APHIS, 4700 River Road, Unit 84, Riverdale, MD 20737–1234; (301) 734–7833.

SUPPLEMENTARY INFORMATION: On August 9, 2006, we published in the **Federal Register** (71 FR 45438–45439, Docket No. APHIS–2006–0044) a notice of petition and request for comments. That document notified the public that the Animal and Plant Health Inspection Service had received a petition from In Defense of Animals requesting that we issue an interpretive rule or policy to clarify the space and living conditions required for captive elephants, and that we enforce the Animal Welfare Act and its implementing regulations by requiring that exhibitors fully comply with the regulations. We solicited comments from the public regarding the petition, and whether we should continue to regulate the handling, care, treatment, and transport of elephants covered by the Animal Welfare Act under the general standards in the regulations or promulgate specific standards for elephants. We also requested comments regarding what should be included in such standards.

Comments on the notice were required to be received on or before October 10, 2006. On September 15, 2006, we published in the **Federal Register** (71 FR 54438, Docket No. APHIS–2006–0044) a document extending the comment period for an additional 30 days. Comments on the notice of petition were required to be received on or before November 9, 2006.

We are extending the comment period on Docket No. APHIS–2006–0044 for an additional 30 days. This action will allow interested persons additional time to prepare and submit comments.

Authority: 7 U.S.C. 2131–2159; 7 CFR 2.22, 2.80, and 371.7.

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

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E6–17775 Filed 10–23–06; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25738; Directorate Identifier 2006–NE–27–AD]

RIN 2120–AA64

Airworthiness Directives; General Electric Company (GE) CF6–80C2B Series Turbofan Engines

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 GE CF6–80C2B series turbofan engines with electronic control units (ECUs), installed on Boeing 747 and 767 airplanes. This proposed AD would require installing software version 8.2.Q1 to the engine ECU, which increases the margin to engine flameout. This proposed AD results from reports of engine flameout events during flight, including reports of events where all engines simultaneously experienced a flameout or other adverse operation. We are proposing this AD to provide increased margin to flameout and to minimize the potential of an all-engine flameout event, due to ice accretion and shedding during flight.

DATES: We must receive any comments on this proposed AD by December 26, 2006.

ADDRESSES: Use one of the following addresses to comment 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 20590–0001.
- *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.

You can get the service information identified in this proposed AD from General Electric Company via Lockheed Martin Technology Services, 10525 Chester Road, Suite C, Cincinnati, Ohio 45215, telephone (513) 672–8400, fax (513) 672–8422.

You may examine the comments on this proposed AD in the AD docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: John Golinski, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; telephone: (781) 238–7135, fax: (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send us any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2006–25738; Directorate Identifier 2006–NE–27–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments 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 the DOT 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 AD Docket

You may examine the docket that contains the proposal, any comments received and, any final disposition in person at the DOT Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5227) is located on the plaza level of the Department of Transportation Nassif Building at the street address stated in **ADDRESSES**. Comments will be available in the AD docket shortly after the Docket Management Facility receives them.

Discussion

GE CF6–80C2 and CF6–80E1 series turbofan engines continue to experience flameout events that are due to ice accretion and shedding during flight. Though the investigation is not yet complete, exposure to ice crystals during flight is believed to be associated with these flameout events. We have received reports of 32 airplane events, including reports of multi-engine events where all engines on the airplane simultaneously experienced a flameout or other adverse operation. Some of these events had high pressure compressor blade damage that may have been caused by impact with shedding ice. In all events, the engines restarted and continued to operate normally for the remainder of the flight.

We view an all-engine flameout event as an unsafe condition particularly for low-altitude events, or other factors that might result in the inability to restart the engines and regain control of the airplane.

Since some aspects of this problem are not completely understood, this proposed AD is considered an interim action due to GE's on-going investigation. Future AD action might become necessary based on the results of the investigation and field experience.

This proposed AD addresses only the CF6–80C2B series turbofan engines with ECUs, installed on Boeing 747 and 767 airplanes. The remaining CF6–80C2 and CF6–80E1 series engines are being studied by GE, and we may have future AD actions when studies are finished.

This condition of insufficient margin to engine flameout due to ice accretion and shedding during flight, if not addressed, could result in an all-engine flameout event during flight.

Relevant Service Information

We have reviewed and approved the technical contents of GE Service Bulletin (SB) No. CF6–80C2 S/B 73–0339, dated November 17, 2005. That SB describes procedures for installing software version 8.2.Q1 to the ECU. Software version 8.2.Q1 modifies the variable bleed valve schedule, which will provide an increased margin to flameout. This increased margin is expected to reduce the rate of flameout occurrences due to ice accretion and shedding during flight.

Differences Between the Proposed AD and the Manufacturer's Service Information

Although GE SB No. CF6–80C2 S/B 73–0339, dated November 17, 2005, recommends the incorporation of software version 8.2.Q1 at the next shop visit of the ECU, this proposed AD would:

- Require a more aggressive compliance schedule for incorporating the software; and
- Add a compliance requirement for affected engines installed on Boeing 767 airplanes, which the SB does not require.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. We are proposing this AD, which would require:

- For Boeing 767 airplanes, within 24 months after the effective date of this AD, installing software version 8.2.Q1 to the ECU on at least one of airplane's affected turbofan engines, and
- For all other affected turbofan engines, installing software version 8.2.Q1 to the ECU at the next shop visit of the ECU or engine, whichever occurs first, not to exceed five years after the effective date of this proposed AD.

This software change will provide increased margin to flameout and reduce the rate of flameout occurrences due to ice accretion and shedding during flight. The proposed AD would require you to use the GE service bulletin described previously to perform these actions.

Interim Action

These actions are interim actions due to the on-going investigation. We may take further rulemaking actions in the future, based on the results of the investigation and field experience.

Costs of Compliance

We estimate that this proposed AD would affect 293 CF6–80C2B series turbofan engines with ECUs installed on Boeing 747 and 767 airplanes of U.S. registry. We estimate that 73 engines would have the software installed at

ECU overhaul, 147 engines would have the software installed during ECU repair, and 73 engines would have the software installed, not due to ECU overhaul or repair. It would take about six work-hours per engine to perform the proposed actions (ECU overhauls not included) and the average labor rate is $80 per work-hour. Based on these figures, we estimate the total cost of the proposed AD to U.S. operators to be $283,740. GE may provide the software at no cost to the operators, and reimburse the six work-hours labor cost until December 31, 2010.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new airworthiness directive:

General Electric Company: Docket No. FAA–2006–25738; Directorate Identifier 2006–NE–27–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by December 26, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to General Electric Company (GE) CF6–80C2B1F, –80C2B2F, –80C2B4F, –80C2B5F, –80C2B6F, –80C2B6FA, –80C2B7F, and –80C2B8F turbofan engines with electronic control units (ECUs), installed on Boeing 747 and 767 airplanes.

Unsafe Condition

(d) This AD results from reports of engine flameout events during flight, including reports of events where all engines simultaneously experienced a flameout or other adverse operation. We are issuing this AD to provide increased margin to flameout and to minimize the potential of an all-engine flameout event, due to ice accretion and shedding during flight. Exposure to ice crystals during flight is believed to be associated with these flameout events.

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.

Engine ECU Software Installation

(f) For Boeing 767 airplanes, within 24 months after the effective date of this AD, install software version 8.2.Q1 to the engine ECU on at least one of the airplane's affected turbofan engines.

(g) For all other affected turbofan engines, install software version 8.2.Q1 to the engine ECU at the next shop visit of the ECU or engine, whichever occurs first, not to exceed five years after the effective date of this AD.

(h) Use paragraphs 3.A. through 3.B.(3)(f)4. of the Accomplishment Instructions of GE Service Bulletin No. CF6–80C2 S/B 73–0339, dated November 17, 2005, to do the installation.

Definitions

(i) For the purposes of this AD:

(1) Next shop visit of the engine ECU is when the ECU is removed from the engine for overhaul or for maintenance.

(2) Next shop visit of the engine is when the engine is removed from the airplane for maintenance in which a major engine flange is disassembled after the effective date of this AD. The following engine maintenance actions, either separately or in combination with each other, are not considered a next engine shop visit:

(i) Removal of the upper high pressure compressor (HPC) stator case solely for airfoil maintenance.

(ii) Module-level inspection of the HPC rotor 3–9 spool.

(iii) Replacement of stage 5 HPC variable stator vane bushings or lever arms.

(iv) Removal of the accessory gearbox.

(v) Replacement of the inlet gearbox Teflon seal.

Alternative Methods of Compliance

(j) The Manager, Engine Certification Office, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

(k) Installation of later FAA-approved ECU software versions that follow version 8.2.Q1, are acceptable alternative methods of compliance to this AD.

Special Flight Permits

(l) Under 14 CFR part 39.23, special flight permits are prohibited.

Issued in Burlington, Massachusetts, on October 18, 2006.

Thomas A. Boudreau,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. E6–17742 Filed 10–23–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. FAA–2006–25709; Notice No. 06–13]

RIN 2120–AI70

Congestion Management Rule for LaGuardia Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); extension of comment period.

SUMMARY: This action extends the comment period for the NPRM published August 29, 2006 (71 FR 51360). Under the NPRM, the FAA proposed to establish an operational

limit on the number of aircraft landing and taking off at New York's LaGuardia Airport. This extension is a result of requests from the Airports Council International—North America (ACI–NA), the Air Transport Association of America (ATA) and the Regional Airline Association (RAA), and the Port Authority of New York and New Jersey (Port Authority) for additional time to comment on the proposal.

DATES: Comments must be received on or before December 29, 2006.

ADDRESSES: You may send comments to Docket No. FAA–2006–25709 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: We will post all comments we receive, 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: Molly W. Smith, Office of Aviation Policy and Plans, APO–001, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3275; e-mail *molly.w.smith@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating 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 us two copies of written comments.

We will file in the docket all comments we receive, 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, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://dms.dot.gov.*

Before acting on this proposal, we will consider all comments we receive 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 we receive.

If you want the FAA 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.

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.

Background

On August 29, 2006, the Federal Aviation Administration (FAA) issued Notice No. 06–13, ''Congestion Management Rule for LaGuardia Airport'' (71 FR 51360). The comment period for the NPRM was 60 days, scheduled to end on October 30, 2006.

In a comment submitted to the docket assigned to the NPRM (Docket No. FAA–2006–25709), the Airports Council International—North America (ACI–NA) requested we extend the comment period an additional 30 days. In a letter dated September 22, 2006, ACI–NA stated that the NPRM is a highly significant rulemaking that will affect its members, including the Port Authority. ACI–NA stated that the comment period was too short to adequately examine and address all potential effects on its members, especially effects on small-hub and non-hub airports. ACI–NA requested the FAA extend the comment period to expire on November 29, 2006.

On October 3, 2006, the Air Transport Association of America (ATA) and Regional Airline Association (RAA) submitted a joint comment requesting extension of the comment period. ATA and RAA requested an extension of the comment period to consider, research, and understand the operational consequences and the legal and policy implications of the NPRM. Additionally, ATA and RAA feel an extension of the comment period would not delay the rulemaking since the FAA is still seeking legislative authority to complete it and has published a proposal to place temporary limitations on operations through an Order.[1] ATA and RAA stated that the NPRM raises significant policy and legal questions, including issues under the Administrative Procedures Act, FAA's authority to regulate aircraft size and service, authority to withdraw operating rights, and economic and

[1] Proposed Order, ''Operating Limitations at New York LaGuardia Airport,'' published in the **Federal Register** on September 14, 2006. (71 FR 54331) (Docket FAA–2006–25755).

financial impacts on airlines operating at the airport. Additionally, ATA stated that the FAA has had years to consider and develop an economic analysis to support the proposed rule, and 60 days is not enough time for its staff to review the FAA's Regulatory Evaluation properly and produce its own report. ATA and RAA feel that since the final rule is dependent on legislative authority they believe may not be granted until 2008, and the FAA's own proposed Order will maintain current operations through September 2007, promulgation of the final rule will not be delayed by extending the comment period until January 22, 2007.

On October 6, 2006, the Port Authority requested that the comment period for the NPRM be extended an additional 180 days until April 27, 2007. The Port Authority, as the operator of the airport, requests the extension to research, consider, and thoroughly understand the operational consequences and the legal and policy implications of the proposal. The Port Authority also states that it is concurrently preparing a response to the FAA's proposed Order and will be able to focus more time on responding to the NPRM if the comment period is extended through April 2007. On October 10, 2006, ATA and RAA submitted a joint letter of support for the Port Authority's request that the comment period be extended until April 27, 2007.

We have considered the requests for extension presented by ACI, ATA and RAA, and the Port Authority and weighed the requests against the interest of proceeding with the comment period closing on the originally intended date. We agree there are important legal, policy, and operational issues involved in the NPRM, and we wish to provide adequate time for all affected parties to evaluate the proposal in its entirety. To date, we have received three specific requests for extension and consider their merits equal. The FAA agrees that an extension for the comment period is in the public interest; however, we feel that sufficient justification has not been given for an extension beyond 60 days. ATA and RAA's request for a 90-day extension is based, in part, on an apparent misunderstanding that FAA must obtain legislative authority to complete the proposed rule. At a meeting FAA attended at ATA on September 19th, to answer clarifying technical questions related to the NPRM, FAA made clear its intentions to issue a Final rule prior to receiving any legislative authority to implement market based mechanisms such as auctions or congestion pricing at LaGuardia. (A summary of this meeting is being placed in the docket.) The NPRM states that subsequent rulemaking would be required to address the reallocation of expired Operating Authorizations or to implement any new legislative authority. Similarly, the Port Authority does not provide a compelling rationale as to why they would need a 180-day extension to the comment period. An eight-month comment period is not warranted even granted the complexity of this NPRM. Therefore, the comment period for Notice No. 06–13 is extended an additional 60 days and will expire on December 29, 2006. This extension should provide commenters with sufficient time to complete any review and submit comment. Absent unusual circumstances, the FAA does not anticipate any further extension of the comment period for this rulemaking.

Extension of Comment Period

In accordance with § 11.29(c) of Title 14, Code of Federal Regulations, the FAA has reviewed the petitions made by the Airports Council International—North America, Air Transport Association and Regional Airline Association, and the Port Authority of New York and New Jersey for extension of the comment period to Notice No. 06–13. The petitioners have a substantive interest in the proposed rule and the FAA has determined that an extension of the comment period is consistent with the public interest.

Accordingly, the comment period for Notice No. 06–13 is extended until December 29, 2006.

Issued in Washington, DC, October 17, 2006.

Nan Shellabarger,

Director, Office of Aviation Policy and Plans.

[FR Doc. E6–17818 Filed 10–23–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF STATE

22 CFR Part 72

[Public Notice 5582]

RIN: 1400–AC24

Deaths and Estates

AGENCY: Department of State.

ACTION: Proposed rule with request for comments.

SUMMARY: The Department of State is proposing to update and amend its regulations on deaths and estates in 22 CFR part 72. The existing regulations were originally issued in 1957. They needed to be redrafted in plain language and changed to reflect changes in State Department statutory authority and current practice. Sections 234 and 235 of the James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 made some changes to consular officer and State Department responsibilities with respect to the deaths and personal estates of United States citizens and non-citizen nationals abroad that must be reflected in the regulations.

DATES: The State Department will accept comments on this proposed regulation until December 26, 2006.

ADDRESSES: You may submit comments by one of the following methods (no duplicates, please):

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Electronically: You may submit electronic comments to *AskPRI@state.gov*. Attachments must be in Microsoft Word.
- Mail: U.S. Department of State, Bureau of Consular Affairs, CA/OCS/PRI, 2100 Pennsylvania Avenue (SA–29), 4th Floor, Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Edward A. Betancourt, Monica Gaw or Michael Meszaros, Overseas Citizens Services, Department of State, 2100 Pennsylvania Avenue, 4th Floor, Washington, DC 20037, 202–736–9110, fax number 202–736–9111. 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.

SUPPLEMENTARY INFORMATION:

I. Legal Authority

Sections 234 and 235 of the James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (Pub. L. 106–113), (hereinafter ''the Act''), as codified in 22 U.S.C. 2715b and 2715c.

II. Introduction

This proposed rule details the handling of deaths and estates of American citizens who die abroad by the U.S. State Department. Legislation was passed in the year 2000 amending many of the statutes authorizing the State Department to perform this function. Many of the CFR provisions are unchanged since 1957. Some need revision because of the legislation; others are out of date.

This proposed rule amends the existing regulations in 22 CFR part 72 and implements Sections 234 and 235 of the James W. Nance and Meg Donovan

Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (Pub. L. 106–113), (hereinafter ''the Act''), as codified in 22 U.S.C. sections 2715(b), 2715b, and 2715c. The current part 72 will be removed in its entirety, and replaced with the proposed rules.

Notifications and Reports of Death

Section 234 of the Act provides an explicit statutory mandate, codified as 22 U.S.C. 2715b(a), to a consular officer to endeavor to notify, or assist the Secretary of State in notifying, the next of kin or legal guardian as soon as possible when a United States citizen or non-citizen national dies abroad, with certain exceptions. 22 U.S.C. 2715b(a) essentially codifies existing practices concerning consular reporting and notification regarding deaths of United States citizens or non-citizen nationals as reflected in the existing 22 CFR 72.1 through 72.8, with some variations in the exceptions to normal notification procedures. 22 U.S.C. 4196, which provides for the consular officer to notify the legal representative and the Secretary of State of the death of a United States citizen or national abroad, is unaffected by Section 234.

Under the amended regulations, when notifying next of kin of the death of a United States citizen or non-citizen national abroad, such notifications will be made by telephone and confirmed in writing, for example, through an email or fax. The State Department previously used a commercial telegram service to make such notifications.

Section 234 of the Act also explicitly authorizes a consular officer to issue a report of death or of presumptive death in the case of a finding of death by the appropriate local authorities. In addition, it explicitly authorizes a consular officer to issue a report of presumptive death in the absence of a finding of death by the appropriate local authorities. This latter provision is intended to allow the consular officer to issue a report of presumptive death in exceptional circumstances where the evidence that the individual has died (e.g., he or she was listed on the passenger manifest on an aircraft that crashed leaving no survivors) is persuasive, but local authorities have not issued and are not likely to issue a finding of death (because, e.g., issuance of a local death certificate requires forensic evidence that is not available or there is no local authority that clearly has jurisdiction.) The Section 234 authorities to issue reports of death are codified at 22 U.S.C. 2715b(b).

Protection of Estates

Section 234 of the Act further preserves and updates the authority of a consular officer to serve as provisional conservator of the portion of the personal estate of a deceased United States citizen or non-citizen national that is located abroad. It also preserves and updates the authority of a consular officer in ''exceptional circumstances'' to serve as the administrator of the estate. This authority is now codified at 22 U.S.C. 2715c. (The predecessor statute, 22 U.S.C. 4195, was repealed by Section 234.)

Pursuant to 22 U.S.C. 2715c, a consular officer may serve as provisional conservator or administrator of the personal estate of a United States citizen or non-citizen national only when this is authorized by treaty provisions, permitted by the laws and authorities of the foreign country where the death occurs, or the decedent is domiciled, or permitted by established usage in that foreign country. Serving as a provisional conservator or administrator with respect to the personal estate of a deceased United States citizen or non-citizen national, is, however, not authorized if the decedent has left or there is otherwise appointed in the foreign country where the death occurred or where the decedent was domiciled, a legal representative, partner in trade, or trustee appointed to take care of the personal estate. If such a legal representative, partner in trade or trustee appears at any time prior to the transmission of the property to the Secretary of State and demands the proceeds and effects held by the consular officer, the consular officer must deliver them after collecting any fees prescribed for the services performed under 22 U.S.C. 2715c. Consistent with previous statutory authority, 22 U.S.C. 2715c(a)(1) confirms that a consular officer, when serving as provisional conservator of an estate may (A) take possession of the personal effects of the decedent within the consular officer's jurisdiction, (B) inventory and appraise the personal effects, (C) when appropriate in the exercise of prudent administration, collect the debts due to the decedent in the officer's jurisdiction and pay from the estate obligations owed by the decedent, (D) sell or otherwise dispose of, as appropriate, in the exercise of prudent administration, all perishable items of property, (E) sell, after reasonable public notice and notice to such next of kin as can be ascertained with reasonable diligence, additional items of property as necessary to provide funds for the decedent's debts, local property taxes, funeral expenses and other expenses incident to the disposition of the estate; and (F) if no claimant has appeared within the one year period beginning on the date of death (or such reasonable additional period as may be required for final settlement of the estate), sell the residue of the personal estate in the same manner as United States Government-owned foreign excess property, after reasonable public notice and notice to such next of kin as can be ascertained with reasonable diligence.

Transmittal of Estates to Department of State

Prior to enactment of the Legislative Appropriations Act of 1996 (Pub. L. 104–53), the General Accounting Office (GAO) (now the Government Accountability Office) had responsibility for receiving the final statement of account and the personal effects of deceased United States citizens and non-citizen nationals that had been held by consular officers for over one year. Pub. L. 104–53 divested GAO of some of its ''operational responsibilities,'' including accepting the personal estates of United States citizens and non-citizen nationals who die abroad, and gave such responsibilities to the Executive Branch. Pursuant to Section 234 of the Act, the Department of State now has explicit responsibility for estates formerly transmitted to the GAO. 22 U.S.C. 2715c(a)(1)(G) provides that any proceeds from sale of the residue of the estate shall be transmitted to the Secretary of State, who will have the authority to seek payment of debts to the estate and may take other action that is reasonably necessary for the conservation of the estate. 22 U.S.C. 2715c(b)(1) conveys title of the residue of the estate to the United States if no legal claimant appears within five fiscal years beginning on October 1 after the date on which a consular officer took possession of the personal estate, and gives the Secretary of State the authority to dispose of the estate as surplus United States Government-owned property or such other means as may be appropriate in light of the nature and value of the property involved. The net cash estate after disposition goes to the miscellaneous receipts account of the Treasury.

Conveyance of Real Property to United States Government

Another new statutory authority conferred by Section 234 of the Act, and codified in 22 U.S.C. 2715c(a)(1)(H) and 22 U.S.C. 2715c(b)(2), addresses the situation where real property belonging

to a deceased United States citizen or non-citizen national lays dormant for lack of a claimant while taxes and other assessments accrue, with the possibility, therefore, that ownership of the property will be transferred to a foreign government authority. In that situation, if local law so provides, the consular officer may provide for title to the property to be conveyed to the United States Government unless the Secretary of State declines to accept the conveyance. Real property conveyed to the Secretary of State may be treated as foreign excess property, or, if the Department of State wants the property for its own use, may be treated as an unconditional gift.

Compensation for Loss, Theft of Destruction

Finally, Section 234 of the Act provides a new authority, codified in 22 U.S.C. 2715c(c), for the Secretary of State to compensate the estate of any United States citizen or non-citizen national who has died overseas for property that was lost, stolen or destroyed while in the custody of officers or employees of the State Department and with respect to which a consular officer was exercising the role of provisional conservator pursuant to 22 U.S.C. 2715 (relating to major disasters and incidents abroad affecting United States citizens) or 22 U.S.C. 2715c(a). Any compensation provided under this provision is in lieu of personal liability of the State Department's officers and employees. State Department officers and employees may be liable to the State Department for any such compensation provided, however, and liability determinations are to be made pursuant to the State Department's procedures for determining accountability for United States Government property. The proposed regulations provide procedures for an estate to claim compensation by reference to Department of State regulations on overseas tort claims under 22 U.S.C. 2669(f).

Existing statutory provisions, 22 U.S.C. 4197 and 22 U.S.C. 4198, prescribe the posting of bond by a consular officer who is appointed by a foreign state as an administrator, guardian or other office of trust for an estate and providing penalties for failure to post bond or for embezzlement, remain in force.

Broader Definition of ''Consular Officer''

Section 235 of the Act amended 22 U.S.C. 2715 (Procedures regarding major disasters and incidents abroad affecting United States citizens) by, inter alia, defining ''consular officer'' for the purpose of 22 U.S.C. 2715 and Section 234 of the Act to include any United States citizen employee of the Department of State who is designated by the Secretary of State to perform consular services pursuant to such regulations as the Secretary may prescribe. Accordingly, such designated United States citizen employees now may make notifications of deaths, issue reports of death and presumptive death, and act as provisional conservators of estates.

III. Regulatory Findings

Administrative Procedure Act

In accordance with provisions of the Administrative Procedure Act governing rules promulgated by Federal agencies that affect the public (5 U.S.C. 533), the State Department is publishing this proposed rule and inviting public comment. All comments received before the close of business on the comment closing date indicated above will be considered.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act 5 U.S.C. 605(b), the Department of State has evaluated the effects of this proposed action on small entities, and has determined, and hereby certifies, pursuant to 5 U.S.C. 605(b), that it would not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by 5 U.S.C. 804 for purposes of congressional review of agency rulemaking under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. 104–121. This rule would not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

The Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (UFMA), Pub. L. 104–4; 109 Stat. 48; 2 U.S.C. 1532, generally requires agencies to prepare a statement, including cost-benefit and other analyses, before proposing any rule that may result in an annual expenditure of $100 million or more by State, local, or tribal governments, or by the private sector. This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year. Moreover, because this rule will not significantly or uniquely affect small governments, section 203 of the UFMA, 2 U.S.C. 1533, does not require preparation of a small government agency plan in connection with it.

Executive Order 13132: Federalism

A rule has federalism implications under Executive Order 13132 if it has substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. This regulation will not have such effects, and therefore does not have sufficient federalism implications to require consultations or to warrant the preparation of a federalism summary impact statement under section 6 of Executive Order 13132.

Executive Order 12866: Regulatory Review

The Department of State does not consider this rule to be a ''significant regulatory action'' within the scope of section 3(f)(1) of Executive Order 12866. Nonetheless, the State Department has reviewed the regulation to ensure its consistency with the regulatory philosophy and principles set forth in the Executive Order.

Executive Order 12988: Civil Justice Reform

The State Department has reviewed this rule in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden. The State Department has made every reasonable effort to ensure compliance with the requirements in Executive Order 12988.

Paperwork Reduction Act of 1995

This rule does not impose any new reporting or record-keeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 22 CFR Part 72

Estates.

For reasons set forth in the preamble, Title 22, Subchapter H, part 72 of the Code of Federal Regulations is proposed to be revised to read as follows:

PART 72—DEATHS AND ESTATES

Reporting the Deaths of United States Nationals

Sec.
72.1 Definitions.
72.2 Consular responsibility.
72.3 Exceptions.
72.4 Notifications of death.
72.5 Final report of death.
72.6 Report of presumptive death.

Disposition of Remains

72.7 Consular responsibility.

Personal Estates of Deceased United States Citizens and Nationals

72.8 Regulatory responsibility of consular officer.
72.9 Responsibility if legal representative is present.
72.10 Responsibility if a will intended to operate locally exists.
72.11 Responsibility if a will intended to operate in the United States exists.
72.12 Bank deposits in foreign countries.
72.13 Effects to be taken into physical possession.
72.14 Nominal possession; property not normally taken into physical possession.
72.15 Action when possession is impractical.
72.16 Procedure for inventorying and appraising effects.
72.17 Final statement of account.
72.18 Payment of debts owed by decedent.
72.19 Consular officer ordinarily not to act as administrator of estate.
72.20 Prohibition against performing legal services or employing counsel.
72.21 Consular officer not to assume financial responsibility.
72.22 Release of personal estate to legal representative.
72.23 Affidavit of next of kin.
72.24 Conflicting claims.
72.25 Transfer of personal estate to Department of State.
72.26 Vesting of personal estate in United States.
72.27 Export of cultural property.
72.28 Claims for lost, stolen, or destroyed personal estate.
72.29 Real property overseas belonging to deceased United States citizen or national.
72.30 Provisions in a Will or Advanced Directive Regarding Disposition of Remains.

Fees

72.31 Fees for consular death and estate services.

Authority: 22 U.S.C. 2715, 2715b, 2715c, 4196, 4197, 4198, 4199.

Reporting Deaths of United States Nationals

§ 72.1 Definitions.

For purposes of this part:

''Consular officer'' includes any United States citizen employee of the Department of State who is designated by the Department of State to perform consular services relating to the deaths and estates abroad of United States nationals.

''Department'' means the United States Department of State.

''Legal representative'' means—

(1) An executor designated by will intended to operate in the country where the death occurred or in the country where the deceased was residing at the time of death to take possession and dispose of the decedent's personal estate;

(2) An administrator appointed by a court of law in intestate proceedings in the country where the death occurred or in the country where the deceased was residing at the time of death to take possession and dispose of the decedent's personal estate;

(3) The next of kin, if authorized in the country where the death occurred or in the country where the deceased was residing at the time of death to take possession and dispose of the decedent's personal estate; or

(4) An authorized agent of the individuals described in paragraphs (b)(1), (b)(2) and (b)(3) of this section.

§ 72.2 Consular responsibility.

Except as provided in § 72.3, when a consular officer learns that a United States citizen or non-citizen national has died in the officer's consular district, the officer should report the death to the Department. The officer should also endeavor to notify, or assist the Secretary of State in notifying, the next of kin (or legal guardian) and the legal representative, if different from the next of kin, as soon as possible.

§ 72.3 Exceptions.

If a consular officer learns that a United States citizen or non-citizen national employee or dependent of an employee of a member of the United States Armed Forces, or a United States citizen or non-citizen national employee of another department or agency or a dependent of such an employee, or a Peace Corps volunteer as defined in 22 U.S.C. 1504(a) or dependent of a Peace Corps volunteer has died while in the officer's consular district while the employee or volunteer is on assignment abroad, the officer should notify the Department. The consular officer should not endeavor to notify the next of kin (or legal guardian) and legal representative of the death, but rather should assist, as needed, the appropriate military, other department or agency or Peace Corps authorities in making notifications of death with respect to such individual.

§ 72.4 Notifications of death.

The consular officer should make best efforts to notify the next of kin (or legal guardian), if any, and the legal representative (if any, and if different from the next of kin), of the death of a United States citizen or non-citizen national by telephone as soon as possible, and then should follow up with a written notification of death.

§ 72.5 Final report of death.

(a) *Preparation.* Except in the case of the death of an active duty member of the United States Armed Forces, when there is a local death certificate or finding of death by a competent local authority, the consular officer should prepare a consular report of death (''CROD'') on the form prescribed by the Department. The CROD will list the cause of death that is specified on the local death certificate or finding of death. The consular officer should prepare an original Report of Death, which will be filed with the Vital Records Section of Passport Services at the Department of State. The consular officer will provide a certified copy of the Report of Death to the next of kin or other person with a valid need for the Report within six months of the time of death. The next of kin or other person with a valid need for the Report may obtain additional certified copies after six months by contacting the Department of State, Vital Records, Passport Services, 1111 19th St., NW., Rm. 510, Washington, DC 20036.

(b) *Provision to Department.* The consular officer should send the original of the CROD to the Department, with one additional copy for each agency concerned, if the deceased was:

(1) A recipient of continuing payments other than salary from the Federal Government; or

(2) An officer or employee of the Federal Government (other than a member of the United States Armed Services); or

(3) A Selective Service registrant of inductable age.

(c) *Provision to next of kin/legal representative.* The consular officer should provide a copy of the CROD to the next of kin (or legal guardian) or to each of the next of kin, in the event there is more than one (*e.g.* more than one surviving child) and to any known legal representative who is not the next of kin.

(d) *Transmission of form to other consular districts.* If the consular officer knows that a part of the personal estate of the deceased is in a consular district other than that in which the death occurred, the officer should send a copy of the CROD to the consular officer in the other district.

(e) The Department may revoke a CROD if it determines in its sole

discretion that the CROD was issued in error.

§ 72.6 Report of presumptive death.

(a) *Local finding.* When there is a local finding of presumptive death by a competent local authority, a consular officer should prepare a consular report of presumptive death on the form prescribed by the Department.

(b) *No local finding.*

(1) *No local finding.* A United States citizen or non-citizen national may disappear or be missing in circumstances where it appears likely that the individual has died, but there is no local authority able or willing to issue a death certificate or a judicial finding of death. This may include, for example, death in a plane crash where there are no identifiable remains, death in a plane crash beyond the territory of any country, death in an avalanche, disappearance/death at sea, or other sudden disaster where the body is not immediately (or perhaps ever) recoverable.

(2) *Authorization of issuance.* The Department may authorize the issuance of a consular report of presumptive death in such circumstances. A consular report of presumptive death may not be issued without the Department's authorization.

(3) *Considerations in determining whether the Department will authorize issuance of a Report of Presumptive Death.* The Department's decision whether to issue a Report of Presumptive Death is discretionary, and will be based on the totality of circumstances in each particular case. Although no one factor is conclusive or determinative, the Department will consider the factors cited below, among other relevant considerations, when deciding whether to authorize issuance in a particular case:

(i) Whether the death is believed to have occurred within a geographic area where no sovereign government exercises jurisdiction;

(ii) Whether the government exercising jurisdiction over the place where the death is believed to have occurred lacks laws or procedures for making findings of presumptive death;

(iii) Whether the government exercising jurisdiction over the place where the death is believed to have occurred requires a waiting period exceeding five years before findings of presumptive death may be made;

(iv) Whether the person who is believed to have died was seen to be in imminent peril by credible witnesses;

(v) Whether the person who is believed to have died is reliably known to have been in a place which experienced a natural disaster, or catastrophic event, that was capable of causing death;

(vi) Whether the person believed to have died was listed on the certified manifest of, and was confirmed to have boarded, an aircraft, or vessel, which was destroyed and, despite diligent search by competent authorities, some or all of the remains were not recovered or could not be identified;

(vii) Whether there is evidence of fraud, deception, or malicious intent.

(c) *Processing.* Consular reports of presumptive death should be processed and issued in accordance with § 72.5.

(d) *Revocation.* The Department may revoke a report of presumptive death if it determines in its sole discretion that the report was issued in error.

Disposition of Remains

§ 72.7 Consular responsibility.

(a) A consular officer has no authority to create Department or personal financial obligations in connection with the disposition of the remains of a United States citizen or non-citizen national who dies abroad. Responsibility for the disposition of the remains and all related costs (including but not limited to costs of embalming or cremation, burial expenses, cost of a burial plot or receptacle for ashes, markers, and grave upkeep), rests with the legal representative of the deceased. In the absence of a legal representative (including when the next of kin is not a legal representative), the consular officer should ask the next of kin to provide funds and instructions for disposition of remains. If the consular officer cannot locate a legal representative or next of kin, the consular officer may ask friends or other interested parties to provide the funds and instructions.

(b) Arrangements for the disposition of remains must be consistent with the laws and regulations of the host country and any relevant United States laws and regulations. Local law may, for example, require an autopsy, forbid cremation, require burial within a certain period of time, or specify who has the legal authority to make arrangements for the disposition of remains.

(c) If funds are not available for the disposition of the remains within the period provided by local law for the interment or preservation of dead bodies, the remains must be disposed of by the local authorities in accordance with local law or regulations.

Personal Estates of Deceased United States Citizens and Nationals

§ 72.8 Regulatory responsibility of consular officer.

(a) A consular officer should act as provisional conservator of the personal estate of a United States citizen or non-citizen national who dies abroad in accordance with, and subject to, the provisions of §§ 72.9 through 72.27. The consular officer may act as provisional conservator only with respect to the portion of the personal estate located within the consular officer's district.

(b) A consular officer may act as provisional conservator only to the extent that doing so is:

(1) Authorized by treaty provisions;

(2) Not prohibited by the laws or authorities of the country where the personal estate is located; or

(3) Permitted by established usage in that country.

§ 72.9 Responsibility if legal representative is present.

(a) A consular officer should not act as provisional conservator if the consular officer knows that a legal representative is present in the foreign country.

(b) If the consular officer learns that a legal representative is present after the consular officer has taken possession and/or disposed of the personal estate but prior to transmission of the proceeds and effects to the Secretary of State pursuant to § 72.25, the consular officer should follow the procedures specified in § 72.22.

§ 72.10 Responsibility if a will intended to operate locally exists.

(a) If a will that is intended to operate in the foreign country is discovered and the legal representative named in the will qualifies promptly and takes charge of the personal estate in the foreign country, the consular officer should assume no responsibility for the estate, and should not take possession, inventory and dispose of the personal property and effects or in any way serve as agent for the legal representative.

(b) If the legal representative does not qualify promptly and if the laws of the country where the personal estate is located permit, however, the consular officer should take appropriate protective measures such as—

(1) Requesting local authorities to provide protection for the property under local procedures; and/or

(2) Placing the consular officer's seal on the personal property of the decedent, such seal to be broken or removed only at the request of the legal representative.

(c) If prolonged delays are encountered by the local or domiciliary legal representative in qualifying and/or making arrangements to take charge of the personal estate, the consular officer should consult the Department concerning whether the will should be offered for probate.

§ 72.11 Responsibility if a will intended to operate in the United States exists.

The consular officer immediately should forward any will that is intended to operate in the United States and that is among the effects taken into possession to the person or persons designated as executor(s). When the executor(s) cannot be located, the consular officer should send the will to the appropriate court in the State of the decedent's domicile. Until the consular officer knows that a legal representative is present in the foreign country and has qualified or made arrangements to take charge of the personal estate, the consular officer should act as provisional conservator in accordance with § 72.8.

§ 72.12 Bank deposits in foreign countries.

(a) A consular officer is not authorized to withdraw or otherwise dispose of bank accounts and other assets deposited in financial institutions left by a deceased United States citizen or non-citizen national in a foreign country. Such deposits or other assets are not considered part of the personal estate of a decedent.

(b) The consular officer should report the existence of bank accounts and other assets deposited in financial institutions of which the officer becomes aware to the legal representative, if any. The consular officer should inform the legal representative of the procedures required by local law and the financial institution to withdraw such deposits, and should provide a list of local attorneys in the event counsel is necessary to assist in withdrawing the funds.

(c) A consular officer may not under any circumstances withdraw funds left by a deceased United States citizen or non-citizen national in a bank or financial institution in a foreign country without express approval and specific instructions from the Department.

§ 72.13 Effects to be taken into physical possession.

(a) A consular officer normally should take physical possession of articles such as the following:

(1) Convertible assets, such as currency, unused transportation tickets, negotiable evidence of debts due and payable in the consular district, and any other instruments that are negotiable by the consular officer;

(2) Luggage;

(3) Wearing apparel;

(4) Jewelry, heirlooms, and articles generally of sentimental value (such as family photographs);

(5) Non-negotiable instruments, which include any document or instrument not negotiable by the consular officer because it requires either the signature of the decedent or action by, or endorsement of, the decedent's legal representative. Nonnegotiable instruments include, but are not limited to, transportation tickets not redeemable by the consular officer, traveler's checks, promissory notes, stocks, bonds or similar instruments, bank books, and books showing deposits in building and loan associations; and

(6) Personal documents and papers.

(b) All articles taken into physical possession by a consular officer should be kept in a locked storage area on post premises. If access to storage facilities on the post premises cannot be adequately restricted, the consular officer may explore the possibility of renting a safe deposit box if there are funds available in the estate or from other sources (such as the next of kin).

§ 72.14 Nominal possession; property not normally taken into physical possession.

(a) When a consular officer takes articles of a decedent's personal property from a foreign official or other persons for the explicit purpose of immediate release to the legal representative such action is not a taking of physical possession by the officer. Before releasing the property, the consular officer must require the legal representative to provide a release on the form prescribed by the Department discharging the consular officer of any responsibility for the articles transferred.

(b) A consular officer is not normally expected to take physical possession of items of personal property such as:

(1) Items of personal property found in residences and places of storage such as furniture, household effects and furnishings, works of art, and book and wine collections, unless such items are of such nature and quantity that they can readily be taken into physical possession with the rest of the personal effects;

(2) Motor vehicles, airplanes or watercraft;

(3) Toiletries, such as toothpaste or razors;

(4) Perishable items.

(c) The consular officer should in his or her discretion take appropriate steps permitted under the laws of the country where the personal property is located to safeguard property in the personal estate that is not taken into the officer's physical possession including such actions as:

(1) Placing the consular officer's seal on the premises or on the property (whichever is appropriate;

(2) Placing such property in safe storage such as a bonded warehouse, if the personal estate contains sufficient funds to cover the costs of such safekeeping; and/or

(3) If property that normally would be sealed by the consular officer is not immediately accessible, requesting local authorities to seal the premises or the property or otherwise ensure that the property remains intact until consular seals can be placed thereon, the property can be placed in safe storage, or the legal representative can assume responsibility for the property.

(d) The consular officer may decide in his or her discretion to discard toiletries and perishable items.

§ 72.15 Action when possession is impractical.

(a) A consular officer should not take physical possession of the personal estate of a deceased United States citizen or non-citizen national in his or her consular district when the consular officer determines in his or her discretion that it would be impractical to do so.

(b) In such cases, the consular officer should take action that he or she determines in his or her discretion would be appropriate to protect the personal estate such as:

(1) Requesting the persons, officials or organizations having custody of the personal estate to ship the property to the consular officer, if the personal estate contains sufficient funds to cover the costs of such shipment; or

(2) Requesting local authorities to safeguard the property until a legal representative can take physical possession.

§ 72.16 Procedure for inventorying and appraising effects.

(a) After taking physical possession of the personal estate of a deceased United States citizen or non-citizen national, the consular officer should promptly inventory the personal effects.

(b) If the personal estate taken into physical possession includes apparently valuable items, the consular officer may, in his or her discretion, seek a professional appraisal for such items, but only to the extent that there are funds available in the estate or from other sources (such as the next of kin) to cover the cost of appraisal.

(c) The consular officer should also prepare a list of articles not taken into physical possession, with an indication of any measures taken by the consular officer to safeguard such items for submission with the inventory of effects.

§ 72.17 Final statement of account.

The consular officer may have to account directly to the parties in interest and to the courts of law in estate matters. Consequently, the officer should keep an account of receipts and expenditures for the personal estate of the deceased, and must prepare a final statement of account when turning over the estate to the legal representative, a claimant, or the Department.

§ 72.18 Payment of debts owed by decedent.

The consular officer may pay debts of the decedent which the consular officer believes in his or her discretion are legitimately owed in the country in which the death occurred, or in the country in which the decedent was residing at the time of death, including expenses incident to the disposition of the remains and the personal effects, out of the convertible assets of the personal estate taken into possession by the consular officer.

§ 72.19 Consular officer is ordinarily not to act as administrator of estate.

(a) A consular officer is not authorized to accept appointment from any foreign state or from a court in the United States and/or to act as administrator or to assist (except as provided in §§ 72.8 to 72.30) in administration of the personal estate of a United States citizen or non-citizen national who has died, or was residing at the time of death, in his or her consular district, unless the Department has expressly authorized the appointment. The Department will authorize such an appointment only in exceptional circumstances and will require the consular officer to execute bond consistent with 22 U.S.C. 4198 and 4199.

(b) The Department will not authorize a consular officer to serve as an administrator unless:

(1) Exercise of such responsibilities is:

(i) Authorized by treaty provisions or permitted by the laws or authorities of the country where the United States citizen or national died or was domiciled at the time of death; or

(ii) Permitted by established usage in that country; and

(2) The decedent does not have a legal representative in the consular district.

§ 72.20 Prohibition against performing legal services or employing counsel.

A consular officer may not act as an attorney or agent for the estate of a deceased United States citizen or non-citizen national overseas or employ counsel at the expense of the United States Government in taking possession and disposing of the personal estate of a United States citizen or non-citizen national who dies abroad, unless specifically authorized in writing by the Department. If the legal representative or other interested person wishes to obtain legal counsel, the consular officer may furnish a list of attorneys.

§ 72.21 Consular officer not to assume financial responsibility.

A consular officer is not authorized to assume any financial responsibility or to incur any expense on behalf of the United States government in collecting and disposing of the personal estate of a United States citizen or national who dies abroad. A consular officer may incur expenses on behalf of the estate only to the extent that there are funds available in the estate or from other sources (such as the next of kin).

§ 72.22 Release of personal estate to legal representative.

(a) If a person or entity claiming to be a legal representative comes forward at any time prior to transmission of the decedent's personal estate to the Secretary of State under 22 CFR 72.25, the consular officer may release the personal estate in his or her custody to the legal representative provided that:

(1) The legal representative presents satisfactory evidence of the legal representative's right to receive the estate;

(2) The legal representative pays any fees prescribed for consular services provided in connection with the disposition of remains or protection of the estate (see 22 CFR § 22.1);

(3) The legal representative executes a release in the form prescribed by the Department; and

(4) The Department approves the release of the personal estate.

(b) Satisfactory evidence of the right to receive the estate may include:

(1) In the case of an executor, a certified copy of letters testamentary or other evidence of legal capacity to act as executor;

(2) In the case of an administrator, a certified copy of letters of administration or other evidence of legal capacity to act as administrator;

(3) In the case of the agent of an executor or administrator, a power of attorney or other document evidencing agency (in addition to evidence of the executor's or administrator's legal capacity to act).

§ 72.23 Affidavit of next of kin.

If the United States citizen or non-citizen national who has died abroad did not leave a will that applies locally, and the personal estate in the consular district consists only of clothing and other personal effects that the consular officer concludes in his or her discretion is worth less than $2000 and/or cash of a value equal to or less than $2000, the consular officer may decide in his or her discretion to accept an affidavit from the decedent's next of kin as satisfactory evidence of the next of kin's right to take possession of the personal estate. The Department must approve any release based on an affidavit of next of kin where the consular officer concludes that the personal estate effects are worth more than $2000 and/or the cash involved is of a value more than $2000 and generally will consider approving such releases only in cases where state law prohibits the appointment of executors or administrators for estates that are valued at less than a specified amount and the law of the foreign country where the personal property is located would not prohibit such a release.

§ 72.24 Conflicting claims.

Neither the consular officer nor the Department of State has the authority or responsibility to mediate or determine the validity or order of contending claims to the personal estate of a deceased United States citizen or non-citizen national. If rival claimants, executors or administrators demand the personal estate in the consular officer's possession, the officer should not release the estate to any claimant until a legally binding agreement in writing has been reached or until the dispute is settled by a court of competent jurisdiction, and/or the Department has approved the release.

§ 72.25 Transfer of personal estate to Department of State.

(a) If no claimant with a legal right to the personal estate comes forward, or if conflicting claims are not resolved, within one year of the date of death, the consular officer should sell or dispose of the personal estate (except for financial instruments, jewelry, heirlooms, and other articles of obvious sentimental value) in the same manner as United States Government-owned foreign excess property under Title IV of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 511 *et seq.*). If, however, a reasonable amount of additional time is likely to permit

final settlement of the estate, the consular officer may in his or her discretion postpone the sale for that period of additional time.

(b) The consular officer should send to the custody of the Department the proceeds of any sale, together with all financial instruments (including bonds, shares of stock and notes of indebtedness), jewelry, heirlooms and other articles of obvious sentimental value, to be held in trust for the legal claimant(s).

(c) After receipt of a personal estate, the Department may seek payment of all outstanding debts to the estate as they become due, may receive any balances due on such estate, may endorse all checks, bills of exchange, promissory notes, and other instruments of indebtedness payable to the estate for the benefit thereof, and may take such other action as is reasonably necessary for the conservation of the estate.

§ 72.26 Vesting of personal estate in United States.

(a) If no claimant with a legal right to the personal estate comes forward within the period of five fiscal years beginning on October 1 after the consular officer took possession of the personal estate, title to the personal estate shall be conveyed to the United States, the property in the estate shall be under the custody of the Department, and the Department may dispose of the estate under as if it were surplus United States Government-owned property under title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 4811 *et seq.*) or by such means as may be appropriate as determined by Department in its discretion in light of the nature and value of the property involved. The expenses of sales shall be paid from the estate, and any lawful claim received thereafter shall be payable to the extent of the value of the net proceeds of the estate as a refund from the appropriate Treasury appropriations account.

(b) The net cash estate shall be transferred to the miscellaneous receipts account of the Treasury of the United States.

§ 72.27 Export of cultural property.

(a) A consular officer should not ship, or assist in the shipping, of any archeological, ethnological, or cultural property, as defined in 19 U.S.C. 2601, that the consular officer is aware is part of the personal estate of a United States citizen or non-citizen national to the United States in order to avoid conflict with laws prohibiting or conditioning such export.

(b) A consular officer may refuse to ship, or assist in the shipping, of any property that is part of the personal estate of a United States citizen or non-citizen national if the consular officer has reason to believe that possession or shipment of the property would be illegal.

§ 72.28 Claims for lost, stolen, or destroyed personal estate.

(a) The legal representative of the estate of a deceased United States citizen or national may submit a claim to the Secretary of State for any personal property of the estate with respect to which a consular officer acted as provisional conservator, and that was lost, stolen, or destroyed while in the custody of officers or employees of the Department of State. Any such claim should be submitted to the Office of Legal Adviser, Department of State, in the manner prescribed by 28 CFR part 14 and will be processed in the same manner as claims made pursuant to 22 U.S.C. 2669–1 and 2669(f).

(b) Any compensation paid to the estate shall be in lieu of the personal liability of officers or employees of the Department to the estate.

(c) The Department nonetheless may hold an officer or employee of the Department liable to the Department to the extent of any compensation provided to the estate. The liability of the officer or employee shall be determined pursuant to the Department's procedures for determining accountability for United States government property.

§ 72.29 Real property overseas belonging to deceased United States citizen or national.

(a) If a consular officer becomes aware that the estate of a deceased United States citizen or national includes an interest in real property located within the consular officer's district that will not pass to any person or entity under the applicable local laws of intestate succession or testamentary disposition, and if local law provides that title may be conveyed to the Government of the United States, the consular officer should notify the Department.

(b) If the Department decides that it wishes to retain the property for its use, the Department will instruct the consular officer to take steps necessary to provide for title to the property to be conveyed to the Government of the United States.

(c) If title to the real estate is conveyed to the Government of the United States and the property is of use to the Department of State, the Department may treat such property as if it were an unconditional gift accepted on behalf of the Department of State under section 25 of the State Department Basic Authorities Act (22 U.S.C. 2697) and section 9(a)(3) of the Foreign Service Buildings Act of 1926 (22 U.S.C. 300(a)3).

(d) If the Department of State does not wish to retain such real property, the Department may treat it as foreign excess property under title IV of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 511 *et seq.*).

§ 72.30 Provisions in a Will or Advanced Directive Regarding Disposition of Remains.

United States state law regarding advance directives, deaths and estates include provisions regarding a person's right to direct disposition of remains. Host country law may or may not accept such directions, particularly if the surviving spouse/next-of-kin disagree with the wishes of the testator/affiant.

Fees

§ 72.31 Fees for consular death and estates services.

(a) Fees for consular death and estates services are prescribed in the Schedule of Fees, 22 CFR 22.1.

(b) The personal estates of all officers and employees of the United States who die abroad while on official duty, including military and civilian personnel of the Department of Defense and the United States Coast Guard are exempt from the assessment of any fees proscribed by the Schedule of Fees.

Dated: September 28, 2006.

Maura A. Harty,

Assistant Secretary for Consular Affairs, Department of State.

[FR Doc. E6–17591 Filed 10–23–06; 8:45 am]

BILLING CODE 4710–06–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Parts 1193 and 1194

Telecommunications Act Accessibility Guidelines; Electronic and Information Technology Accessibility Standards

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has established a Telecommunications and Electronic and Information Technology Advisory

Committee (Committee) to assist it in revising and updating accessibility guidelines for telecommunications products and accessibility standards for electronic and information technology. This notice announces the dates, time, and location of the second committee meeting, which will be open to the public.

DATES: The meeting is scheduled for November 8 and 9, 2006 (beginning at 9 a.m. and ending at 5 p.m. each day). Notices of future meetings will be published in the **Federal Register**.

ADDRESSES: The meeting will be held at the U.S. Department of Education, Potomac Center Plaza, 10th Floor Auditorium, 550 12th Street, SW., Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Timothy Creagan, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004–1111. Telephone number: 202–272–0016 (Voice); 202–272–0082 (TTY). Electronic mail address: *creagan@access-board.gov.*

SUPPLEMENTARY INFORMATION: The Telecommunications and Electronic and Information Technology Advisory Committee held its first meeting September 27–29, 2006 in Arlington, Virginia at the National Science Foundation. The Board organized this Committee to review its standards for electronic and information technology covered by section 508 of the Rehabilitation Act and to provide recommendations on how they should be updated. The Committee will also address updating the Board's guidelines for telecommunications products covered by section 255 of the Telecommunications Act.

At the first meeting, the Board provided a briefing on regulations governing committees of this type under the Federal Advisory Committee Act. The Committee reviewed and approved protocols that will govern its work and meetings. The Committee's objectives, milestones, subcommittee structure, and meeting schedule were also discussed. Members heard presentations and panel discussions on issues that need to be explored as recommended by government, consumer, and industry representatives. Information was provided on various accessibility initiatives in the U.S. and abroad relating to electronic and information technology. This included updates on efforts to develop standards by the European Union, the Japanese Standards Association, Industry Canada, and Australia's Human Rights and Equal Opportunity Commission.

Prior to its first meeting, over 120 organizations applied to serve on the Committee. In order to keep the Committee to a size that can be effective, it was necessary to limit membership. It is also important to have balance among members of the Committee representing different clusters of interest, such as disability organizations and the technology industry. Some organizations that were not accepted asked that their applications be reconsidered. Additionally, some organizations learned about the Committee too late to submit an application. Accordingly, time was set aside at the first meeting to allow organizations to submit an application directly to the committee to be considered for membership. At the first meeting, 10 organizations applied to the Committee to be considered for membership. One organization, AOL LLC, was added.

In keeping with the Committee's protocols, as adopted at its first meeting, there will be time set aside on the agenda during the November meeting to allow additional organizations to have their applications considered. This is currently scheduled for Friday, November 9 at approximately 2:30 p.m. Organizations seeking to be added to the Committee are encouraged to contact Timothy Creagan prior to the meeting (*see* contact information, above).

A draft meeting agenda and other information about the Committee, including tentative future meeting dates and information on subcommittees are available on the Access Board's Web site (*http://www.access-board.gov/sec508/update-index.htm*) or at a special Web site created for the Committee's work (*http://teitac.org*). The site includes a calendar for the subcommittee meetings, e-mail distribution lists, and a ''Wiki'' (*http://teitac.org/wiki/TEITAC_Wiki*) which provides interactive online work space.

Committee meetings are open to the public and interested persons can attend the meetings and communicate their views. Members of the public will have an opportunity to address the Committee on issues of interest to them and the Committee during public comment periods scheduled on each day of the meeting. Members of groups or individuals who are not members of the Committee are invited to participate on subcommittees that were formed at the first meeting. The Access Board believes that participation of this kind is very valuable to the advisory committee process.

The meeting site is accessible to individuals with disabilities. Sign language interpreters and real-time captioning will be provided in the main committee meeting room. Due to logistical issues regarding the available space in smaller meeting rooms which may be used for breakout sessions, it is essential that individuals who require sign language interpreters or real-time captioning, contact Timothy Creagan by November 2, 2006 (*see* contact information, above).

For the comfort of other participants, persons attending Committee meetings are requested to refrain from using perfume, cologne, and other fragrances. Due to security measures at the Department of Education, all attendees must notify Timothy Creagan of their intent to attend the meeting (*see* contact information, above). Pre-registration is required for expeditious entry into the facility and will enable the Board to provide additional information as needed.

Lawrence Roffee,

Executive Director.

[FR Doc. E6–17758 Filed 10–23–06; 8:45 am]

BILLING CODE 8150–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 49 and 51

[EPA–HQ–OAR–2003–0076; FRL–8233–3]

RIN 2060–AH37

Review of New Sources and Modifications in Indian Country

AGENCY: Environmental Protection Agency (EPA).

ACTION: Announcement of extension of comment period.

SUMMARY: The EPA is announcing an extension of the public comment period on our proposed Review of New Sources and Modification in Indian Country Federal Implementation Plan (FIP) (August 21, 2006). The proposed FIP changes would include two basic air quality regulations for the protection of communities in Indian country. The first rule would apply to minor stationary sources and minor modifications at major stationary sources in Indian country (minor New Source Review (NSR) rule). The second rule would apply to all new major stationary sources and major modifications located in areas of Indian country that are designated as not attaining the National Ambient Air Quality Standards (NAAQS)

(nonattainment major NSR rule). These rules would be implemented by EPA, or a delegate tribal agency assisting EPA with administration of the rules, until replaced by an EPA-approved tribal implementation plan for an area of Indian country. The EPA is extending the public comment period from November 20, 2006 to January 19, 2007. The EPA is extending the public comment period by 60 days because of the number of requests we received in a timely manner.

DATES: *Comments.* Comments must be received on or before January 19, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2003–0076, by one of the following methods:

- *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *E-mail: a-and-r-docket@epamail.epa.gov.*
- *Fax:* 202–566–1741.
- *Mail:* Attention Docket ID No. EPA–HQ–OAR–2003–0076, U.S. Environmental Protection Agency, EPA West (Air Docket), 1200 Pennsylvania Avenue, Northwest, Mailcode: 6102T, Washington, DC 20460. Please include a total of 2 copies. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th St., NW., Washington, DC 20503.
- *Hand Delivery:* U.S. Environmental Protection Agency, EPA West (Air Docket), 1301 Constitution Avenue, Northwest, Room B–102, Washington, DC 20004, Attention Docket ID No. EPA–HQ–OAR–2003–0076. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions. Direct your comments to Docket ID No. EPA–HQ–OAR–2003–0076. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the U.S. Environmental Protection Agency, Air Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air 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 make hand deliveries or 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 *http://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 *http://www.regulations.gov* are not affected by the flooding and will remain the same.

FOR FURTHER INFORMATION CONTACT: For technical information, contact Jessica Montanez, Air Quality Policy Division, U.S. EPA, Office of Air Quality Planning and Standards (C504–03), Research Triangle Park, North Carolina 27711, telephone number (919) 541–3407, facsimile number (919) 541–5509, electronic mail e-mail address: *montanez.jessica@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. What Should I Consider as I Prepare My Comments for EPA?

1. Submitting CBI

Do not submit this information to EPA through *http://www.regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404–02), U.S. EPA, Research Triangle Park, NC 27711, Attention Docket ID No. EPA–HQ–OAR–2003–0076.

2. Tips for Preparing Your Comments

When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.

• Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

• Make sure to submit your comments by the comment period deadline identified.

B. Where Can I Get a Copy of This Document and Other Related Information?

In addition to being available in the docket, an electronic copy of this proposal will also be available on the WWW. Following signature by the EPA Administrator, a copy of this notice will be posted in the regulations and standards section of our NSR home page located at *http://www.epa.gov/nsr* and on the tribal air home page at *http://www.epa.gov/oar/tribal.*

Dated: October 12, 2006.

Jeffrey S. Clark,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. E6–17809 Filed 10–23–06; 8:45 am]

BILLING CODE 6560–50–P

AGENCY FOR INTERNATIONAL DEVELOPMENT

48 CFR Part 7

[USAID Acquisition Regulation ''AIDAR'']

RIN 0412–AA56

Application of Post Differential and Danger Pay Allowances To Extended Workweeks Under Cost-Reimbursement Type Contracts

AGENCY: United States Agency for International Development.

ACTION: Proposed rule.

SUMMARY: The U.S. Agency for International Development (USAID) is proposing to amend its regulations by adding how Post-differential and Danger pay allowances will be applied to extended workweeks under cost-reimbursement type contracts.

DATES: Submit comments on or before December 26, 2006.

ADDRESSES: Submit comments, identified by title of the Proposed Action, and RIN number by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

E-mail: federalregistercomments@usaid.gov. Include title of the proposed action, and RIN number in the subject line of the message.

Fax: 202–216–3135.

Mail: U. S. Agency for International Development, Office of Acquisition & Assistance, Policy Division, 1300 Pennsylvania Avenue, NW., Room 7.9–18, Washington, DC 20523–0001.

Instructions: All submissions must include the title of the proposed action, and Regulatory Information Number (RIN) for this rulemaking. Please include your name, title, organization, postal address, telephone number, and e-mail address in the text of the message.

FOR FURTHER INFORMATION CONTACT: Carol Ketrick, Telephone: 202–712–1382, E-mail: *cketrick@usaid.gov.*

SUPPLEMENTARY INFORMATION:

Public Participation: Because security screening precautions have slowed the delivery and dependability of surface mail to USAID/Washington, USAID recommends sending all comments to the Federal eRulemaking Portal, e-mail address, or fax number listed above (all comments must be in writing to be reviewed). You may submit comments by electronic mail avoiding the use of any special characters and any form of encryption. All comments will be made available for public review without change, including any personal information provided, from three days after receipt to finalization of rule at *http://www.usaid.gov/policy/regulations/index.html.*

A. Background

Based on a recent surge in requests to interpret the applicable regulations for Post differential and Danger pay allowances associated with contract awards in Iraq and Afghanistan, we feel it prudent to amend 48 CFR 752.7028 of the USAID Acquisition Regulations (the ''AIDAR'') to clarify the existing policy. This clarification brings the policy in line with that applied to direct-hire employees. The Department of State's Standardized Regulations (DSSR) provide those regulations governing allowances, differentials and defraying of official residence expenses for employees in foreign areas. The DSSR provides the following definitions for the allowances noted above as follows: ''Post allowance'' is ''a cost-of-living allowance granted to an employee officially stationed at a post in a foreign area where the cost of living, exclusive of quarters costs, is substantially higher than in Washington, DC''. It is additional compensation for service at places in foreign areas where conditions of environment differ substantially from conditions of environment in the continental U.S. and warrant additional compensation as a recruitment and retention incentive. ''Danger Pay Allowance'' means the ''additional compensation of up to 35 percent over basic compensation granted to employees for service at designated danger pay posts.'' Direct hire employees are compensated in accordance with the DSSR which defines basic compensation as the rate of compensation fixed by statute for the position held by an employee: administratively in conformity with rates paid by the Government for work of a comparable level of difficulty and responsibility in the continental United States, before any deduction is made and without taking into consideration any additional compensation such as overtime pay, night pay differential, hazard differential, extra pay for work on holidays, post differential, and allowances * * *''. Further, the Department of State Foreign Affairs Manual, (FAM) 3 FAM–2333.1–1 establishes the basic workweek for full-time employees as being a 40-hour workweek.

Recent contract awards in Iraq and Afghanistan have resulted in circumstances where the contractor may be authorized to work in excess of a 40-hour workweek. Mission direct-hire employees have, in some instances, worked more than a 40-hour workweek; however, for purposes of calculating Danger pay allowance, these additional hours are not included in the amount defined as ''basic compensation''. In order to clarify USAID policy aligning payment of allowances with that of direct-hire employees, the Proposed Rule would amend 48 CFR 752.7028 to reflect USAID's policy that Post-differential and Danger Pay allowances are to be calculated by applying the percentage rates to a maximum 40-hour workweek, regardless of whether the contractor has been authorized a workweek in excess of 40 hours. The proposed amendments made under this case are intended to be applicable only to USAID cost reimbursement type contracts; however, the policy would also apply to contracts or task orders using other than a cost-reimbursement pricing structure but that allow for the reimbursement of costs for these allowances. USAID is interested in hearing from contractors regarding the effect on contractors' standard policies regarding employee benefits.

USAID also seeks comment on the inclusion of an exception to the above limitation which would allow Mission Directors to authorize calculation of post-differential and danger percentages applied to a workweek in excess of 40 hours as approved by a contracting officer.

In addition to the clarification of the policy, the applicable clause is modified to delete reference to the Supplemental

post allowance to reflect the elimination of that allowance from the Department of States' Standardized Regulations (Government Civilians, Foreign Areas), Chapter 230.

B. Regulatory Planning and Review

This is not a significant regulatory action and, therefore, is subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

C. Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), USAID has considered the economic impact of the rule and has determined that its provisions would not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

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

List of Subjects in 48 CFR Part 7

Government procurement.

For the reasons set forth in the preamble, the U. S. Agency for International Development proposes to amend 48 CFR part 7 as follows:

1. The authority citation for 48 CFR part 7 continues to read as follows:

Authority: Sec. 621, Pub. L. 87–195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

PART 752—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

2. Amend Section 752.7028 by revising paragraph (a), removing and reserving paragraph (e), and adding a sentence at the end of paragraph (j)(1) to read as follows:

§ 752.7028 Differential and allowances.

* * * * *

(a) *Post differential.* Post differential is an additional compensation for service at places in foreign areas where conditions of environment differ substantially from conditions of environment in the continental United States and warrant additional compensation as a recruitment and retention incentive.

(1) In areas where post differential is paid to USAID direct-hire employees, post differentials not to exceed the percentage of salary as is provided such USAID employees in accordance with the Standardized Regulations (Government civilians, Foreign Areas), Chapter 500 (except the limitation contained in Section 552, ''Ceiling on Payment'') Tables—Chapter 900, as from time to time amended, will be reimbursable hereunder for employees in respect to amounts earned during the time such employees actually spend overseas on work under this contract. (See Standardized Regulation 510). Payments for post differential are limited to that percentage rate applied to a maximum 40-hour work week, regardless of whether the contracting officer has authorized a work week in excess of 40 hours. Exceptions to this policy may be granted either by the Mission Director or the Assistant Administrator having program responsibility for the project.

(2) When such post differential is provided to regular employees of the Contractor, it shall be payable beginning on the date of arrival at the post of assignment and continue, including periods away from post on official business, until the close of business on the day of departure from post of assignment en route to the United States. Sick or vacation leave taken at or away from the post of assignment will not interrupt the continuity of the assignment or require a discontinuance of such post differential payments, provided such leave is not taken within the United States or the territories of the United States. Post differential will not be payable while the employee is away from his/her post of assignment for purposes of home leave. Short-term employees shall be entitled to post differential beginning with the forty-third (43rd) day at post.

* * * * *

(e) Reserved.

* * * * *

(j) (1) * * * Payments for danger pay are limited to that percentage of basic compensation as established by the Standardized Regulations applied to a maximum 40-hour work week, regardless of whether the contracting officer has authorized a work week in excess of 40 hours. Exceptions to this policy may be granted either by the Mission Director or the Assistant Administrator having program responsibility for the project.

Dated: October 12, 2006.

Michael F. Walsh,

Procurement Executive.

[FR Doc. E6–17543 Filed 10–23–06; 8:45 am]

BILLING CODE 6116–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 12, 13, 32, 33, 36, 42, and 52

[FAR Case 2005–018]

RIN: 9000–AK59: Docket 2006–0020; Sequence 11

Federal Acquisition Regulation; FAR Case 2005–018, Contract Debts

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to revise the policies and procedures for contract debts.

DATES: Interested parties should submit written comments to the FAR Secretariat on or before December 26, 2006 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FAR case 2005–018 by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Search for any document by first selecting the proper document types and selecting ''Federal Acquisition Regulation'' as the agency of choice. At the ''Keyword'' prompt, type in the FAR case number (for example, FAR Case 2006–001) and click on the ''Submit'' button. You may also search for any document by clicking on the ''Advanced search/document search'' tab at the top of the screen, selecting from the agency field ''Federal Acquisition Regulation'', and typing the FAR case number in the keyword field. Select the ''Submit'' button.
- Fax: 202–501–4067.
- Mail: General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW, Room 4035, ATTN: Laurieann Duarte, Washington, DC 20405.

Instructions: Please submit comments only and cite FAR case 2005–018 in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson at (202) 501–3221 for clarification of content. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501–4755. Please cite FAR case 2005–018.

SUPPLEMENTARY INFORMATION:

A. Background

In 2003, the DoD Comptroller established the DoD Accounts Receivable Workgroup to evaluate the processes and procedures for reporting accounts receivables. This Workgroup concluded that contracting officers may not be properly reporting contract debts. Based on the Workgroup's recommendations, DoD established a Contract Debt Integrated Process Team (IPT).

The mission of the IPT was to evaluate the adequacy of DoD's existing controls and procedures for ensuring that contract debts are identified and recovered in a timely manner, properly accounted for in DoD's books and records, and properly coordinated with the appropriate Government Officials. Contract debts result from compliance, or a failure to comply, with the terms of a contract and include debts identified by auditors, contracting officers, disbursing officials, and contractors. On May 26, 2005, a final report was issued that included a number of recommended FAR changes to improve contract debt controls and procedures, and to ensure consistency within/between existing regulations.

The Councils established this case to evaluate the DoD recommendations. As a result of this review, the Councils are proposing the revisions discussed below. In addition, the Councils are considering whether the current provisions regarding interest provisions are sufficient. In particular, concerns have been expressed over the current timeline for computing interest. The Councils agreed to defer this issue for consideration to a later date (including a possible public meeting).

1. **Reorganize FAR Subpart 32.6**. Reorganizes FAR Subpart 32.6 to add clarity and provide a logical sequence. The Subpart has been reorganized as follows:

32.600 Scope of subpart.
32.601 General.
32.602 Responsibilities.
32.603 Debt determination.
32.604 Demand for payment.
32.605 Final decisions.
32.606 Debt collection.
32.607 Installment payments and deferment of collection.
32.607–1Installment payments.
32.607–2Deferment of collection.
32.608Interest.
32.608–1Interest charges.
32.608–2Interest credits.
32.609 Delays in receipt of notices or demands.
32.610 Compromising debts.
32.611 Contract clause.

2. **Scope of Subpart**. Revise FAR 32.600 to provide a more accurate description of the scope of this FAR subpart. FAR 32.6 prescribes policies and procedures for identifying, collecting, and deferring contract debts (including interest, if applicable).

3. **Responsible Official**. Replace the term ''responsible official'' with the specific individual/organization responsible for fulfilling the FAR requirement. Some of the responsibilities currently listed are assigned to one individual/organization (*e.g.*, the Procuring Contracting Officer) and other responsibilities are assigned to another individual/organization (e.g., the payment office). To assure a clear understanding of the process and applicable duties, the proposed rule specifies the responsible party for each required action(*e.g.*, the Procuring Contracting Officer, the Administrative Contracting Officer, the payment office, etc.) rather than referring to all parties as ''responsible officials.''

4. **Contract Debt** – General. Revise FAR 32.601 to specify what constitutes a contract debt, rather than how a contract debt may arise. In addition, amend this section to include payments determined to be in excess of contract limitations for commercial financing, since such payments constitute a contract debt.

5. **Contract Debt Responsibilities – Identifying, Demanding Payment, Collecting, and Liquidating.** Add a section to clearly define the responsibilities of the contracting officer and the payment officials to assure an efficient and non-duplicative process. Under the proposed rule the—

(a) The contracting officer is responsible for identifying a contract debt and demanding payment of a contract debt. The contracting officer is prohibited from collecting contract debts or otherwise liquidating contract debts (*e.g.*, offsetting the amount of the debt against existing unpaid bills due the contractor or allowing contractors to retain contract debts to cover amounts that may be payable to the contractor in the future).

(b) The payment office is responsible for collecting payment of the contract debt and liquidating the contract debt.

6. **Contract Debt Determinations** Consolidate all discussions of contract debt determinations in FAR 32.603, Debt Determinations, including the responsibility of the contracting officer in making debt determinations.

7. **Tax Credit.** Delete the current FAR 32.607 because the referenced tax credit (Sec. 1481) was repealed on November 5, 1990, by Public Law 101–508.

8. **Demand for Payment**. Consolidate all discussions of the demand for payment in a single section, at FAR 32.604, Demand for Payment to include:

(a) A requirement to issue the demand letter except in specific circumstances.

(b) A requirement that the demand letter include accounting information to enable the payment office to correctly record the amounts in the proper accounts.

(c) A requirement that the demand letter include the amount of interest owed under statutes that require interest assessments from the date of noncompliance to the date of re-payment (CAS and TINA).

(d) A paragraph implementing the requirements of 31 U.S.C. 3717(e)(1) and the Debt Collection Improvement Act of 1996; and

(e) A paragraph addressing instances where overpayments exist but a demand for payment is not necessary.

9. **Final Decisions**. Consolidate all discussions of final decisions in a single section at FAR 32.605, Final Decisions, to include:

(a) When a final decision must be issued;

(b) A statement that the due date for a demand letter is not extended simply because a final decision is being issued;

(c) A need to obtain evidence of receipt by the contractor to establish the starting date for interest computations and the statute of limitations.

10. **Debt Collection.** Consolidate all discussions of debt collection in a single section, at FAR 32.606, Debt Collection, to include:

(a) The current requirements at 32.612;

(b) The current requirements for transferring debts to the Department of Treasury; and

(c) A requirement to assure the debt is being collected by maintaining communication between the contracting officer and the payment office.

11. **Installment Payments and Deferment of Collection.** Clarify procedures for processing installment payments and deferment of collection requests.

12. **Interest.** Consolidate and simplify all discussions of interest in a single section at FAR 32.608, Interest, to include:

(a) The substance of the current language at 32.614;

(b) Computing interest on overpayments.

13. **FAR 12.215 and 32.008 – Notification of Overpayment**. Revise FAR 32.008 to specifically state the responsibilities of the contracting officer when notified by the contractor of a duplicate payment or that the Government has otherwise overpaid. In addition, amend FAR 12.215 to include reference to the requirement in FAR 32.604.

14. **FAR Contract Clauses – Payment.** Revise the contract clauses at FAR 52.212–4(i)(5)and (6); 52.232–25(d); 52.232–26(c); and FAR 52.232–27(l) to assure that the contractor remits payment to the payment office (rather than the contracting officer) and the payment office is able to properly account for the remittance.

15. **FAR 52.232–17, Interest.** Revise FAR 52.232–17 to conform with the other proposed revisions.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Councils do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the regulatory changes are predominantly internal operating procedures for contracting officers and will not significantly change duties of small entities under their contracts. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR Part(s) 12, 13, 32, 33, 36, 42, and 52 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 2005–018), in correspondence.

C. Paperwork Reduction Act

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

List of Subjects in 48 CFR Parts 12, 13, 32, 33, 36, 42, and 52

Government procurement.

Dated: October 6, 2006.

Ralph De Stefano,

Director, Contract Policy Division.

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 12, 13, 32, 33, 36, 42, and 52 as set forth below:

1. The authority citation for 48 CFR parts 12, 13, 32, 33, 36, 42, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 12—ACQUISITION OF COMMERCIAL ITEMS

2. Revise section 12.215 to read as follows:

12.215 Notification of Overpayment.

If the contractor notifies the contracting officer of a duplicate payment or that the Government has otherwise overpaid, the contracting officer shall follow the procedures at 32.604.

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

3. Revise section 13.401 (b) to read as follows:

13.401 General.

* * * * *

(b) The contracting officer shall be primarily responsible for determining the amount of debts resulting from failure of contractors to properly replace, repair, or correct supplies lost, damaged, or not conforming to purchase requirements (see 32.602 and 32.603).

* * * * *

PART 32—CONTRACT FINANCING

4. Revise section 32.008 to read as follows:

32.008 Notification of Overpayment.

If the contractor notifies the contracting officer of a duplicate payment or that the Government has otherwise overpaid, the contracting officer shall follow the procedures at 32.604.

5. Revise subpart 32.6 to read as follows:

Subpart 32.6—Contract Debts

Sec.

32.600 Scope of subpart.
32.601 General.
32.602 Responsibilities.
32.603 Debt determination.
32.604 Demand for payment.
32.605 Final decisions.
32.606 Debt collection.
32.607 Installment payments and deferment of collection.
32.607–1 Installment payments.
32.607–2 Deferment of collection.
32.608 Interest.
32.608–1 Interest charges.
32.608–2 Interest credits.
32.609 Delays in receipt of notices or demands.
32.610 Compromising debts.
32.611 Contract clause.

32.600 Scope of Subpart.

This subpart prescribes policies and procedures for identifying, collecting, and deferring contract debts(including interest, if applicable). Sections 32.607, 32.608, and 32.610 of this subpart do not apply to claims against common carriers for transportation overcharges and freight and cargo losses (31 U.S.C. 3726).

32.601 General.

(a) Contract debts are amounts that—

(1) Have been paid to a contractor to which the contractor is not currently entitled under the terms and conditions of the contract; or

(2) Are otherwise due from the contractor under the terms and conditions of the contract.(b) Contract debts include, but are not limited to, the following:

(1) Billing and price reductions resulting from contract terms for price redetermination or for determination of prices under incentive type contracts.

(2) Price or cost reductions for defective cost or pricing data.

(3) Financing payments determined to be in excess of the contract limitations at 52.232–16(a)(7), Progress Payments, or 52.232–32(d)(2), Performance-Based Payments, or any contract clause for commercial item financing.

(4) Increases to financing payment liquidation rates.

(5) Overpayments disclosed by quarterly statements required under price redetermination or incentive contracts.

(6) Price adjustments resulting from Cost Accounting Standards (CAS) noncompliances or changes in cost accounting practice.

(7) Reinspection costs for nonconforming supplies or services.

(8) Duplicate or erroneous payments.

(9) Damages or excess costs related to defaults in performance.

(10) Breach of contract obligations concerning progress payments, performance based payments, advance payments, commercial item financing, or Government-furnished property.

(11) Government expense of correcting defects.

(12) Overpayments related to errors in quantity or billing or deficiencies in quality.

(13) Delinquency in contractor payments due under agreements or arrangements for deferral or postponement of collections.

(14) Reimbursement of amounts due under 33.102(b)(3) and 33.104(h)(8).

32.602 Responsibilities.

(a) The contracting officer has primary responsibility for identifying and demanding payment of contract debts except those resulting from errors made by the payment office. The contracting officer shall not collect contract debts or otherwise agree to liquidate contract debts (*e.g.* offset the amount of the debt against existing unpaid bills due the contractor, or allow contractors to retain contract debts to cover amounts that may become payable in future periods.

(b) The payment office has primary responsibility for—

(1) Collecting contract debts identified by contracting officers;

(2) Identifying and collecting duplicate and erroneous payments; and

(3) Authorizing the liquidation of contract debts in accordance with agency procedures.

32.603 Debt determination.

(a) If the contracting officer has any indication that a contractor owes money to the Government under a contract, the contracting officer shall determine promptly whether an actual debt is due and the amount. Any unnecessary delay may contribute to—

(1) Loss of timely availability of the funds to the program for which the funds were initially provided;

(2) Increased difficulty in collecting the debt; or

(3) Actual monetary loss to the Government.

(b) The amount of indebtedness determined unilaterally by the contracting officer shall be an amount that—

(1) Is based on the merits of the case; and

(2) Is consistent with the contract terms.

32.604 Demand for payment.

(a) Except as provided in paragraph (c) of this section, the contracting officer shall take the following actions:

(1) Issue the demand for payment as soon as the contracting officer has determined that an actual debt is due the Government and the amount.

(2) Issue a demand for payment even if—

(i) The debt is or will be the subject of a bilateral modification;

(ii) The contractor is otherwise obligated to pay the money under the existing contract terms; or

(iii) The contractor has agreed to repay the debt.

(3) Issue the demand for payment as a part of the final decision, if a final decision is required by 32.605(a).

(b) The demand for payment shall include the following:

(1) A description of the debt, including the debt amount.

(2) A distribution of the principal amount of the debt by line(s) of accounting subject to the following:

(i) If the debt affects multiple lines of accounting, the contracting officer shall, to the maximum extent practicable, identify all affected lines of accounting. If it is not practicable to identify all affected lines of accounting, the contracting officer may select representative lines of accounting in accordance with paragraph (b)(2)(ii) of this section.

(ii) In selecting representative lines of accounting, the contracting officer shall—

(A) Consider the affected departments or agencies, years of appropriations, and the predominant types of appropriations;

(B) Not distribute to any line of accounting an amount of the principal in excess of the total obligation for the line of accounting; and

(iii) Include the lines of accounting even if the associated funds are expired or cancelled. While cancelled funds will be deposited in a miscellaneous receipt account of the Treasury if collected, the funds are tracked under the closed year appropriation(s) to comply with the Anti-Deficiency Act.

(iv) If the debt affects multiple contracts and the lines of accounting are not readily available, the contracting officer shall—

(A) Issue the demand for payment without the distribution of the principal amount to the affected lines of accounting;

(B) Include a statement in the demand for payment advising when the distribution will be provided; and

(C) Provide the distribution by the date identified in the demand for payment.

(3) The basis for and amount of any accrued interest or penalty.

(4)(i) For debts resulting from specific contract terms (*e.g.*, debts resulting from incentive clause provisions, Quarterly Limitation on Payments Statement, Cost Accounting Standards, price reduction for defective pricing), a notification stating that payment should be made promptly, and that interest is due in accordance with the terms of the contract. Interest shall be computed from the date specified in the applicable contract clause until repayment by the contractor. The interest rate shall be the rate specified in the applicable contract clause.

(ii) For all other contract debts, a notification stating that any amounts not paid within 30 days from the date of the demand for payment will bear interest. Interest shall be computed from the date of the demand for payment until repayment by the contractor. The interest rate shall be the interest rate established by the Secretary of the Treasury, as provided in Section 611 of the Contract Disputes Act of 1978 (Public Law 95–563), which is applicable to the period in which the amount becomes due, and then at the rate applicable for each six-month period as established by the Secretary until the amount is paid.

(iii) In the case of a debt arising from a price reduction for defective pricing, or as specifically set forth in a Cost Accounting Standards (CAS) clause in the contract, interest is computed from the date of overpayment by the Government until repayment by the contractor at the underpayment rate established by the Secretary of the Treasury, for the periods affected, under 26 U.S.C. 6621(a)(2).

(5) A statement advising the contractor—

(i) To contact the contracting officer if the contractor believes the debt is invalid or the amount is incorrect; and

(ii) To remit a check payable to the ''Treasurer of the United States'' annotated with the contract number along with a copy of the demand for payment to the payment office identified in the contract or as otherwise specified in the demand letter in accordance with agency procedures.

(6) Notification that the payment office may offset the debt against any payments otherwise due the contractor.

(7) Notification that the debt is subject to administrative charges in accordance with the requirements of 31 U.S.C. 3717(e) and the Debt Collection Improvement Act of 1996.

(8) A notification that the contractor may submit a request for installment payments or deferment of collection if immediate payment is not practicable or if the amount is disputed.

(c) Except as provided in paragraph (d) of this section, the contracting officer should not issue a demand for payment if the contracting officer only becomes aware of the debt when the contractor—

(1) Provides a lump sum payment or submits a credit invoice. (A credit invoice is a contractor's request to liquidate the debt against existing unpaid bills due the contractor); or

(2) Notifies the contracting officer that the payment office overpaid on an invoice payment. When the contractor provides the notification, the contracting officer shall notify the payment office of the overpayment.

(d) If a demand for payment was not issued as provided for in paragraph (c) of this section, the contracting officer shall issue a demand for payment no sooner than 30 days after the contracting officer becomes aware of the debt unless—

(i) The contractor has liquidated the debt;

(ii) The contractor has requested an installment payment agreement; or

(iii) The payment office has issued a demand for payment.

(e) The contracting officer shall—

(1) Furnish a copy of the demand for payment to the contractor by certified mail, return receipt requested, or by any other method that provides evidence of receipt; and

(2) Forward a copy of the demand to the payment office.

32.605 Final decisions.

(a) The contracting officer shall issue a final decision as required by 33.211 if–

(1) The contracting officer and the contractor are unable to reach agreement on the existence or amount of a debt in a timely manner;

(2) The contractor fails to liquidate a debt previously demanded by the contracting officer within the timeline specified in the demand for payment unless the amounts were not repaid because the contractor has requested an installment payment agreement; or

(3) The contractor requests a deferment of collection on a debt previously demanded by the contracting officer (see 32.607–2).

(b) If a demand for payment was previously issued for the debt, the demand for payment included in the final decision shall identify the same due date as the original demand for payment.

(c) The contracting officer shall–

(1) Furnish the decision to the contractor by certified mail, return receipt requested, or by any other method that provides evidence of receipt; and

(2) Forward a copy to the payment office identified in the contract.

32.606 Debt collection.

(a) If the contractor has not liquidated the debt within 30 days of the date due or requested installment payments or deferment of collection, the payment office initiates withholding of principal, interest, penalties, and administrative charges. In the event the contract is assigned under the Assignment of Claims Act of 1940 (31 U.S.C. 3727 and 41 U.S.C. 15), the rights of the assignee will be scrupulously respected and withholding of payments shall be consistent with those rights. For additional information on assignment of claims, see Subpart 32.8.

(b) As provided for in the Debt Collection Improvement Act of 1996, payment offices are required to transfer any debt that is delinquent more than 180 days to the Department of Treasury for collection.

(c) The contracting officer shall periodically follow up with the payment office to determine whether the debt has been collected and credited to the correct appropriation(s).

32.607 Installment payments and deferment of collection.

(a) The contracting officer shall not approve or deny a contractor's request for installment payments or deferment of collections. The office designated in agency procedures is responsible for approving or denying requests for installment payments or deferment of collections.

(b) If a contractor has not appealed the debt or filed an action under the Disputes clause of the contract and the contractor has submitted a proposal for debt deferment or installment payments–

(1) The office designated in agency procedures may arrange for deferment/installment payments if the contractor is unable to pay at once in full or the contractor's operations under national defense contracts would be seriously impaired. The arrangement shall include appropriate covenants and securities and should be limited to the shortest practicable maturity; and

(2) The deferment/installment agreement shall include a specific schedule or plan for payment. It should permit the Government to make periodic financial reviews of the contractor and to require payments earlier than required by the agreement if the Government considers the contractor's ability to pay improved. It should also provide for required stated or measurable payments on the occurrence of specific events or contingencies that improve the contractor's ability to pay.

(c) If not already applicable under the contract terms, interest on contract debt shall be made an element of any agreement entered into an installment payment or deferment of collection agreement.

32.607–1 Installment payments.

If a contractor requests an installment payment agreement, the contracting officer shall notify the contractor to send a written request for installment payments to the office designated in agency procedures.

32.607–2 Deferment of collection.

(a) All requests for deferment of collection must be submitted in writing to the contracting officer.

(1) If the contractor has appealed the debt under the procedures of the Disputes clause of the contract, the information with the request for deferment may be limited to an explanation of—

(i) The contractor's financial condition; and

(ii) Whether deferment of the debt collection is advisable to avoid possible overcollection.

(2) If there is no appeal pending or action filed under the Disputes clause of the contract, the following information about the contractor should be submitted with the request:

(i) Financial condition.

(ii) Contract backlog.

(iii) Projected cash receipts and requirements.

(iv) The feasibility of immediate payment of the debt.

(v) The probable effect on operations of immediate payment in full.

(vi) Whether deferment of the debt collection is advisable to avoid possible over collection.

(b) Upon receipt of the contractor's written request, the contracting officer shall promptly provide a notification to the payment office and advise the payment office that the contractor's request is under consideration. Prompt notification is required to ensure that the payment office does not begin collection while the deferment request is being considered.

(c)(1) The contracting officer shall forward the following to the office designated in agency procedures for a decision:

(i) A copy of the contractor's request for a deferment of collection.

(ii) A written recommendation on the request and the basis for the recommendation including the advisability of deferment to avoid possible overcollections.

(iii) A statement as to whether the contractor has an appeal pending or action filed under the Disputes clause of the contract and the docket number if the appeal has been filed.

(iv) A copy of the contracting officer's final decision (see 32.605).

(2) The contracting officer should consider any information necessary to develop a recommendation on the deferment request.

(d) The office designated in agency procedures may authorize a deferment pending the resolution of appeal to avoid possible overcollections. The agency is required to use current year unexpired funds to pay interest on overcollections.

(e) Deferments pending disposition of appeal may be granted to small business concerns and financially weak contractors, with a reasonable balance of the need for Government security against loss and undue hardship on the contractor.

(f) Contracts and arrangements for deferment shall not provide that a claim of the Government will not become due and payable pending mutual agreement on the amount of the claim or, in the case of a dispute, until the decision is reached.

(g) At a minimum, the deferment agreement shall contain the following:

(1) A description of the debt.

(2) The date of first demand for payment.

(3) Notice of an interest charge, in conformity with FAR 32.608 and the FAR clause at 52.232–17, Interest; or, in the case of a debt arising from a defective pricing or a CAS noncompliance overpayment, interest, as prescribed by the applicable Price Reduction for Defective Cost or Pricing Data or CAS clause.

(4) Identification of the office to which the contractor is to send debt payments.

(5) A requirement for the contractor to submit financial information requested by the Government and for reasonable access to the contractor's records and property by Government representatives.

(6) Provision for the Government to terminate the deferment agreement and accelerate the maturity of the debt if the contractor defaults or if bankruptcy or insolvency proceedings are instituted by or against the contractor.

(7) Protective requirements that are considered by the Government to be prudent and feasible in the specific circumstances. The coverage of protective terms at 32.409 and 32.501–5 may be used as a guide.

(h) If a contractor appeal of the debt determination is pending, the deferment agreement shall also include a requirement that the contractor shall —;

(1) Diligently prosecute the appeal; and

(2) Pay the debt in full when the appeal is decided, or when the parties reach agreement on the debt amount.

(i) The deferment agreement may provide for the right to make early payments without prejudice, for refund of overpayments, and for crediting of interest.

(j) Actions filed by contractors under the Disputes clause shall not suspend or delay collection. Until the action is decided, deferments shall only be granted if, within 30 days after the filing of such action, the contractor presents to the office designated in agency procedures a good and sufficient bond, or other acceptable collateral, in the amount of the claim, and the deferment is approved by the office designated in agency procedures. Any amount collected by the Government in excess of the amount found to be due on appeal under the Disputes clause of the contract shall be refunded to the contractor with interest thereon from the date of collection by the Government until the date the monies are remitted to the contractor at the annual rate established by the Secretary of Treasury under Public Law 92–41. Simple interest shall be calculated to reflect each 6-month period change in the rates established by the Secretary.

32.608 Interest.

32.608–1 Interest charges.

(a) Unless specified otherwise in the FAR clause at 52.232–17—

(1) Interest charges shall apply to any contract debt unpaid after 30 days from the issuance of a demand for payment or from any earlier date specified in the contract unless—

(i) The contract is a kind excluded under 32.611; or

(ii) The contract or debt has been exempted from interest charges under agency procedures.

(2) The interest charge shall be at the rate established by the Secretary of the Treasury under Public Law 92–41 for the period in which the amount becomes due. The interest charge shall be computed for the actual number of calendar days involved beginning on the due date and ending on—

(i) The date on which the designated office receives payment from the contractor;

(ii) The date of issuance of a Government check to the contractor from which an amount otherwise payable has been withheld as a credit against the contract debt; or

(iii) The date on which an amount withheld and applied to the contract debt would otherwise have become payable to the contractor.

(b) If not already applicable under the contract terms, interest on contract debt shall be made an element of any agreement entered into on installment payment and deferment of collection agreements.

32.608–2 Interest credits.

(a) An equitable interest credit shall be applied under the following circumstances:

(1) When the amount of debt initially determined is subsequently reduced; *e.g.*, through a successful appeal.

(2) When the collection procedures followed in a given case result in an over collection of the debt due.

(3) When the responsible official determines that the Government has unduly delayed payments to the contractor on the same contract at some time during the period to which the interest charge applied, provided an interest penalty was not paid for such late payment.

(b) Any appropriate interest credits shall be computed under the following procedures:

(1) Interest at the rate under paragraph (b) of the FAR clause at 52.232–17 and 32.608–1(a)(2) shall be charged on the reduced debt from the date specified in the first demand made for payment of the higher debt.

(2) Interest may not be reduced for any time between the due date under the demand and the period covered by a deferment of collection, unless the contract includes an interest clause; e.g., the clause prescribed in 32.611.

(3) Interest shall not be credited in an amount that, when added to other amounts refunded or released to the contractor, exceeds the total amount that has been collected, or withheld for the purpose of collecting the debt. This limitation shall be further reduced by the amount of any limitation applicable under paragraph (b)(2) of this subsection.

32.609 Delays in receipt of notices or demands.

If interest is accrued based on the date of the demand letter and delivery of the demand letter is delayed by the Government (e.g., undue delay after dating at the originating office or delays in the mail), the date of the debt and accrual of interest shall be extended to a time that is fair and reasonable under the particular circumstances.

32.610 Compromising debts.

For debts under $100,000, excluding interest, if further collection is not practicable or would cost more than the amount of recovery, the designated agency official may compromise the debt. Compromise is authorized by the Federal Claims Collection Act (31 U.S.C. 3711). Compromise shall conform to Federal Claims Collection Standards 31 CFR part 900), and agency regulations. Unless specifically authorized by agency procedures, contracting officers can not compromise debts.

32.611 Contract clause.

(a) The contracting officer shall insert the clause at 52.232-17, Interest, in solicitations and contracts unless it is contemplated that the contract will be

in one or more of the following categories:

(1) Contracts at or below the simplified acquisition threshold.

(2) Contracts with Government agencies.

(3) Contracts with a State or local government or instrumentality.

(4) Contracts with a foreign government or instrumentality.

(5) Contracts without any provision for profit or fee with a nonprofit organization.

(6) Contracts described in Subpart 5.5, Paid Advertisements.

(7) Any other exceptions authorized under agency procedures.

(b) The contracting officer may insert the FAR clause at 52.232–17, Interest, in solicitations and contracts when it is contemplated that the contract will be in any of the categories specified in 32.611(a).

PART 33—PROTESTS, DISPUTES, AND APPEALS

33.208 [Amended]

6. Amend section 33.208(b) by removing ''32.614' and adding ''32.608'' in its place.

33.211 [Amended]

7. Amend section 33.211(a)(vi)by removing ''32.610(b)'' and adding ''32.604 and 32.605'' in its place.

PART 36—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

36.608 [Amended]

8. Amend section 36.608 in the fourth sentence by removing ''collect'' and adding ''issue a demand for payment of the amount due'' in its place.

PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES

9. Amend section 42.302 by revising paragraph (a)(17) to read as follows:

42.302 Contract administration functions.

(a) * * *

(17) Analyze quarterly limitation on payments statements and take action in accordance with Subpart 32.6 to recover overpayments from the contractor.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

10. Amend section 52.212–4 by revising the date of the clause and paragraph (i)(5); and adding paragraph (i)(6) to read as follows:

52.212–4 Contract Terms and Conditions—Commercial Items.

* * * * *

CONTRACT TERMS AND CONDITIONS—COMMERCIAL ITEMS–(DATE)

* * * * *

(i) * * *

(5) *Overpayments.* If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall take the following actions:

(i) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the—

(A) Circumstances of the overpayment (e.g., duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);

(B) Affected contract number and delivery order number if applicable;

(C) Affected contract line item or subline item, if applicable; and

(D) Contractor point of contact.

(ii) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

(6) *Interest.* (i) All amounts that become payable by the Contractor to the Government under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in Section 611 of the Contract Disputes Act of 1978 (Public Law 95–563), which is applicable to the period in which the amount becomes due, as provided in paragraph (b) of this clause and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

(ii) Amounts shall be due at the earliest of the following dates:

(A) The date fixed under this contract.

(B) The date of the first written demand for payment consistent with this contract, including any demand for payment resulting from a default termination.

(iii) The interest charge shall be computed for the actual number of calendar days involved beginning on the due date and ending on—

(A) The date on which the designated office receives payment from the Contractor;

(B) The date of issuance of a Government check to the Contractor from which an amount otherwise payable has been withheld as a credit against the contract debt; or

(C) The date on which an amount withheld and applied to the contract debt would otherwise have become payable to the Contractor.

(iv) The interest charge made under this clause may be reduced under the procedures prescribed in 32.608–2 of the Federal Acquisition Regulation in effect on the date of this contract.

* * * * *

11. Revise section 52.232–17 to read as follows:

52.232–17 Interest.

As prescribed in 32.611(a) and (b), insert the following clause:

INTEREST (DATE)

(a) Except as otherwise provided in this contract under a Price Reduction for Defective Cost or Pricing Data clause or a Cost Accounting Standards clause, all amounts that become payable by the Contractor to the Government under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in Section 611 of the Contract Disputes Act of 1978 (Public Law 95–563), which is applicable to the period in which the amount becomes due, as provided in paragraph (b) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

(b) Amounts shall be due at the earliest of the following dates:

(1) The date fixed under this contract.

(2) The date of the first written demand for payment consistent with this contract, including any demand for payment resulting from a default termination.

(c) The interest charge shall be computed for the actual number of calendar days involved beginning on the due date and ending on—

(1) The date on which the designated office receives payment from the Contractor;

(2) The date of issuance of a Government check to the Contractor from which an amount otherwise payable has been withheld as a credit against the contract debt; or

(3) The date on which an amount withheld and applied to the contract debt would otherwise have become payable to the Contractor.

(d) The interest charge made under this clause may be reduced under the procedures prescribed in 32.608–2 of the Federal Acquisition Regulation in effect on the date of this contract.

12. Amend section 52.232–25 by revising the date of the clause and paragraph (d) to read as follows:

52.232–25 Prompt Payment.

* * * * *

PROMPT PAYMENT (DATE)

* * * * *

(d) *Overpayments.* If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall—

(1) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the—

(i) Circumstances of the overpayment (e.g., duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);

(ii) Affected contract number and delivery order number if applicable;

(iii) Affected contract line item or subline item, if applicable; and

(iv) Contractor point of contact.

(2) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

(End of clause)

13. Amend section 52.232–26 by revising the date of the clause and paragraph (c) to read as follows:

52.232–26 Prompt Payment for Fixed-Price Architect-Engineer Contracts.

* * * * *

PROMPT PAYMENT FOR FIXED-PRICE ARCHITECT-ENGINEER CONTRACTS (DATE)

* * * * *

(c) *Overpayments.* If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall—

(1) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the—

(i) Circumstances of the overpayment (*e.g.*, duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);

(ii) Affected contract number and delivery order number if applicable;

(iii) Affected contract line item or subline item, if applicable; and

(iv) Contractor point of contact.

(2) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

(End of clause)

14. Amend section 52.232–27 by revising the date of the clause and paragraph (l) to read as follows:

52.232–27 Prompt Payment for Construction Contracts.

* * * * *

PROMPT PAYMENT FOR CONSTRUCTION CONTRACTS (DATE)

* * * * *

(l) *Overpayments.* If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall—

(1) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the—

(i) Circumstances of the overpayment (*e.g.*, duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);

(ii) Affected contract number and delivery order number if applicable;

(iii) Affected contract line item or subline item, if applicable; and

(iv) Contractor point of contact.

(2) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

(End of clause)

[FR Doc. 06–8806 Filed 10–23–06; 8:45 am]

BILLING CODE 6820–EP–S

Notices

Federal Register

Vol. 71, No. 205

Tuesday, October 24, 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

Submission for OMB Review; Comment Request

October 18, 2006.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on 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 should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food Safety and Inspection Service

Title: Exportation, Transportation, and Importation of Meat and Poultry Products.

OMB Control Number: 0583–0094.

Summary of Collection: The Food Safety and Inspection Service (FSIS) has been delegated the authority to exercise the functions of the Secretary as provided in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*). These statutes mandate that FSIS protect the public by ensuring that meat and poultry products are safe, wholesome, unadulterated, and properly labeled and packaged. FSIS requires that meat and poultry establishments exporting products to foreign countries complete an export certificate. Meat and poultry products not marked with the mark of inspection and shipped from one official establishment to another for further processing must be transported under FSIS seal to prevent such unmarked product from entering into commerce. To track product shipped under seal, FSIS requires shipping establishments to complete a form that identifies the type, amount, and weight of the product. Foreign countries exporting meat and poultry products to the U.S. must establish eligibility for importation of product into the U.S., and annually certify that their inspection systems are ''equivalent to'' the U.S. inspection system. Meat and poultry products intended for import into the U.S. must be accompanied by a health certificate, signed by an official of the foreign government, stating that certified foreign establishments have produced the products. FSIS will collect information using three FSIS forms.

Need and Use of the Information: FSIS will collect information to identify the type, amount, weight, destination, and originating country of the meat and poultry. FSIS will use the information to verify that a meat or poultry product intended for import has been prepared in a plant certified to prepare product for export to the U.S. FSIS will use the information to conduct re-inspection of meat and poultry imported to the U.S.

Description of Respondents: Business or other for-profit.

Number of Respondents: 6,619.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 661,149.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E6–17735 Filed 10–23–06; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Notice of Appointment of Members to the National Agricultural Research, Extension, Education, and Economics Advisory Board

AGENCY: Research, Education, and Economics, USDA.

ACTION: Appointment of Members.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App 2, the United States Department of Agriculture announces the appointments made by the Secretary of Agriculture to the 12 vacancies on the National Agricultural Research, Extension, Education, and Economics Advisory Board.

DATES: Appointments by the Secretary of Agriculture are for a 3-year term, effective October 1, 2006, until September 30, 2009 with the exception of Category CC, which is a 2-year term expiring on September 30, 2008.

ADDRESSES: You may submit comments by any of the following methods: *E-mail: joseph.dunn@usda.gov; Fax:* 202–720–6199; *Mail/Hand Delivery/Courier:* National Agricultural Research, Extension, Education, and Economics Advisory Board; Research Extension, Education, and Economics Advisory Board Office, Room 344A, Jamie L. Whitten Building, U.S. Department of Agriculture; STOP 2255; 1400 Independence Avenue, SW., Washington, DC 20250–2255.

FOR FURTHER INFORMATION CONTACT: Joseph Dunn, Executive Director, National Agricultural Research, Extension, Education, and Economics Advisory Board, *Telephone:* 202–720–3684.

SUPPLEMENTARY INFORMATION: Section 802 of the Federal Agriculture Improvement and Reform Act of 1996 authorized the creation of the National Agricultural Research, Extension,

Education, Economics Advisory Board. The Board is composed of 31 members, each representing a specific category related to agriculture. The Board was first appointed in September 1996 and at the time one-third of the original members were appointed for one, two, and three-year terms, respectively. Due to the staggered appointments, the terms for 12 of the 31 members expired in September 2006. Each member is appointed by the Secretary of Agriculture to a specific category on the Board, including farming or ranching, food production and processing, forestry research, crop and animal science, land-grant institutions, non-land grant college or university with a historic commitment to research in the food and agricultural sciences, food retailing and marketing, rural economic development, and natural resource and consumer interest groups, among many others. Appointees by vacancy category of the 9 new members and 3 re-appointments are as follows: Category A. ''National Farm Organization,'' Joseph H. Layton, Owner and Operator, Lazy Day Farms, LLC, Vienna, MD; Category C. ''Food and Animal Commodity Producer,'' Carol A. Keiser-Long, President, C–BAR Cattle Co. Inc.; and President, C–ARC Enterprises, Inc., Champaign, IL; Category E. ''National Animal Commodity,'' George P. Watts, President, National Chicken Council, Washington, DC; Category F. ''National Crop Commodity,'' Charles B. Coley, President, Coley Gin & Fertilizer Company/Managing Partners; Coley Farms, Vienna, GA; Category K. ''National Human Health Association,'' John Cunningham, Deputy Provost and Professor of Nutrition, University of Massachusetts, Amherst, MA; Category P. ''Hispanic-Serving Institutions,'' Ricardo Chavez Rel, Assistant to the Dean, Agricultural Experiment Station, Cooperative Extension Service, College of Agriculture & Home Economics, Las Cruces, NM; Category R. ''Non Land-Grant College and University with a Historic Commitment to Research in Food and Agricultural Science,'' James R. Clark, Dean and Vice Chancellor, College of Agriculture, Science and Engineering, West Texas A&M University, Canyon, TX; Category T. ''Transportation of Food and Agricultural Products to Domestic and Foreign Markets'', James Lugg, Executive Vice-President Fresh Express/ President TransFRESH Corporation, Salinas, CA, Category V, ''Food and Fiber Processors,'' Mary Wagner, Chief Technology Officer, E & J Gallo Winery, Modesto, CA; Category AA. ''Private Sector Organization involved in International Development,'' William J. Hudson, President & CEO, World Food Logistics Organization, Alexandria, VA; Category CC. ''Research Agency of the Federal Government Other than USDA, David Thomassen, Chief Scientist, U.S. Department of Energy, Washington, DC; Category DD. ''National Social Science Association'', James J. Zuiches, Vice Chancellor, North Carolina State University, Raleigh, NC.

Done at Washington, DC, this 18th day of October 2006.

Merle Pierson,

Deputy Under Secretary, Research, Education, and Economics.

[FR Doc. E6–17793 Filed 10–23–06; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2006–0154]

Notice of Request for Extension of Approval of an Information Collection; Importation of Fruits and Vegetables

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with regulations for the importation of fruits and vegetables.

DATES: We will consider all comments that we receive on or before December 26, 2006.

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to *http://regulations.gov*, select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click ''Submit.'' In the Docket ID column, select APHIS–2006–0154 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.
- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2006–0154, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2006–0154.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

FOR FURTHER INFORMATION CONTACT: For information on regulations associated with the importation of fruits and vegetables, contact Ms. Donna L. West, Senior Import Specialist, Commodity Import Analysis and Operations, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737; (301) 734–8758. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Importation of Fruits and Vegetables.

OMB Number: 0579–0236.

Type of Request: Extension of approval of an information collection.

Abstract: As authorized by the Plant Protection Act (7 U.S.C. 7701 *et seq.*) (PPA), the Secretary of Agriculture may prohibit or restrict the importation, entry, exportation, or movement in interstate commerce of any plant, plant product, biological control organism, noxious weed, means of conveyance, or other article if the Secretary determines that the prohibition or restriction is necessary to prevent a plant pest or noxious weed from being introduced into or disseminated within the United States. This authority has been delegated to the Animal and Plant Health Inspection Service (APHIS), which administers regulations to implement the PPA.

The regulations in Subpart—Fruits and Vegetables (7 CFR 319.56 through 319.56–8) authorize a number of fruits and vegetables to be imported into the United States, under specified conditions, from certain parts of the world. These fruits and vegetables include, among other commodities, African horned cucumber from Chile;

cherimoya, soursop, custard apple, sugar apple, and atemoya from Grenada; coconut fruit with milk and husk from Mexico; pitaya from Mexico; melon and watermelon from certain countries in South America; watermelon, squash, cucumber, oriental melon, and grapes from the Republic of Korea.

Before entering the United States, all of these fruits and vegetables are subject to inspection and disinfection at their port of first arrival to ensure that no plant pests are inadvertently brought into the United States. These precautions, along with other requirements, help ensure that these commodities do not introduce exotic plant pests, such as fruit flies, into the United States.

The regulations require the use of certain information collection activities, including import permits, phytosanitary certificates, fruit fly monitoring records, and box labeling.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years. After approval of the burden associated with this extension notice, OMB will combine it with another information collection, also titled ''Importation of Fruits and Vegetables (number 0579–0128),'' and the Department will retire number 0579–0236.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

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

(2) Evaluate the accuracy of our estimate of the burden of the information collection, 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 information collection on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.1320 hours per response.

Respondents: U.S. importers of fruits and vegetables and plant health officials of exporting countries.

Estimated annual number of respondents: 141.

Estimated annual number of responses per respondent: 5.5319.

Estimated annual number of responses: 780.

Estimated total annual burden on respondents: 103 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

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

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E6–17772 Filed 10–23–06; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2006–0152]

Supplemental Environmental Impact Statement for Importation of Solid Wood Packing Material

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of intent.

SUMMARY: We are advising the public that a supplemental environmental impact statement will be prepared by the Animal and Plant Health Inspection Service to analyze methyl bromide usage associated with regulatory requirements for importing solid wood packing material into the United States. That document will serve as a supplement to the Importation of Solid Wood Packing Material Final Environmental Impact Statement, August 2003.

FOR FURTHER INFORMATION CONTACT: Mr. David A. Bergsten, APHIS Interagency NEPA Contact, Environmental Services, PPD, APHIS, 4700 River Road, Unit 149, Riverdale, MD 20737–1238; (301) 734–6103.

SUPPLEMENTARY INFORMATION: The Animal and Plant Health Inspection Service (APHIS) intends to prepare a supplemental environmental impact statement (SEIS) for the Importation of Solid Wood Packing Material Final Environmental Impact Statement, August 2003 (FEIS). The purpose of the SEIS is to reevaluate and refine the estimates of methyl bromide usage associated with the alternatives considered in the FEIS.

APHIS published in the **Federal Register** on September 16, 2004 (69 FR 55719–55733, Docket No. 02–032–3), a final rule amending the regulations for the importation of unmanufactured wood articles to adopt an international standard entitled ''Guidelines for Regulating Wood Packaging Material in International Trade.'' The FEIS was prepared with regard to that final rule in compliance with the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), and its implementing regulations.

APHIS will base the SEIS on recently obtained, reliable data regarding how various countries have complied with the final rule and with the International Plant Protection Convention Guidelines (IPPC Guidelines) on which the final rule was based. These data include reports from different countries on whether cargo is routinely fumigated along with wood packaging material (WPM), which would result in more methyl bromide usage, or whether WPM is fumigated separately from cargo, which would result in less methyl bromide usage. We also have new data on the extent to which various countries have chosen to comply with the IPPC Guidelines by heat treating WPM rather than fumigating it.

The SEIS will be prepared in accordance with: (1) NEPA, (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

When APHIS has completed a draft SEIS, a notice announcing its availability and an invitation to comment on it will be published in the **Federal Register**.

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

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E6–17773 Filed 10–23–06; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2006–0007]

Exotic Fruit Fly Strategic Plan, Fiscal Years 2006–2010

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared a final Exotic Fruit Fly Strategic Plan for fiscal years 2006 through 2010 and is making it available for review. The final strategic plan has been updated in response to the comments we received on the draft strategic plan.

FOR FURTHER INFORMATION CONTACT: Mr. Michael B. Stefan, Director, Fruit Fly Exclusion and Detection Programs, PPQ, APHIS, 4700 River Road, Unit 137, Riverdale, MD 20737–1229; (301) 734–4387.

SUPPLEMENTARY INFORMATION:

Background

The Animal and Plant Health Inspection Service (APHIS) responds to exotic fruit fly risks with an integrated system that incorporates surveillance activities, fruit fly control programs, and regulatory actions. To outline how APHIS, along with its domestic and global partners, will harmonize these exotic fruit fly safeguarding programs and activities over the next 5 years, we prepared a draft document entitled ''Exotic Fruit Fly Strategic Plan FY 2006–2010.'' This draft strategic plan focused on the activities funded through APHISs' Fruit Fly Exclusion and Detection programs, whose primary mission is to protect the health and value of American agriculture resources threatened by the establishment of exotic fruit fly pests.

On February 17, 2006, we published in the **Federal Register** (71 FR 8563, Docket No. APHIS–2006–0007) a notice [1] advising the public we had prepared the draft strategic plan and made it available to the public for review and comment.

We solicited comments concerning the draft strategic plan for 30 days ending March 20, 2006. We received eight comments by that date, from producers, private citizens, a not-for-profit organization, and representatives of State governments. All of the commenters supported the implementation of the 5-year exotic fruit fly strategic plan; however, some of the commenters also expressed concerns regarding the information provided, and the questions posed, in the appendices to the draft plan. The issues raised by the commenters are discussed below.

In Appendix A we offered up for discussion the potential actions we could take in response to the closing of the sterile Mediterranean fruit fly (Medfly) production facility in Waimanalo, HI. The following options were presented: (1) Do not replace the facility; (2) build a new production facility in Hawaii; (3) partner with California Department of Food and Agriculture to expand their sterile fruit fly production facility in Hawaii; or (4) build a multispecies facility in the continental United States or on foreign soil. The commenters all agreed on the need for a multispecies exotic fruit fly facility to provide backup capacity for our sterile fruit fly programs and emergency needs. Additionally, several commenters suggested potential sites for the new facility.

APHIS is in agreement with these commenters regarding the need for a backup multispecies sterile fruit fly production facility. We have begun to explore the available options, including the construction of a multispecies exotic fruit fly facility, either within or outside the continental United States, and the privatization of sterile fly production. We will be seeking additional information and suggestions from the public on this subject and expect to publish a request for information in a future issue of the **Federal Register**.

In Appendix B, we offered up for discussion a question as to whether or not we should continue to support the current Moscamed Program, a cooperative program of the Guatemalan, Mexican, and U.S. Governments to eradicate Medfly in Mexico and suppress Medfly populations in Guatemala. In the past, reliance on uncertain emergency funds has severely impacted the ability of Moscamed managers to plan and implement an effective program. In order to successfully maintain a Medfly barrier in southern Mexico, and, ultimately eradicate the pest from Central America, funding and management issues must be stabilized. Due to a potential loss of emergency funding ($10 million of Commodity Credit Corporation funds per year), the draft strategic plan suggested four options for altering the current program: (1) Eradicate Medfly from Guatemala and create a new barrier zone to maintain; (2) shift the barrier zone to the Isthmus of Tehuantepec; (3) pull out of the cooperative agreement with Mexico and use all $19 million to fight Medfly in Guatemala; or (4) pull out of the cooperative Moscamed Program in Mexico and Guatemala, and establish an emergency fund for preventative measures along the U.S.-Mexico border and for emergency outbreaks in the United States. As a result of these suggestions, a majority of the commenters expressed concern that altering the current Moscamed Program would diminish its effectiveness. Though it was not offered as an option, several commenters requested that we continue with the currently implemented Moscamed Program, unchanged.

APHIS is in agreement with these commenters with regard to continuing the currently implemented Moscamed Program. Because of the potential loss of emergency funding for the program, we have requested an additional $14 million in appropriated funds for the Moscamed Program in our 2007 Presidential Budget Proposal.

A few commenters requested we clarify the strategic plan by including additional specific information in the scientific support section before the draft's finalization.

In response to these comments, we have updated the scientific support section of the strategic plan by identifying specific detection and population suppression technologies through which APHIS will seek to reduce the number and severity of exotic fruit fly outbreaks within the United States. We have also included additional risk mitigation information regarding the use of molecular diagnostic techniques and tools that identify foreign sources of fruit fly pest introductions, as well as assurance that risk assessment will be a high priority in quality assurance of the fruit fly program.

We are making the final document available to the public for review. You may view the document on the Regulations.gov Web site (see footnote 1 in this notice for instructions for accessing Regulations.gov), or you may request copies from the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the title of the document when requesting copies. Finally, the document is available for review in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room

[1] To view the draft strategic plan and the comments we received, go to *http://www.regulations.gov*, click on the ''Advanced Search'' tab, and select ''Docket Search.'' In the Docket ID field, enter APHIS–2006–0007, 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.

hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

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

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E6–17777 Filed 10–23–06; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Notice of Funds Availability (NOFA) Inviting Applications for the Implementation of an American Indian Credit Outreach Initiative

AGENCY: Farm Service Agency, USDA.

ACTION: Notice.

SUMMARY: The Farm Service Agency (FSA) soliciting applications for competitive cooperative agreement funds for Fiscal Year (FY) 2007 to initiate a credit outreach initiative targeted to American Indian farmers, ranchers and youth residing primarily on Indian reservations within the contiguous United States. FSA anticipates the availability of $1,166,400 in funding. FSA requests proposals from eligible 501(c)(3) nonprofit organizations, land-grant institutions and federally-recognized Indian tribal governments interested in a competitively-awarded cooperative agreement to create and implement a mechanism that will provide credit outreach and promotion, pre-loan education, one-on-one loan application preparation assistance and other related services as proposed by the successful applicant that are specific to FSA's Agricultural Credit Programs.

The successful applicant must provide evidence that it has the capability to put in place a data tracking system that thoroughly records all credit outreach-specific related activities and has the ability to provide detailed statistical information on an ad hoc basis. This database must also be functional on a real-time basis as well as being available online through the Internet.

This request for proposals is made prior to passage of a final appropriations bill to allow applicants sufficient time to submit proposals, give the Agency maximum time to process applications, and permit continuity of this program. If actual funding differs from that anticipated ($1,166,400) based on historical funding levels, then the Agency will publish a separate Notice of Funds Availability.

DATES: Applications should be completed and submitted as soon as possible, and must be received by the Agency no later than November 24, 2006. Late applications will not be accepted and will be returned to the applicant. Applicants must ensure that the service they use to deliver their applications can do so by the deadline. Due to recent security concerns, packages sent to the Agency by mail have been delayed several days or even weeks.

ADDRESSES: Submit proposals and other required materials to Mike Hill, Acting Director, Outreach Staff, Farm Service Agency, USDA, STOP 0511, Suite 508 Portals Building, 1400 Independence Avenue, SW., Washington, DC 20250–0511.

FOR FURTHER INFORMATION CONTACT: Mike Hill at (202) 690–1299, or at *mike.hill@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Objective

This solicitation is issued pursuant to 7 U.S.C. 2204b(b)(4) authorizing the Secretary of Agriculture to enter into cooperative agreements to improve the coordination and effectiveness of Federal programs affecting rural areas. The principal objective of this cooperative agreement is to initiate a national outreach program that enables American Indian farmers, ranchers, and youth primarily located on Indian reservations in the contiguous United States to understand and have access to the various FSA Agriculture Credit Programs. All proposed approaches must have, within three months upon acceptance of award: (1) A data tracking system that thoroughly records all credit outreach specific activities and has the ability to provide detailed statistical information on an ad hoc basis, that must also be functional on a real-time basis as well as being available online through the Internet, and (2) the applicant must demonstrate its ability to learn to deliver these credit outreach services utilizing the FSA online Farm Business Plan software program.

Proposals should demonstrate innovative and unique ways of ensuring that American Indians: (1) Will be provided a targeted promotional campaign about, (2) have ready access to, (3) are educated about and (4) can obtain one-on-one assistance specific to the various FSA Agricultural Credit Programs. Applicants must also demonstrate and provide evidence of their ability to record and track program-specific data which can be accessed on a real-time basis and be available online through the Internet.

Background

Today, American Indians own and control approximately 56 million acres of agricultural lands held in trust by the United States Government and administered, for the most part, by the Bureau of Indian Affairs (BIA) of the Department of the Interior. Land-based agricultural enterprises are considered the primary source of revenue for most tribes, due in large part to their severe isolation from any urban type industrial development activities. Thus, protecting this resource is an important function of the elected tribal officials charged with operating business activities that take place within reservations.

In the late 1800's the United States Government recognized the significant needs of agriculture, the agricultural community, and the impacts they had on the American economy and the world as a whole. With this in mind, the government created the United States Department of Agriculture (USDA) to insure a safe, reliable, and cheap supply of food for this country and ultimately the world. The USDA provides farmers and ranchers technical, financial, and educational resources.

Until 1987, American Indian agricultural producers on reservations had been less able to benefit from USDA services. Since 1987, changes, such as Farm Bills with Indian-specific language, have begun to close some of the gaps in American Indians' lack of access to USDA's programs and services. As positive as these changes were, they did not fully address an implementation plan or the funds to implement sorely needed agribusiness education and direct services to American Indian Reservation farmers and ranchers as a group.

On May 13, 2002, President Bush signed into law the ''Farm Security and Rural Investment Act of 2002'' (2002-Farm Bill). Again, American Indian Reservation farmers and ranchers are faced with the challenge of understanding and accessing the programs and services afforded through this new law. With this in mind, American Indian agribusinesses, as well as individual Indians, have consistently reported that the primary need in Indian agriculture was access to the capital required to own and operate their own farm or ranch. Therefore, FSA has undertaken this initiative to create and implement a mechanism that will provide credit outreach and other related services related to FSA's Agricultural Credit Programs as a way to

resolve some of the credit needs of Indian agriculture.

Paperwork Reduction Act

The proposals requested by this notice do not involve a collection of information as defined by section 1320.3(c) of 5 CFR part 1320, because it will not involve the collection of information from 10 or more persons.

I. Definitions

The following definitions are applicable to this Notice of Funds Availability (NOFA) Inviting Applications for the Implementation of an American Indian Credit Outreach Program.

Agency or FSA. The United States Department of Agriculture Farm Service Agency or its successor agency.

Farm land. Land used for commercial agriculture crops, poultry and livestock enterprises, or aquaculture.

Federally-Recognized Indian Tribal Government. The governing body or a governmental agency of any Indian tribe, band, nation, or other organized group or community (including any Native village as defined in section 3 of the Alaska Native Claims Settlement Act (85 Stat. 688) certified by the Secretary of the Interior as eligible for the special programs and services provided through the Bureau of Indian Affairs.

Land Grant Institutions.

(1) A 1994 institution (as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601)), or an 1890 institution.

(2) An Indian tribal community college or an Alaska Native cooperative college.

(3) A Hispanic-serving institution (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)).

Non-Profit Organization. Any corporation, trust, association, cooperative, or other organization that:

(1) Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

(2) Is not organized primarily for profit; and

(3) Must be an organization that is recognized by the Internal Revenue Service as being certified as 501(3)(c) of the Internal Revenue Code.

II. Recipient Eligibility Requirements

Applicants must either be a 501(c)(3) non-profit organization, a federally-recognized Indian tribe, or a land grant institution as defined in the Definitions section of this NOFA. Cooperative agreement funds cannot be used to support the organization's general operations. Applications without sufficient information to determine their eligibility will not be considered.

III. Proposal Preparation

A proposal must contain an original and two copies of the following:

1. *Form SF–424*, ''Application for Federal Assistance.''

2. *Form SF–424A*, ''Budget Information—Non-Construction Programs.''

3. *Form SF–424B*, ''Assurances—Non-Construction Programs.''

4. *Table of Contents*—For ease of locating information, each proposal must contain a detailed Table of Contents immediately following the required Federal forms. The Table of Contents should include page numbers for each component of the proposal. Pagination should begin immediately following the Table of Contents.

5. *Proposal Summary*—A summary of the Project Proposal, not to exceed one page, that includes the title of the project, a description of the project (including goals and tasks to be accomplished), the names of the individuals responsible for conducting and completing the tasks, and the expected time frame for completing all tasks (which should not exceed twelve months).

6. *Eligibility*—A detailed discussion, not to exceed two pages, describing how the applicant meets the definition of land grant institution, non-profit organization, or Federally-recognized Indian tribal government, as outlined in the ''Recipient Eligibility Requirements'' section of this NOFA. In addition, the applicant must describe all other collaborative organizations that may be involved in the project.

7. *Proposal Narrative*—The narrative portion of the project proposal must be in a font such as Times New Roman, 12 pt. or comparable font, and must include the following:

(i) *Project Title*—The title of the proposed project must be brief, not to exceed 100 characters, yet represent the major thrust of the project.

(ii) *Information Sheet*—A separate one page information sheet which lists each of the evaluation criteria listed in this NOFA under the ''Evaluation Criteria and Weights'' subsection followed by the page numbers of all relevant material and documentation contained in the proposal which address or support that criteria.

(iii) *Goals and Objectives of the Project*—A clear statement of the ultimate goals and objectives of the project must be presented.

(iv) *Evaluation Criteria*—Each of the evaluation criteria listed in the ''Evaluation Criteria and Weights'' subsection of this NOFA must be addressed specifically and individually by category. These criteria should be in narrative form with any specific supporting documentation attached as addenda and should be placed directly following the proposal narrative. If other materials including financial statements will be used to support any evaluation criteria it should also be placed directly following the proposal narrative. The applicant must also propose and delineate significant agency participation in the project.

IV. Amount of Award

The amount of funds available for FY 2007 is approximately $1,166,400.

V. Number of Awards

Only one cooperative agreement will be awarded.

VI. Eligible Cooperative Agreement Fund Uses

Cooperative agreement funds may be used to cover allowable costs incurred by the recipient and approved by the Agency. Allowable costs will be governed by 7 CFR parts 3015, 3016, and 3019, as applicable, and applicable Office of Management and Budget Circulars.

VII. Ineligible Fund Uses

Cooperative agreement funds cannot be used to:

(1) Plan, repair, rehabilitate, acquire, or construct a building or facility (including a processing facility);

(2) Purchase, rent, or install fixed equipment, including mobile and other processing equipment;

(3) Pay for the preparation of the grant application;

(4) Pay expenses not directly related to the funded venture;

(5) Fund political or lobbying activities;

(6) Pay costs incurred prior to receiving this Cooperative Agreement;

(7) Fund any activity prohibited by 7 CFR parts 3015, 3016, and 3019, as applicable; and

(8) Fund architectural or engineering design work for a specific physical facility.

VIII. Methods for Evaluating and Ranking Applications

A National Office panel of career FSA and/or USDA Agency employees will review applications for eligibility, completeness, and responsiveness to this NOFA. Incomplete or non-responsive applications will be returned

to the applicant and not evaluated further. If the submission deadline has not expired and time permits, ineligible applications may be returned to the applicants for possible revision.

IX. Evaluation Criteria, Proposal Review

The proposal will be evaluated using the following criteria. Failure to address any one of the criteria will disqualify the application. All proposals must be in compliance with this NOFA and applicable statutes.

(1) *Proposal Review*—Prior to technical examination, a preliminary review will be made by FSA Outreach Staff for responsiveness to this solicitation. Proposals that do not fall within the solicitation guidelines or are otherwise ineligible will be eliminated from competition. All responsive proposals will be reviewed by a panel of reviewers using the evaluation criteria stated below. The selected FSA and/or USDA Agency employee reviewers will be chosen to provide maximum expertise and objective judgment in the evaluation of proposals. Evaluated proposals will be ranked by the FSA Outreach Staff based on the evaluation criteria and weights listed below. Final approval of those proposals will be made by the Administrator of FSA, subject to the availability of funds.

(2) *Evaluation Criteria and Weight*—All responsive proposals will be reviewed based on the following criteria:

(i) Proposer's Commitment and Resources (15 points)—The standard evaluates the degree to which the organization is committed to the project, and the experience, qualifications, competency, and availability of personnel and resources to direct and carry out the project. In addition, the applicant must demonstrate its ability to be able to deliver these credit outreach services utilizing the new FSA online Farm Business Plan software program upon acceptance of any financial award.

(ii) Feasibility and Policy Consistency (20 points)—The standard evaluates the degree to which the proposal clearly describes its objectives and evidences a high level of feasibility. This criterion relates to the adequacy, soundness of the proposed approach to the solution of the problem and evaluates the plan of operation, timetable, evaluation and dissemination plans.

(iii) A detailed description of the anticipated number of underserved American Indian farmers, ranchers, and youth served and collaborative partnerships, if any (20 points)—This standard evaluates the degree to which the proposal reflects partnerships and collaborative initiatives with other agencies or organizations to enhance the quality and effectiveness of the program. Additionally, the areas and number of underserved American Indian farmers, ranchers and youth who would benefit from the services offered will be evaluated.

(iv) Socially Disadvantaged American Indian Applicants—Outreach (10 points)—This standard evaluates the degree to which the proposal contains detailed programs to reach persons identified as socially disadvantaged American Indian farmers, ranchers and youth. The proposal will be evaluated for its potential for encouraging and assisting socially disadvantaged American Indian farmers, ranchers, and youth to utilize the various FSA agriculture credit programs. Elements considered include impact, continuation plans, innovation, and expected products and results.

(v) Innovative Strategies (25 points)—This standard evaluates the degree to which the proposal reflects innovative strategies for reaching the population targeted in the proposal and achieving the project objectives. Elements also evaluated include: (1) Evidence that the applicant has the ability to put in place a data tracking system that can thoroughly record all credit outreach specific related activities and the ability to provide detailed statistical information on an ad hoc basis, with additional evidence supporting its ability to function on a real-time basis as well its ability to be available online through the Internet, and (2) originality, practicality, and creativity in proposing ways to develop and test innovative solutions to existing or anticipated credit issues or problems of socially disadvantaged American Indian farmers, ranchers and youth. The proposal will be reviewed for its responsiveness to the need to provide socially disadvantaged American Indian farmers, ranchers, and youth with promotion, relevant information, and direct assistance in applying for and receiving FSA agriculture credit, and other essential information to enhance participation in agricultural programs and conducting a successful farming or ranching operation.

(vi) Overall Quality of the Proposal (5 points)—This standard evaluates the degree to which the proposal complies with this NOFA and is of high quality. Elements considered include adherence to instructions, accuracy and completeness of forms, clarity and organization of ideas, thoroughness and sufficiency of detail in the budget narrative, specificity of allocations between targeted areas if the proposal addresses more than one area, and completeness of vitae for all key personnel associated with the project.

(vii) Accuracy of Proposed Budget and Justification (5 points)—This standard evaluates the accuracy of the proposed budget and the accompanying budget justification and should sufficiently provide the reviewer with a detailed description of each budget category that includes categorical subtotals as well as an attached budget justification that clearly defines and explains each and every proposed budget line item.

3. *Selection Process*—When the reviewers have completed their individual evaluations, the panel reviewers based on the individual reviews, will make recommendations to the Administrator that one responsive proposal be approved for support from available funds. Prior to award, the Administrator reserves the right to negotiate with an applicant whose project is recommended for funding regarding project revisions (*e.g.*, change in scope of work or the Agency's significant involvement), funding level, or period of support. A proposal may be withdrawn at any time before a final funding decision is made.

X. Program Administration

(1) *Cooperative Agreement Awards:* Within the limit of funds available for such purpose, the Administrator shall enter into a cooperative agreement with the successful applicant. The date specified by the Administrator as the effective date of the award shall not be later than 12 months after the project is approved for support and funds are appropriated for such purpose, unless otherwise permitted by law.

(2) *When to Submit an Application.* The deadline for receipt of all applications is November 24, 2006. The Agency will not consider any application received after the deadline.

XI. Cooperator Requirements

Cooperators will be required to do the following:

(1) Sign required Federal grant-making forms including Form AD–1047, Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions; Form AD–1048, Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions; Form AD–1049, Certification Regarding a Drug-Free Workplace Requirements (Grants); and Form RD 400–4, Assurance Agreement (Civil Rights).

(2) Use Standard Form 270, Request for Advance or Reimbursement to request payments.

(3) Submit a Standard Form 269, Financial Status Report and list expenditures according to agreed upon budget categories on a semi-annual basis. A semi-annual financial report is due within 45 days after the first 6-month project period and an annual financial report is due within 60 days after the second 6-month project period.

(4) Submit quarterly performance reports which compare accomplishments to the objectives; if established objectives are not met, discuss problems, delays, or other problems that may affect completion of the project; establish objectives for the next reporting period; and discuss compliance with any special conditions on the use of awarded funds.

(5) Maintain a financial management system that is acceptable to the Agency.

(6) Submit a final project performance report.

(7) Sign an agency approved cooperative agreement.

XII. Other Federal Statutes and Regulations That Apply

In addition to the requirements provided in this notice, other Federal statutes and regulations apply to proposals considered for review and to our cooperative agreement awarded. These include, but are not limited to:

(1) 7 CFR part 15, subpart A, Nondiscrimination in Federally-Assisted Programs of the Department of Agriculture-Effectuation of Title VI of the Civil Rights Act of 1964;

(2) 7 CFR part 3015, Uniform Federal Assistance Regulations;

(3) 7 CFR parts 3016, Uniform Administrative Regulations for Grants and Cooperative Agreements & State and Local Governments.

(4) 7 CFR part 3017, Governmentwide Debarment and Suspension (Non-procurement) and Governmentwide Requirements for Drug-Free Workplace (Grants);

(5) 7 CFR part 3018–New Restrictions on Lobbying;

(6) 7 CFR part 3019–Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations; and

(7) 7 CFR part 3052–Audits of States, Local Governments, and Non-Profit Organizations.

Signed in Washington, DC, on October 16, 2006.

Glen L. Keppy,

Administrator, Farm Service Agency.

United States Department of Agriculture

Farm Service Agency

Cooperative Agreement—American Indian Outreach Initiative

This Cooperative Agreement (Agreement) dated _____, between _____ (Cooperator), and the United States of America, acting through the Farm Service Agency of the Department of Agriculture (the Agency, or Grantor), for $_____ in cooperative agreement funds under the program, delineates the agreement of the parties.

Now, therefore, in consideration of the cooperative agreement;

The parties agree that:

(1) All the terms and provisions of the Notice entitled ''Notice of Funds Availability (NOFA) Inviting Applications for the Implementation of an American Indian Credit Outreach Initiative,'' published in the **Federal Register** on October 24, 2006 [ENTER FR PAGE NUMBER] and the application submitted by the Grantee for this Agreement, including any attachments or amendments, are incorporated and included as part of this Agreement. Any changes to these documents or this agreement must be approved in writing by the Agency.

(2) As a condition of the Agreement, the Cooperator certifies that it is in compliance with and will comply in the course of the Agreement with all applicable laws, regulations, Executive Orders, and other generally applicable requirements, including those contained in 7 CFR 3015.205(b), which are incorporated into this agreement by reference, and such other statutory provisions as are specifically contained herein. The Grantee will comply with title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and Executive Order 12250.

(3) The provisions of 7 CFR part 3015, Uniform Federal Assistance Regulations and 7 CFR part 3019, Uniform Administrative Requirements for Grants and Agreements with institutions of Higher Education, Hospitals, and Other Nonprofit Organizations, as applicable are incorporated herein and made a part hereof by reference.

Further, the Cooperator agrees that it will:

(1) Not use cooperative agreement funds to plan, repair, rehabilitate, acquire, or construct a building or facility (including a processing facility); or to purchase, rent, or install fixed equipment.

(2) Use funds only for the purpose and activities specified in the proposal approved by the Agency including the approved budget. Any uses not provided for in the approved budget must be approved in writing by the Agency in advance of obligation by the Agency.

(3) Submit a Standard Form 269, Financial Status Report and list expenditures according to agreed upon budget categories on a semi-annual basis. Reports are due by April 30 and October 30 after the grant is awarded.

(4) Provide periodic reports as required by the Agency. A financial status report and a project performance report will be required on a semi-annual basis. The financial status report must show how grant funds have been used to date and project the funds needed and their purposes for the next quarter. A final report may serve as the last semi-annual report. Grantees shall constantly monitor performance to ensure that time schedules are being met and projected goals by time periods are being accomplished. The project performance reports shall include the following:

a. A comparison of actual accomplishments to the objectives for that period.

b. Reasons why established objectives were not met, if applicable.

c. Reasons for any problems, delays, or adverse conditions which will affect attainment of overall program objectives, prevent meeting time schedules or objectives, or preclude the attainment of particular objectives during established time periods. This disclosure shall be accomplished by a statement of the action taken or planned to resolve the situation.

d. Objectives and timetables established for the next reporting period.

e. The final report will also address the following:

(i) What have been the most challenging or unexpected aspects of this program?

(ii) What advice you would give to other organizations planning a similar program. These should include strengths and limitations of the program. If you had the opportunity, what would you have done differently?

(iii) If an innovative approach was used successfully, the cooperator should describe their program in detail so that other organizations might consider replication in their areas.

(5) Provide Financial Management Systems which will include:

a. Records that identify adequately the source and application of funds for cooperative agreement supported activities. Those records shall contain information pertaining to grant and cooperative agreement awards and authorizations, obligations, un-obligated balances, assets, liabilities, outlays, and income.

b. Effective control over and accountability for all funds, property, and other assets. Cooperator shall adequately safeguard all such assets and shall ensure that they are used solely for authorized purposes.

c. Accounting records supported by source documentation.

(6) Retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least 3 years after grant closing, except that the records shall be retained beyond the 3-year period if audit findings have not been resolved. Microfilm or photocopies or similar methods may be substituted in lieu of original records. The Agency and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Grantee which are pertinent to the specific cooperative

agreement program for the purpose of making audits, examinations, excerpts, and transcripts.

(7) Not encumber, transfer, or dispose of the equipment or any part thereof, acquired wholly or in part with Agency funds without the written consent of the Agency.

(8) Not duplicate other program purposes for which monies have been received, are committed, or are applied to from other sources (public or private). The Agency agrees to make funds available to the Cooperator under this Agreement in an amount not to exceed the amount indicated above. The funds will be reimbursed or advanced based on submission to the Agency by the Cooperator of a complete Standard Form 270.

Authorized and executed this day by:

(Cooperator)

(Title)

United States of America
Farm Service Agency
By:

(Name)

(Title)

[FR Doc. E6–17736 Filed 10–23–06; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Ravalli County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of Meeting.

SUMMARY: The Ravalli County Resource Advisory Committee will be meeting to discuss 2006 projects and to listen to speakers. The meeting is being held pursuant to the authorities in the Federal Advisory Committee Act (Public Law 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393). The meeting is open to the public.

DATES: The meeting will be held on October 24, 2006, 6:30 p.m.

ADDRESSES: The meeting will be held at the Bitterroot National Forest Supervisor Office, 1801 N. 1st Street, Hamilton, Montana. Send written comments to Dan Ritter, District Ranger, Stevensville Ranger District, 88 Main Street, Stevensville, MT 59870, by facsimile (406) 777–7423, or electronically to *dritter@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Dan Ritter, Stevensville District Ranger and Designated Federal Officer, Phone: (406) 777–5461.

Dated: October 17, 2006.

Barry Paulson,

Deputy Forest Supervisor.

[FR Doc. 06–8838 Filed 10–23–06; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Environmental Assessment; Rehabilitation of Grade Stabilization Structure 2, Turtle Creek Watershed, Sarpy County NE

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of Availability, Finding of No Significant Impact.

SUMMARY: The Natural Resources Conservation Service (NRCS) prepared an Environmental Assessment in compliance with the National Environmental Policy Act (NEPA), as amended. Pursuant to the implementing regulations for NEPA (40 CFR parts 1500–1508); the USDA Departmental Policy for the NEPA (7 CFR part 1b); the Natural Resources Conservation Service Regulations (7 CFR part 650); and the Natural Resources Conservation Service policy (General Manual Title 190, Part 410); the Natural Resources Conservation Service gives notice that an environmental impact statement is not being prepared for the rehabilitation of grade stabilization Structure 2 in Turtle Creek Watershed, Sarpy County Nebraska. The Environmental Assessment was developed in coordination with the sponsoring local organization (Papio-Missouri River Natural Resources District) for a federally assisted action to address grade stabilization in the Turtle Creek Watershed and the status of grade stabilization dam Structure 2. Upon consideration of the affected environment, alternatives, environmental consequences, and comments and coordination with concerned public and agencies, the State Conservationist for NRCS, Nebraska found that based on the significance and context and intensity that the proposed action is not a major federal action significantly affecting the quality of the human environment. Thus, a Finding of No Significant Impact (FONSI) was made.

FOR FURTHER INFORMATION CONTACT: Stephen K. Chick, State Conservationist, U.S. Department of Agriculture, Natural Resources Conservation Service, Federal Building, Room 152, 100 Centennial Mall North, Lincoln, Nebraska 68508–3866; telephone (402) 437–5300.

SUPPLEMENTARY INFORMATION: The sponsoring local organization concurs with this determination and agrees with carrying forward the proposed project. Structure 2 no longer meets the NRCS safety and performance standards for a High Hazard Class structure. The proposed action is to rehabilitate Structure 2 to a full-flow grade stabilization structure, meet safety requirements, and extend its life for 100 years. The existing principal spillway would be removed, the auxiliary spillway would be abandoned, the top of dam would be lowered to remove storage capacity and a broad-crested weir chute spillway would be built. Existing embankment removed from the structure would be placed in the existing auxiliary spillway and graded to drain.

Information regarding this finding may be obtained at the contact information listed above. No administrative action on implementation of the proposed funding action will be taken until 30 days after the date of this publication in the **Federal Register**.

Stephen K. Chick,

State Conservationist.

[FR Doc. E6–17797 Filed 10–23–06; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Availability of the ''Natural Resources Conservation Service Conservation Programs Manual—Part 513: Resource Conservation and Development (RC&D) Program''

AGENCY: Natural Resources Conservation Service, Department of Agriculture.

ACTION: Notice and request for comments.

SUMMARY: The Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS) seeks comments on the proposed revision of the ''Natural Resources Conservation Service Conservation Programs Manual—Part 513: Resource Conservation and Development (RC&D) Program.'' USDA asks for comments from RC&D Council members and individuals from tribal, State, and local governments and organizations involved in either natural resource conservation or community development groups. These comments will assist USDA in

policy development and implementation of the RC&D Program. This manual is used by NRCS and other USDA staff members, RC&D Council members, and others that either develop RC&D applications or participate in the RC&D Program.

This revision of the manual reflects changes in the NRCS organizational structure, incorporates new area planning requirements, provides guidelines for the RC&D Program Operations Information Tracking System, and incorporates additional exhibits to increase clarity. It is available for download at *http://policy.nrcs.usda.gov/scripts/lpsiis.dll/NB/NB_390_6_2.htm.*

EFFECTIVE DATES: Comments will be received for a 60-day period commencing with the date of this publication.

ADDRESSES: Address all requests and comments to: Terry D'Addio, National RC&D Program Manager, Natural Resources Conservation Service, Room 5245–S, 1400 Independence Avenue, SW., Washington, DC 20250–9410.

FOR FURTHER INFORMATION CONTACT: Terry D'Addio, Natural Resources Conservation Service, (202) 720–0557; fax: (202) 690–0639; e-mail: *terry.d'addio@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION: The ''Conservation Programs Manual: Part 513–RC&D Program'' is a document used by NRCS and other USDA staff members, RC&D Council members, and others that either develop RC&D applications or participate in the RC&D Program. The purpose of this document is to provide policy guidance for the RC&D Program, not to establish regulatory requirements. The RC&D Program was authorized to encourage and improve the capability of State and local units of government and local nonprofit organizations in rural areas to plan, develop, and implement programs for resource conservation and development. Through the establishment of RC&D areas, the program establishes or improves coordination systems in communities and builds community leadership skills to effectively use Federal, State, and local programs for the communities' benefit. Current program objectives focus on improvements achieved through natural resources conservation and community development. Such activities lead to sustainable communities, prudent land use, and the sound management and conservation of natural resources.

Assistance is provided, as authorized by the Secretary of Agriculture, to designated RC&D areas through their organized RC&D Councils (comprised of local affected officials and civic leaders). RC&D Councils, in association with local, State, and Federal governments and other non-profit organizations, initiate and lead the planning and implementation of their locally developed RC&D area plans. Councils also obtain assistance from other local, State, and Federal agencies, private organizations, and foundations.

USDA prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202–720–2600 (voice and TDD).

To file a discrimination complaint with USDA, write to Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250–9410; telephone: 1–(800) 795–3272 (voice), or (202) 720–6382 (TDD). USDA is an equal opportunity provider and employer.

Signed in Washington, DC, on October 13, 2006.

Arlen L. Lancaster,

Chief.

[FR Doc. E6–17806 Filed 10–23–06; 8:45 am]

BILLING CODE 3410–16–P

BROADCASTING BOARD OF GOVERNORS

Corrected Notice of Meeting; Sunshine Act

DATE AND TIME: Wednesday, October 25, 2006, 2:30 p.m.–3:30 p.m.

PLACE: Cohen Building, Room 3321, 330 Independence Ave., SW., Washington, DC 20237.

CLOSED MEETING: The members of the Broadcasting Board of Governors (BBG) will meet in closed session to review and discuss a number of issues relating to U.S. Government-funded non-military international broadcasting. They will address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S. international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b. (c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b. (c)(9)(B)) In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b (c)(2) and (6)).

FOR FURTHER INFORMATION CONTACT: Persons interested in obtaining more information should contact Carol Booker at (202) 203–4545.

Dated: October 19, 2006.

Carol Booker,

Legal Counsel.

[FR Doc. 06–8866 Filed 10–20–06; 10:42 am]

BILLING CODE 8230–01–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce 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: National Oceanic and Atmospheric Administration (NOAA).

Title: Information for Share Transfer in the Wreckfish Fishery.

Form Number(s): None.

OMB Approval Number: 0648–0262.

Type of Request: Regular submission.

Burden Hours: 1.

Number of Respondents: 4.

Average Hours Per Response: 15 minutes.

Needs and Uses: The individual transferable quota system in the wreckfish fishery is based on percentage shares. Persons holding shares may sell or otherwise transfer them to others, but information about the proposed transfer must first be provided to National Oceanic and Atmospheric Administration (NOAA). The information is needed to manage the quota system, and information about the sales price is used in economic analyses.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by

calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, fax number (202) 395–7285, or *David_Rostker@omb.eop.gov*.

Dated: October 18, 2006.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E6–17739 Filed 10–23–06; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce 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: National Oceanic and Atmospheric Administration (NOAA).

Title: Subsistence Fishery For Pacific Halibut in Waters Off Alaska: Registration and Marking of Gear.

Form Number(s): None.

OMB Approval Number: 0648–0460.

Type of Request: Regular submission.

Burden Hours: 1,816.

Number of Respondents: 15,983.

Average Hours Per Response: Applications, 10 minutes; gear-marking, 15 minutes.

Needs and Uses: This submission seeks renewal of collection-of-information requirements that are part of the program for the Pacific halibut subsistence fishery. The program includes requirements for registration to participate in the fishery, and the marking of setline buoys or kegs used in this fishery. The registration requirement is intended to allow qualified persons to practice the long-term customary and traditional harvest of Pacific halibut for food in a non-commercial manner. The gear-marking requirement aids in enforcement and in actions related to gear damage or loss.

The registration information may be submitted by an individual or as a list of multiple individuals from an Alaska Native tribe. The submissions may be made by mail, fax, e-mail or on-line.

Affected Public: Not-for-profit institutions; business or other for-profit organizations; State, Local or Tribal Government.

Frequency: Applications, every two or four years; gear marking, annually.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, fax number (202) 395–7285, or *David_Rostker@omb.eop.gov*.

Dated: October 18, 2006.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E6–17740 Filed 10–23–06; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committees

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice of Public Meetings.

SUMMARY: The Bureau of the Census (Census Bureau) is giving notice of the following Census Advisory Committee (CAC) meeting: A special Joint Census Advisory Committee meeting of the CACs on Race and Ethnic Populations, the 2010 CAC, and the CAC of Professional Associations (CACPA), to be held on November 30, 2006. This special Joint Advisory Committee Meeting will focus on 2010 Census content, including results of the 2005 National Content Test. Separately, the American Indian and Alaska Native (AIAN) Advisory Committee will meet on November 29, 2006, to discuss AIAN-related geographic issues.

DATES: On Thursday, November 30, 2006, the special Joint CAC meeting will begin at 8:30 a.m. and adjourn at 5:30 p.m. On Wednesday, November 29, 2006, the AIAN Advisory Committee meeting will begin at 1 p.m. and adjourn at 5 p.m. Last minute changes to the schedule are possible.

ADDRESSES: The meetings will be held at the U.S. Census Bureau, 4600 Silver Hill Road, North Building, Suitland, Maryland 20746.

FOR FURTHER INFORMATION CONTACT: Ms. Jeri Green, Committee Liaison Officer, U.S. Department of Commerce, U.S. Census Bureau, Room 8H153, North Building, Washington, DC 20233, telephone: (301) 763–2070, TTY (301) 457–2540.

SUPPLEMENTARY INFORMATION: The CACs on the African American Population, AIAN Populations, the Asian Population, the Native Hawaiian and Other Pacific Islander Populations, and the Hispanic Population are composed of nine members each, appointed by the Secretary of Commerce. The Committees provide an outside-user perspective about how research and design plans for the reengineered 2010 Decennial Census, the American Community Survey (ACS), and other related programs realize goals and satisfy needs associated with these communities. The committees also assist the Census Bureau on ways that census data can best be disseminated to diverse race and ethnic populations and other users.

The 2010 CAC is composed of a Chair, Vice-Chair, and 20 member organizations—all appointed by the Secretary of Commerce. The Committee considers the goals of the decennial census, including the ACS and related programs, and users' needs for information provided by the decennial census from the perspective of outside data users and other organizations having a substantial interest and expertise in the conduct and outcome of the decennial census.

The CACPA is composed of 36 members appointed by the presidents of the American Economic Association, the American Statistical Association, the Population Association of America, and the Chairman of the Board of the American Marketing Association. The committee advises the Director of the Census Bureau on the full range of Census Bureau programs and activities in relation to each committee's areas of expertise and focus.

All the committees discussed in this notice have been established in accordance with the Federal Advisory Committee Act (Title 5, United States Code, Appendix 2, Section 10(a)(b)).

A brief period will be set aside for public comment. However, individuals with extensive statements for the record must submit them in writing to Ms. Jeri Green, Committee Liaison Officer, 4600 Silver Hill Road, Room 8H153, Washington, DC 20233, or e-mail at *jeri.green@census.gov* at least three-

working days prior to the meetings. Seating is available to the public on a first-come, first-served basis.

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Census Bureau Committee Liaison Officer as soon as possible, preferably two weeks prior to the meeting.

Dated: October 18, 2006.

Charles Louis Kincannon,

Director, Bureau of the Census.

[FR Doc. E6–17783 Filed 10–23–06; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–888

Floor–Standing, Metal–Top Ironing Tables and Certain Parts Thereof From the People's Republic of China: Notice of Extension of Time Limit for Final Results of First Antidumping Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 24, 2006.

FOR FURTHER INFORMATION CONTACT: Kristina Boughton or Bobby Wong, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–8173 or (202) 482–0409, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 12, 2006, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of this antidumping administrative review. *Floor–Standing, Metal–Top Ironing Tables and Certain Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 53655 (September 12, 2006).

Extension of Time Limits for Final Results

Pursuant to Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), and section 351.213(h)(1) of the Department's regulations, the Department shall issue the preliminary results of an administrative review within 245 days after the last day of the anniversary month of the date of publication of the order. The Act further provides that the Department shall issue the final results of review within 120 days after the date on which the notice of the preliminary results was published in the **Federal Register**. However, if the Department determines that it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Act and section 351.213(h)(2) of the Department's regulations allow the Department to extend the 245-day period to 365 days and the 120-day period to 180 days.

In the instant review, the Department finds that the current deadline for the final results is not practicable. The Department requires additional time to conduct verifications of the exporters, and review and analyze interested party comments. As a result, the Department has determined to extend the current time limits of this administrative review. For these reasons, the Department is fully extending the time limit for the completion of these final results until no later than Monday, March 12, 2007, which is the first business day 180 days from the date on which the notice of the preliminary results was published.

This notice is issued and published in accordance with sections 751(a)(3)(A) and 777(i) of the Act.

Dated: October 16, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–17781 Filed 10–23–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–894

Certain Tissue Paper Products from the People's Republic of China: Extension of Time Limit for Preliminary Results of the First Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 24, 2006.

FOR FURTHER INFORMATION CONTACT: Kristina Horgan or Bobby Wong, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–8173, or (202) 482–0409, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 30, 2005, the Department of Commerce (the Department) published in the **Federal Register** an antidumping duty order covering certain tissue paper from the People's Republic of China (PRC). *Notice of Amended Final Determination of Sales at Less than Fair Value and Antidumping Duty Order: Certain Tissue Paper Products from the People's Republic of China*, 70 FR 16223 (March 30, 2005). On March 2, 2006, the Department published a *Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation*, 71 FR 10642 (March 2, 2006). On April 28, 2006, the Department initiated an administrative review of 20 companies. *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 71 FR 25145 (April 28, 2006).

On August 25, 2006, Seaman Paper Company of Massachusetts, Inc., petitioner, filed a letter withdrawing its request for review of five companies, Fujian Naoshan Paper Industry Group Co., Ltd., Fuzhou Magicpro Gifts Co., Ltd., Guilin Qifeng Paper Co., Ltd., Goldwing Co., Ltd., and AR Printing and Packaging. Because petitioner was the only party to request a review of these five companies, on September 29, 2006, the Department rescinded this review with respect to these five companies. *Notice of Partial Rescission of Antidumping Duty Administrative Review: Certain Tissue Paper Products from the People's Republic of China*, 71 FR 57471 (September 29, 2006).

The Department has issued its antidumping duty questionnaire to Samsam Productions Ltd. and its affiliated Chinese supplier Guangzhou Baxi Printing Products Co., Ltd. and Max Fortune Industrial Limited and Max Fortune Paper Products Co., Ltd.[1] The deadline for completion of the preliminary results is currently December 1, 2006.

Extension of Time Limits for Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(h)(1) require the Department to issue the preliminary results of an administrative review within 245 days after the last day of the anniversary month of the order for which the administrative review was requested, and the final results of the

[1] The remaining companies have either placed statements on the record of this review claiming no shipments of subject merchandise during the period of review or have stated that they would not participate in the review.

review within 120 days after the date on which the notice of the preliminary results was published in the **Federal Register**. However, if the Department determines that it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2) allow the Department to extend the 245-day period to 365 days and the 120-day period to 180 days.

Pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h), we determine that it is not practicable to complete this administrative review within the statutory time limit of 245 days. The Department requires additional time to issue and analyze supplemental questionnaires and conduct verifications. In particular, there are complex factors of production methodology issues, which the Department requires additional time to review. Therefore, in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2), the Department is extending the time limit for the completion of these preliminary results by an additional 77 days to February 16, 2007. The final results, in turn, will be due 120 days after the date of issuance of the preliminary results, unless extended.

This notice is issued and published in accordance with sections 751(a)(3)(A) and 777(i)(1) of the Act.

Dated: October 16, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–17780 Filed 10–23–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of State Coastal Management Programs and National Estuarine Research Reserves

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Office of Ocean and Coastal Resource Management, National Ocean Service, Commerce.

ACTION: Notice of Intent to Evaluate and Notice of Availability of Final Findings.

SUMMARY: The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performance of the Texas Coastal Management Program.

The Coastal Zone Management Program evaluation will be conducted pursuant to section 312 of the Coastal Zone Management Act of 1972, as amended (CZMA) and regulations at 15 CFR Part 923, Subpart L. The CZMA requires continuing review of the performance of states with respect to coastal program implementation. Evaluation of a Coastal Management Program requires findings concerning the extent to which a state has met the national objectives, adhered to its Coastal Management Program document approved by the Secretary of Commerce, and adhered to the terms of financial assistance awards funded under the CZMA.

Each evaluation will include a site visit, consideration of public comments, and consultations with interested Federal, State, and local agencies and members of the public. Two public meetings will be held as part of the site visit. Notice is hereby given of the dates of the site visit for the listed evaluation, and the dates, local times, and locations of the public meetings during the site visit.

DATE AND TIME: The Texas Coastal Management Program evaluation site visit will be held December 4–8, 2006. Two public meetings will be held during the week. The first public meeting will be held on Tuesday, December 5, 2006, at 5:30 p.m. at the Club Padre, 5800 Padre Boulevard, South Padre Island, Texas. The second public meeting will be held on Thursday, December 7, 2006, at 1 p.m. at the Stephen F. Austin Building, Room 170, 1700 North Congress Avenue, Austin, Texas.

ADDRESSES: Copies of a State's most recent performance reports, as well as OCRM's evaluation notification and supplemental information request letters to the state, are available upon request from OCRM. Written comments from interested parties regarding this Program are encouraged and will be accepted until 15 days after the last public meeting held for the Program. Please direct written comments to Ralph Cantral, Chief, National Policy and Evaluation Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th Floor, N/ORM7, Silver Spring, Maryland 20910. When the evaluation is completed, OCRM will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the availability of the final evaluation findings for the Puerto Rico, North Carolina, and American Samoa Coastal Management Programs (CMPs) and the ACE Basin (South Carolina), North Inlet/Winyah Bay (South Carolina), Kachemak Bay (Alaska), and the Tijuana River (California) National Estuarine Research Reserves (NERRs). Sections 312 and 315 of the Coastal Zone Management Act of 1972 (CZMA), as amended, require a continuing review of the performance of coastal states with respect to approval of CMPs and the operation and management of NERRs.

The Commonwealth of Puerto Rico, the State of North Carolina, and the Territory of American Samoa were found to be implementing and enforcing their federally approved coastal management programs, addressing the national coastal management objectives identified in CZMA Section 303(2)(A)–(K), and adhering to the programmatic terms of their financial assistance awards. The ACE Basin (South Carolina), North Inlet/Winyah Bay (South Carolina), Kachemak Bay (Alaska), and the Tijuana River (California) NERRs were found to be adhering to programmatic requirements of the NERR System.

Copies of these final evaluation findings may be obtained upon written request from: Ralph Cantral, Chief, National Policy and Evaluation Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th Floor, N/ORM7, Silver Spring, Maryland 20910, or *Ralph.Cantral@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Ralph Cantral, Chief, National Policy and Evaluation Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th Floor, N/ORM7, Silver Spring, Maryland 20910, (301)563–7118.

Federal Domestic Assistance Catalog 11.419: Coastal Zone Management Program Administration.

Dated: October 18, 2006.

Elizabeth R. Scheffler,

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

[FR Doc. E6–17750 Filed 10–23–06; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 092706C]

Notice of Intent To Conduct Public Scoping and To Prepare an Environmental Impact Statement Related to the Washington Department of Natural Resources Aquatic Lands Habitat Conservation Plan

AGENCY: Fish and Wildlife Service (FWS), Interior; National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; scoping meetings, request for comments.

SUMMARY: The U.S. Fish and Wildlife Service and the National Marine Fisheries Service (Services) advise interested parties of their intent to conduct public scoping under the National Environmental Policy Act (NEPA) to gather information to prepare an Environmental Impact Statement (EIS) related to a permit application from the Washington Department of Natural Resources (WDNR) for the incidental take of species listed under the Endangered Species Act. The permit application would be associated with the WDNR's Aquatic Lands Habitat Conservation Plan.

DATES: See **SUPPLEMENTARY INFORMATION** section for meeting dates. Written comments should be received on or before December 8, 2006.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** section for meeting locations.

All comments concerning preparation of the EIS and the NEPA process should be addressed to: Jo Ellen Henry, FWS, 510 Desmond Drive, SE., Suite 102, Lacey, WA 98503, facsimile number 360–753–9518; or John Stadler, NMFS, 510 Desmond Drive, SE., Suite 103, Lacey, WA 98503, facsimile number 360–753–9517. Submit electronic comments to *WADNRaquaticlands HCP.nwr@noaa.gov*. In the subject line of the electronic mail, include the document identifier: Washington DNR Aquatics HCP EIS.

FOR FURTHER INFORMATION CONTACT: Jo Ellen Henry, FWS, telephone 360–753–7766; or John Stadler, NMFS, telephone 360–753–9576.

SUPPLEMENTARY INFORMATION: Five public scoping meetings are scheduled from 7 to 9:30 p.m. for the following dates and locations:

(1) October 24, 2006; at the Student Union Building, Spokane Falls Community College, 3410 West Fort George Wright Drive, Spokane, WA 99224–5288.

(2) October 25, 2006; at the Student Union Building, Central Washington University, 400 East University Way, Ellensburg, WA 98926.

(3) November 1, 2006; at the Main Branch, Public Library, 210 Central Avenue, Bellingham, WA 98225.

(4) November 7, 2006; at the Cowlitz County Public Utility District Office, 961 12th Avenue, Longview, WA 98632.

(5) November 8, 2006; at the National Marine Fisheries Service, 7600 Sand Point Way, NE., Seattle, WA 98115.

Statutory Authority

Section 9 of the Endangered Species Act (ESA), as amended (16 U.S.C. 1538) and implementing regulations prohibit the taking of endangered species. The term ''take'' is defined under the ESA (16 U.S.C. 1532(19)) as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. ''Harm'' is defined by FWS regulation to include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3). NMFS' definition of ''harm'' includes significant habitat modification or degradation where it actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, spawning, migrating, rearing, or sheltering (64 FR 60727, November 8, 1999).

Section 10 of the ESA and implementing regulations specify requirements for the issuance of incidental take permits (ITPs) to non-Federal applicants for the take of endangered and threatened species. Any proposed take must be incidental to otherwise lawful activities and must not appreciably reduce the likelihood of the survival and recovery of the species in the wild. In addition, the applicant must prepare a habitat conservation plan (HCP) describing the impact that will likely result from such taking, what steps will be taken to minimize and mitigate the impacts of the take, the funding available to implement such steps, alternatives to such taking, and the reason such alternatives are not being implemented.

NEPA (42 U.S.C. 4321 *et seq.*) requires that Federal agencies conduct an environmental analysis of their proposed actions to determine if the actions may significantly affect the human environment. Under NEPA, a reasonable range of alternatives to proposed projects is developed and considered in the Services' environmental review. Alternatives considered for analysis in an EIS may include variations in the scope of covered activities; variations in the number of covered species; variations in the location, amount, and type of conservation; variations in permit duration; or a combination of these elements. In addition, the EIS will identify potentially significant direct, indirect, and cumulative effects on biological resources, land use, air quality, water quality, water resources, socioeconomics, and other environmental issues that could occur with the implementation of the applicant's proposed actions and alternatives. For potentially significant impacts, an EIS may identify avoidance, minimization, or mitigation measures to reduce these impacts, where feasible, to a level below significance.

Background

An EIS for the WDNR HCP would analyze the potential issuance of two ITPs, one by NMFS and one by the FWS. To obtain an ITP, the applicant must prepare an HCP that meets the issuance criteria established by the ESA and Service regulations (50 CFR 17.22(b)(2), 17.32(b)(2), and 222.307). Should a permit or permits be issued, the permit(s) may include assurances under the Services' ''No Surprises'' regulations.

Approximately 2.4 million acres in Washington are state-owned aquatic lands managed by the WDNR, that include tidelands, shorelands, and bedlands. Nearly all of the freshwater and marine bedlands, approximately 30 percent of the tidelands, and approximately 70 percent of the shorelands of the navigable lakes and rivers in Washington are under state ownership. The WDNR authorizes a wide variety of activities undertaken by individuals, businesses, and government entities, and conducts activities on state-owned aquatic lands, such as derelict vessel removal, control of aquatic nuisance species, identification and management of areas for conservation or restoration, designation of aquatic reserves, and aquaculture of shellfish and finfish.

Several species of fish, birds, marine mammals, and other species that use habitat on state-owned aquatic land have been listed as threatened, endangered, species of concern, or candidate species by Federal or state

governments. Federally threatened or endangered species within the proposed HCP area include the bald eagle, marbled murrelet, western snowy plover, bull trout, killer whale, and several species of salmonids.

The species under consideration for coverage in the HCP include the brown pelican (*Pelecanus occidentalis*), bald eagle (*Haliaeetus leucocephalus*), marbled murrelet (*Brachyramphus marmoratus*), bull trout (*Salvelinus confluentus*), western snowy plover (*Charadrius alexandrinus nivosus*), western toad (*Bufo boreas*), Columbia spotted frog (*Rana luteiventris*), northern leopard frog (Rana pipiens), western pond turtle (Clemmys marmorata), black tern (*Chlidonias niger*), common loon (*Gavia immer*), harlequin duck (*Histrionicus histrionicus*), Dolly Varden (*Salvelinus malma*), Chinook salmon (*Oncorhynchus tschawytscha*), chum salmon (*O. keta*), coastal cutthroat trout (*O. clarkii clarkii*), coho salmon (*O. kisutch*), pink salmon (*O. gorbuscha*), sockeye/kokanee salmon (*O. nerka*), steelhead (*O. mykiss*), and killer whale (*Orcinus orca*).

The draft HCP to be prepared by WDNR in support of the ITP applications will describe the impacts of take on proposed covered species and propose a conservation strategy to minimize and mitigate those impacts to the maximum extent practicable. With assistance from the Services, WDNR will develop habitat conservation measures for fish and wildlife and their associated habitats. The Services are responsible for determining whether the HCP satisfies the ESA section 10 permit issuance criteria.

Under NEPA, a reasonable range of alternatives to the proposed project must be developed and considered in the Services' environmental review. The Services have identified the following preliminary alternatives for public evaluation during the scoping period:

Alternative 1: No Action—Under this alternative, ITPs would not be issued by the Services and the HCP would not be approved. WDNR would continue managing and leasing state-owned aquatic lands in accordance with current practices, and no specific management strategies would be implemented to ensure compliance with the ESA. The WDNR would not conduct a direct evaluation under the ESA of the effects of its management actions, nor would it consider the cumulative effects of its activities.

Alternative 2: Proposed Alternative—Development of an HCP and issuance of ITPs by FWS and NOAA authorizing covered activities in freshwater, marine, and estuarine environments, provided all legal requirements are met. A preliminary list of activities under consideration for coverage includes: aquaculture of finfish and shellfish; complex, water-dependent activities (such as marinas, shipyards, and terminals); overwater structures; public access; log booming and storage; commercial sand and gravel removal; and small-scale mining.

Alternative 3: Development of an HCP and issuance of ITPs by each agency limiting covered activities to those in marine and estuarine environments, provided all legal requirements are met. The activities, species, and area covered under this alternative would generally be a subset of those included under Alternative 2, and the HCP would focus on those species most likely to be affected.

Additional project alternatives may be developed based on input received from the public scoping process.

Request for Comments

The primary purpose of the scoping process is for the public to assist the Services in developing the EIS by identifying important issues and alternatives related to the applicant's proposed action. The scoping meetings will allocate time for presentations by the Services and WDNR, followed by informal questions and discussions. Written comments from interested parties are welcome to ensure that the full range of issues related to the proposed permit request is identified. All comments and materials received, including names and addresses, will become part of the administrative record and may be released to the public. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the offices listed in the **ADDRESSES** section of this notice. The Services request that comments be specific. In particular, we request information regarding: Direct, indirect, and cumulative impacts that implementation of the proposed HCP or other alternatives could have on endangered and threatened and other covered species, and their communities and habitats; other possible alternatives that meet the purpose and need; potential adaptive management and/or monitoring provisions; funding issues; existing environmental conditions in the plan area; other plans or projects that might be relevant to this proposed project; permit duration; maximum acreage that should be covered; specific species that should or should not be covered; specific aquatic lands that should or should not be covered; and appropriate minimization and mitigation efforts. NMFS and FWS estimate that the draft EIS will be available for public review by January 2008.

The environmental review of this project will be conducted in accordance with the requirements of the NEPA of 1969 as amended (42 U.S.C. 4321 *et seq.*), Council on Environmental Quality Regulations (40 CFR parts 1500–1508), other applicable Federal laws and regulations, and applicable policies and procedures of the Services. This notice is being furnished in accordance with 40 CFR 1501.7 of the NEPA regulations to obtain suggestions and information from other agencies and the public on the scope of issues and alternatives to be addressed in the EIS.

Reasonable Accommodation

Persons needing reasonable accommodations to attend and participate in the public meeting should contact Jo Ellen Henry, FWS, at 360–753–7766 or John Stadler, NMFS, at 360–753–9576. To allow sufficient time to process requests, please call no later than 1 week before the public meeting. Information regarding the applicant's proposed action is available in alternative formats upon request.

Dated: October 4, 2006.

David J. Wesley,

Deputy Regional Director, Fish and Wildlife Service, Region 1, Portland, Oregon.

Dated: September 28, 2006.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 06–8860 Filed 10–23–06; 8:45 am]

BILLING CODE 4310–55–P; 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Notice of Meeting; Sunshine Act

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

Sunshine Act Meetings

TIME AND DATE: 2 p.m., Thursday, October 26, 2006.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

FOR FURTHER INFORMATION CONTACT: Eileen A. Donovan, 202–418–5100.

Eileen A. Donovan,

Acting Secretary of the Commission.

[FR Doc. 06–8893 Filed 10–20–06; 2:41 pm]

BILLING CODE 6351–01–M

DEPARTMENT OF EDUCATION

National Mathematics Advisory Panel

AGENCY: National Mathematics Advisory Panel, U.S. Department of Education.

ACTION: Notice of open meeting and public hearing, amended.

SUMMARY: On October 17, 2006 the Secretary published in the **Federal Register** (71 FR 61032) a notice of open meeting and public hearing for the National Mathematics Advisory Panel. This notice amends the October 17 notice by adding an additional session on Research and Instructional Practice and republishes the entire notice to read as follows:

This notice sets forth the schedule and proposed agenda of an upcoming meeting, including a public hearing, with members of the National Mathematics Advisory Panel. The notice also describes the functions of the Panel. Notice of this meeting is required by section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of their opportunity to attend.

DATES: Sunday, November 5, 2006 and Monday, November 6, 2006. *Times:* Sunday, November 5, 2006, 4–5 p.m. Monday, November 6, 2006, 8:15–11:45 a.m.; 12:45–2:45 p.m.; and, 3–5:15 p.m.

ADDRESSES: All meetings and the open session for public comment will be held on the campus of Stanford University at the Schwab Residential Center, 680 Serra Street, Stanford, CA 94305–6090.

FOR FURTHER INFORMATION CONTACT: Tyrrell Flawn, Executive Director, National Mathematics Advisory Panel, 400 Maryland Avenue, SW., Washington, DC 20202; telephone: (202) 260–8354.

SUPPLEMENTARY INFORMATION: The Panel was established by Executive Order 13398. The purpose of this Panel is to foster greater knowledge of and improved performance in mathematics among American students, in order to keep America competitive, support American talent and creativity, encourage innovation throughout the American economy, and help State, local , territorial, and tribal governments give the nation's children and youth the education they need to succeed.

The Open Session on November 5th will include testimony from the College Board and ACT on American student readiness for college-level mathematics. The Open Sessions on November 6th will include testimony on the National Assessment of Educational Progress (NAEP); Trends in International Mathematics and Science Study (TIMSS); the use of Instructional Technology and Calculators; Research and Instructional Practice; and Task Group reports. Individuals interested in attending the meeting are advised to register in advance to ensure space availability. Please contact Jennifer Graban at (202) 260–1491 or by e-mail at *Jennifer.Graban@ed.gov* by Wednesday, November 1, 2006.

The November 6th meeting will also contain an *Open Public Session* from 10:45 to 11:45 a.m. At that time, the public is invited to comment and present evidence in connection to elements outlined in the Executive Order. Presenters are encouraged to address one or more of the Panel's present four focus areas: Conceptual knowledge and skills; learning processes; instructional practices; and teachers. (Please refer to the Web site at *http://www.ed.gov/about/bdscomm/list/mathpanel/index.html* for more information on the elements of the Executive Order.)

If you are interested in giving testimony during the public session on November 6th, please contact Jennifer Graban at 202–260–1491 or *Jennifer.Graban@ed.gov* by November 1, 2006, to reserve time on the agenda. Please include your name, the organization you represent, if appropriate, a brief description of the issue you would like to present and the focus area(s) to which it correlates. Presenters will be allowed five minutes to make their comments. Presenters are requested to submit three written copies and an electronic file (CD or diskette) of their comments at the meeting, which should be labeled with their name and contact information. Individuals interested in solely attending the meeting are advised to register in advance to ensure space availability.

Given the expected number of individuals interested in providing comments at the meeting, reservations for presenting comments should be made as soon as possible. Reservations will be processed on a first-come, first-served basis. Persons who are unable to obtain reservations to speak during the meeting are encouraged to submit written comments, which will be considered equally as those presented on-site. Written comments will be accepted at the meeting site or via e-mail at *Jennifer.Graban@ed.gov*. If you will be e-mailing written comments, please do so by October 27, 2006.

The Panel will submit to the President, through the Secretary, a preliminary report not later than January 31, 2007, and a final report not later than February 28, 2008. Both reports shall, at a minimum, contain recommendations, based on the best available scientific evidence.

The meeting site is accessible to individuals with disabilities. Individuals who will need accommodations in order to attend the meeting such as interpreting services, assistive listening devices, or materials in alternative format, should notify Jennifer Graban at 202–260–1491 or *Jennifer.Graban@ed.gov* no later than November 1, 2006. We will attempt to meet requests for accommodations after this date, but cannot guarantee their availability.

Records are kept of all Panel proceedings and are available for public inspection at the staff office for the Panel, from the hours of 9 a.m. to 5 p.m.

Dated: October 18, 2006.

Margaret Spellings,

Secretary, U.S. Department of Education.

[FR Doc. 06–8834 Filed 10–23–06; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Savannah River Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Savannah River Site. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Monday, November 13, 2006, 1 p.m.–6:30 p.m., Tuesday, November 14, 2006, 8:30 a.m.–4 p.m.

ADDRESSES: Augusta Towers Hotel, 2651 Perimeter Parkway, Augusta, GA 30909.

FOR FURTHER INFORMATION CONTACT: Gerri Flemming, Closure Project Office, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, SC 29802; Phone: (803) 952–7886.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

Monday, November 13, 2006

1 p.m.—Combined Committee Session
5:15 p.m.—Adjourn
5:30 p.m.—Executive Committee Meeting
6:30 p.m.—Adjourn

Tuesday, November 14, 2006

8:30 a.m.—Approval of Minutes, Agency Updates
9:15 a.m.—Public Comment Session
9:30 a.m.—Chair and Facilitator Update
10 a.m.—Strategic Legacy Management Committee Report
11 a.m.—Waste Management Committee Report
11:45 p.m.—Public Comment Session
12 p.m.—Lunch Break
1 p.m.—Administrative Committee Report
1:30 p.m.—Facility Disposition and Site Remediation Committee Report
2:30 p.m.—Nuclear Materials Committee Report
3:30 p.m.—Public Comment Session
4 p.m.—Adjourn

If needed, time will be allotted after public comments for items added to the agenda and administrative details. A final agenda will be available at the meeting Monday, November 13, 2006.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Gerri Flemming's office at the address or telephone listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the U.S. Department of Energy's Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Minutes will also be available by writing to Gerri Flemming, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, SC 29802, or by calling her at (803) 952–7886.

Issued at Washington, DC on October 18, 2006.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. E6–17760 Filed 10–23–06; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Science

DOE/Advanced Scientific Computing Advisory Committee

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Advanced Scientific Computing Advisory Committee (ASCAC). Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, November 8, 2006, 9:45 a.m. to 12 p.m.

ADDRESSES: Marriott Washingtonian Center, 751 Washingtonian Blvd., Gaithersburg, MD 20878.

FOR FURTHER INFORMATION CONTACT: Melea Baker, Office of Advanced Scientific Computing Research; SC–21/Germantown Building; U. S. Department of Energy; 1000 Independence Avenue, SW., Washington, DC 20585–1290; Telephone (301)–903–7486, (E-mail: *Melea.Baker@science.doe.gov*).

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: The purpose of this meeting is to provide advice and guidance with respect to the advanced scientific computing research program.

Tentative Agenda: Agenda will include discussions of the following:

Wednesday, November 8, 2006

Subpart of Charge 1—PART Rating for Genomes to Life Project
Subpart of Charge 1—PART Rating for Multiscale Math
Public Comment

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting.

If you would like to make oral statements regarding any of the items on the agenda, you should contact Melea Baker via FAX at 301–903–4846 or via e-mail (*Melea.Baker@science.doe.gov*). You must make your request for an oral statement at least 5 business days prior to the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The minutes of this meeting will be available for public review and copying within 30 days at the Freedom of Information Public Reading Room; 1E–190, Forrestal Building; 1000 Independence Avenue, SW., Washington, DC 20585; between 9 a.m. and 4 p.m., Monday through Friday, except holidays.

Issued in Washington, DC, on October 19, 2006.

Rachel M. Samuel,

Deputy Advisory Committee, Management Officer.

[FR Doc. E6–17761 Filed 10–23–06; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. QF06–121–000; QF06–121–001]

Affinity Skilled Living and Rehabilitation Center; Notice of Filing of Notice of Self-Certification of Qualifying Status of a Cogeneration Facility

October 17, 2006.

Take notice that on March 28, 2006, and supplemented on August 16, 2006, Affinity Skilled Living and Rehabilitation Center (Affinity), located at 306 Locust Avenue, Oakdale, New York, filed with the Federal Energy Regulatory Commission a notice of self-certification of a facility as a qualifying cogeneration facility pursuant to 18 CFR 292.207(a) of the Commission's regulations.

Affinity will be a topping-cycle cogeneration plant located in Oakdale, New York. The cogeneration system will utilize a 110 kW natural gas fired internal combustion system to produce electricity and hot water for this facility. Affinity is interconnected with Long Island Power Authority which will provide backup power to Affinity. No utility will purchase the useful electric power output.

A notice of self-certification does not institute a proceeding regarding qualifying facility status; a notice of self-certification provides notice that the entity making filing has determined Affinity meets the applicable criteria to be a qualifying facility. Any person seeking to challenge such qualifying facility status may do so by filing a

motion pursuant to 18 CFR 292.207(d)(iii).

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–17785 Filed 10–23–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER06–1375–000; ER06–1376–000]

Lumberton Power, Inc.; Elizabethtown Power, LLC; Notice of Issuance of Order

October 17, 2006.

Lumberton Power, LLC (Lumberton) and Elizabethtown Power, LLC (Elizabethtown) filed applications for market-based rate authority, with accompanying tariffs. The proposed rate tariffs provide for the sale of energy, capacity and ancillary services at market-based rates. Lumberton and Elizabethtown also requested waivers of various Commission regulations. In particular, Lumberton and Elizabethtown requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Lumberton and Elizabethtown.

On October 16, 2006, the Commission granted the request for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Lumberton and Elizabethtown should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protests is November 15, 2006

Absent a request to be heard in opposition by the deadline above, Lumberton and Elizabethtown are authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Lumberton and Elizabethtown, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Lumberton's and Elizabethtown's issuances of securities or assumptions of liability.

Copies of the full text of the Commission's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E6–17786 Filed 10–23–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL06–105–000]

NorthWestern Corporation; Notice of Extension of Time

October 17, 2006.

On October 10, 2006, PPL EnergyPlus, LLC and PPL Montana, LLC (collectively ''the PPL Companies'') filed a motion for an extension of time to file comments in response to the Commission's Notice of Filing issued September 21, 2006, in the above-docketed proceeding. The motion states that the PPL Companies require additional time in order to access and review relevant data and also to allow PPL Companies to participate in an upcoming meeting between NorthWestern Corporation (NorthWestern) and the Open Season participants which will facilitate the evaluation of NorthWestern's proposal in this docket.

Upon consideration, notice is hereby given that an extension of time for filing comments is granted to and including November 6, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–17787 Filed 10–23–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

October 17, 2006.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC07–3–000.

Applicants: Atlantic City Electric Company; RC Cape May Holdings, LLC.

Description: Atlantic City Electric Company and Cape May Holdings, LLC submit an application for authorization for disposition of an existing generation facility and related jurisdictional assets.

Filed Date: October 11, 2006.

Accession Number: 20061013–0132.

Comment Date: 5 p.m. Eastern Time on Wednesday, November 2, 2006.

Docket Numbers: EC07–4–000.

Applicants: Aquila, Inc.; MEP Pleasant Hill, LLC.

Description: Aquila Inc. and MEP Pleasant Hill, LLC submits an application for approval of the transfer of jurisdictional facilities and existing generation facilities under section 203 of the Federal Power Act.

Filed Date: October 12, 2006.

Accession Number: 20061016–0141.

Comment Date: 5 p.m. Eastern Time on Thursday, November 27, 2006.

Take notice that the Commission received the following electric rate filings.

Docket Numbers: ER98–1150–009.

Applicants: Tucson Electric Power Company.

Description: Tucson Electric Power Co clarifies certain facts related to the operation of and scheduling of power from the Luna Facility and to provide generation market power screen analyses.

Filed Date: October 12, 2006.

Accession Number: 20061016–0134.

Comment Date: 5 p.m. Eastern Time on Thursday, November 2, 2006.

Docket Numbers: ER00–3251–012; ER99–754–014; ER01–1919–009; ER01–513–016; ER01–513;017; ER01–513–018; ER01–513–019; ER99–2404–009.

Applicants: Exelon Generating Company, LLC; AmerGen Energy Company, LLC; Exelon Energy Company; Exelon West Medway, LLC; Exelon Wyman, LLC; Exelon New Boston, LLC; Exelon Framingham, LLC; Exelon New England Power Marketing, L.P.

Description: Exelon Generation Co et al submit a modification of their market-based tariffs to remove the market behavior rules and delete the Code of Conduct regarding Public Service Enterprise Group Incorporated.

Filed Date: October 13, 2006 and October 16, 2006.

Accession Number: 20061017–0030.

Comment Date: 5 p.m. Eastern Time on Friday, November 3, 2006.

Docket Numbers: ER01–313–004.

Applicants: California Independent System Operator Corporation

Description: California Independent System Operator Corp submits its compliance filing in accordance with Opinion 463–B of FERC's November 7, 2006 Order.

Filed Date: October 10, 2006.

Accession Number: 20061016–0068.

Comment Date: 5 p.m. Eastern Time on Tuesday, October 31, 2006.

Docket Numbers: ER03–742–001.

Applicants: RMKG, LLC.

Description: RMKG, LLC submits its First Revised Rate Schedule FERC 1 in order to correct the identification and numbering of the document to its September 5, 2006 filing of the triennial update market power analysis.

Filed Date: October 13, 2006.

Accession Number: 20061016–0069.

Comment Date: 5 p.m. Eastern Time on Friday, November 3, 2006.

Docket Numbers: ER03–821–001.

Applicants: One Nation Energy Solutions, LLC.

Description: One Nation Energy Solutions, LLC submits its Triennial Market Power Update.

Filed Date: October 12, 2006.

Accession Number: 20061013–0099.

Comment Date: 5 p.m. Eastern Time on Thursday, November 2, 2006.

Docket Numbers: ER05–1050–004.

Applicants: AmerGen Energy Company LLC.

Description: AmerGen Energy Company LLC submits its final compliance electric refund report.

Filed Date: October 4, 2006.

Accession Number: 20061003–5072.

Comment Date: 5 p.m. Eastern Time on Wednesday, October 25, 2006.

Docket Numbers: ER05–1235–003; ER06–847–002.

Applicants: MidAmerican Energy Company.

Description: MidAmerican Energy Co. submits a supplement to its October 2, 2006 compliance filing in accordance with FERC's September 1, 2006 Order.

Filed Date: October 10, 2006.

Accession Number: 20061013–0056.

Comment Date: 5 p.m. Eastern Time on Tuesday, October 31, 2006.

Docket Numbers: ER06–20–007.

Applicants: Louisville Gas & Electric Company.

Description: Louisville Gas & Electric Company and Kentucky Utilities Company submit a final Withdrawal Fee Calculation provided by Midwest Independent Transmission Operator, Inc. effective September 1, 2006.

Filed Date: October 12, 2006.

Accession Number: 20061016–0119.

Comment Date: 5 p.m. Eastern Time on Thursday, November 2, 2006.

Docket Numbers: ER06–1297–001.

Applicants: Fox Energy Company LLC.

Description: Fox Energy Company LLC submits First Revised Sheet 1 to its FERC Rate Schedule 2, effective October 11, 2006 under ER06–1297.

Filed Date: October 13, 2006.

Accession Number: 20061016–0117.

Comment Date: 5 p.m. Eastern Time on Friday, November 3, 2006.

Docket Numbers: ER06–1401–001.

Applicants: PJM Interconnection, LLC.

Description: PJM Interconnection, LLC submits a substitute Allegheny Ridge Interim ISA, designated as Substitute Original Service Agreement 1541.

Filed Date: October 13, 2006.

Accession Number: 20061016–0115.

Comment Date: 5 p.m. Eastern Time on Friday, November 3, 2006.

Docket Numbers: ER06–1434–001.

Applicants: ISO New England Inc.

Description: ISO New England Inc submits an Amended Non-Conforming Market Participant Service Agreement with North America Power Partners, LLC.

Filed Date: October 13, 2006.

Accession Number: 20061016–0118.

Comment Date: 5 p.m. Eastern Time on Friday, November 3, 2006.

Docket Numbers: ER07–23–001.

Applicants: Arizona Public Service Company.

Description: Arizona Public Service Company submits corrected Original Sheet 58 to its FERC Tariff, Volume 5.

Filed Date: October 13, 2006.

Accession Number: 20061016–0116.

Comment Date: 5 p.m. Eastern Time on Friday, November 3, 2006.

Docket Numbers: ER07–32–000.

Applicants: Mid-Continent Area Power Pool.

Description: The Mid-Continent Area Power Pool submits revisions to Article 6 of its Restated Agreement, to be effective December 1, 2006.

Filed Date: October 6, 2006.

Accession Number: 20061016–0107.

Comment Date: 5 p.m. Eastern Time on Friday, October 27, 2006.

Docket Numbers: ER07–34–000.

Applicants: Plains End II, LLC.

Description: Plains End III, LLC submits a petition for order accepting market-based rate tariff for filing and granting waivers and blanket approvals and request for expedited action.

Filed Date: October 12, 2006.

Accession Number: 20061013–0081.

Comment Date: 5 p.m. Eastern Time on Thursday, November 2, 2006.

Docket Numbers: ER07–35–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Co submits revised rate sheets to the Interconnection Facilities Agreement & the Service Agreement for Wholesale Distribution Service between the City of Corona & SCE.

Filed Date: October 13, 2006.

Accession Number: 20061017–0035.

Comment Date: 5 p.m. Eastern Time on Friday, November 3, 2006.

Docket Numbers: ER06–36–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Co submits Second Service Sheet 19 et al as part of its Service Agreement 128 under its Wholesale Distribution Access Tariff, FERC Electric Tariff, Revised Volume 5.

Filed Date: October 13, 2006.

Accession Number: 20061017–0034.

Comment Date: 5 p.m. Eastern Time on Friday, November 3, 2006.

Docket Numbers: ER07–37–000.

Applicants: Carolina Power & Light Company.

Description: Carolina Power & Light Co dba Progress Energy Carolinas, Inc (PEC) requests that FERC amend the Western Systems Power Pool Agreement to include PEC as a participant.

Filed Date: October 13, 2006.

Accession Number: 20061017–0033.

Comment Date: 5 p.m. Eastern Time on Friday, November 3, 2006.

Docket Numbers: ER07–38–000.

Applicants: Entergy Services Inc.

Description: Energy Services Inc, on behalf of Entergy Operations Inc requests FERC to review and authorize the cost allocation methods included in services agreements used for the sale of non-power goods and services.

Filed Date: October 13, 2006.
Accession Number: 20061017–0032.
Comment Date: 5 p.m. Eastern Time on Friday, November 3, 2006.

Take notice that the Commission received the following foreign utility company status filings:

Docket Numbers: FC07–3–000.
Applicants: Tynagh Energy Limited.
Description: Tynagh Energy Limited submits a Notice of Self-Certification of Foreign Utility Company Status.
Filed Date: October 10, 2006.
Accession Number: 20061016–0112.
Comment Date: 5 p.m. Eastern Time on Tuesday, October 31, 2006.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,
Secretary.

[FR Doc. E6–17784 Filed 10–23–06; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8233–6]

EPA Science Advisory Board; Notification of a Public Teleconference of the Science Advisory Board

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces a public teleconference of the Chartered Board to review a draft SAB report, *Advisory on EPA's Assessments of Carcinogenic Effects of Organic and Inorganic Arsenic.*

DATES: The SAB will hold the public teleconference on November 27, 2006. The teleconference will begin at 2 p.m. and end at 5 p.m. (Eastern Time).

ADDRESSES: Telephone conference call only.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing to obtain general information concerning this public teleconference should contact Dr. Angela Nugent, Designated Federal Officer (DFO), EPA Science Advisory Board (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via telephone/voice mail: (202) 343–9981; fax: (202) 233–0643; or e-mail at: *nugent.angela@epa.gov.* General information concerning the EPA Science Advisory Board can be found on the EPA Web site at: *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the EPA SAB will hold a public teleconference to review a draft SAB report. The SAB was established by 42 U.S.C. 4365 to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Background: The purpose of the public teleconference is to review the SAB Arsenic Review Panel's draft report, *Advisory on EPA's Assessments of Carcinogenic Effects of Organic and Inorganic Arsenic.* In reviewing draft reports from its panels, the SAB considers whether: (i) The original charge questions to the SAB review panel were adequately addressed in the draft report, (ii) the draft report is clear and logical; and (iii) the conclusions drawn, or recommendations made in the draft report, are supported by the body of the report.

The draft report to be reviewed at this public teleconference focuses on several issues about the mode of carcinogenic action of various arsenic species and the implications of these issues for EPA's assessment of the cancer hazard and risks of organic and inorganic arsenic. The panel reviewed a science issue paper prepared by EPA's Office of Pesticide Programs (with an attachment prepared by EPA's Office of Research and Development) and a revised hazard and dose response assessment/characterization for inclusion in EPA's Integrated Risk Information System (IRIS) prepared by EPA's Office of Water. Additional information about the SAB Arsenic Assessment Review Panel can be found on the web at: *http://www.epa.gov/sab/panels/arsenic_review_panel.htm.*

Availability of Teleconference Materials: The draft agendas and other materials will be posted on the SAB Web site at: *http://www.epa.gov/sab/* prior to the teleconference.

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for the SAB to consider during the public teleconference. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public SAB teleconference will be limited to three minutes per speaker, with no more than a total of one-half hour for all speakers. Interested parties should contact Dr. Angela Nugent, DFO, in writing (preferably via e-mail), by November 16, 2006, at the contact information noted above, to be placed on the public speaker list for this teleconference. *Written Statements:* Written statements should be received in the SAB Staff Office by November 16, 2006, so that the information may be made available to the SAB for their consideration prior to this teleconference. Written statements

should be supplied to the DFO in the following formats: One hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format).

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Angela Nugent at (202) 343–9981 or *nugent.angela@epa.gov.* To request accommodation of a disability, please contact Dr. Nugent preferably at least ten days prior to the teleconference, to give EPA as much time as possible to process your request.

Dated: October 17, 2006.

Anthony F. Maciorowski,

Associate Director for Science, EPA Science Advisory Board Staff Office.

[FR Doc. E6–17803 Filed 10–23–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8233–5]

EPA Science Advisory Board; Notification of a Public Telephone Conference of the Homeland Security Advisory Committee

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces a public telephone conference of the Homeland Security Advisory Committee (HSAC) to be briefed on the status of the Agency's Standard Analytical Methods (SAM) and WaterSentinel (WS) projects and upcoming projects by the National Homeland Security Research Center in the Office of Research and Development.

DATES: November 13, 2006, the meeting will begin at 12 p.m. and end by 3 p.m. (Eastern Time).

ADDRESSES: Telephone conference call only.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing to obtain general information concerning this teleconference should contact Ms. Vivian Turner, Designated Federal Officer (DFO), EPA Science Advisory Board (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via telephone/voice mail (202) 343–9697; fax (202) 233–0643; or e-mail at: *turner.vivian@epa.gov.* General information concerning the EPA Science Advisory Board and the Homeland Security Advisory Committee can be found on the EPA Web site at: *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the EPA SAB HSAC will hold a public teleconference to be briefed on the status of the Agency's Standard Analytical Methods (SAM) and WaterSentinel (WS) projects and upcoming projects by the National Homeland Security Research Center in the Office of Research and Development. The SAB was established by 42 U.S.C. 4365 to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. As a subcommittee of the SAB, the HSAC will comply with the provisions of FACA and all appropriate EPA and SAB Staff Office procedural policies.

Background

The purpose of the public teleconference is: (1) To obtain Agency feedback on the HSAC's comments presented to the Agency on its SAM and WS Programs discussed at the consultation held on January 30–31, 2006; and (2) to be briefed on three upcoming HSAC projects, including Provisional Advisory Levels (PALS), the Emergency Consequence Assessment Tool (ECAT), and Preliminary Microbial Risk Assessment Methodologies.

Standard Analytical Methods (SAM) and WaterSentinel (WS)

On January 30–31, 2006 the HSAC provided a consultation with the Agency on its SAM and WS projects (**Federal Register** Notice dated December 19, 2005, Volume 70, Number 242, pages 75173–75174). The SAM project standardizes the analytical methods for use by all laboratories when responding to incidents that require rapid analysis. The WS program is being developed by the EPA in partnership with drinking water utilities and other key stakeholders. This initiative involves designing, deploying, and evaluating a model contamination warning system for drinking water security. The Agency will provide updates to the HSAC on WS and SAM.

Provisional Advisory Levels (PALs)

Health-based exposure guidelines to identify acceptable re-entry levels following a terrorist attack of natural disaster are not available for most chemical and biological agents. The National Homeland Security Research Center (NHSRC) is developing health-based exposure levels for the general public, including the susceptible and sensitive subpopulations of all age groups. In particular, the developed PALs will address the limitations of other derived exposure values. For example, PALs can fill the critical exposure gap between acute exposure guideline levels (AEGLs) and short-term RfC/RfD exposure values.

The PALs can be applied for national emergency programs, community planning, and public health protection. Specifically, PALs are appropriate for establishing health-based criteria for re-entry into buildings, reuse of drinking water, and cleanup of contaminated facilities.

Emergency Consequence Assessment Tool (ECAT)

The NHSRC is developing an interactive online risk assessment software tool designed to provide health advisors and other emergency response officials with rapid access to critical information during an environmental emergency or training exercise. ECAT is designed to (1) Assess and provide site-specific numeric estimates of health risks (where feasible) for selected chemical, biological, and radiological threat agents, (2) identify what response actions might be appropriate to mitigate health risks, and (3) provide guidance on how to effectively communicate key risk messages to the public.

Preliminary Microbial Risk Assessment Methodologies

The NHSRC conducts research in support of safe buildings, secure water systems and the rapid assessment of risk. The question ''How clean is safe?'' has confronted several EPA program offices. Recent national homeland security interests have increased demand for answers to this question. Because consensus methodologies for evaluating biological contaminants and establishing cleanup levels are not available, NHSRC is developing a biological risk assessment methodology. NHSRC has compiled a Compendium of Prior and Current Microbial Risk Assessment Methods. This Compendium has been used to develop a Microbial Risk Assessment Framework for Incident Response to Bioagents. The preliminary framework considers inhalation, ingestion, and dermal exposure pathways and is designed as a two-tier process to support risk management decisions for evacuation

and site re-entry. A Tier I Site Assessment supports rapid decisions, such as when evacuating populations within hours of an incident is required. Tier II provides an incident-based site assessment approach and requires site-specific data to support re-entry decisions. The Tier II consists of Hazard Identification, Dose-Response Assessment and Exposure Assessment, which are combined to characterize risk to exposed population(s) at a site.

Availability of Meeting Materials

The draft agenda and other materials will be posted on the SAB Web site at: *http://www.epa.gov/sab/* prior to the meeting.

Procedures for Providing Public Input

Interested members of the public may submit relevant written or oral information for these SAB committees to consider during the advisory process. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public SAB teleconference will be limited to three minutes per speaker, with no more than a total of one-half hour for all speakers. Interested parties should contact Ms. Vivian Turner, DFO, in writing (preferably via e-mail), by November 6, 2006, at the contact information noted above, to be placed on the public speaker list for this meeting. *Written Statements:* Written statements should be received in the SAB Staff Office by November 2, 2006, so that the information may be made available to the HSAC for its consideration prior to this meeting. Written statements should be supplied to the DFO in the following formats: One hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM-PC/Windows 98/2000/XP format).

Accessibility

For information on access or services for individuals with disabilities, please contact Ms. Vivian Turner at (202) 343–9697 or *turner.vivian@epa.gov.* To request accommodation of a disability, please contact Ms. Turner preferably at least ten days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: October 17, 2006.

Anthony F. Maciorowski,

Associate Director for Science, EPA Science Advisory Board Staff Office.

[FR Doc. E6–17804 Filed 10–23–06; 8:45 am]

BILLING CODE 6560–50–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 Web site at *http://www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 17, 2006.

A. Federal Reserve Bank of Chicago (Patrick M. Wilder, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. Petefish, Skiles Bancshares, Inc., Virginia, Illinois; to acquire 100 percent of the voting shares of Chandlerville, Bancshares, Inc., and thereby indirectly acquire voting shares of Peoples State Bank of Chandlerville, both of Chandlerville, Illinois.

B. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. Frandsen Financial Corporation, Forest Lake, Minnesota; to merge with Pine Bankshares, and thereby indirectly acquire voting shares of The First National Bank of Pine City, both of Pine City, Minnesota.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Patriot Bancshares, Inc., Houston, Texas; to merge with Northeast Bancshares, Inc., Mesquite, Texas, and thereby indirectly acquire Northeast Bancshares–Delaware, Inc., Wilmington, Delaware, and Northeast National Bank, Mesquite, Texas.

D. Federal Reserve Bank of San Francisco (Tracy Basinger, Director, Regional and Community Bank Group) 101 Market Street, San Francisco, California 94105-1579:

1. First California Financial Group to become a bank holding company by acquiring 100 percent of the voting shares of National Mercantile Bancorp, both of Los Angeles, California, and thereby indirectly acquire Mercantile National Bank, Los Angeles, California, and South Bay Bank, N.A., Torrance, California.

In connection with this application, Applicant also has applied to merge with FCB Bancorp, Camarillo, California, and thereby indirectly acquire First California Bank, Camarillo, California.

Board of Governors of the Federal Reserve System, October 18, 2006.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E6–17728 Filed 10–23–06; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the

proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center Web site at *http://www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 17, 2006.

A. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. Cabool State Bank Employee Stock Ownership Plan, Cabool, Missouri; to become a bank holding company by acquiring 25.45 percent of the voting shares of Cabool Bancshares, Inc., Cabool, Missouri, and thereby indirectly acquire Cabool State Bank, Cabool, Missouri.

Board of Governors of the Federal Reserve System, October 19, 2006.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E6–17755 Filed 10–23–06; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of September 20, 2006

In accordance with § 271.25 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on August 8, 2006.[1]

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. To further its long-run objectives, the Committee in the immediate future seeks conditions in reserve markets consistent with maintaining the federal funds rate to an average of around 5¼ percent.

The vote encompassed approval of the paragraph below for inclusion in the statement to be released shortly after the meeting:

''Nonetheless, the Committee judges that some inflation risks remain. The extent and timing of any additional firming that may be needed to address these risks will depend on the evolution of the outlook for both inflation and economic growth, as implied by incoming information.''

By order of the Federal Open Market Committee, October 13, 2006.

Vincent R. Reinhart,

Secretary, Federal Open Market Committee.

[FR Doc. E6–17771 Filed 10–23–06; 8:45 am]

BILLING CODE 6210–01–P

[1] Copies of the Minutes of the Federal Open Market Committee Meeting on August 8, 2006, which includes the domestic policy directive issued at the meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, DC 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

FEDERAL RESERVE SYSTEM

No FEAR Act

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is publishing this notice in accordance with Section 202 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act) and the regulations thereunder issued by the Office of Personnel Management concerning notice and training.

EFFECTIVE DATE: October 24, 2006.

FOR FURTHER INFORMATION CONTACT: Joanne D. Kee, Counsel (202/452–2067), Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551. Users of Telecommunication Device for Deaf (TDD) *only*, call 202/263–4869.

SUPPLEMENTARY INFORMATION: By final rule effective September 18, 2006, and consistent with Section 202 of the No FEAR Act, the Office of Personnel Management (OPM) issued regulations concerning Federal agencies' obligation to notify employees, former employees, and applicants of their rights under the antidiscrimination laws referenced in Section 201(a) of the No FEAR Act. Specifically, pursuant to 5 CFR 724.202(c) and (e), agencies must provide their initial notice to such persons by publishing the initial notice in the **Federal Register** by November 17, 2006.

No FEAR Act Notice

On May 15, 2002, Congress enacted the ''Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002,'' which is now known as the No FEAR Act. One purpose of the Act is to ''require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws.'' Pub. L. 107–174, Summary. In support of this purpose, Congress found that ''agencies cannot be run effectively if those agencies practice or tolerate discrimination.'' Pub. L. 107–174, Title I, General Provisions, section 101(1).

The Act also requires the Board of Governors of the Federal Reserve System (Board) to provide this notice to its employees, former employees, and applicants for employment to inform you of the rights and protections available to you under Federal antidiscrimination laws.

Antidiscrimination Laws

The Board cannot discriminate against an employee or applicant with respect to the terms, conditions or privileges of employment on the basis of race, color, religion, sex, national origin, age, or disability. Discrimination on these bases is prohibited by one or more of the following statutes: 29 U.S.C. 206(d), 29 U.S.C. 631, 29 U.S.C. 633a, 29 U.S.C. 791, and 42 U.S.C. 2000e–16.

If you believe that you have been the victim of unlawful discrimination on the basis of race, color, religion, sex, national origin or disability, you must contact an Equal Employment Opportunity (EEO) counselor within 45 calendar days of the alleged discriminatory action, or, in the case of a personnel action, within 45 calendar days of the effective date of the action, before you can file a formal complaint of discrimination with the Board. See Rules Regarding Equal Opportunity, 12 CFR part 268. If you believe that you have been the victim of unlawful discrimination on the basis of age, you must either contact an EEO counselor as noted above or give notice of intent to sue to the Equal Employment Opportunity Commission (EEOC) within 180 calendar days of the alleged discriminatory action.

Retaliation for Engaging in Protected Activity

The Board cannot retaliate against an employee or applicant because that individual exercises his or her rights under any of the Federal antidiscrimination laws listed above. If you believe that you are the victim of retaliation for engaging in protected activity, you must follow, as appropriate, the procedures described in the Antidiscrimination Laws section (above) in order to pursue any legal remedy.

Disciplinary Actions

Under the existing laws, the Board retains the right, where appropriate, to discipline an employee for conduct that is inconsistent with Federal Antidiscrimination Laws up to and including removal. Nothing in the No FEAR Act alters existing laws or permits an agency to take unfounded disciplinary action against an employee or to violate the procedural rights of an employee who has been accused of discrimination.

Additional Information

For further information regarding the No FEAR Act regulations, refer to 5 CFR part 724, as well as the appropriate office within the Board (the EEO Programs office). Additional information regarding Federal antidiscrimination and retaliation laws can be found at the EEOC Web site—*http://www.eeoc.gov*, and the EEO Programs Office Web page (accessible by current employees only through Inside the Board).

Existing Rights Unchanged

Pursuant to section 205 of the No FEAR Act, neither the Act nor this notice creates, expands or reduces any rights otherwise available to any employee, former employee or applicant under the laws of the United States.

By order of the Board of Governors of the Federal Reserve System, acting through the Board's Administrative Governor under delegated authority, October 18, 2006.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E6–17730 Filed 10–23–06; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Federal Trade Commission (FTC or Commission).

ACTION: Notice.

SUMMARY: The information collection requirements described below are being submitted to the Office of Management and Budget (''OMB'') for review, as required by the Paperwork Reduction Act (''PRA''), 44 U.S.C. 3501–3520. The FTC is seeking public comments on proposed information requests to beverage alcohol advertisers. The FTC proposes to issue compulsory process orders to beverage alcohol advertisers for information concerning, *inter alia,* compliance with voluntary advertising placement provisions, sales and marketing expenditures, and the status of third-party review of complaints regarding compliance with voluntary advertising codes.

DATES: Comments must be received on or before November 24, 2006.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to the ''Alcohol Reports: Paperwork Comment, FTC File No. P064505'' to facilitate the organization of the comments. A comment filed in paper form should include this reference both in the text and on the envelope and should be mailed or delivered, with two complete copies, to the following address: Federal Trade Commission/Office of the Secretary, Room H–135 (Annex J), 600 Pennsylvania Avenue, NW., Washington, DC 20580. Because paper mail in the Washington area and at the Commission is subject to delay, please consider submitting your comments in electronic form, as prescribed below. However, if the comment contains any material for which confidential treatment is requested, it must be filed in paper form, and the first page of the document must be clearly labeled ''Confidential.'' [1] The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible.

Comments filed in electronic form should be submitted by clicking on the following weblink: *https://secure.commentworks.com/FTC_Alcohol_Reports* and following the instructions on the web-based form. To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the *https://secure.commentworks.com/FTC_Alcohol_Reports* weblink. If this notice appears at *http://www.regulations.gov,* you may also file an electronic comment through that Web site. The Commission will consider all comments that regulations.gov forwards to it.

All comments should additionally be submitted to: Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission. Comments should be submitted via facsimile to (202) 395–6974 because U.S. Postal Mail is subject to lengthy delays due to heightened security precautions.

[1] Commission Rule 4.2(d), 16 CFR 4.2(d). The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The requst will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* Commission Rule 4.9(c), 16 CFR 4.9(c).

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments, whether filed in paper or electronic form, will be considered by the Commission, and will be available to the public on the FTC Web site, to the extent practicable, at *http://www.ftc.gov.* As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be addressed to Janet Evans or Phyllis H. Marcus, Attorneys, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW., NJ–3212, Washington, DC 20580; telephone: (202) 326–2125 or (202) 326–2854.

SUPPLEMENTARY INFORMATION: In September 1999 and September 2003, the FTC published reports on voluntary advertising self-regulation by the alcohol industry based on information U.S. beverage alcohol advertisers submitted to the Commission, pursuant to compulsory process. The FTC has authority to compel production of this information from advertisers under Section 6 of the FTC Act, 15 U.S.C. 46. The Commission believes it is in the public interest to: (1) Collect updated data from U.S. beverage alcohol advertisers on sales and marketing expenditures, compliance with the industry's self regulatory code provisions concerning advertising placement and the status of third-party review of complaints regarding compliance with the industry's self-regulatory advertising standards; and (2) publish a report on the data obtained.

The Commission intends to address its information requests to the corporate entities responsible for the majority of alcohol advertising in the U.S., including their affiliated and subsidiary companies. Because the number of separately incorporated companies affected by the Commission's requests will exceed ten entities, the Commission seeks OMB clearance under the Paperwork Reduction Act (''PRA'').

On March 8, 2006, the FTC published a **Federal Register** Notice seeking comments from the public concerning the proposed collection of information

from beverage alcohol advertisers. *See* 71 FR 11659 (''March 8 Notice''). Under the OMB regulations that implement the PRA (5 CFR part 1320), the FTC is providing this second opportunity for public comment while requesting that OMB provide clearance for the proposed collection of information. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before November 24, 2006.

A. Public Comments/Consultation Outside the Agency

The FTC received 1,299 comments in response to the March 8 Notice.[2] While six comments did not specifically address the proposed data collection,[3] 1,292 comments expressly favored it. These were submitted by: (1) Three members of Congress;[4] (2) members of the National Association of Attorneys General's Youth Access to Alcohol Committee (''NAAG Committee''); (3) 48 organizations engaged in advocacy regarding public health, including the Center for Science in the Public Interest (''CSPI''), Consumer Federation of America, Join Together, and the Leadership to Keep Children Alcohol Free Initiative (hereafter ''the 48-organizations comment''); (4) six comments (five from public health organizations and one from an individual) that were nearly identical to the 48-organizations comment; (5) the American Medical Association (''AMA''); (6) Pacific Institute for Research and Evaluation (''PIRE''); (7) National Council on Alcoholism and Drug Dependence, Inc., Sacramento Region Affiliate (''NCADD/Sacramento''); (8) Center on Alcohol Marketing and Youth (''CAMY''); (9) Prevention Network (referencing and reiterating points made in the CAMY comment); (10) Marin Institute; and (11) approximately 1,283 individually submitted form letters (''Form Letters''). The Miller Brewing Company submitted the only comment from the alcohol industry; it did not oppose data collection but requested that it be limited to reduce the burden on the companies.[5]

1. General Support for Data Collection

The NAAG Committee comment stated that it is in the public interest for the FTC to collect updated data from advertisers. The 48-organizations comment stated that the information previously collected from the alcohol companies and reported on by the FTC has increased understanding of alcohol advertising issues and the role of the industry in regulating its own advertising practices. This comment noted that entities that use this information include Federal and state government legislative and regulatory bodies, law enforcement and legal officials, administrative health agencies, public health organizations, academia, the news media, and the general public. CAMY stated that, given the risks of teen drinking, the proposed information requests are integral to the FTC's consumer protection mission and provide useful information not only to the Commission but to parents, policy makers, and the public health field.

2. Sales Data

In its March 8 Notice, the FTC stated that it would seek company data showing alcohol sales. Only one comment appeared to address this request. Miller Brewing Company stated that the FTC should not request brand-specific information, as such collection would greatly increase the company's burden without furthering the FTC's purpose. This background information, however, will enable the FTC, in its report, to better describe the nature of the industry, including the number of brands, volume sold, and the dollar value of those sales. Accordingly, the proposed Section 6 Orders will request such information, asking each company to identify by name each individual alcohol brand or variety that it sold during the calendar year 2005, and for each brand or variety, state total sales in dollars and in number of 9-liter or 2.25 gallon cases sold.

As a related matter, PIRE, CAMY, and the Form Letters requested that the FTC also seek any information the companies have collected or received regarding use of their brands by persons below the legal drinking age. The FTC will request that the companies submit any unpublished data they possess showing the brands of alcohol consumed by persons under the legal drinking age in the United States. The request will exclude publicly available data (such as data published by CSPI, the AMA, and others).

3. Expenditure Data

In the March 8 Notice, the FTC stated that it would seek information about expenditures to advertise and promote beverage alcohol in both measured and unmeasured media. Many of the comments offered suggestions regarding collection of this expenditure data.

The letter from the three Congressional representatives recommended that the report include information on measured media advertising, sponsorships and promotions, broken down by state, race, and ethnicity of the target audience. It also asked for a report on brand-specific expenditures. The NAAG Committee requested that the FTC seek detailed data on the percentage of company advertising budgets expended on each type of media and, specifically, where ads are placed (e.g., which television and radio shows, in which movies, during which events).

The 48-organization comment urged the FTC to seek information on: Promotional allowance and retail value-added expenditures; advertising in Spanish-language and other ethnic media; sports-related and college sports-related advertising and marketing (including telecasts, sponsorships, local print and promotional expenditures, and stadium signage); college marketing and promotional activities and expenditures (including spring break promotions in the U.S. and at popular off-shore spring break destinations); marketing, promotions, and brand awareness activity that utilize popular music, celebrities, and/or internet games and sponsorship of community events; and newer avenues of beverage alcohol marketing through ''non-traditional'' media, such as cell phones, mobile television, podcasts, and brand tie-ins with popular Web sites. The 48-organization comment also asked that the data be broken down state-by-state, company- and brand-specific (subject to relevant trade secret and confidentiality provisions), and by ethnicity of the target audience. Marin Institute joined the 48-organization comment and further requested that the FTC collect data on producer and wholesaler sponsorship of community events and non-profit organizations, and that it measure use of emerging electronic media, such as text messaging, mobile television, and podcasting. The AMA

[2] The comments are available at *http://www.ftc.gov/os/comments/alcoholmanufacadstudy/index.htm.*

[3] Among these, one opposed any government action on alcohol advertising. See comment by Stanford Owen (May 2, 2006). The other five either expressed concerns about alcohol advertising or supported a new FTC report about alcohol advertising. *See* Comments by Ziming Xuan (May 9, 2006); Independent State Store Union (ISSU) (May 5, 2006); Fred Reid (May 4, 2006); William Bailey (May 2, 2006); and Abigail Pederson (April 17, 2006).

[4] These are: Representatives Lucille Roybal-Allard, Jose E. Serrano, and Frank R. Wolf.

[5] On July 13, 2006, CSPI submitted a letter to FTC Chairman Deborah Platt Majoras requesting that the FTC's planned study include examination of alcohol sponsorship at NASCAR racing events. Although the CSPI letter is not characterized as a formal comment on the **Federal Register** Notice, the FTC took CSPI's request into consideration in preparing the proposed Section 6 Orders.

suggested that the data be modeled on information requests the FTC has issued to cigarette companies, which seek information on 26 categories of expenditures.

The AMA requested that the FTC collect data on measured and unmeasured media, including sponsorship, retail incentives, point-of-purchase, and product placement fees. PIRE requested that the Section 6 Orders seek: Expenditures by media type regarding Internet advertising, sponsorship, text messaging, other new marketing techniques, price discounting and promotional allowances paid to third parties; data on expenditures for educational campaigns and youth consumption prevention; and grants to third parties to promote prevention and treatment. It also asked that the data break out expenditures for sports-related marketing and college marketing.

CAMY requested that the FTC seek two or more years of data for measured media advertising, by media type (including broadcast network, cable network, spot, local/regional cable, interconnects, and Hispanic television); magazine advertising, broken down by full-run and demographic editions; spot and network radio; Internet advertising (including web advertising, email, company Web sites, and IM sponsorships); and ''out-of-home'' advertising. Regarding unmeasured media, CAMY urged the FTC to seek, at a minimum, data on the kinds of expenditures sought in the 2003 Section 6 Orders to the cigarette companies (including price discounting, promotional allowances, educational campaigns). CAMY suggested that the FTC obtain data on industry spending on ''social aspects organizations'' such as International Center on Alcohol Policies and the Century Council). It also requested that the agency seek expenditures for ''new media,'' for example, ''pixting'' (*i.e.*, picture, or multimedia, messaging) and ''texting'' (*i.e.*, text messaging) on mobile phones, podcasting, and online viral marketing. Finally, CAMY asked that the data break out aggregate spending on sports and college marketing across all categories.

Miller Brewing Company asked that the Commission not request expenditures on a brand-specific basis. It stated that such a request would greatly increase the burden in collecting the data and would not further the agency's stated purpose. It noted that the FTC's prior alcohol reports published data on an aggregate basis, and urged that the data be collected that way. Miller Brewing Company also requested that the agency seek expenditure data for *measured* media (television, radio, print, outdoor) only, noting that measured media can be tracked, reported, and compared with reasonable precision. Miller stated that unmeasured media does not have a universally accepted definition, and that certain expenditures in this group may bear no relation to marketing. For example, Miller noted that sports sponsorships include fees for ticket allotments, suites, and use of facilities, and that the expenditures are not broken down as to whether they are marketing-related. Miller stated that collection of unmeasured media data will be burdensome, but did not provide a cost estimate.

The FTC's 1999 Report estimated that measured marketing expenditures may account for only one-third of alcohol brand promotional budgets. The proposed Section 6 Orders are designed to enable the FTC to better understand how alcohol industry promotional dollars targeted to consumers are spent and how much current self-regulatory efforts aptly address legitimate public concerns about alcohol promotion. See section B. 1.a of this notice detailing what the Commission will seek on expenditure data through its Section B Orders.

4. Advertisement Placement

The voluntary advertising guidelines of the beer, wine, and distilled spirits industries each state that alcohol advertising should be placed in television, radio, and print communications only where at least 70% of the audience is reasonably expected to be above the legal purchase age (the ''70% placement standard''). In the March 8 Notice, the FTC stated that it planned to seek data on compliance with this standard.

The comment from the three Congressional representatives expressed the hope that the FTC's analysis of alcohol industry placement practices will not be limited to reporting on what percentage of ads comply with the 70% placement standard, and specifically requested information that would allow the Commission to determine whether ads targeted to the Hispanic community comply with the current placement standard. The NAAG Committee comment urged the FTC to collect detailed data showing whether alcohol companies have complied with the 70% placement standard, including data showing where advertisements are placed (*e.g.*, what shows, movies, or events) and the demographics of the audience, including data showing what percentage of the audience falls within the following age groups: 12–20, 21–24, and 21–34. The NAAG Committee further suggested that the FTC collect data on other efforts made by the companies to ensure compliance, including whether they use ''no buy'' lists, follow higher-than-required standards, and audit past placements. The 48-organization comment urged the FTC to seek information on magazine and television advertising in publications or programs with youth readership or viewership rates over 15 percent, or 2 million, youth readers. PIRE requested that the FTC obtain data evaluating adherence to the 70% placement standard, by specific brand. In that regard, it asked that the agency seek data used for planning media placement, as well as actual gross advertising impressions, gross ratings points, and audience delivery for each target audience, audience ages 12–20, and total audience age 12 and above. NCADD/Sacramento asked that the FTC seek information that will allow it to compare voluntary advertising compliance among industry members and to identify magazine and television advertising where youth constitute more than 15% of the audience. CAMY asked that the FTC seek data that will allow it to evaluate compliance with the 70% placement standard on a per-brand basis; to collect data on primary and secondary target audiences (age, gender, etc.), gross ad impressions, gross ratings points, and audience delivery (reach and frequency) for audience ages 12–20 and total audience 12 and above. CAMY also requested that: advertisement placement data be provided on a local market basis for local placements; data be reported as planned and as achieved; companies report on what media and channels they have audience composition data and, where data is unavailable, that they specify sources and standards for audience estimates.

The scope of the Orders specifically regarding advertisement placement is detailed in Part B.1.b. of this notice.

5. External Review of Code Compliance

The trade associations representing the three segments of the beverage alcohol industry—the Distilled Spirits Counsel of the United States (''DISCUS''), Beer Institute (''BI''), and Wine Institute (''WI'')—each have adopted a mechanism for considering whether member ads comply with the association's voluntary advertising code. The FTC's March 8 Notice stated that the proposed Section 6 Orders would seek data regarding those external compliance review mechanisms. No comments opposed this request. The comment from the three Congressional representatives urged the Commission to evaluate the effectiveness of the

compliance review process among the various segments of the alcohol industry, including the outcomes of complaints filed with the industry review boards. CAMY requested that the FTC also consider how ''independent'' such external review programs are, by analyzing their degree of transparency, the breadth of their purview, and their timeliness. The NAAG Committee asked that the FTC also collect data on the percentage of industry members having pre-publication third-party review, the percentage of proposed ads that fail review and why, the number of ads that pass but are later the subject of complaints, and the way companies respond to complaints.

The scope of the Orders specifically regarding external review of code compliance is detailed in Part B.1.c. of this notice.

6. Other Requests Contained in Comments

Many of the comments filed in response to the March 8 Notice addressed what ongoing action the FTC should take after its initial data collection. Some of the comments suggested that the agency collect information from the alcohol companies and issue annual or bi-annual reports. The FTC plans to complete the current study before considering this proposal.

Some comments suggested that the FTC evaluate other issues, such as alcohol product placement in movies and underage access to beverage alcohol websites. The proposed Section 6 Orders will seek information about expenditures for product placements and website advertising but will not seek information on the extent that these media expose minors to promotions. The goal of the current study is to conduct a comprehensive review of: alcohol advertising and marketing expenditures; industry compliance with current placement standards as they pertain to television, radio, magazine, and newspaper advertising over the stated period of time; and third-party review of complaints. The FTC expects that focusing its efforts in this manner will produce a study of the highest possible quality. It is committed to ongoing monitoring of this subject area, however, and anticipates that it will address other issues raised by alcohol advertising and marketing in the future.

B. Information Requests to the Beverage Alcohol Industry

1. Description of the Collection of Information and Proposed Use

The FTC proposes to send information requests to up to twelve parent companies (''industry members'') responsible for domestic advertising of beer, wine, or distilled spirits The information requests will seek, to the extent industry members possess it, data and information regarding: (1) Company sales of beverage alcohol on a per brand basis, in both dollars and units sold; (2) company expenditures to advertise, market, and promote beverage alcohol in the United States; (3) compliance with the 70% placement standard contained in the industry's self-regulatory codes; and (4) the status of external mechanisms to review complaints about code compliance.

Note: With this publication any destruction, removal, mutilation, alteration, or falsification of documentary evidence that may be responsive to this information collection, within the possession or control of a person, partnership, or corporation subject to the FTC Act, may be subject to criminal prosecution. 15 U.S.C. 50; *see also* 18 U.S.C. 1505.

Confidentiality: Section 6(f) of the FTC Act, 15 U.S.C. 46(f), bars the Commission from publicly disclosing trade secrets or confidential commercial or financial information it receives from persons pursuant to, among other methods, special orders authorized by section 6(b) of the FTC Act. Such information also would be exempt from disclosure under the Freedom of Information Act. 5 U.S.C. 552(b)(4). Moreover, under section 21(c) of the FTC Act, 15 U.S.C. 57b–2(c), a submitter who designates a submission as confidential is entitled to 10 days' advance notice of any anticipated public disclosure by the Commission, assuming that the Commission has determined that the information does not, in fact, constitute 6(f) material. Although materials covered under one or more of these various sections are protected by stringent confidentiality constraints, the FTC Act and the Commission's rules authorize disclosure in limited circumstances (*e.g.*, official requests by Congress, requests from other agencies for law enforcement purposes, or administrative or judicial proceedings). Even in those limited contexts, however, the Commission's rules may afford protections to the submitter, such as advance notice to seek a protective order in litigation.

See 15 U.S.C. 57b–2; 16 CFR 4.9–4.11.

The information presented in the study will not reveal company-specific data. *See* 15 U.S.C. 57b–2(d)(1)(B). Rather, the Commission anticipates presenting information on an anonymous or aggregated basis, in a manner sufficient to protect individual companies' confidential information.

a. Information About Expenditure Data

The proposed Section 6 Orders will seek expenditures for advertising, merchandising, or promotion of alcohol during calendar year 2005. The Orders require that the expenditures be broken down into 22 categories.[6] Thus, the proposed Section 6 Orders seek comprehensive information about expenditures to promote alcohol to consumers, including most of the information suggested in the comments.[7] This information will help the agency evaluate how industry members allocate their promotional expenditures, so as to better determine the degree industry self-regulatory codes address the various kinds of promotions employed by the industry. The categories are carefully defined to facilitate compliance with the requests. The Commission agrees with Miller Brewing Company, however, that it is not necessary for the alcohol companies to report such information on a brand-by-brand basis. Given the substantially expanded scope of this request, brand-by-brand reporting may pose an unnecessary additional burden on the companies without meaningfully increasing the FTC's understanding how promotional dollars are directed on an industry-wide basis.

The proposed Section 6 Orders do not seek a breakdown of expenditures by race or ethnicity of the target audience. The agency is concerned that reporting specific expenditure data by race or ethnicity might produce potentially misleading results due to the difficulty of separating targeted advertising from

[6] These are: Television advertising; radio advertising; magazine advertising; newspaper advertising; transit advertising; other outdoor advertising; direct mail advertising; company-sponsored Internet sites; other Internet site advertising; other digital advertising; specialty item distribution; public entertainment events: not sports-related; sponsorship of sporting events, sports teams or individual athletes; other point-of-sale advertising and promotions; spring break promotions; product placements; retail value-added expenditures; telemarketing; promotional allowances; and total reportable expenditures. In addition, the proposed Section 6 Orders will seek cross-category totals for sports and sporting events and social responsibility programs and messages.

[7] Some of the suggested requests are more extensive than needed for the FTC's current purposes. For example, the FTC does not propose to require the companies to allocate magazine advertising expenditures among ''full run'' and ''demographic'' editions. The burden of collecting such data is likely to outweigh the benefits to the FTC and the public of obtaining it.

general advertising that may have the same or broader reach to a particular racial or ethnic group. The Commission will, however, seek advertisement placement data that will help the FTC to evaluate whether ads targeted to an Hispanic or African-American audience comply with industry placement standards, as further discussed below.[8]

b. Information About Advertising Placement

The proposed Section 6 Orders will require the companies to provide, for each instance of advertising dissemination between January 1 and June 30, 2006, on television, on radio in measured markets, in magazines, and in newspapers: the advertisement's name; the brand advertised; the name of the media and location of dissemination; the date and time that the advertisement appeared; the name of the show during or in conjunction with the advertisement appeared; and the demographics of the audience (persons under 21, and persons 21 and over), in absolute numbers and percentages, for that dissemination.[9] The proposed Section 6 Orders also will require the companies to provide a company-wide summary of this data to facilitate analysis. This data will permit the Commission to measure the extent that the youth audience for each ad placement exceeded 30% of the total audience, or whether they complied with existing industry codes.[10] Further, given concerns about whether advertisements targeted primarily to Hispanic or African-American consumers are more likely than others to reach underage consumers, the Commission will require that the companies identify such ads so that the agency can evaluate this concern.

The Commission's proposed Section 6 Orders also seek a narrative description of: the steps taken when placing ads to reduce the proportion of persons under 21 in the audience, including the demographic databases relied on in making placement decisions; how often post-placement data are reviewed to verify that a placement complied with the placement guidelines and the steps taken if a compliance shortfall is identified; and the additional safeguards in place (e.g., use of ''no buy'' lists and higher placement standards, media content review) to reduce the likelihood of reaching underage audiences. This will permit the Commission to obtain a clear and detailed picture of the alcohol industry's advertising placement practices during the period at issue.

The proposed Section 6 Orders will not require the companies to identify, for each ad, the gross rating points and the breakdown of consumers aged 12–20, 21–24, and 21–34 in the audience. Given the significantly expanded scope of the current requests, such requirements would be unnecessarily burdensome and the information not fully relevant to compliance with the placement standard contained in the industry's voluntary advertising codes.

c. Information About External Review of Code Compliance

The proposed Section 6 Orders will require the alcohol companies to describe in detail the enforcement mechanism(s) available as of December 31, 2006 for possible violations of the DISCUS, BI, and WI voluntary advertising codes. The response to this aspect of the Section 6 Orders will not be due until January 10, 2007, to allow the FTC time to receive and evaluate whole-year information regarding third-party review. The proposed Orders also will require, for each complaint about the company's advertising, promotion, or marketing forwarded for independent review between January 1, 2006 and December 31, 2006, that the company provide a copy of the complaint, any document reflecting the reviewer's decision or recommendation, and describe what action, if any, the company took in response to the reviewer's decision or recommendation. These requests will enable the Commission to evaluate the efficacy of current advertising review mechanisms. Currently, the Commission does not plan to ask about pre-publication review of proposed ads by third parties, or the number of ads that pass but are later the subject of complaints, and the way companies respond to complaints. The goal of this section of the proposed Section 6 Orders is to evaluate how the various segments of the industry have responded to the FTC's recommendation that they adopt systems for external, post-publication review of complaints about advertising code compliance.

2. Estimated Hours Burden

FTC staff's estimate of the hours burden is based on the time required to respond to each information request. The Commission intends to issue the information requests to the 12 largest beverage alcohol advertisers. Because these companies vary greatly in size, in the number of products that they sell, and in the extent and variety of their advertising and promotion, staff has provided a range of the estimated hours burden. Based upon its knowledge of the industry, the staff estimates that the time required to identify, obtain, organize, and prepare responses to each of the four information categories will range, on average, between 15 and 120 hours for most companies. Staff anticipates, however, that the largest companies may require up to 280 hours for the most time-consuming category, advertising placement information. The total estimated burden per company is based on the following assumptions:

Identify, obtain, and organize sales information; prepare response: 15–35 hrs.

Identify, obtain, and organize information on advertising and marketing expenditures; prepare response: 40–65 hrs.

Identify, obtain, and organize placement information; prepare response: 150–280 hrs.

Identify, obtain, and organize information regarding compliance review; prepare response: 15–20 hrs.

FTC staff anticipates that the cumulative hours burden to respond to the information requests will be between 220 hours and 400 hours per company. Nonetheless, staff conservatively assumes that the burden per company for each of the twelve (12) intended recipients will be 400 hours. Accordingly, cumulative estimated burden is 4,800 hours. These estimates include any time spent by separately incorporated subsidiaries and other entities affiliated with the parent company that received the information requests.

3. Estimated Cost Burden

It is difficult to calculate precisely labor costs associated with this data production. Labor costs entail varying

[8] The proposed orders also will not seek information on expenditures for slotting allowances or price discounts; such information does not enhance the agency's understanding of self-regulation. The requests focus on expenditures for advertising and promotions that may be seen by underage consumers. Payments for shelf space, payments to wholesalers, and price discounts to wholesalers and retailers do not provide such information. Given the expanded nature of this request, seeking data on them would be unnecessarily burdensome.

[9] Two sets of demographics are relevant to Evaluating compliance with placement standards: the historical demographics used by a company for planning purposes when purchasing ad time, and audience demographics when a placement actually occurred. The proposed Section 6 Orders seek the latter data. To illustrate, for an ad placed on television, the Orders require the companies to provide the average demographic data for the program during which the show ran, over the three-month period (the ''quarter'') when the placement appeared. If program-specific data is unavailable (as is often the case with cable), the Orders seek the quarterly average data for the daypart during which the ad appeared.

[10] This data also will permit the Commission to evaluate the audience for televised NASCAR events, in connection with CSPI's request that the FTC review the degree that NASCAR promotions reach a youth audience.

compensation levels of management and/or support staff among companies of different sizes. Although financial, marketing, legal, and clerical personnel may be involved in the information collection process, FTC staff has assumed that mid-management personnel and outside legal counsel will handle most of the tasks involved in gathering and producing responsive information, and has applied an average rate of $250/hour for their labor. FTC staff anticipates that the labor costs per company will range between $55,000 (220 hours x $250/hour) and $100,000 (400 hours x $250/hour). Nonetheless, as a conservative measure, staff estimates that the total labor costs per company will be $100,000.

FTC staff believes that the capital or other non-labor costs associated with the information requests are minimal. Although the information requests may require industry members to maintain the requested information the Commission seeks, they should already have in place the means to compile and maintain it.

John D. Graubert,

Acting General Counsel.

[FR Doc. E6–17790 Filed 10–23–06; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Secretary's Advisory Committee on Human Research Protections

AGENCY: Office of Public Health and Science, Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Pursuant to Section 10(a) of the Federal Advisory Committee Act, U.S.C. Appendix 2, notice is hereby given that the Secretary's Advisory Committee on Human Research Protections (SACHRP), will hold its eleventh meeting. The meeting will be open to the public. Due to unanticipated issues during preparation for the November meeting of SACHRP, this notice will not meet the 15-day requirement for publication in the **Federal Register.**

DATES: The meeting will be held on Thursday, November 2, 2006 from 8:30 a.m. until 3 p.m. and Friday, November 3, 2006 from 8:30 a.m. until 12:30 p.m.

ADDRESSES: The Sheraton National Hotel, 900 South Orme Street, Arlington, VA, 22204. Phone: (703) 521–1900.

FOR FURTHER INFORMATION CONTACT: Bernard Schwetz, D.V.M., Ph.D., Director, Office for Human Research Protections (OHRP), or Catherine Slatinshek, Executive Director, Secretary's Advisory Committee on Human Research Protections; Department of Health and Human Services, 1101 Wootton Parkway, Suite 200, Rockville, MD 20852; (240) 453–8139; fax: (240) 453–6909; e-mail address: *sachrp@osophs.dhhs.gov.*

SUPPLEMENTARY INFORMATION: Under the authority of 42 U.S.C. 217a, Section 222 of the Public Health Service Act, as amended, SACHRP was established to provide expert advice and recommendations to the Secretary of Health and Human Services and the Assistant Secretary for Health on issues and topics pertaining to or associated with the protection of human research subjects.

On November 2, 2006, SACHRP will receive and discuss updated information and a report from the Subpart A Subcommittee and issues involving the application of subpart A of 45 CFR part 46 in the current research environment. This subcommittee was established by SACHRP at its October 4–5, 2004 meeting.

On November 3, 2006, the Committee will discuss future topics and issues that will be considered by the Subcommittee on Research Involving Individuals with Impaired Decision-Making Capacity. This subcommittee was established by SACHRP at its July 31–August 1, 2006 meeting. In addition, the Committee will hear presentations and invite discussions from several representatives on a panel on issues related to research involving subjects with impaired decision-making capacity.

Public attendance at the meeting is limited to space available. Individuals who plan to attend the meeting and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the designated contact persons. Members of the public will have the opportunity to provide comments on both days of the meeting. Public comment will be limited to five minutes per speaker. Any members of the public who wish to have printed materials distributed to SACHRP members for this scheduled meeting should submit materials to the Executive Director, SACHRP, prior to the close of business Friday, October 27, 2006. Information about SACHRP and the draft meeting agenda will be posted on the SACHRP Web site at: *http://www.hhs.gov/ohrp/sachrp/index.html.*

Dated: October 18, 2006.

Catherine Slatinshek,

Executive Director, Secretary's Advisory Committee on Human Research Protections.

[FR Doc. E6–17743 Filed 10–23–06; 8:45 am]

BILLING CODE 4150–36–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) allow the proposed information collection project: ''Evaluation of the Implementation and Impact of Pay-for-Quality Programs.'' In accordance with the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)), AHRQ invites the public to comment on this proposed information collection.

DATES: Comments on this notice must be received by December 26, 2006.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, 540 Gaither Road, Room # 5036, Rockville, MD 20850.

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from AHRQ's Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ, Reports Clearance Officer, (301) 427–1477.

SUPPLEMENTARY INFORMATION:

Proposed Project

''Evaluation of the Implementation and Impact of Pay-for-Quality (P4Q) Programs.''

The P4Q Evaluation is a multi-method research project designed to evaluate the implementation and impact of P4Q programs on physicians across three programs operating in *health care* safety net settings. The P4Q programs participating in the evaluation are offering their health care providers financial incentives to achieve predefined quality targets. Data collected as part of this evaluation will have direct operational relevance to

payers and providers regarding the value and challenges of P4Q programs in safety net settings. The P4Q evaluation is designed to assess whether P4Q programs in such settings appear to improve quality on the measures that are the focus of the programs and also whether the programs lead to unintended consequences. the P4Q evaluation will also seek to identify design and implementation practices that are likely to increase as well as decrease the risks of negative outcomes resulting from the implementation of P4Q programs in safety net settings.

Data collection in the P4Q evaluation will be approved by the Boston University's Medical Campus Institutional Review Board. It will be conducted in accordance with the Health Insurance Protection and Portability Act (HIPAA) Privacy Rule and with the Protection of Human Subjects regulations, 45 CFR part 46. In addition, the identifiable data collected in this study about provider organizations and individuals will only be used for the above-stated purposes and will be protected in accordance with the AHRQ confidentiality statute, section 934(c) of the Public Health Service Act (42 U.S.C. 299c–3(c)).

Methods of Collection

The evaluation will use several methods to examine P4Q programs in safety net settings, including a survey and key informant interviews. Survey data will be obtained from physicians participating in P4Q programs using a confidential mailed questionnaire. The key informant interviews will consist of 35-minute semi-structured interviews with physician organization executives, practice leaders, physicians, and other senior managers in each study setting regarding program design, implementation, and impact. The research project investigators will interview up to six informants at each site.

Estimated Annual Respondent Burden

The table below indicates that total time burden required to obtain all of the data required to meet the study's objectives. It does not include time required to analyze the data and prepare it for reporting and publication.

Type of respondent	Number of respondents	Number of responses per respondent	Estimated time per respondent (hours)	Estimated total burden (hours)	Estimated annual cost to the government
Physicians	216	1	0.25 hours (15 minutes)	54	$5,322.12 to cover costs of responding to survey.
Practice executives and other senior managers.	24	1	0.58 hours (35 minutes)	14	$841.35 to cover costs of participating in in-person interviews.
Total				68	$6,163.47

Estimated Costs to the Federal Government

The total cost to the government for this activity is estimated to be $193,941. This funding will be used to support survey administration costs, salary and fringe benefits for the research team relating to the design and administration of the survey and informant interviews, and costs for two members of the research team to travel to each site for the informant interviews. The project will attempt to minimize burden to physician survey respondents by distributing surveys at medical staff meetings.

Request for Comments

In accordance with the above-cited Paperwork Reduction Act legislation, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) 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 upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: October 10, 2006.

Carolyn M. Clancy,

Director.

[FR Doc. 06–8831 Filed 10–23–06; 8:45am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–72, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 71 FR 50065, dated August 24, 2006) is amended to reflect the establishment of the Statistical Support Most Efficient Organization within the Division of Surveillance, Hazard Evaluation, and Field Studies, National Institute for Occupational Safety and Health.

Section C–B, Organization and Functions, is hereby amended as follows:

Delete in its entirety the functional statement for the *Division of Surveillance, Hazard Evaluation, and Field Studies (CCK)* and insert the following: (1) Develops and maintains a surveillance system of the Nation's work force and its environs to make an early detection and continuous assessment of the magnitude and extent of job-related illness, exposures, and hazardous agents; (2) conducts the legislatively mandated health hazard evaluation and industry-wide epidemiological research programs through longitudinal record studies and clinical/environmental field studies and surveys to identify the occupational causes of disease in the working population and their offspring, and to determine the incidence and prevalence of acute and chronic effects from work-related exposures to toxic and hazardous substances; (3) conducts epidemiological research for input to criteria for standards for the control of occupational health hazards; (4)

provides statistical support including the collection, processing, compilation, computation, analysis, editing, and/or presentation of statistical data to CDC; and provides, upon request and on a self-initiated basis, technical assistance, demonstrations, and consultation on technical matters pertaining to occupational safety and health to other Federal agencies, state, and local agencies, other agencies, other technical groups, unions, employers, and employees.

Statistical Support Most Efficient Organization (CCKE). (1) Provides statistical support including the collection, processing, compilation, computation, analysis, editing and/or presentation of statistical data; (2) provides technical statistical support to professionals as they analyze and prepare reports on statistical studies and surveys; (3) provides information, reference, and research services; and (4) provided administrative services related to statistical support.

Delete item (5) of the functional statement of the *Community Health and Program Services Branch (CUCEG), Division of Adult and Community Health (CUCE), National Center for Chronic Disease Prevention and Health Promotion (CUC), Coordinating Center for Health Promotion (CU)*, and insert the following: (5) provides professional statistical and programming services to the division, including assistance in design of data collection instruments, computer programming, and statistical analysis.

Delete item (1) of the functional statement for the *Information Technology, Statistics, and Surveillance Branch (CUCJD), Division of Reproductive Health (CUCJ),* and insert the following: (1) Provides professional statistical and computer services to the division including statistical consultation, systems analysis, technical assistance, and resource identification.

Delete item (6) of the functional statement for the *Statistics and Data Management Branch (CVBCG), Division of Sexually Transmitted Disease Prevention (CVBC), National Center for HIV, STD, and TB Prevention (CVB), Coordinating Center for Infectious Diseases (CV),* and insert the following: (6) provides data management and professional statistical services for STD surveillance and epidemiologic studies.

Delete item (3) of the functional statement for the *Statistics and Data Management Branch (CVBED), Division of HIV/AIDS Prevention-Surveillance and Epidemiology (CVBE),* and insert the following: (3) provides data management and statistical services for HIV/AIDS surveillance, HIV serosurveys, epidemiologic studies and other studies conducted within the division and DHAP/IRS.

Dated: October 4, 2006.

William H. Gimson,

Chief Operating Officer, Centers for Disease Control and Prevention (CDC).

[FR Doc. 06–8839 Filed 10–23–06; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2004D–0333]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Guidance for Industry: Emergency Use Authorization of Medical Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Guidance for Industry: Emergency Use Authorization of Medical Products'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of the Chief Information Officer (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 18, 2006 (71 FR 40722), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0595. The approval expires on October 31, 2009. A copy of the supporting statement for this information collection is available on the Internet at *http://www.fda.gov/ohrms/dockets*.

Dated: October 18, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–17718 Filed 10–23–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006N–0021]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Request for Samples and Protocols

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Request for Samples and Protocols'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of the Chief Information Officer (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 29, 2006 (71 FR 37080), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0206. The approval expires on September 30, 2009. A copy of the supporting statement for this information collection is available on the Internet at *http://www.fda.gov/ohrms/dockets*.

Dated: October 18, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–17720 Filed 10–23–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006P–0085]

Medical Devices; Exemptions From Premarket Notification; Class II Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing

that it has received a petition requesting exemption from the premarket notification requirements for cranial orthosis type devices. These devices are used to improve cranial symmetry in neonates. FDA is publishing this notice in order to obtain comments in accordance with procedures established by the Food and Drug Administration Modernization Act of 1997 (FDAMA).

DATES: Submit written or electronic comments by November 24, 2006.

ADDRESSES: Submit written comments 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*. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Heather S. Rosecrans, Center for Devices and Radiological Health (HFZ–404), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1190.

SUPPLEMENTARY INFORMATION:

I. Statutory Background

Under section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c), FDA must classify devices into one of three regulatory classes: Class I, class II, or class III. FDA classification of a device is determined by the amount of regulation necessary to provide a reasonable assurance of safety and effectiveness. Under the Medical Device Amendments of 1976 (the 1976 amendments) (Public Law 94–295)), as amended by the Safe Medical Devices Act of 1990 (the SMDA) (Public Law 101–629)), devices are to be classified into class I (general controls) if there is information showing that the general controls of the act are sufficient to assure safety and effectiveness; into class II (special controls), if general controls, by themselves, are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls to provide such assurance; and into class III (premarket approval), if there is insufficient information to support classifying a device into class I or class II and the device is a life sustaining or life supporting device or is for a use which is of substantial importance in preventing impairment of human health or presents a potential unreasonable risk of illness or injury.

Most generic types of devices that were on the market before the date of the 1976 amendments (May 28, 1976) (generally referred to as preamendments devices) have been classified by FDA under the procedures set forth in section 513(c) and (d) of the act through the issuance of classification regulations into one of these three regulatory classes. Devices introduced into interstate commerce for the first time on or after May 28, 1976 (generally referred to as postamendments devices) are classified through the premarket notification process under section 510(k) of the act (21 U.S.C. 360(k)). Section 510(k) of the act and the implementing regulations, 21 CFR part 807, require persons who intend to market a new device to submit a premarket notification report (510(k)) containing information that allows FDA to determine whether the new device is ''substantially equivalent'' within the meaning of section 513(i) of the act to a legally marketed device that does not require premarket approval.

On November 21, 1997, the President signed into law FDAMA (Public Law 105–115). Section 206 of FDAMA, in part, added a new section 510(m) to the act. Section 510(m)(1) of the act requires FDA, within 60 days after enactment of FDAMA, to publish in the **Federal Register** a list of each type of class II device that does not require a report under section 510(k) of the act to provide reasonable assurance of safety and effectiveness. Section 510(m) of the act further provides that a 510(k) will no longer be required for these devices upon the date of publication of the list in the **Federal Register**. FDA published that list in the **Federal Register** of January 21, 1998 (63 FR 3142).

Section 510(m)(2) of the act provides that, 1 day after date of publication of the list under section 510(m)(1), FDA may exempt a device on its own initiative or upon petition of an interested person, if FDA determines that a 510(k) is not necessary to provide reasonable assurance of the safety and effectiveness of the device. This section requires FDA to publish in the **Federal Register** a notice of intent to exempt a device, or of the petition, and to provide a 30-day comment period. Within 120 days of publication of this document, FDA must publish in the **Federal Register** its final determination regarding the exemption of the device that was the subject of the notice. If FDA fails to respond to a petition under this section within 180 days of receiving it, the petition shall be deemed granted.

II. Criteria for Exemption

There are a number of factors FDA may consider to determine whether a 510(k) is necessary to provide reasonable assurance of the safety and effectiveness of a class II device. These factors are discussed in the guidance the agency issued on February 19, 1998, entitled ''Procedures for Class II Device Exemptions from Premarket Notification, Guidance for Industry and CDRH Staff.'' That guidance can be obtained through the World Wide Web at *http://www.fda.gov/cdrh/modact/exemii.pdf* or by sending a fax request to 240–276–3151 to receive a hard copy. Specify ''159'' when prompted for the document shelf number.

III. Proposed Class II Device Exemptions

FDA has received the following petition requesting an exemption from premarket notification for a class II device: Catherine Jeakle Hill, on behalf of the American Association of Neurological Surgeons, the Congress of Neurological Surgeons (AANS/CNS), and the AANS/CNS Section on Pediatrics for cranial orthosis type devices, classified under 21 CFR 882.5970.

IV. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**), written or electronic comments regarding this document on or before November 24, 2006. Submit a single copy of electronic comments or submit two paper copies of any mailed comments, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments received may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 13, 2006.

Linda S. Kahan,

Deputy Director, Center for Device and Radiological Health.

[FR Doc. E6–17729 Filed 10–23–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006D–0400]

Global Harmonization Task Force, Study Groups 1, 2, 4, and 5; New Proposed and Final Documents; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the

availability of several proposed and final documents that have been prepared by Study Groups 1, 2, 4, and 5 of the Global Harmonization Task Force (GHTF). These documents represent a harmonized proposal and recommendation from the GHTF Study Groups that may be used by governments developing and updating their regulatory requirements for medical devices. These documents are intended to provide information only and do not describe current regulatory requirements; elements of these documents may not be consistent with current U.S. regulatory requirements. FDA is requesting comments on these documents.

DATES: Submit written or electronic comments on any of the proposed documents by January 22, 2007. After January 22, 2007, written comments or electronic comments may be submitted at any time to the contact persons listed in this document.

ADDRESSES: Submit written requests for single copies of the guidance documents to the Division of Small Manufacturers, International, and Consumer Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 240–276–3151. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit written comments concerning the guidances 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*. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT:

For Study Group 1: Ginette Y. Michaud, Chairperson, GHTF, Study Group 1, Office of Device Evaluation, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8913, ext.143.

For Study Group 2: Mary Brady, GHTF, Study Group 2, Office of Surveillance and Biometrics, Center for Devices and Radiological Health (HFZ–530), Food and Drug Administration, 1350 Piccard Dr.,Rockville, MD 20850, 301–594–2102.

For Study Group 4: Jacqueline Welch, GHTF, Study Group 4, Office of Compliance, Center for Devices and Radiological Health (HFZ–320), Food and Drug Administration, 2094 Gaither Rd., Rockville, MD 20850, 240–276–0115.

For Study Group 5: Herbert Lerner, GHTF, Study Group 5, Office of Device Evaluation, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–3090, ext. 207.

SUPPLEMENTARY INFORMATION:

I. Background

FDA has participated in a number of activities to promote the international harmonization of regulatory requirements. In September 1992, a meeting was held in Nice, France by senior regulatory officials to evaluate international harmonization. This meeting led to the development of the organization now known as the GHTF to facilitate harmonization. Subsequent meetings have been held on a yearly basis in various locations throughout the world.

The GHTF is a voluntary group of representatives from national medical device regulatory authorities and the regulated industry. Since its inception, the GHTF has been comprised of representatives from five founding members grouped into three geographical areas: Europe, Asia-Pacific, and North America, each of which actively regulates medical devices using their own unique regulatory framework.

The objective of the GHTF is to encourage convergence at the global level of regulatory systems of medical devices to facilitate trade while preserving the right of participating members to address the protection of public health by regulatory means considered most suitable. One of the ways this objective is achieved is by identifying and developing areas of international cooperation to facilitate progressive reduction of technical and regulatory differences in systems established to regulate medical devices. In an effort to accomplish these objectives, the GHTF formed five study groups to draft documents and carry on other activities designed to facilitate global harmonization. This notice is a result of documents that have been developed by four of the Study Groups (1, 2, 4, and 5).

Study Group 1 was initially tasked with the responsibility of identifying differences between various regulatory systems. In 1995, the group was asked to propose areas of potential harmonization for premarket device regulations and possible guidance that could help lead to harmonization. As a result of its efforts, this group has developed final documents SG1/N15:2006 and SG1/N40:2006.

SG1/N15:2006 (final document) entitled ''Principles of Medical Devices Classification'' assists a manufacturer to assign its medical device to an appropriate risk class using a set of harmonized principles. This document applies to products that have a medical purpose, as described in GHTF document SG1/N29R16:2005 entitled ''Information Document Concerning the Definition of the Term 'Medical Device,''' except for those devices used for the in vitro examination of specimens derived from the human body.

SG1/N40:2006 (final document) entitled ''Principles of Conformity Assessment for Medical Devices'' describes the evidence and procedures that may be used by a manufacturer to demonstrate that a medical device is safe and performs as intended by the manufacturer, and the process by which a Regulatory Authority, or Conformity Assessment Body, may confirm that the procedures are properly applied by the manufacturer. This document applies to all products that fall within the definition of a medical device, as described in GHTF document SG1/N29R16:2005 entitled ''Information Document Concerning the Definition of the Term 'Medical Device,''' except for those devices used for the in vitro examination of specimens derived from the human body.

Study Group 2 was initially tasked with the responsibility of developing guidance documents that will be used for the exchange of adverse event reports. As a result of its efforts, this group has developed proposed document SG2(PD)/N87R7:2006, and final documents SG2/N57R8:2006 and SG2/N79R8:2006.

SG2(PD)/N87R7:2006 (proposed document) entitled ''An XML Schema for the Electronic Transfer of Adverse Event Data Between Manufacturers, Authorized Representatives and National Competent Authorities (Based on GHTF SG2 N32v5.2)'' provides details of an electronic format for manufacturers and National Competent Authorities (NCA) to use when exchanging adverse incident data electronically.

SG2/N57R8:2006 (final document) entitled ''Medical Devices: Post Market Surveillance: Content of Field Safety Notices'' identifies elements that should be included in safety related notifications issued by the medical device manufacturer. SG2/N79R8:2006 (final document) entitled ''Medical

Devices Post Market Surveillance: National Competent Authority Report Exchange Criteria and Report Form'' provides guidance, procedures, and forms for the exchange of reports concerning the safety of medical devices between NCA and other participants of the GHTF National Competent Authority Report (NCAR) exchange program.

Study Group 4 was initially tasked with the responsibility of developing guidance documents on quality systems auditing practices. As a result of its efforts, this group has developed document SG4/N30R20:2006. SG4/N30R20:2006 (final document) entitled ''Guidelines for Regulatory Auditing of Quality Management Systems of Medical Device Manufacturers—Part 2: Regulatory Auditing Strategy,'' which is intended to assist medical device regulators and organizations conducting quality management system audits to apply a process system approach to quality management system requirements (e.g. ISO 13485:2003 and 21 CFR part 820).

Study Group 5 was initially tasked with the responsibility of developing guidance documents on the content and documentation of clinical investigations. As a result of its efforts, this group has developed documents SG5(PD)N1R7:2006 and SG5(PD)N2R7.

SG5(PD)N1R7:2006 (proposed document) entitled ''Clinical Evidence—Key Definitions and Concepts'' introduces the concepts of clinical evaluation and clinical evidence, and examines the relationship between clinical investigation, clinical data, clinical evaluation, and clinical evidence. SG5(PD)N2R7:2006 (proposed document) entitled ''Clinical Evaluation'' provides guidance on how to conduct the clinical evaluation of a medical device as part of the conformity assessment procedure prior to placing a medical device on the market, as well as to support its ongoing marketing.

II. Significance of Guidance

These documents represent recommendations from the GHTF study groups and do not describe regulatory requirements. FDA is making these documents available so that industry and other members of the public may express their views and opinions.

III. Electronic Access

Persons interested in obtaining a copy of the guidances may also do so by using the Internet. The Center for Devices and Radiological Health (CDRH) maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturer's assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. Information on the GHTF may be accessed at *http://www.ghtf.org*. The CDRH Web site may be accessed at *http://www.fda.gov/cdrh*.

IV. Comments

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

Dated: October 16, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–17727 Filed 10–23–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006D–0353]

Draft Guidance for Industry and Food and Drug Administration Staff; Total Product Life Cycle for Portable Invasive Blood Glucose Monitoring Systems; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled ''Draft Guidance for Industry and FDA Staff: Total Product Life Cycle for Portable Invasive Blood Glucose Monitoring Systems.'' This draft guidance provides FDA's recommendations concerning portable invasive blood glucose monitoring systems (BGMSs).

DATES: Submit written or electronic comments on this draft guidance by January 22, 2007.

ADDRESSES: Submit written requests for single copies of the draft guidance document entitled ''Draft Guidance for Industry and FDA Staff; Total Product Life Cycle for Portable Invasive Blood Glucose Monitoring Systems '' to the Division of Small Manufacturers, International, and Consumer Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD, 20850. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 240–276–3151. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit written comments concerning this draft 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*. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Carol Benson, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 2098 Gaither Road, Rockville, MD 20850, 240–276–0490 x117.

SUPPLEMENTARY INFORMATION:

I. Background

Portable invasive BGMS devices were introduced in the late 1970s and are considered one of the most important medical advances in diabetes care. This draft guidance document provides the FDA's recommendations concerning BGMS devices. In addition to recommendations for preparation of premarket notifications (510(k)), the draft guidance document discusses features of device design and risk management, including those relating to human factors. The draft guidance document, when finalized, is intended to complement International Standards Organization standards on risk management for medical devices and BGMSs. The scope of this draft guidance document includes BGMS devices, used in the quantitative measurement of glucose in blood by lay users at home or by professionals in hospitals and other point of care settings, to manage carbohydrate metabolism disorders including diabetes mellitus. When this guidance document is finalized, FDA expects that this guidance document will enable FDA to make more efficient and better-informed decisions based on more consistent data, and better contribute to the marketing of more

reliable, reproducible, and simple-to-use commercial devices.

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on the total product life cycle for portable invasive BGMSs. 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 statute and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by using the Internet. To receive ''Draft Guidance for Industry and FDA Staff; Total Product Life Cycle for Portable Invasive Blood Glucose Monitoring Systems,'' you may either send an e-mail request to *dsmica@fda.hhs.gov* to receive an electronic copy of the document or send a fax request to 240–276–3151 to receive a hard copy. Please use the document number 1603 to identify the guidance you are requesting.

CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturer's assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH Web site may be accessed at *http://www.fda.gov/cdrh*. A search capability for all CDRH guidance documents is available at *http://www.fda.gov/cdrh/guidance.html*. Guidance documents are also available on the Division of Dockets Management Internet site at *http://www.fda.gov/ohrms/dockets*.

IV. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 USC 3501–3520). The collections of information in 21 CFR part 807 have been approved under OMB control number 0910–0120, the collections of information in 21 CFR part 820 have been approved under OMB control number 0910–0073, and the collections of information in 21 CFR part 801 have been approved under OMB control number 0910–0485.

V. Comments

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

Dated: October 11, 2006.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. E6–17757 Filed 10–23–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Office of Grants and Training, Citizens Corps; Agency Information Collection Activities: Submission for New Online Information Collection, Comment Request

AGENCY: Department of Homeland Security, Office of Grants and Training, Citizens Corps.

ACTION: Notice; 60-day notice request for comments.

SUMMARY: The Department of Homeland Security (DHS) invites the general public and other Federal agencies the opportunity to comment on new online information collection request 1670–NEW, Citizen Corps Profiles in Hometown Security Application 1670–NEW. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), DHS is soliciting comments for the approved online information collection request.

DATES: Written comments should be received on or before December 26, 2006 to be assured consideration.

ADDRESSES: Citizen Corps, Attn: Jeanie Moore, 810 7th Street, NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Jeanie Moore, (202) 786–9858. This is not a toll free number.

SUPPLEMENTARY INFORMATION: Direct all written comments to the Department of Homeland Security at the above address. A copy of this Information Collection Request, with applicable supporting documentation, may be obtained by calling the Paperwork Reduction Act Contact listed above. The Office of Management and Budget is particularly interested in comments which:

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

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

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

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Analysis

Agency: Department of Homeland Security, Office of Grants and Training, Citizens Corps.

Title: Citizen Corps Profiles in Hometown Security.

OMB No.: 1660–NEW.

Frequency: 1,430 times per year.

Affected Public: Citizen Corps Council Citizen Corps Council members, program managers, Program Partners and Affiliates.

Estimated Number of Respondents: 1,430 responses per year.

Estimated Time per Respondent: 2 hours per response.

Total Burden Hours: 2,860 hours.

Total Burden Cost: (capital/startup): None.

Total Burden Cost: (operating/maintaining): None.

Description: This online information collection available at *http://citizencorps.eyestreet.com/ccProfiles/secure/profileAdd.do?fromstart=fromstart* will enable Citizen Corps to operate effectively and efficiently. Profiles in Hometown Security will be a new online collection of 1-page summaries to communicate Citizen Corps members' involvement in safety and security incidents. By gathering this information and posting it to the Citizen Corps Web

site, all Councils and the general public will be able to draw from others' experience with personal and community prevention, preparedness, response and mitigation, based on hands-on experiences. This information will also help the national Citizen Corps Council gauge its progress in the field, as well as opportunities for growth and enhancement.

Citizen Corps will accept Profiles in Hometown Security through its Web site, where a Section 508 compliant online form will make it easy for local Councils to submit their information, as well as provide an efficient way to store, categorize, sort and pull information from the compiled submissions.

Dated: October 17, 2006.

Charlie Church,

Chief Information Officer.

[FR Doc. E6–17805 Filed 10–23–06; 8:45 am]

BILLING CODE 4010–10–P

DEPARTMENT OF HOMELAND SECURITY

Assistance to Firefighters Program Office, Office of Grants and Training, Preparedness Directorate for Comments on a New Information Collection Request (Application for Staffing for Adequate Fire and Emergency Response Grants)

AGENCY: Office of Grants and Training, Preparedness Directorate, Department of Homeland Security.

ACTION: Notice; 60-day notice request for comments.

SUMMARY: The Department of Homeland Security (DHS) invites the general public and other federal agencies the opportunity to comment on information collection request (ICR) for the application for SAFER grants. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), DHS is soliciting comments for the approved information collection request.

DATES: Written comments should be received on or before December 26, 2006 to be assured consideration.

ADDRESSES: Assistance to Firefighters Program Office, Attn: Tom Harrington, Deputy Director, Assistance to Firefighters Program Office, Office of Grants and Training, Preparedness Directorate, U.S. Department of Homeland Security; Attn: OMB Desk Officer for Homeland Security, Office of Management and Budget, Room 10235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Interested persons are invited to submit written comments on the proposed information collection to Tom Harrington, Deputy Director, Grants Program Office, Office for Grants and Training, Preparedness Secretariat, Department of Homeland Security, 800 K Street, NW., Fifth Floor Suites, Washington, DC 20531, telephone: 202–786–9791, (this is not a toll free number) or e-mail: *tom.harrington@dhs.gov.*

SUPPLEMENTARY INFORMATION: Direct all written comments to both the Department of Homeland Security and the Office of Information and Regulatory Affairs at the above addresses. A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Paperwork Reduction Act Contact listed above. The Office of Management and Budget is particularly interested in comments which:

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

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

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

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Analysis

Agency: Department of Homeland Security, Preparedness Directorate, Office of Grants and Training, Assistance to Firefighters Program Office.

Title: Application for SAFER grants.

OMB Number: 1670–NEW.

Frequency: Annual.

Affected Public: Fire departments; not-for-profit institutions; local or tribal government.

Estimated Number of Respondents: 5,000 applicants; 300 awardees.

Estimated Time per Respondent: 13 for application; 18 hours for administration.

Total Burden Hours: 70,000 hours for applications; 7,200 hours for grantee administration.

Total Burden Cost: Application phase: $1,050,000 annually (70,000 hours @ $15.00 per hour); administration phase: $108,000 (7,200 hours @ $15.00 per hour).

Description: Information sought under this submission will comprise the grant application for the Staffing for Adequate Fire and Emergency Response (SAFER) grant program. This submission is necessary in order for Department of Homeland Security (DHS) to effectively implement a competitive grant program.

Charlie Church,

Chief Information Officer.

[FR Doc. E6–17807 Filed 10–23–06; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Assistance to Firefighters Program Office, Office of Grants and Training, Preparedness Directorate for Comments on a New Information Collection Request (Application for Assistance to Firefighters Grants (AFG))

AGENCY: Office of Grants and Training, Preparedness Directorate, Department of Homeland Security.

ACTION: Notice; 60-day notice request for comments.

SUMMARY: The Department of Homeland Security (DHS) invites the general public and other federal agencies the opportunity to comment on information collection request (ICR) for the application for Assistance to Firefighters Grants. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), DHS is soliciting comments for the approved information collection request.

DATES: Written comments should be received on or before December 26, 2006 to be assured consideration.

ADDRESSES: Assistance to Firefighters Program Office, Attn: Tom Harrington, Deputy Director, Assistance to Firefighters Program Office, Office of Grants and Training, Preparedness Directorate, U.S. Department of Homeland Security; Attn: OMB Desk Officer for Homeland Security, Office of Management and Budget, Room 10235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Interested persons are invited to submit written comments on the proposed information collection to Tom Harrington, Deputy Director, Grants Program Office, Office for Grants and Training, Preparedness Secretariat, Department of Homeland Security, 800

K Street, NW., Fifth Floor Suites, Washington, DC 20531, telephone: 202–786–9791 (this is not a toll free number), or e-mail: *tom.harrington@dhs.gov.*

SUPPLEMENTARY INFORMATION: Direct all written comments to both the Department of Homeland Security and the Office of Information and Regulatory Affairs at the above addresses. A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Paperwork Reduction Act Contact listed above. The Office of Management and Budget is particularly interested in comments which:

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

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

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

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

Analysis

Agency: Department of Homeland Security, Preparedness Directorate, Office of Grants and Training, Assistance to Firefighters Program Office.

Title: Application for Assistance to Firefighters Grants.

OMB Number: 3067–0285.

Frequency: Annual.

Affected Public: Fire departments; not-for-profit institutions; local or tribal government.

Estimated Number of Respondents: 25,000 applicants; 7,000 awardees.

Estimated Time per Respondent: 12 hours for application; 4 hours for administration.

Total Burden Hours: 300,000 hours for applications; 28,000 hours for grantee administration.

Total Burden Cost: Application phase: $4,500,000 annually (300,000 hours @ $15.00 per hour); administration phase: $420,000 (28,000 hours @ $15.00 per hour).

Description: Information sought under this submission will comprise the grant application for Assistance to Firefighters Grants. This submission is necessary in order for Department of Homeland Security (DHS) to effectively implement a competitive grant program.

Dated: October 19, 2006.

Charlie Church,

Chief Information Officer, Preparedness Directorate, Department of Homeland Security.

[FR Doc. E6–17820 Filed 10–23–06; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

United States Fire Academy; Agency Information Collection Activities: Submission for Renewal of a Currently Approved Information Collection Request

AGENCY: DHS, Preparedness Directorate, National Fire Academy.

ACTION: Notice; 60-day notice request for comments.

SUMMARY: The Department of Homeland Security (DHS) invites the general public and other federal agencies the opportunity to comment on approved information collection request (ICR) OMB 1660–0002, General Admissions Applications and related forms. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), DHS is soliciting comments for the approved information collection request.

DATES: Written comments should be received on or before December 26, 2006 to be assured consideration.

ADDRESSES: NFA, Attn: Clarence White, Program Analyst, NETC Management, Operations and Support Services, U.S. Fire Administration, (301) 447–1055 (this is not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Attn: Clarence White, Program Analyst, NETC Management, Operations and Support Services, U.S. Fire Administration, (301) 447–1055 (this is not a toll-free number). Or write to NFA, Attn: Clarence White, Program Analyst, National Emergency Training Center, 16825 South Seton Avenue, Emmitsburg, MD 21727–8998.

SUPPLEMENTARY INFORMATION: Direct all written comments to both the Department of Homeland Security and the Office of Information and Regulatory Affairs at the above addresses. A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Paperwork Reduction Act Contact listed above. The Office of Management and Budget is particularly interested in comments which:

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

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

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

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Analysis

Agency: Department of Homeland Security, Preparedness Directorate, National Fire Academy, Office of the Chief Information Officer.

Title: General Admissions Application (Long and Short) and Stiped Forms.

OMB Number: 1660–0002.

Frequency of Response: Submitted by applicants when applying for a class.

Affected Public: Individuals in the emergency services in Federal, state, tribal, and local government, volunteer organizations, or private industry.

Estimated Number of Respondents:

FEMA Form 75–5, General Admissions Application—15,000 Responses

FEMA Form 75–5a, General Admissions Application, Short Form—60,000 Responses

FEMA Form 75–5 (automated), General Admissions Application—10,000 Responses

FEMA Form 75–5a (automated), General Admissions Application, Short Form—15,000 Responses

FEMA Form 75–3 and 75–3a, Student Stipend Agreement and Student Stipend Agreement (Amendment)—8,000 Responses

FEMA Form 95–22, National Fire Academy—Executive Fire Officer Program Application for Admission 400 Responses

Estimated Time per Respondent:

FEMA Form 75–5, General Admissions Application—9 minutes

FEMA Form 75–5a, General Admissions Application, Short Form—6 minutes

FEMA Form 75–5 (automated), General Admissions Application—8 minutes

FEMA Form 75–5a (automated), General Admissions Application, Short Form—5 minutes

FEMA Form 75–3 and 75–3a, Student Stipend Agreement and Student Stipend Agreement (Amendment)—2 minutes

FEMA Form 95–22, National Fire Academy—Executive Fire Officer Program Application for Admission—10 minutes

Estimated Burden Hours:

FEMA Form 75–5, General Admissions Application—2,250 hours

FEMA Form 75–5a, General Admissions Application, Short Form—6,000 hours

FEMA Form 75–5 (automated), General Admissions Application—1,333 hours

FEMA Form 75–5a (automated), General Admissions Application, Short Form—1,250 hours

FEMA Form 75–3 and 75–3a, Student Stipend Agreement and Student Stipend Agreement (Amendment)—267 hours

FEMA Form 95–22, National Fire Academy—Executive Fire Officer Program Application for Admission—67 hours

Total Burden Cost: This has been on-going for over 20 years

Total Burden Cost: (operating/maintaining): $2.73 per respondent, $295,955 annually.

Description: Public Law 93–498, Federal Fire Prevention and Control Act, as amended, (15 U.S.C. 2201 *et seq.*) established the National Fire Academy (NFA) to ''advance the professional development of fire service personnel and of other persons engaged in fire prevention and control activities* * *'' and authorizes the Superintendent, NFA, to ''conduct courses and programs of training and education* * *'' Public Law 93–288, Robert T. Stafford Disaster Relief and Emergency Assistance Act, (42 U.S.C. 5121–5206) authorizes the President to establish ''a program of disaster preparedness that utilizes services of all appropriate agencies and includes* * *(2) training and exercises* * *'' Under the authorities of Executive Order 12127 and 12148, as amended, The Secretary of the Department of Homeland Security, Emergency Preparedness and Response Directorate, Federal Emergency Management Agency, is responsible for carrying out the mandates of the public laws mentioned above. The Secretary established the National Emergency Training Center (NETC), located in Emmitsburg, Maryland, which houses both NFA and EMI. The data collection is used to (1) determine eligibility for courses and programs offered by NFA and EMI, (2) provide a consolidated record of all FEMA training taken by a student, (3) provide a transcript which can be used by the student in requesting college credit or continuing education units for courses completed, and (4) to determine eligibility for student stipends. The Application Forms are available on line at *http://www.usfa.dhs.gov/training/nfa/about/attend/nfa-abt1c.shtm.*

Charlie Church,

Chief Information Officer, Preparedness Directorate.

[FR Doc. E6–17821 Filed 10–23–06; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Committee Management: Update on Critical Infrastructure Partnership Advisory Council (CIPAC) Committee Membership

AGENCY: Preparedness Directorate, Office of Infrastructure Protection, DHS.

ACTION: Notice.

SUMMARY: The Department of Homeland Security announced the establishment of the Critical Infrastructure Partnership Advisory Council (CIPAC) by Notice published in the **Federal Register** on March 24, 2006 (''First CIPAC Notice;'' 71 FR 14930). That Notice identified the purpose of the committee as well as its membership. This Notice provides the quarterly update including instructions on how the public can obtain the most current roster of CIPAC membership.

FOR FURTHER INFORMATION CONTACT: Brett Lambo, Infrastructure Programs Office, Infrastructure Partnerships Division, Office of Infrastructure Protection, Preparedness Directorate, United States Department of Homeland Security, Washington, DC 20528, telephone (703) 235–5311 or via e-mail at *brett.lambo@dhs.gov.*

Responsible DHS Official: Nancy J. Wong, Director, Infrastructure Programs Office, Infrastructure Partnerships Division, Office of Infrastructure Protection, Preparedness Directorate, United States Department of Homeland Security, Washington, DC 20528, telephone (703) 235–5349.

SUPPLEMENTARY INFORMATION: The CIPAC is intended to facilitate interaction between representatives of government and the community of critical infrastructure and key resources (CI/KR) owners and operators in each critical sector. As set forth in the CIPAC's originating documents, it engages in: ''Planning; coordination; security program implementation; operational activities related to critical infrastructure protection security measures, including incident response, recovery, and reconstitution from events both man-made and naturally occurring; and the sharing of information about threats, vulnerabilities, protective measures, best practices, and lessons learned.''

CIPAC is designed to include as many of the owners and operators and the owner and operator representative trade associations deemed necessary by each sector's Sector Coordinating Council (SCC) as participants in these activities. CIPAC Membership is comprised of the CI/KR owner and operator entities (and the trade associations that represent CI/KR owners and operators) which the Department of Homeland Security (DHS) in conjunction with the Sector Specific Agency (SSA) (when different than DHS) recognizes as members of that sector's Sector Coordinating Council (SCC). It also includes Federal, State, local, and tribal government agencies (or their representative bodies) that comprise the membership of the Government Coordinating Council (GCC) for each sector as recognized by DHS in conjunction with the Sector Specific Agency (SSA).

Owners and operators or trade associations representing the interests of owners and operators that own and invest in infrastructure assets, in the systems and processes to secure them, and that are held responsible by the public for their operations and the response and their recovery when their infrastructures or key resources are disrupted.

This Notice serves as a quarterly notice to provide instructions for obtaining the most current roster of CIPAC membership. The most recent membership roster is published on the CIPAC Web site (*http://www.dhs.gov/cipac*). That CIPAC Web site maintains an updated list of all Sector industry/institutional CIPAC membership and all government entities involved in CIPAC. Any member of the public may visit the Web site to learn about CIPAC membership, list of meetings and agendas.

Dated: October 12, 2006.

Nancy J. Wong,

Director, Infrastructure Programs Office, Infrastructure Partnerships Division, United States Department of Homeland Security.

[FR Doc. E6–17764 Filed 10–23–06; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

[USCBP–2006–0119]

Monetary Guidelines for Setting Bond Amounts for Importations Subject to Enhanced Bonding Requirements

AGENCY: Customs and Border Protection, Department of Homeland Security.

ACTION: General notice; request for comments.

SUMMARY: This Notice serves to provide additional information on the process used to determine bond amounts for importations involving elevated collection risks and to seek public comment on that process. The process published in this Notice is in effect. Public comments will assist CBP in identifying factors that may further improve the process to ensure the bond amounts protect the revenue and facilitate trade. After consideration of the comments, a revised version of the Monetary Guidelines for Setting Bond Amounts Customs Directive 99–3510–004 July 23, 1991 (1991 Monetary Guidelines) will be published.

DATES: Comments must be received on or before December 26, 2006.

ADDRESSES: Commenters must submit comments, identified by *docket number*, by *one* of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments via docket number USCBP–2006–0119.
- Mail: Trade and Commercial Regulations Branch, Office of Regulations and Rulings in the Office of International Trade, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW. (Mint Annex), Washington, DC 20229.

Instructions: All submissions received must include the agency name and docket number for this Notice. All comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. For detailed instructions on submitting comments, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* Submitted comments may also be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Office of Regulations and Rulings in the Office of International Trade, Bureau of Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Joseph Clark at (202) 572–8768.

FOR FURTHER INFORMATION CONTACT: David Genovese, Office of International Trade at *David.Genovese@dhs.gov*, Tel: (202) 863–6020.

SUPPLEMENTARY INFORMATION:

Public Participation

Interested persons are invited to submit written data, views, or arguments on all aspects of this Notice. CBP also invites comments that relate to the economic, environmental, or federalism effects that might result from this Notice. Comments that will provide the most assistance to CBP in developing these procedures will reference a specific portion of this Notice, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

Background

A key CBP mission is to collect all import duties determined to be due to the United States. Under customs statutes and regulations release of merchandise prior to the determination of all duties that may be owed is ordinarily permitted, provided the importer posts a bond or other security to insure payment of duties and compliance with other applicable laws and regulations. Estimated duties are collected at entry, a bond is posted, and final duties await liquidation at a later point in time.

In the case of antidumping (AD) or countervailing duties (CVD) determined by the Department of Commerce (DOC) (which administers the AD/CVD laws in conjunction with the U.S. International Trade Commission), the administrative and judicial process for determining the appropriate rate of duty for AD/CVD merchandise may significantly delay the liquidation of an entry of AD/CVD merchandise. At liquidation, CBP follows DOC instructions regarding the applicable AD/CVD rate. CBP must collect the duties owed of whatever nature. However, importers have increasingly failed to pay additional AD/CVD duties determined to be due at liquidation. Recent defaults for AD/CVD supplemental bills are substantially higher than defaults that were the previous norm and are unprecedented. This troubling trend caused an internal policy review of revenue protection strategies at CBP.

During the review, CBP reconsidered its general continuous bond formula which provides that the minimum continuous bond may be in an amount equal to the greater of $50,000 or ten percent of the amount of the previous year's duties, taxes and fees. In response to the growing collection problem, CBP announced an enhanced customs bonding requirement for those continuous bonds that secure the promise to pay all duties finally determined to be due on certain merchandise subject to AD/CVD. *Amendment to Bond Directive 99–3510–004 for Certain Merchandise Subject to Antidumping Countervailing Duty Cases* (July 9, 2004) (July 2004 Amendment to the Bond Guidelines); see also *Clarification to the July 9, 2004 Amended Monetary Guidelines for Setting Bond Amounts* (August 10, 2005) (August 2005 Clarification). Application of the enhanced bonding requirement thus far has been limited in scope—having been applied to merchandise subject to the first antidumping orders involving aquaculture merchandise imposed after issuance of the July 2004 Amendment to the Bond Guidelines. Aquaculture is the industry sector with the highest share of total defaults in recent years.

CBP commenced its policy of reviewing the sufficiency of continuous bonds related to imports of AD/CVD merchandise with the release of its July 2004 Amendment to the Bond Guidelines. That document and the August 2005 Clarification were posted on CBP's Web site.

The bond guidelines are designed to ensure the amount of the continuous bond reflects a reasonable amount necessary to secure against non-payment of any additional revenue ultimately legally owed and not paid in cash deposits at entry. As noted earlier, U.S. laws and regulations afford importers the opportunity to post such bonds in order to facilitate prompt release of the goods at the border without creating an undue burden on importers or international trade and commerce.

CBP includes guidelines on determining sufficient bond amounts in its regulations at 19 CFR 113.13. The regulations direct CBP to review bonds periodically and to notify the principal in writing if CBP determines the bond amount is insufficient to adequately protect the revenue and ensure compliance with U.S. laws and regulations. The principal has 30 days from date of notification to remedy the deficiency. During those 30 days,

principals have frequently requested CBP to adjust its bond determination.

This Notice seeks public comment on the procedures for setting bond amounts on merchandise subject to increased default risk and, therefore, designated as Special Category Merchandise that may be subject to enhanced bonding requirements. An explanation of Special Category Merchandise appears later in this document under ''Procedures for Setting Bond Amount.'' History of compliance with customs laws and regulations, ability to pay, existence of assets available as recourse for nonpayment, past payment history, similarity to previous circumstances giving rise to uncollected revenue problems, and other relevant factors will be considered in determining whether to reduce the bond amount otherwise required under the enhanced bond formula. Importers will be offered the opportunity to submit information on their financial condition related to the risk of non-collection for that importer and CBP will determine bond amounts based on that information, the importer's compliance history and other relevant information available to CBP. In the absence of a submission by the importer, CBP would calculate the bond amount using the formulas set forth below.

This document will be incorporated into the 1991 Monetary Guidelines and represents the comprehensive and exclusive statement of the policy and processes expressed in the July 2004 Amendment to the Bond Guidelines, the Bond Formulas posted on CBP's Web site, and the August 2005 Clarification. After consideration of any comments received, an incorporated policy will be published.

Procedure for Setting Bond Amount

In order to provide a consistent bond formula and to ensure the bond amounts protect the revenue and facilitate trade, CBP issued bond guidelines. Under the August 2005 Clarification, CBP indicated that it would designate Special Categories of Merchandise and designate Covered Cases within those Special Categories. CBP will continue to evaluate on an industry wide basis those types of merchandise where additional bond requirements may be needed. However, because importers are only affected when merchandise is subject to different bond requirements, CBP will only designate Special Categories, that is, merchandise for which an enhanced bond amount may be required.

Designation of Special Categories

- Special Categories may be designated when additional bond requirements in the form of greater continuous entry bonds or other security may be required.
- At least 60 days before new bonding requirements take effect, CBP will provide public notice of designation of a Special Category in the Customs Bulletin and on the CBP's Web site (*http://www.cbp.gov*). The notice will solicit comment from affected parties and will provide a description of the reasons for the Special Category. Affected parties will have 30 days from the date the designation notice is published to submit comments.
- When conditions no longer exist that warrant the Special Category designation, the designation will be removed and the public will be notified through the Customs Bulletin and the CBP Web site.

Criteria for Special Categories

In considering which merchandise should be designated Special Category merchandise subject to enhanced bond requirements, the following criteria shall be considered:

1. Previous collection problems concerning the industry involved;
2. The similarity to previous imports or industries experiencing uncollected revenue problems;
3. Payment history;
4. Indications that liquidated duty rates may exceed existing security;
5. Any other factors that are deemed relevant.

All Special Categories will be monitored on a regular basis to determine whether a material change in factors has occurred so that the amount of the required bond for the Special Categories should be adjusted up or down or that the conditions that warranted the designations no longer exist.

Continuous Bond Formulas for Special Category Merchandise

CBP will review the sufficiency of bonds covering Special Category merchandise. Importers of Special Category merchandise may be required to obtain larger continuous bonds. In such circumstances, importers will be offered the opportunity to submit information on their financial condition related to the risk of non-collection for that importer, and CBP will determine bond amounts based on that information, the importer's compliance history, and other relevant information available to CBP. In the absence of a submission by the importer, CBP may calculate the bond amount using the formulas determined on the basis of the risk of non-collection posed by the Special Category merchandise. These formulas may be adjusted in accordance with the revenue risks identified for future importations of designated Special Category merchandise.

For Special Category merchandise which is merchandise subject to AD/CVD, the formulas determined on the basis of the risk of non-collection will be based upon the importer's previous 12 months cumulative import value of merchandise subject to the AD/CVD Order and the rate that the DOC establishes in its Order or, if the bond amount is established after an administrative review, it will be calculated using the rate determined by DOC in the most recent administrative review. The amount of additional coverage will be calculated using the following formula:

- AD/CVD rate established in DOC Order (or the rate established in the most recently completed administrative review) × previous 12 months' cumulative import value of subject merchandise.

For example, if an importer has imported $1 million of the subject AD/CVD merchandise during the previous 12 months and the DOC rate is 40%, the importer's continuous bond amount will be increased by $400,000.

For new importers with no prior history of imports who import Special Category merchandise subject to AD/CVD, the continuous bond will be calculated in accordance with the following formula:

- DOC deposit rate in effect on date of entry × the importer's estimated annual value of imported goods subject to the case.

Periodic reviews will be conducted to monitor the sufficiency of the continuous bonds for Special Category merchandise. CBP may adjust the rates in the formulas set forth above to calculate different bond amounts as circumstances warrant. CBP is committed to protecting its ability to collect the amount of money determined to be due at liquidation and to requiring continuous bonds in an amount reasonably necessary to cover its additional financial risk.

Absent exceptional circumstances, the above formulas will determine the bond amounts where a submission has not been made by the principal. Nothing in this policy affects the CBP's authority to require additional security if CBP believes that acceptance of a transaction secured by a continuous bond would place the revenue in jeopardy or otherwise hamper the enforcement of customs laws or regulations.

Notice Timing and Adjustment Factors for Individual Importers

In implementing the bond requirements for imports of Special Category merchandise, CBP shall:

(1) Provide the principal subject to the revised bond requirements with notice of the new bond requirements not less than 30 days before the revised requirements will take effect. Such notice will include a description of the rationale for the new requirements and offer the principal the opportunity to submit information on its financial condition related to the risk of non-collection of that principal, which CBP will use along with other information, such as the importer's compliance history, to determine bond amounts. The notice will inform the principal that in the absence of a submission by the principal, CBP may calculate the bond amount using the formulas determined on the basis of the risk of non-collection for the Special Category merchandise. The notice will provide examples of additional information that might be submitted in support of the former calculation, how the bond amount would be calculated if the formula were applied, and a description of the procedures for responding to the notice.

(2) Provide the principal 30 days from the date of the mailing of the notice to respond, including by providing evidence of factors that could support a bond amount other than that resulting from the formula. Such responses may be filed individually or by groups of principals who share common characteristics. Principals who import from the same foreign manufacturer/exporter share common characteristics. Depending upon available resources and workload, CBP shall endeavor to issue decisions to those who respond within 45 days of receipt of a complete, legible response and, in any event, shall issue decisions within a reasonable time. The new bond requirement will not take effect with respect to a principal until 14 days after the date of CBP's reply to the principal's response. The reply to the principal will include the rationale for the determination. In the absence of a submission by the principal, CBP may calculate the bond amount using the formulas determined on the risk of non-collection posed by the Special Category merchandise as provided in the notice. The bond requirement will take effect with respect to that principal 30 days after the date of the mailing of the notice.

(3) Consistent with 19 CFR 113.13(b), consider the following factors when determining a bond amount, other than the amount resulting from the formula, for a principal who has responded in accordance with (2) above:

(a) The prior record of the principal regarding timely payment of duties, taxes and charges with respect to the transactions involving such payments;

(b) The prior record of the principal in complying with CBP demands for redelivery, the obligation to hold unexamined merchandise intact, and other requirements relating to enforcement and administration of CBP and other laws and regulations;

(c) The value and nature of the merchandise involved in the transaction(s) to be secured;

(d) The degree and type of supervision that CBP will exercise over the transaction(s);

(e) The prior record of the principal in honoring bond commitments, including the payment of liquidated damages and AD/CVD;

(f) Any additional information contained in any application for a bond, or contained in any request for adjustment of the bond amount, including information that provides proof of ability to pay such as independently audited financial statements, tax returns submitted by the principal, availability of assets, including securities in the United States and elsewhere, credit rating, and length of time in business; and

(g) Any other relevant information.

(4) If CBP determines that the principal has a record of compliance with customs laws and regulations and that the principal has demonstrated an ability to pay, CBP may decide not to require an increased bond amount even though the principal imports Special Category merchandise.

A request for reconsideration may be made by submitting a new bond application and CBP Form 301 at any time after six months from the date of the notice of new bond amount set forth in paragraph (1) above, if no response to CBP's notice was received under paragraph (2). If the principal filed a response under paragraph (2) requesting a bond amount other than that resulting from the formula, the principal may request further reconsideration at any time after six months from the date of the decision issued under paragraph (2). A request for reconsideration of the bond amount based on a material error by CBP that affects the bond amount may be made at any time.

At any time after CBP determines a bond amount for a principal below that provided by the formula, if the principal fails to remain compliant with customs laws and regulations, CBP will recalculate the principal's bond amount in accordance with the formulas outlined in this notice.

Affected Parties

This Notice affects only continuous bonds for imports of Special Category merchandise. This Notice does not affect laws and regulations regarding cash deposits or other security with respect to merchandise subject to AD/CVD proceedings. CBP notes those initial deposits and bonds sometimes are not sufficient to cover the final assessed duty liabilities. Defaults on such additional duty liability have increased.

Congress has provided CBP authority to require security in order to ensure the payment of all duties determined to be due to the United States, including any revenue collection gaps between estimated duty deposits and final assessed duties that the importer fails to satisfy. Please note that this Notice does not limit CBP's authority to require additional security under 19 CFR 113.13(d) and the requirements of the 1991 Monetary Guidelines remain in effect consistent with this Notice.

Dated: October 20, 2006.

Deborah J. Spero

Acting Commissioner, Customs and Border Protection.

[FR Doc. E6–17885 Filed 10–23–06; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4900–FA–30]

Announcement of Funding Awards for the Housing Choice Voucher Family Self Sufficiency Program for Fiscal Year 2004

AGENCY: Office of Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department for funding under the Fiscal Year (FY) 2004 Notice of Funding Availability (NOFA) for the Family Self Sufficiency (FSS) Funding for FY2004. This announcement contains the consolidated names and addresses of those award recipients selected for funding based on the rating and ranking of all applications and the allocation of funding available for each state.

FOR FURTHER INFORMATION CONTACT: For questions concerning the FY2004 Family Self Sufficiency awards, contact the Office of Public and Indian Housing, Grant Management Center, Director, Iredia Hutchinson, Department of Housing and Urban Development, Washington, DC, telephone (202) 358–0221. For the hearing- or speech-impaired, these numbers may be accessed via TTY (text telephone) by calling the Federal Information Relay Service at 800–877–8339. (Other than the ''800'' TTY number, these telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The authority for the $47,700,000 in one-year budget authority FSS program coordinators is found in the Departments of Veteran Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, FY2004 (Pub. L. 108). The allocation of housing assistance budget authority is pursuant to the provisions of 24 CFR part 791, subpart D, implementing section 213 (d) of the Housing and Community Development Act of 1974, as amended.

This program is intended to promote the development of local strategies to coordinate the use of assistance under the Housing Choice Voucher program with public and private resources to enable participating families to achieve economic independence and self-sufficiency. A FSS program coordinator assures that program participants are linked to the supportive services they need to achieve self-sufficiency.

The FY2004 awards announced in this Notice were selected for funding in a competition announced in a **Federal Register** NOFA published on May 14, 2004 (69 FR 27393). Applications were scored based on the selection criteria in that notice and funding selections made based on the rating and ranking of applications within each state.

In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the names, addresses, and amounts of the 685 awards made under the FSS competitions.

Dated: September 22, 2006.

Paula O. Blunt,

General Deputy Assistant Secretary for Public and Indian Housing.

APPENDIX A.—FISCAL YEAR 2004 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER; FAMILY SELF SUFFICIENCY PROGRAM

Organization	Address/City/State/Zip code	Amount
Alaska Housing Finance Corporation	P.O. Box 101020, 4300 Boniface Parkway, Anchorage, AK 99510–1020.	$62,660
Mobile Housing Authority	151 S. Claiborne Street, Mobile, AL 36602	76,373
Housing Authority of the City of Montgomery, Alabama	1020 Bell Street, Montgomery, AL 36104	68,690
Selma Housing Authority	P.O. Box 950, 444 Washington Street, Selma, AL36702–0950	50,500
Housing Authority of the City of Huntsville, Alabama	P.O. Box 486, 200 Washington Street, Huntsville, AL35801	45,000
Housing Authority of the City of Decatur, Alabama	100 Wilson Street North East, Decatur, AL 35601	33,091
Florence Housing Authority	303 North Pine Street, Florence, AL 35630	45,433
Tuscaloosa Housing Authority	P.O. Box 2281, Tuscaloosa, AL 35403–2281	48,989
Jefferson County Housing Authority	3700 Industrial Parkway, Birhimgham, AL 35117	80,344
Housing Authority of the City of Prichard, Alabama	800 Hinson Avenue, Prichard, AL 36610	44,345
Jefferson County Housing Authority	3700 Industrial Parkway, Birhimgham, AL 35117	40,172
The Housing Authority of the City of Huntsville, Alabama	P.O. Box 486, 200 Washington Street, Huntsville, AL 35801	45,000
Housing Authority of the City of Fort Smith, Arkansas	2100 North 31st Street, Fort Smith, AR 72904	96,400
Housing Authority of the City of Little Rock	1000 Wolfe Street, Little Rock, AR 72202	38,341
Northwest Regional Housing Authority	P.O. Box 2568, Harrison, AR 72602	39,025
Housing Authority of the City of Arkadelphia	670 South 6th Street, Arkandelphia, AR 71923	34,340
Housing Authority of the City of Pine Bluff	P.O. Box 8872, Pine Bluff, AR 71611	39,784
Housing Authority of the City of West Memphis	2820 Harrison Street, West Memphis, AR 72301	33,459
Housing Authority of the City of Hot Springs	P.O. Box 1257, Hot Springs, AR 71902	36,237
Wynne Housing Authority	200 Fisher Place, P.O. Box 552, Wynne, AR 72373	26,523
Housing Authority of the City of Hope	720 Texas Street, Hope, AR 71801–6327	29,795
Jonesboro Urban Renewal & Housing Authority	330 Union Street, Jonesboro, AR 72401	40,000
Conway County Housing Authority	P.O. Box 229, 123 South Cherokee, Morrilton, AR 72110	38,000
Benton Public Housing Authority	1200 West Pine, Benton, AR 72015	30,057
Pope County Public Facilities Board	P.O. Box 846, 301 East 3rd Street, Russellville, AR 72811	33,963
St Francis County Housing Authority	P.O. Box 310, 116 South Izard Street, Forrest City, AR 72336–0310.	42,892
Pulaski County Housing Agency	201 South Broadway, Suite 220, Little Rock, AR 72201	33,787
McGehee Public Residential Housing Facilities Board	P.O. Box 725, 300 Shady Lane, McGehee, AR 71654	30,300
North Little Rock Housing Authority	P.O. Box 516, 2501 Willow Street, North Little Rock, AR 72115	42,323
Yuma County	8450 West Highway 95, Suite 88, Somerton, AR 85350	28,063
Housing Authority of the City of Pine Bluff	P.O. Box 8872, Pine Bluff, AR 71611	38,400
Housing Authority of the City of Arkadelphia	670 South 6th Street, Arkandelphia, AR 71923	34,000
Conway County Housing Authority	P.O. Box 229, 123 South Cherokee, Morrilton, AR 72110	32,000
City of Phoenix Housing Department	251 West Washington, 4th Floor, Phoenix, AZ 65003	126,000
City of Tucson	PO Box 27210, 310 North Commerce Park Loop, Tucson, AZ 85726–7210.	113,342
Mesa Housing Services Division	415 North Pasadena, Mesa, AZ 85201	92,808
Housing Authority of Maricopa County	2024 North 7th Street, Phoenix, AZ 85006	40,974
City of Chandler	P.O. Box 4008, Mail Stop #101, Chandler, AZ 85244–4008	59,348
City of Tempe Housing Services	21 East Sixth Street, Suite 214, Tempe, AZ 85281	63,000
City of Scottsdale Housing Authority	7522 East 1st Street, Scottsdale, AZ 85251	52,445
Housing Authority of the City of Yuma	420 South Madison Avenue, Yuma, AZ 85364	133,878
Mohave County Housing Authority	PO Box 7000, Kingman, AZ 86402	36,101
Oakland Housing Authority	1619 Harrison Street, Oakland, CA 94612	126,000
Housing Authority of the City of Fresno	P.O. Box 11985, Fresno, CA 93776	244,324

APPENDIX A.—FISCAL YEAR 2004 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER; FAMILY SELF SUFFICIENCY PROGRAM—Continued

Organization	Address/City/State/Zip code	Amount
Housing Authority of the County of Contra Costa	P.O. Box 2759, 3133 Estudillo Street, Martinez, CA 94533	63,000
Housing Authority of County of San Mateo	264 Harbor Boulevard, Building A, Belmont, CA 94002	122,412
Houisng Authority of the County of Merced	405 U/Street, Merced, CA 95340	103,417
Housing Authority of the City of Stanislaus	P.O. Box 581918, 1701 Robertson Road, Modesto, CA 95358–0033.	52,863
Housing Authority of the County of Fresno	P.O. Box 11985, Fresno, CA 93776	247,211
Housing Authority of the County of Monterey	123 Rico Street, Salinas, CA 93907	60,790
City of Benecia Housing Authority	28 Riverhill Drive, Benicia, CA 94510	119,352
Housing Authority of the County of Marin	4020 Civic Center Drive, San Rafael, CA 94903	106,989
Housing Authority of the County of Kings	P.O. Box 355, Hanford, CA 93230	60,956
Houisng Authority of the City of Vallejo	200 Georgia Street, Vallejo, CA 94590	126,000
Housing Authority of the City of San Jose	505 West Julian Street, San Jose, CA 95110–2300	63,000
Housing Authority of the County of Santa Clara	505 W. Julian Street, San Jose, CA 95110–2300	126,000
Fairfield Housing Authority	823–B Jefferson Street, Fairfield, CA 94533	101,406
Housing Authority of the County of Alameda	22941 Atherton Street, Hayward, CA 94541–6633	126,000
Housing Authority of the City of Madera	205 North G Street, Madera, CA 93637	53,433
Housing Authority of the County of Santa Cruz	2160 41st Avenue, Capitola, CA 95010	63,000
Housing Authority of the City of Napa	P.O. Box 660, Napa, CA 94559–0660	126,000
Sonoma County Community Development Commission	1440 Guerneville Road, Santa Rosa, CA 95403	63,000
Vacaville Housing Authority	40 Eldridge Avenue, Suite 2, Vacaville, CA 95688	126,000
Solano County Housing Authority	470 Chadbourne Road, Fairfield, CA 94534	53,025
Housing Authority of the County of Los Angeles	12131 Telegraph Road, Santa Fe Springs, CA 90670	47,282
Housing Authority of the County of Kern	601–24th Street, Bakersfield, CA 93301	106,472
Housing Authority of the City of Upland, CA	1226 North Campus Avenue, Upland, CA 91786	33,824
Housing Authority of the County of San Bernandino	715 East Brier Drive, San Bernardino, CA 92408	115,738
Houisng Authority of the County of Santa Barbara	815 West Ocean Avenue, Lompoc, CA 93436	126,000
Oxnard Housing Authority	435 D Street, Oxnard, CA 93030	59,880
Housing Authority of the City of San Buenaventura	4567 Telephone Road, Suite 100, Ventura, CA 93003	51,763
San Diego Housing Commission	1625 Newton Avenue, San Diego, CA 92113–1038	252,000
Housing Authority of the City of San Luis Obispo	487 Leff Street, San Luis Obispo, CA 93401	48,587
Housing Authority of the City of Madera	521 East 4th Street, Long Beach, CA 90802	244,572
Housing Authority of the City of Santa Barbara	808 Laguna Street, Santa Barbara, CA 93101	126,000
Area Housing Authority of the County of Ventura	1400 West Hillcrest Drive, Newbury Park, CA 91320	63,000
City of Santa Ana	P.O. Box 22030 (M–27), Santa Ana, CA 92702	122,412
Orange County Housing Authority	1770 North Broadway, Santa Ana, CA 92706–2642	122,452
City of Anaheim Housing Authority	201 South Anaheim Boulevard, Suite 201, Anaheim, CA 92805	123,548
Housing Authority of the County of San Diego	3989 Ruffin Road, San Diego, CA 92123	48,659
Culver City Housing Authority	9770 Culver Boulevard, Culver City, CA 90232	62,470
Santa Monica Housing Authority	2121 Cloverfield Boulevard, #131, Santa Monica, CA 90404	63,000
Housing Authority of the City of Glendale	141 North Glendale Avenue, Room 202, Glendale, CA 91206	63,000
City of Norwalk Housing Authority	12035 Firestone Boulevard, Norwalk, CA 90650	60,892
City of Oceanside Community Development Commission	Nevada Street Annex, 300 North Coast Highway, Oceanside, CA 92054.	118,070
Housing Authority of the City of Lakewood	5050 Clark Avenue, Lakewood, CA 90712	47,282
Sacramento City Housing Authority	630 I Street, Sacramento, CA 95814	94,031
Housing Authority for the County of San Joaquin	448 South Center Street, P.O. Box 447, Stockton, CA 95201	101,055
Housing Authority of the County of Yolo	1224 Lemen Avenue, Woodland, CA 95776	46,068
Consolidated Area Housing Authority of Sutter County	448 Garden Highway, P.O. Box 631, Yuba City, CA 95992	48,965
Housing Authority of the City of Redding	777 Cypress Avenue, P.O. Box 496071, Redding, CA 96001	55,315
Roseville Housing Authority	311 Vernon Street, Roseville, CA 95678	63,000
El Dorado County Public Housing Authority	937 Spring Street, Placerville, CA 95667	90,288
City of Pomona Housing Authority	505 South Garey Avenue, Pomona, CA 91769	63,000
San Diego Housing Commission	1625 Newton Avenue, San Diego, CA 92113–1038	63,000
Housing Authority of the County of Contra Costa	P.O. Box 2759, 3133 Estudillo Street, Martinez, CA 94533	52,047
Sacramento City Housing Authority	630 I Street, Sacramento, CA 95814	63,000
Housing Authority of the County of Alameda (HACA)	22941 Atherton Street, Hayward, CA 94541–6633	63,000
Housing Authority of the City of San Buenaventura	4567 Telephone Road, Suite 100, Ventura, CA 93003	51,763
The Housing Authority of the City of Madera	205 North G Street, Madera, CA 93637	48,938
Solano County Housing Authority	470 Chadbourne Road, Fairfield, CA 94534	63,000
Housing Authority of the City & County of Denver	777 Grant Street, Denver, CO 80203	128,190
Housing Authority City of Pueblo	1414 North Santa Fe Avenue, Pueblo, CO 81003	40,323
Housing Authority of the City of Colorado Springs	P.O. Box 1575, Colorado Springs, CO 80901	46,925
Housing Authority of City of Loveland	375 West 37th Street, Suite 200, Loveland, CO 80538	39,936
Fort Collins Housing Authority	1715 West Mountain Avenue, Fort Collins, CO 80521	53,419
Englewood Housing Authority	3460 S. Sherman, Suite 101, Englewood, CO 80113	42,420
Lakewood Housing Authority	480 S. Allison Parkway, Lakewood, CO 80226	37,199
Arvada Housing Authority	8001 Ralston Road, Arvada, CO 80002	37,199
Grand Junction Housing Authority	1011 North 10th Street, Grand Junction, CO 81527	29,051
Housing Authority of the City of Aurora	10745 Kentucky Avenue, Aurora, CO 80012	42,674
Adams County Housing Authority	7190 Colorado Boulevard, Commerce City, CO 80022	88,536
Boulder County Housing Authority	P.O. Box 471, Boulder, CO 80306	58,180

APPENDIX A.—FISCAL YEAR 2004 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER; FAMILY SELF SUFFICIENCY PROGRAM—Continued

Organization	Address/City/State/Zip code	Amount
Jefferson County Housing Authority	6025 W. 38th Avenue, Wheat Ridge, CO 80033	37,199
Colorado Department of Human Services	4020 South Newton Street, Denver, CO 80236	54,194
Colorado Division of Housing	1313 Sherman Street, Room 518, Denver, CO 80203	66,561
Fort Collins Housing Authority	1715 West Mountain Avenue, Fort Collins, CO 80521	55,875
Jefferson County Housing Authority	6025 W. 38th Avenue, Wheat Ridge, CO 80033	37,199
Housing Authority of the City of Loveland	375 West 37th Street, Suite 200, Loveland, CO 80538	39,936
Housing Authority of the City of Bridgeport	150 Highland Avenue, Bridgeport, CT 6604	41,219
Housing Authority of the City of Norwalk	P.O. Box 508, 24½ Monroe Street, Norwalk, CT 06856–0508	63,000
Housing Authority of the City of Meriden	22 Church Street, Meriden, CT 6451	50,144
Housing Authority of the City of Ansonia	36 Main Street, Ansonia, CT 6401	50,890
Connecticut Department of Social Services	25 Sigourney Street, Hartford, CT 6106	63,000
Housing Authority of the City of New Haven	360 Orange Street, New Haven, CT 06511	53,366
Housing Authority of the City of Norwalk	P.O. Box 508, 24½ Monroe Street, Norwalk, CT 06856–0508	63,000
Housing Authority of the City of Ansonia	36 Main Street, Ansonia, CT 06401	50,890
District of Columbia Housing Authority	1133 North Capitol Street, North East, Washington, DC 20002	126,000
Housing Authority of the City of Tampa	1529 Main Street, Tampa, FL 33607	122,381
Housing Authority of the City of Sarasota	1300 Boulevard of the Arts, Sarasota, FL 34236	34,000
West Palm Beach Housing Authority	1715 Division Avenue, West Palm Beach, FL 33407	34,174
Housing Authority of the City of Fort Lauderdale	437 South West 4th Avenue, Fort Lauderdale, FL 33315	61,776
Housing Authority of the City of Lakeland, FL	430 S Harstell Avenue, Lakeland, FL 33815	46,770
Housing Authority of the City of Miami Beach	200 Alton Road, Miami Beach, FL 33139	60,600
Pahokee Housing Authority, Inc.	465 Friend Terrace, Pahokee, FL 33476	24,482
Fort Pierce Housing Authority	707 North Seventh Street, Fort Pierce, FL 34950	63,000
Hialeah Housing Authority	75 East 6th Street, Hialeah, FL 33010	68,214
Clearwater Housing Authority	908 Cleveland Street, Clearwater, FL 33756	45,000
Broward County Housing Authority	3810 Inverrary Blvd., Suite 405, Lauderhill, FL 33319	46,794
Palm Beach County Housing Authority	3432 West 45th Street, West Palm Beach, FL 33407	36,469
Deerfield Beach Housing Authority	425 NW 1 Terrace, Deerfield Beach, FL 33441	15,023
Delray Beach Housing Authority	770 South West 12th Terrace, Delray Beach, FL 33444	45,000
City of Fort Myers Community Redevelopment	1700 Medical Lane, Ft. Myers, FL 33907	89,269
Boca Raton Housing Authority	201 West Palmetto Park Road, Boca Raton, FL 33432	29,795
Hollywood Housing Authority	7350 North Davie Road Ext, Hollywood, FL 33024	19,132
The Housing Authority of the City of Orlando, Florida	300 Reeves Court, Orlando, FL 32801	97,223
Housing Authority of the City of Daytona Beach	118 Cedar Street, Daytona Beach, FL 32114	35,778
Ocala Housing Authority	233 Southwest 3rd Street, Ocala, FL 34474	48,910
City of Pensacola Department of Housing	P.O. Box 12910, Pensacola, FL 32521–0031	29,119
Pasco County Housing Authority	14517 7th Street, Dade City, FL 33523	31,159
Hernando County Housing Authority	20 North Main Street, Room # 205, Brooksville, FL 34601	48,659
Homestead Housing Authority	29355 South Federal Highway, Homestead, FL 33030	53,000
Miami-Dade Housing Agency (MDHA)	1401 Northwest 7th Street, Miami, FL 33125	63,000
Palm Beach County Housing Authority	3432 West 45th Street, West Palm Beach, FL 33407	35,000
Clearwater Housing Authority	908 Cleveland Street, Clearwater, FL 33756	36,000
City of Fort Myers Community Redevelopment	1700 Medical Lane, Ft. Myers, FL 33907	44,000
Augusta Housing Authority	PO Box 3246, 1435 Walton Way, Augusta, GA 30914–3246	96,667
Housing Authority of Savannah	P. O. Box 1179, Savannah, GA 31402	67,963
Housing Authority of the City of Rome, Georgia	800 North Fifth Avenue, P.O. Box1428, Rome, GA 30165	47,622
Housing Authority of the City of Atlanta, Georgia	230 John Wesley Dobbs Avenue, North East, Fulton, GA 30303–2421.	116,738
Macon Housing Authority	P.O. Box 4928, 2015 Felton Avenue, Macon, GA 31208–4928	80,890
Housing Authority, City of Brunswick	P. O. Box 1118, Brunswick, GA 31521–1118	40,859
Housing Authority of the City of Decatur, Georgia	750 Commerce Drive, Suite 110, Decatur, GA 30030	50,397
Housing Authority of the City of Jonesboro	203 Hightower Street, P.O. Box 458, Jonesboro, GA 30236	37,269
Housing Authority of Fulton County	10 Park Place South, South East, Suite 550, Atlanta, GA 30303–2913.	43,864
City of Marietta Georgia	205 Lawrence Street, Marietta, GA 30060	53,943
Housing Authority of Newnan	48 Ball Street, Newnan, GA 30263	30,000
The Housing Authority of the City of Atlanta, Georgia	230 John Wesley Dobbs Avenue, North East, Fulton, GA 30303–2421.	53,713
City and County of Honolulu	Honolulu Hale, Honolulu, HI 96813	96,540
Kauai County Housing Agency	4444 Rice Street, Suite 330, Lihue, HI 96766	57,326
Housing and Community Development Corporation of Hawaii	677 Queen Street, Suite 300, Hawaii, HI 96813	58,387
Kauai County Housing Agency	4444 Rice Street, Suite 330, Lihue, HI 96766	50,908
City of Sioux City Housing Authority	P.O. Box 447, Sioux City, IA 51102	63,000
Des Moines Municipal Housing Agency	100 East Euclid, Suite 101, Des Moines, IA 50313	56,383
Iowa City Housing Authority	410 East Washington Street, Iowa City, IA 52240	63,000
Municipal Housing Agency of Council Bluffs, Iowa	505 South 6th Street, Council Bluffs, IA 51501	45,855
City of Cedar Rapids	1211 6th Street South West, Cedar Rapids, IA 52404	94,910
Waterloo Housing Authority	620 Mulberry Street, Waterloo, IA 50703	49,086
City of Dubuque	1805 Central Avenue, Dubuque, IA 52001	66,163
Municipal Housing Agency of the City of Fort Dodge	700 South 17th Street, Fort Dodge, IA 50501	93,880
Region XII Regional Housing Authority	P.O. Box 663, 108 West 6th Street, Carroll, IA 51401	43,465

APPENDIX A.—FISCAL YEAR 2004 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER; FAMILY SELF SUFFICIENCY PROGRAM—Continued

Organization	Address/City/State/Zip code	Amount
Eastern Iowa Regional Housing Authority	3999 Pennsylvania Avenue, Suite 200, Dubuque, IA 52002	56,512
Central Iowa Regional Housing Authority	950 Office Park Road, Suite 321, West Des Moines, IA 50265	55,284
Mid Iowa Regional Housing Authority	1814 Central Avenue, Fort Dodge, IA 50501–4236	42,640
Northeast Nebraska Joint Housing Agency	507 7th Street Suite 401, Sioux City, IA 51102	71,407
Iowa City Housing Authority	410 East Washington Street, Iowa City, IA 52240	51,240
Boise City Housing Authority	1276 River Street, Suite 300, Boise, ID 83702	103,264
Southwestern Idaho Cooperative Housing Authority	1108 West Finch Drive, Nampa, ID 83651	38,490
Ada County Housing Authority	1276 River Street, Suite 300, Boise, ID 83702	51,632
Idaho Housing and Finance Association	P.O. Box 7899, Boise, ID 83707–1899	171,604
Idaho Housing and Finance Association	P.O. Box 7899, Boise, ID 83707–1899	48,664
Southwestern Idaho Cooperative Housing Authority	1108 West Finch Drive, Nampa, ID 83651	46,322
Ada County Housing Authority	1276 River Street, Suite 300, Boise, ID 83702	51,632
Housing Authority of the City of East St Louis	700 North 20th, East St. Louis, IL 62205	63,000
Chicago Housing Authority	626 West Jackson Boulevard, Chicago, IL 60661	521,796
Peoria Housing Authority	100 South Richard Pryor Place, Peoria, IL 61605	46,795
Springfield Housing Authority	200 North Eleventh Street, Springfield, IL 62703	42,137
Madison County Housing Authority	1609 Olive Street, Collinsville, IL 62234	41,544
Rockford Housing Authority	223 South Winnebago Street, Rockford, IL 61102–2259	177,556
Housing Authority of the County of Cook	310 South Michigan Avenue, 15th Floor, Chicago, IL 60604	48,333
Dupage Housing Authority	711 E. Roosevelt Rd., Wheaton, IL 60187	85,850
Housing Authority of the City of Vincennes	P.O. Box 1636, 501 Hart Street, Vincennes, IN 47591	82,214
Fort Wayne Housing Authority	2013 South Anthony Boulevard, Fort Wayne, IN 46803	75,488
Housing Authority of the City of Muncie	409 East First Street, Muncie, IN 47302	23,735
Housing Authority of the City of Kokomo	P.O. Box 1207, 210 East Taylor Street, Kokomo, IN 46903–1207	39,244
Housing Authority of the City of Hammond	7329 Columbia Circle-West, Hammond, IN 46324–2831	55,975
Housing Authority of the City of New Albany	P.O. Box 11, 500 Scribner Drive, New Albany, IN 47151–0011	40,592
Housing Authority of the City of South Bend	501 Alonzo Watson Drive, South Bend, IN 46601	35,316
Indianapolis Housing Agency	1919 North Meridian Street, Indianapolis, IN 46202–1303	143,834
Housing Authority of the City of Terre Haute	P.O. Box 3086, One Dreiser Sqaure, Terre Haute, IN 47803–0086.	106,935
Housing Authority of the City of Bloomington	P.O. Box 1815, 1007 North Summit Street, Bloomington, IN 47402.	38,254
Housing Authority, City of Elkhart	1396 Benham Avenue, Elkhart, IN 46516–3341	45,095
Housing Authority of the City of Marion	601 South Adams Street, Marion, IN 46953	33,150
Housing Authority of the City of Columbia	799 McClure Road, Columbus, IN 47201–6610	47,196
Knox County Housing Authority	11 Powell Street, Bicknell, IN 47512	30,603
Lafayette Housing Authority	P.O. Box 6687, 100 Executive Drive, Suite J, Lafayette, IN 47905.	38,075
Housing Authority City of Peru	701 East Main Street, Peru, IN 46970	33,514
Housing Authority of the City of Goshen	0204 East Jefferson Street,Suite 6, Goshen, IN 46528	48,495
Indiana Family and Social Services Division of Family and Children.	402 West Washington Street, Post Office Box 6116, Indianapolis, IN 46206–6116.	47,853
Evansville Housing Authority	411 South East 8th Street, Evansville, IN 47713	32,032
Housing Authority of the City of Goshen	0204 East Jefferson Street, Suite 6, Goshen, IN 46528	48,015
The Housing Authority of the City of Bloomington	P.O. Box 1815, 1007 North Summit Street, Bloomington, IN 47402.	35,000
Housing Authority, City of Elkhart	1396 Benham Avenue, Elkhart, IN 46516–3341	37,700
Indianapolis Housing Agency	1919 North Meridian Street, Indianapolis, IN 46202–1303	45,450
City of Wichita Housing Authority	332 North Riverview, Wichita, KS 67203	108,061
Lawrence-Douglas County Housing Authority	1600 Haskell Avenue, Lawrence, KS 66044	32,690
Housing Authority of Olathe, KS	P.O. Box 768, Olathe, KS 66051–0768	47,500
Topeka Housing Authority	2010 Southeast California Avenue, Topeka, KS 66607	40,269
Lawrence-Douglas County Housing Authority	1600 Haskell Avenue, Lawrence, KS 66044	35,568
Louisville Metro Housing Authority	420 S. 8th St., Louisville, KY 40203	364,200
Housing Authority of Somerset	P.O. Box 449, Somerset, KY 42502–0449	39,895
Housing Authority of Cynthiana	P.O. Box 351, 148 Federal Street, Cynthiana, KY 41031	48,437
Campbellsville Housing & Redevelopment Authority	400 Ingram Avenue, P.O. Box 597, Campbellsville, KY 42718	28,720
Pike County Housing Authority	P.O. Box 1468, 142 Trivette Drive, Pikeville, KY 41502	60,600
Lexington-Fayette Urban County Housing Authority	300 West New Circle Road, Lexington, KY 40505	47,602
City of Covington	638 Madison Avenue, 2nd floor, Covington, KY 41011	33,538
Boone County Fiscal Court	2950 Washington Street, Burlington, KY 41005	63,000
City of Paducah Section 8 Housing	P.O. Box 2267, 300 South 5th Street, Room 208, Paducah, KY 42002–2267.	36,351
Barbourville Urban Renewal & Community Development Agency	P.O. Box 84, 339 Court Square, Barbourville, KY 40906	30,820
Cumberland Valley Regional Housing Authority	P.O. Box 806, 338 Court Square, Barbourville, KY 40906	59,404
Appalachian Foothills Housing Agency, Inc.	1214 Riverside Boulevard, Wurtland, KY 41144	46,925
City of Bowling Green/Section 8	P.O. Box 430, 1017 College Street, Bowling Green, KY 42102–0430.	38,781
Kentucky Housing Corporation	1231 Louisville Road, Frankfort, KY 40601	150,307
Housing Authority of Newport, KY	P.O. Box 459, 301 Isabella Street, Newport, KY 41072	44,067
Louisville Metro Housing Authority	420 S. 8th St., Louisville, KY 40203	60,700

APPENDIX A.—FISCAL YEAR 2004 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER; FAMILY SELF SUFFICIENCY PROGRAM—Continued

Organization	Address/City/State/Zip code	Amount
Housing Authority of New Orleans	4100 Touro Street, New Orleans, LA 70122	73,730
Housing Authority of the City of Shreveport	2500 Line Avenue, Shreveport, LA 71104	64,894
Housing Authority of the City of Monroe	300 Harrison Street, Monroe, LA 71201	25,875
Housing Authority of Jefferson Parish	1718 Betty Street, Marrero, LA 70072	105,323
Housing Authority of the City of Natchitoches, LA	536 Culbertson Lane, P.O. Box 754, Natchitoches, LA 71458–0754.	45,450
Calcasieu Parish Housing Department	101 Lakeshore Drive, Suite 602, Lake Charles, LA 70601	56,611
Lowell Housing Authority	P.O. Box 60, 350 Moody Street, Lowell, MA 1853	63,000
Boston Housing Authority	52 Chauncy Street, Boston, MA 2111	122,010
Holyoke Housing Authority	475 Maple Street, Suite One, Holyoke, MA 1040	94,558
Worcester Housing Authority	40 Belmont Street, Worcester, MA 1605	61,847
Medford Housing Authority	121 Riverside Avenue, Medford, MA 2155	47,470
Woburn Housing Authority	59 Campbell Street, Woburn, MA 1801	54,115
Quincy Housing Authority	80 Clay Street, Quincy, MA 2170	109,077
Lynn Housing Authority & Neighborhood Development (LHAND)	10 Church Street, Lynn, MA 1902	57,126
Brockton Housing Authority	45 Goddard Road, Brockton, MA 2301	63,000
Gloucester Housing Authority	P.O. Box 1599, 257 Washington Street, Gloucester, MA 01931–1599.	40,464
Somerville Housing Authority	30 Memorial Road, Somerville, MA 2145	45,454
Braintree Housing Authority	25 Roosevelt Street, Braintree, MA 02184–8663	22,543
Salem Housing Authority	27 Charter Street, Salem, MA 1970	60,522
Acton Housing Authority	PO Box 681, 68 Windsor Avenue, Acton, MA 1720	36,980
Avon Housing Authority	1 Fellowship Circle, Avon, MA 2322	29,981
Methuen Housing Authority	24 Mystic Street, Methuen, MA 1844	43,430
Greenfield Housing Authority	1 Elm Terrace, Greenfield, MA 1301	59,539
North Andover Housing Authority	One Morkeski Meadows, North Andover, MA 1845	26,533
Chelmsford Housing Authority	10 Wilson Street, Chelmsford, MA 1824	43,864
Gardner Housing Authority	116 Church Street, Gardner, MA 01440	48,783
Commonwealth of Massachusetts	100 Cambridge Street, Suite 300, Boston, MA 02114	522,579
Greenfield Housing Authority	1 Elm Terrace, Greenfield, MA 01301	59,500
Quincy Housing Authority	80 Clay Street, Quincy, MA 02170	54,538
Lowell Housing Authority	P.O. Box 60,350 Moody Street, Lowell, MA 01853	55,000
Brockton Housing Authority	45 Goddard Road, Brockton, MA 02301	63,000
Housing Authority of the City of Frederick	209 Madison Street, Frederick, MD 21701	46,975
Housing Commission of Anne Arundel County	7477 Baltimore-Annapolis Boulevard, Glen Burnie, MD 21060	48,995
St Mary's County Housing Authority	P.O. Box 653, 23115 Leonard Hall Drive, Governmental Center, Leonardtown, MD 20650.	42,438
Howard County Housing Commission	6751 Columbia Gateway Drive, 3rd Floor, Columbia, MD 21046	57,522
Harford County	15 South Main Street, Suite 106, Bel Air, MD 21014	53,041
City of Westminster	56 West Main Street, Westminster, MD 21157	42,902
Housing Authority of Washington County	44 North Potomac Street, Hagerstown, MD 21740	29,295
Cecil County Housing Agency	129 East Main Street, Elkton, MD 21921	44,945
Carroll County Board of Commissioners	10 Distillery Drive, Suite 101, Westminster, MD 21157–5194	39,580
Baltimore County, Maryland	6401 York Road, Baltimore, MD 21212	83,390
Queen Annes County Housing Authority	P.O. Box 327, Centreville, MD 21617	41,370
Maryland Department of Housing and Community Development	100 Community Place, Crownsville, MD 21032	35,704
Housing Opportunities Commission	10400 Detrick Avenue, Kensington, MD 20895	353,861
Rockville Housing Enterprises	14 Moore Drive, Rockville, MD 20850	112,880
Housing Authority Prince Georges County	9400 Peppercorn Place, Largo, MD 20774	126,000
Housing Authority of the City of Frederick	209 Madison Street, Frederick, MD 21701	50,000
Howard County Housing Commission	6751 Columbia Gateway Drive, 3rd Floor, Columbia, MD 21046	63,000
Housing Authority Prince Georges County	9400 Peppercorn Place, Largo, MD 20774	63,000
Portland Housing Authority	14 Baxter Boulevard, Portland, ME 4101	49,793
Westbrook Housing Authority	30 Liza Harmon Drive, Westbrook, ME 4092	38,254
City of Caribou Housing Agency	25 High Street, Caribou, ME 4750	45,905
Augusta Housing Authority	33 Union Street, Suite #3, Augusta, ME 4330	30,603
Maine State Housing Authority	353 Wate Street, Augusta, ME 4330	74,065
Saginaw Housing Commission	1803 Norman Street, P.O. Box 3225, Saginaw, MI 48605–3225	83,161
Michigan State Housing Development Authority	P.O. Box 30044, 735 East Michigan Avenue, Lansing, MI 48909	504,000
Grayling Housing Commission	308 Lawndale, P.O. Box 450, Grayling, MI 49738	35,350
Grand Rapids Housing Commission	1420 Fuller Avenue South East, Grand Rapids, MI 49507	108,776
Kent County Housing Commission	741 East Beltine Avenue North East, Grand Rapids, MI 49525–6045.	113,639
Muskegon Housing Commission	1080 Terrace, Muskegon, MI 49442	42,000
Public Housing Agency of the City of Saint Paul	555 North Wabasha Street, Suite 400, Saint Paul, MN 55102	59,711
Housing & Redevelopment of Duluth, Minnesota	P.O. Box 16900, 222 East Second Street, Duluth, MN 55816–0900.	44,905
Housing & Redevelopment Authority of Virginia, MN	P.O. Box 1146, Virginia, MN 55792	55,310
Mankato Economic Development Authority	10 Civic Center Plaza, P.O. Box 3368, Mankato, MN 56002–3368.	50,500
Dakota County Community Development Agency	1228 Town Centre Drive, Eagan, MN 55123	23,435

APPENDIX A.—FISCAL YEAR 2004 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER; FAMILY SELF SUFFICIENCY PROGRAM—Continued

Organization	Address/City/State/Zip code	Amount
Northwest Minnesota Multi-County Housing and Redevelopment Authority.	P.O. Box 128, Mentor, MN 56736	35,882
Metropolitan Council	230 East 5th Street, St. Paul, MN 55101	60,194
Scott County Housing and Redevelopment Authority	323 South Naumkeag Street, Shakopee, MN 55379	50,500
Southeast Minnesota Multi-County Housing & Redevelopment Authority.	134 East 2nd Street, Wabasha, MN 55981	34,314
South Central MN Multi-County HRA	410 Jackson Street, Suite 300, Mankato, MN 56001	36,558
Owatonna Housing and Redevelopment Authority	540 West Hills Circle, Owatonna, MN 55060	32,581
Mankato Economic Development Authority	10 Civic Center Plaza, P.O. Box 3368, Mankato, MN 56002–3368.	50,000
Housing Authority of Kansas City, Missouri	301 East Amour, Kansas City, MO 64111	110,760
Saint Clair County PHA	P.O. Box 125, 106 West Fourth Street, Appleton City, MO 64724	69,343
Housing Authority of the City of Liberty, MO	101 East Kansas, Liberty, MO 64068	42,354
Jasper Couty Public Housing Authority/Ecomonic Security Corp of SW Area.	PO Box 207, 302 Joplin Street, Joplin, MO 64801	26,557
Housing Authority of St Louis County	8865 Natural Bridge, Saint Louis, MO 63121	36,844
Housing Authority of the City of St Charles	1041 Olive, St. Charles, MO 63301	82,466
North East Community Action Corporation	P.O. Box 470, 16 North Court, Bowling Green, MO 63334	61,239
Franklin County Public Housing Agency	P.O. Box 920, Hillsboro, MO 63050	40,905
Phelps County Public Housing Agency	4 Industrial Drive, St. James, MO 65559	51,372
Ripley County Public Housing Agency	3019 Fair Street, Poplar Bluff, MO 63901	32,578
St. Louis Housing Authority	4100 Lindell Boulevard, Saint Louis, MO 63108	48,285
Housing Authority of St. Louis County	8865 Natural Bridge, Saint Louis, MO 63121	26,700
Housing Authority of the City of Liberty, MO	101 East Kansas, Liberty, MO 64068	10,000
Saint Clair County PHA	P.O. Box 125, 106 West Fourth Street, Appleton City, MO 64724	35,625
Mississippi County Public Facilities Board	810 West Keiser, Osceola, MS 72370	69,828
Housing Authority of the City of Biloxi	330 Benachi Avenue, P.O. Box 447, Biloxi, MS 39530	30,882
Tennessee Valley Regional Housing Authority	P.O. Box 1329, Corinth, MS 38835	26,425
Mississippi Regional Housing Authority No IV	P.O. Box 1051, 2845 South Frontage Rpad, Columbus, MS 39703–1051.	36,005
MS Regional Housing Authority No V	P.O. Box 419, 110 Broad Street, Newton, MS 39345	31,303
Mississippi Regional Housing Authority Number 8	P.O. Box 2347, Gulfport, MS 39503–2347	42,844
Mississippi Regional Housing Authority VII	P.O. Box 886, McComb, MS 39649	54,934
Mississippi Regional Housing Authority No VI	P.O. Drawer 8746, Jackson, MS 39284–8746	89,384
North Delta Regional Housing Authority	P.O. Box 1148, #4 East Second Street, Clarksdale, MS 38614	35,159
Housing Authority of the City of Jackson	2747 Livingston Road, Jackson, MS 39283	47,790
Mississippi Regional Housing Authority Number VII	P.O. Box 886, McComb, MS 39649	24,906
Housing Authority of Billings	2415 First Avenue North, Billings, MT 59101	39,058
Helena Housing Authority	812 Abbey Street, Helena, MT 59601	47,852
Missoula Housing Authority	1235 34th Street, Missoula, MT 59801	72,139
Housing Authority of the City of Wilmington, NC	1524 South 16th Street, Wilmington, NC 28402	105,182
Charlotte Housing Authority	1301 South Boulevard, Charlotte, NC 28203	55,347
Housing Authority of the City of High Point	500 East Russell Avenue, P.O. Box 1779, High Point, NC 27260	56,116
Housing Authority of the City of Asheville	165 South French Broad Avenue, Asheville, NC 28801	32,972
Greensboro Housing Authority	P.O. Box 21287, 450 North Church Street, Greensboro, NC 27420–1287.	81,986
Housing Authority of the City of Winston-Salem	901 Cleveland Avenue, Winston-Salem, NC 27101	51,005
Housing Authority of the Town of Laurinburg	P.O. Box 1437, Laurinburg, NC 28353	58,147
Housing Authority of the County of Wake	Post Office Box 399, 100 Shannon Street, Zebulon, NC 27597	35,704
Statesville Housing Authority	110 West Allison Street, Statesville, NC 28677	48,545
Chatham County Housing Authority	P.O. Box 637, 190 Sanford Road, Pittsboro, NC 27312–0637	40,870
Western Carolina Community Action	P.O. Box 685, 526 Seventh Avenue East, Hendersonville, NC 28793.	35,964
Coastal Community Action, Inc.	P.O. Box 729, 303 McQueen Street, Newport, NC 28570	35,481
Eastern Carolina Human Services Agency, Inc.	246 Georgetown Road, P.O. Drawer 796, Jacksonville, NC 28540.	25,599
Economic Improvement Council, Inc.	Post Office Box 549, 712 Virginia Road, Edenton, NC 27932	33,864
Brunswick County Public Housing Agency	PO Box 9, 60 Government Center Drive, North East, Bolivia, NC 28422.	25,352
Sandhills Community Action Program, Inc.	103 Saunders Street, P.O. Box 937, Carthage, NC 28327	31,638
Twin Rivers Opportunities	318 Craven Street, New Bern, NC 28563	42,210
Mountain Projects, Inc.	2251 Old Balsam Road, Waynesville, NC 28786	31,815
Isothermal Planning & Development Commission	P.O. Box 841, 111 West Court Street, Rutherfordton, NC 28139–0841.	33,703
Gastonia Housing Authority	P.O. Box 2398, 340 West Long Avenue, Gastonia, NC 28053–2398.	45,000
Western Carolina Community Action	P.O. Box 685, 526 Seventh Avenue East, Hendersonville, NC 28793.	18,720
Housing Authority of the City of Asheville	165 South French Broad Avenue, Asheville, NC 28801	36,000
Statesville Housing Authority	110 West Allison Street, Statesville, NC 28677	43,215
Housing Authority of the County of Wake	Post Office Box 399, 100 Shannon Street, Zebulon, NC 27597	34,000

APPENDIX A.—FISCAL YEAR 2004 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER; FAMILY SELF SUFFICIENCY PROGRAM—Continued

Organization	Address/City/State/Zip code	Amount
Housing Authority of the City of Grand Forks, North Dakota	1405 1 Avenue North, Grand Forks, ND 58203	83,507
Fargo Housing and Redevelopment Authority	325 Broadway, Box 430, Fargo, ND 58107	39,345
Minot Housing Authority	108 Burdick Expressway East, Minot, ND 58701	40,764
Housing Authority of the City of Omaha	540 South 27 Street, Omaha, NE 68105	82,445
Housing Authority of the City of Lincoln	5700 R Street, Lincoln, NE 68505	57,419
Douglas County Housing Authority	5405 North 107th Plaza, Omaha, NE 68134	40,804
Manchester Housing and Redevelopment Authority	198 Hanover Street, Manchester, NH 3104	42,390
Dover Housing Authority	62 Whittier Street, Dover, NH 03820–2994	55,729
New Hampshire Housing Finance Authority	32 Constitution Drive, Bedford, NH 03110	151,365
Keene Housing Authority	105 Castle Street, Keene, NH 03431	35,370
Housing Authority of the City of Newark	500 Broad Street, 6th Floor, Newark, NJ 07102	62,808
Housing Authority of the City of Perth Amboy	881 Amboy Avenue, P.O. Box 390, Perth Amboy, NJ 08862	99,520
Long Branch Housing Authority	P.O. Box 337, Long Branch, NJ 07740	43,354
Housing Authority of the City of Jersey City	400 U.S. Highway #1, Jersey City, NJ 07306	108,527
Housing Authority of the City of Camden	1300 Admiral Wilson Boulevard, Camden, NJ 08102	38,380
Passaic Housing Authority	333 Passaic Street, Passaic, NJ 07055	37,814
Atlantic City Housing Authority	227 North Vermont Avenue, 17th Floor, Atlantic City, NJ 08401	36,774
Housing Authority of the City of Patterson	60 Van Houten Street, Paterson, NJ 07505	48,199
Housing Authority of the Township of Woodbridge	20 Bunns Lane, Woodbridge, NJ 07095	39,886
Housing Authority of the City of East Orange	160 Halsted Street, East Orange, NJ 07018	63,000
Millville Housing Authority	P.O. Box 803, 309 Buck Street, Millville, NJ 08332	35,195
Housing Authority of the Township of Brick	165 Chambers Bridge Road, Brick, NJ 08723	15,271
Housing Authority of the Town of Dover	215 East Blackwell Street, Dover, NJ 07801	61,074
Housing Authority of the Borough of Fort Lee	1403 Teresa Drive, Fort Lee, NJ 07024	47,945
Monmouth County Public Housing Agency	P.O. Box 3000, Freehold, NJ 07728	126,000
Warren County Housing Authority	415B Front Street, Belvidere, NJ 07823	63,000
Housing Authority of the Borough of Madison	15 Chateau Thierry Avenue, Madison, NJ 07940	52,520
Housing Authority of Gloucester County	100 Pop Moylan Boulevard, Deptford, NJ 08096	37,541
Lakewood Tenants Organization	600 West Kennedy Boulevard, Lakewood, NJ 08701	48,177
County of Burlington	P.O. Box 6000, Mount Holly, NJ 08060	56,256
New Jersey Department of Community Affairs	P.O. Box 051, 101 South Broad Street, Trenton, NJ 08625–0051	693,000
Housing Authority of the Township of Lakewood	317 Sampson Avenue, Lakewood, NJ 08701	63,000
Long Branch Housing Authority	P.O. Box 337, Long Branch, NJ 07740	49,200
Lakewood Tenants Organization	600 West Kennedy Boulevard, Lakewood, NJ 08701	63,000
New Jersey Department of Community Affairs	P.O. Box 051, 101 South Broad Street, Trenton, NJ 08625–0051	62,976
Housing Authority of the City of East Orange	160 Halsted Street, East Orange, NJ 07018	63,000
Housing Authority of Gloucester County	100 Pop Moylan Boulevard, Deptford, NJ 08096	47,177
Atlantic City Housing Authority	227 North Vermont Avenue, 17th Floor, Atlantic City, NJ 08401	49,646
The Housing Authority of the City of Newark	500 Broad Street, 6th Floor, Newark, NJ 07102	63,000
Housing Authority of the City of Jersey City	400 U.S. Highway #1, Jersey City, NJ 07306	63,000
Truth or Consequences Housing Authority	108 South Cedar, Truth or Consequences, NM 87901	43,864
Sante Fe County Housing Authority	52 Camino de Jacobo, Santa Fe, NM 87507	44,081
Bernalillo County	1900 Bridge Boulevard, Southwest, Albuquerque, NM 87105	49,134
Region VI Housing Authority	106 East Reed Street, P.O. Drawer 2057, Roswell, NM 88202	53,025
Region IV Housing Authority Eastern Plains Council of Governments.	418 Main Street, Clovis, NM 88101	26,966
Clovis Housing & Redevelopment Agency Inc.	P.O. Box 1240, 2101 West Grand Avenue, CLOVIS, NM 88102–1240.	32,844
Socorro County Housing Authority	P.O. Box 00, 106 Center Street, Socorro,, NM 87801	22,841
Santa Fe County Housing Authority	52 Camino de Jacobo, Santa Fe, NM 87507	61,500
Bernalillo County	1900 Bridge Boulevard, Southwest, Albuquerque, NM 87105	63,000
Housing Authority of the City of Reno	1525 East 9th Street, Reno, NV 89512–3012	41,757
Housing Authority of the City of Las Vegas	420 North 10th Street, Las Vegas, NV 89101	125,240
Housing Authority of the City of North Las Vegas	1635 Yale Street, North Las Vegas, NV 89030	48,659
Housing Authority of the County of Clark, Nevada	5390 East Flamingo Road, Las Vegas, NV 89122	106,061
The Housing Authority of the County of Clark, Nevada	5390 East Flamingo Road, Las Vegas, NV 89122	63,000
Housing Authority of the City of Las Vegas	420 North 10th Street, Las Vegas, NV 89101	62,000
Housing Authority of the City of North Las Vegas	1635 Yale Street, North Las Vegas, NV 89030	58,504
Monticello Housing Authority	76 Evergreen Drive, Monticello, NY 12701	34,683
North Hempstead Housing Authority	Pond Hill Road, Great Neck, NY 11020	40,804
New York City Department of Preservation and Development	100 Gold Street, New York City, NY 10038	784,793
Town of Babylon	281 Phelps Lane, Room 9, North Babylon, NY 11703–4006	46,715
The City of Poughkeepsie	P.O. Box 300, Poughkeepsie, NY 12602	43,159
Town of Smithtown	99 West Main Street, PO Box 575, Smithtown, NY 11787	46,826
Village of Kiryas Joel Housing Authority	51 Forest Road, Suite 360, Monroe, NY 10950	63,000
New York State Division of Housing & Community Renewal	25 Beaver Street, Room 732, New York, NY 10004	923,509
Syracuse Housing Authority	516 Burt Street, Syracuse, NY 13202	93,603
Albany Housing Authority	200 South Pearl Street, Albany, NY 12202–1834	88,757
Cohoes Housing Authority	100 Manor Sites, Cohoes, NY 12047	36,512
City of Oswego	20 West Oneida Street, 3rd Floor, Oswego, NY 13126	44,408
Schenectady Municipal Housing Authority	375 Broadway, Schenectady, NY 12305	90,115

APPENDIX A.—FISCAL YEAR 2004 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER; FAMILY SELF SUFFICIENCY PROGRAM—Continued

Organization	Address/City/State/Zip code	Amount
Rochester Housing Authority	675 West Main Street, Rochester, NY 14611	109,646
Gloversville Housing Authority	181 West Street, Gloversville, NY 12078	46,349
Ithaca Housing Authority	798 South Plain Street, Ithaca, NY 14850	60,120
Amsterdam Housing Authority	52 Division Street, Amsterdam, NY 12010	47,505
City of Niagara Falls	P.O. Box 69, 1022 Main Street, Niagara Falls, NY 14302	44,927
City of Tonawanda PHA; Belmont Shelter Corp Agent	1195 Main Street, Buffalo, NY 14209	45,792
Town of Colonie	242 Union Street, Schenectady, NY 12305	49,553
Rental Assistance Corporation of Buffalo	470 Franklin Street, Buffalo, NY 14202	102,210
Town of Guilderland	242 Union Street, Schenectady, NY 12305	49,036
Town of Bethlehem	242 Union Street, Schenectady, NY 12305	24,518
City of Utica Section 8 Program	1 Kennedy Plaza, Utica, NY 13502	28,563
Village of Scotia	c/o Joseph E. Mastrianni, Inc., 242 Union Street, Schenectady, NY 12305.	27,112
Town of Rotterdam	242 Union Street, Schenectady, NY 12305	51,622
Village of Corinth	242 Union Street, Schenectady, NY 12305	31,311
Town of Coeymans	c/o Joseph E. Mastrianni, Inc., 242 Union Street, Schenectady, NY 12305.	24,518
Village of Ballston Spa	242 Union Street, Schenectady, NY 12305	31,311
New York State Division of Housing & Community Renewal	25 Beaver Street, Room 732, New York, NY 10004	243,296
Erie County PHA Consortium; Belmont Shelter Corp Agent	Belmont Shelter Corporation, 1195 Main Street, Buffalo, NY 14209.	98,907
Erie County PHA Consortium; Belmont Shelter Corp. Agent	Belmont Shelter Corporation, 1195 Main Street, Buffalo, NY 14209.	40,960
Rochester Housing Authority	675 West Main Street, Rochester, NY 14611	46,121
Rental Assistance Corporation of Buffalo	470 Franklin Street, Buffalo, NY 14202	43,107
Cincinnati Metropolitan Housing Authority	16 West Central Parkway, Cincinnati, OH 45202	209,401
Dayton Metropolitan Housing Authority	P.O. Box 8750, 400 Wayne Avenue, Dayton, OH 45401–8750	75,334
Adams Metropolitan Houisng Authority	401 East Seventh Street, Manchester, OH 45144	37,386
Hamilton County Public Housing Authority	138 East Court Street, Room 507, Cincinnati, OH 45202	126,000
City of Middletown, Ohio	1040 Central Avenue, Middletown, OH 45044–4009	77,528
Youngstown Metropolitan Housing Authority	131 West Boardman Street, Youngstown, OH 44503	83,084
Cuyahoga Metropolitan Housing Authority	2711 Church Street, Cleveland, OH 44113	42,844
Lucas Metropolitan Housing Authority	435 Nebraska Avenue, Toledo, OH 43697–0477	131,633
Akron Metropolitan Housing Authority	100 West Cedar Street, Akron, OH 44307–2502	104,580
Trumbull Metropolitan Housing Authority	4076 Youngstown Road, Southeast, Suite 101, Warren, OH 44484.	63,000
Lorain Metropolitan	1600 Kansas Avenue, Lorain, OH 44052	48,412
Jefferson Metropolitan Housing Authority	815 North 6th Avenue, Steubenville, OH 43952	50,184
Lake Metropolitan Housing Authority	189 First Street, Painesville, OH 44077	74,202
Medina Metropolitan Housing Authority	850 Walter Road, Medina, OH 44256	79,260
Erie Metropolitan Housing Authority	322 Warren Street, Sandusky, OH 44870	48,659
Portage Metropolitan Housing Authority	2832 State Route 59, Ravenna, OH 44266	36,234
Wayne Metropolitan Housing Authority	200 South Market Street, Wooster, OH 44691	41,416
Tuscarawas Metropolitan Housing Authority	134 Second Street Southwest, New Philadelphia, OH 44663	52,474
Hancock Metropolitan Housing Authority	604 Lima Avenue, Findlay, OH 45840	27,939
Columbus Metropolitan Housing Authority	880 East 11th Avenue, Columbus, OH 43211	92,500
Zanesville Metropolitan Housing Authority	407 Pershing Road, Zanesville, OH 43701	104,599
Springfield Metropolitan Housing Authority	437 East John Street, Springfield, OH 45505	42,057
Chillicothe Metropolitan Housing Authority	178 West Fourth Street, Chillicothe, OH 45601	32,643
Cambridge Metropolitan Housing Authority	1100 Maple Court, Cambridge, OH 43725	31,258
Jackson Metropolitan Housing Authority	249 West 13th Street, P.O. Box 619, Wellston, OH 45692	39,453
Allen Metropolitan Housing Authority	600 South Main Street, Lima, OH 45804	37,232
Fayette Metropolitan Housing Authority	121 E East Street, Washington Court House, OH 43160	31,623
Pickaway Metropolitan Housing Authority	176 Rustic Drive, Circleville, OH 43113	33,990
Pike Metropolitan Housing Authority	2626 Shyville Road, Piketon, OH 45661	33,330
Morgan Metropolitan Housing Authority	4580 North Street Route 376, Northwest, McConnelsville, OH 43756.	43,864
Fairfield Metropolitan Housing Authority	1506 Amherst Place, Lancaster, OH 43130	46,359
Logan County Metropolitan Housing Authority	116 North Everett Street, Bellefontaine, OH 43311	72,125
City of Marietta, Ohio PHA	304 Putnam Street, Marietta, OH 45750	43,314
Vinton Metropolitan Housing Authority	PO Box 487, 310 West High Street, McArthur, OH 45651	36,484
Delaware Metropolitan Housing Authority	P.O. Box 1292, 222 Curtis Street, Delaware, OH 43015	44,277
Chillicothe Metropolitan Housing Authority	178 West Fourth Street, Chillicothe, OH 45601	16,400
Vinton Metropolitan Housing Authority	PO Box 487, 310 West High Street, McArthur, OH 45651	36,484
Medina Metropolitan Housing Authority	850 Walter Road, Medina, OH 44256	35,360
Akron Metropolitan Housing Authority	100 West Cedar Street, Akron, OH 44307–2502	47,862
Oklahoma City Housing Authority	1700 Northeast Fourth Street, Oklahoma City, OK 73117–3800	29,645
Housing Authority of the City of Tulsa	415 East Independence, Tulsa, OK 74106	64,617
Housing Authority of the City of Shawnee, OK	P.O. Box 3427, 601 West 7th Street, Shawnee, OK 74802–3427	48,691
City of Norman Housing Authority	700 North Berry Road, Norman, OK 73069	42,933
Housing Authority of the City of Stillwater	807 South Lowry, Stillwater, OK 74074	41,734

APPENDIX A.—FISCAL YEAR 2004 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER; FAMILY SELF SUFFICIENCY PROGRAM—Continued

Organization	Address/City/State/Zip code	Amount
Oklahoma Housing Finance	100 Northwest 63rd Street, Oklahoma City, OK 73126	44,440
Housing Authority of Clackamas County	PO Box 1510, 13930 S. Gain Street, Oregon City, OR 97045–0510.	62,355
Housing Authority of Portland	135 South West Ash Street, Portland, OR 97204	222,561
Housing Authority of Douglas County	902 W Stanton, Roseburg, OR 97470	53,025
Housing Authority of Lincoln County	P.O. Box 1470, Newport, OR 97365	34,612
Housing and Community Services Agency of Lane County	177 Day Island Road, Eugene, OR 97401	102,625
Housing Authority & Urban Renewal Agency of Polk County dba West Valley HA.	PO Box 467, 204 SW Walnut Avenue, Dallas, OR 97338–0467	32,086
Housing Authority of the City of Salem	P.O. Box 808, 360 Church Street South East, Salem, OR 97308–0808.	124,490
Marion County Housing Authority	PO Box 14500, 555 Court Street Northeast, Salem, OR 97309	48,695
Housing Authority of Jackson County	2251 Table Rock Road, Medford, OR 97501	92,033
Housing Authority of Yamhill County	PO Box 865, 414 NE Evans Street, McMinnville, OR 97128	98,754
Linn-Benton Housing Authority	1250 Queen Avenue South East, Albany, OR 97322	113,684
Housing Authority of Washington County	111 North East Lincoln, Suite 200–L, Hillsboro, OR 97124	97,152
Mid Columbia Housing Authority	312 Court Street, Suite #419, The Dalles, OR 97058	43,571
Housing Authority of Malheur County	959 Fortner Street, Ontario, OR 97914	22,249
Northeast Oregon Housing Authority	P.O. Box 3357, La Grande, OR 97850	80,078
Central Oregon Regional Housing Authority	405 SW 6th Street, Redmond, OR 97756	39,996
Mid Columbia Housing Authority	312 Court Street, Suite #419, The Dalles, OR 97058	35,412
Housing Authority of the City of Salem	P.O. Box 808, 360 Church Street South East, Salem, OR 97308–0808.	62,248
Housing Authority of Yamhill County	PO Box 865, 414 NE Evans Street, McMinnville, OR 97128	43,818
Montgomery County Housing Authority	104 West Main Street, Suite #1, Norristown, PA 19401	39,125
Housing Authority of the City of York	P.O. Box 1963, 31 South Broad Street, York, PA 17405	39,119
Housing Authority of the County of Delaware	1855 Constitution Avenue, P.O. Box 100, Woodlyn, PA 19094	41,400
Housing Authority of the County of Dauphin	501 Mohn Street, Steelton, PA 17113	78,632
Housing Authority of the City of Lancaster	325 Church Street, Lancaster, PA 17602–4201	98,568
Housing Authority of the County of Chester	30 West Barnard Street, Suite 2, West Chester, PA 19382	51,434
Sunbury Housing Authority	P.O. Box 458, 705 Market Street, Sunbury, PA 17801	12,120
Housing Authority of Northumberland County	50 Mahoning Street, Milton, PA 17847	31,912
Williamsport Housing Authority	605 West Fourth Street, Williamsport, PA 17701	35,542
Housing/Redevelopment Authority of Cumberland County	114 North Hanover Street, Carlisle, PA 17013	38,009
Lancaster County Housing Authority	150 North Queen Street, Suite 110, Lancaster, PA 17603–3562	49,284
Adams County Housing Authority	40 East High Street, Gettysburg, PA 17325	45,450
Housing Authority City of Pittsburgh	200 Ross Street, Suite 9, Pittsburgh, PA 15219	84,024
Housing Authority of the County of Butler	114 Woody Drive, Butler, PA 16001	42,844
Fayette County Housing Authority	624 Pittsburgh Road, Uniontown, PA 15401	40,400
Westmoreland County Housing Authority	P.O. Box 223, R.D. #6, South Greengate Road, Greensburg, PA 15601.	81,112
Allegheny County Housing Authority	625 Stanwix Street, 12th Floor, Pittsburgh, PA 15222	44,500
Housing Authority of the County of Butler	114 Woody Drive, Butler, PA 16001	42,844
Lancaster County Housing Authority	150 North Queen Street, Suite 110, Lancaster, PA 17603–3562	49,284
Housing Authority City of Pittsburgh	200 Ross Street, Suite 9, Pittsburgh, PA 15219	50,000
Housing Authority of the County of Dauphin	501 Mohn Street, Steelton, PA 17113	37,240
Municipality of Juana Diaz	P.O. Box 1409, Juana Diaz, PR 00795–1409	21,125
Municipality of Aguas Buenas	P.O. Box 128, Aguas Buenas, PR 00703–0128	22,398
Municipality of Luquillo	14 DE Julio Street, PR, 00773	63,000
Municipio De Hormigueros	1 Mateo Fajardo Street, Hormigueros, PR 00660–0097	19,927
Providence Housing Authority	100 Broad Street, Providence, RI 2903	120,342
Woonsocket Housing Authority	679 Social Street, Woonsocket, RI 02895	10,507
Town of Cumberland Housing Authority	573 Mendon Road, Suite 4, Cumberland, RI 02864	44,034
Coventry Housing Authority	14 Manchester Circle, Coventry, RI 02816	46,733
North Providence Housing Authority	945 Charles Street, North Providence, RI 02904	13,130
Housing Authority of the Town of East Greenwich	146 First Avenue, East Greenwich, RI 02818	63,000
Narragansett Housing Authority	25 Fifth Avenue, P.O. Box 388, Narragansett, RI 02882	73,447
Rhode Island Housing and Mortgage Finance Corporation	44 Washington Street, Providence, RI 02903	46,277
North Providence Housing Authority	945 Charles Street, North Providence, RI 02904	40,000
Housing Authority of the City of Charleston	550 Meeting Street, Charleston, SC 29403	46,024
Housing Authority of the City of Columbia, South Carolina	1917 Harden Street, Columbia, SC 29204–1015	37,123
Housing Authority of the City of Spartanburg, SC	PO Box 2828, 325 South Church Street, Spartanburg, SC 29306	38,246
Housing Authority of the City of Greenville, South Carolina	P.O. Box 10047, Greenville, SC 29603	31,428
Beaufort Housing Authority	P.O. Box 1104, 1009 Prince Street, Beaufort, SC 29901	24,479
Housing Authority of Florence	P.O. Box 969, 400 East Pine Street, Florence, SC 29503	39,000
Housing Authority of the City of Greenwood	Post Office Box 973, Greenwood, SC 29648	36,331
Myrtle Beach Housing Authority	P.O. Box 2468, 605 10th Avenue North, Myrtle Beach, SC 29578	77,790
Housing Authority of Anderson	1335 East River Street, Anderson, SC 29624	36,384
Housing Authority of the City of North Charleston	2170 Ashley Phosphate Road, Suite 700, North Charleston, SC 29406.	40,000
Housing & Redevelopment Authority of Marlboro County	P.O. Box 969, 400 East Pine Street, Florence, SC 29503	23,230

APPENDIX A.—FISCAL YEAR 2004 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER; FAMILY SELF SUFFICIENCY PROGRAM—Continued

Organization	Address/City/State/Zip code	Amount
South Carolina State Housing Finance & Development Authority	919 Bluff Road, Columbia, SC 29201	42,019
Beaufort Housing Authority	P.O. Box 1104, 1009 Prince Street, Beaufort, SC 29901	31,273
The Housing Authority of the City of Spartanburg, SC	PO Box 2828, 325 South Church Street, Spartanburg, SC 29306	42,000
The Housing Authority of the City of Charleston	550 Meeting Street, Charleston, SC 29403	44,467
Housing Authority of the City of Columbia, South Carolina	1917 Harden Street, Columbia, SC 29204–1015	37,122
Sioux Falls Housing and Redevelopment Commission	630 South Minnesota Avenue, Sioux Falls, SD 57104–4825	70,192
Knoxville Community Development Corporation	901 North Broadway, P.O. Box 3550, Knoxville, TN 37917	84,766
Chattanooga Housing Authority	P.O. Box 1486, 505 W.M.L. King Jr. Boulevard, Chattanooga, TN 37401.	108,450
Kingsport Housing & Redevelopment Authority	P.O. Box 44, Kingsport, TN 37662	37,354
Crossville Housing Authority	67 Irwin Street, Crossville, TN 38555	48,215
Oak Ridge Housing Authority	10 Van Hicks Lane, Oak Ridge, TN 37830	34,525
East Tennessee Human Resource Agency, Inc	9111 Cross Park Drive, D–100, Knoxville, TN 37923	32,817
Southeast Tennessee Human Resource Agency	P.O. Box 909, 1012 Resource Road, Dunlap, TN 37327	45,044
Memphis Housing Authority	701 Adams Avenue, Memphis, TN 38105	45,501
Jackson Housing Authority	125 Preston Street, Jackson, TN 38301	86,798
Metropolitan Development & Housing Agency	701 South 6th Street, Nashville, TN 37206	123,747
Tennessee Housing Development Agency	404 James Robertson Parkway, Suite 1114, Nashville, TN 37243–0900.	154,485
Kingsport Housing & Redevelopment Authority	P.O. Box 44, Kingsport, TN 37662	37,354
Metropolitan Development & Housing Agency	701 South 6th Street, Nashville, TN 37206	51,322
Housing Authority of the City of El Paso	5300 Paisano Drive, El Paso, TX 79905	81,422
Housing Authority of the City of Fort Worth	1201 E. 13th Street, Fort Worth, TX 76102	42,232
Housing Authority of the City of Dallas, Texas	3939 North Hampton, Dallas, TX 75212	281,360
Housing Authority of the City of Waco	P.O. Box 978, 4400 Cobbs Drive, Waco, TX 76703–0978	69,639
Housing Authority of the City of Lubbock	1708 Avenue G, Lubbock, TX 79401	28,008
Beaumont Housing Authority	4925 Concord, Beaumont, TX 77708	40,400
Housing Authority of the City of Plano	1111 Avenue H., Building A, Plano, TX 75074	34,681
Tarrant County	100 East Weatherford, Suite 500, Fort Worth, TX 76196	42,527
Arlington Housing Authority	501 West Sanford Street, Suite 20, Arlington, TX 76011	102,182
City of Garland Housing Agency	210 Carver, Suite 201B, Garland, TX 75040	48,876
Housing Authority of the City of Anthony	P.O. Box 1710, 1007 Franklin Street, Anthony, TX 79821	36,875
City of Longview Housing/Community Development	P.O. Box 1952, Longview, TX 75606	57,189
Deep East Texas Council of Governments	274 East Lamar Street, Jasper, TX 75951	61,873
Midland County Housing Authority	1710 Edwards, Midland, TX 79701	40,005
Texas Council of Governments	1117 Gallagher Drive, Sherman, TX 75090	36,688
Housing Authority of the City of Houston	2640 Fountain View Drive, Houston, TX 77057	76,532
Galveston Housing Authority	4700 Broadway, Galveston, TX 77551	46,949
Brazos Valley Council of Governments	P.O. Drawer 4128, Bryan, TX 77805	147,003
Montgomery County Housing Authority	1022 McCall, Conroe, TX 77301	36,562
Housing Authority of the City of Austin	1640 East 2nd Street, Austin, TX 78702	83,113
Housing Authority of the City of San Antonio	818 S. Flores Street, San Antonio, TX 78204	123,434
Housing Authority of the City of Brownsville	P.O. Box 4420, 2606 Boca Chica Boulevard, Brownsville, TX 78523.	71,682
Laredo Housing Authority	2000 San Francisco Ave., Laredo, TX 78040	45,054
Mission Houisng Authority	906 East 8th Street, Mission, TX 78572	30,603
Pharr Housing Authority	211 West Audrey, Pharr, TX 78577	28,563
City of San Marcos Housing Authority	1201 Thorpe Lane, San Marcos, TX 78666	38,380
Housing Authority of the City of Kingsville	1000 West Corral, Kingsville, TX 78363	51,170
Housing Authority of Travis County	2200 East Martin Luther King Boulevard, Austin, TX 78702	35,704
Cameron County Housing Authority	P.O. Box 5806, 65 Castellano Circle, Brownsville, TX 78521	82,862
City of Amarillo	509 East 7th, P.O. Box 1971, Amarillo, TX 79105–1971	34,262
Pharr Housing Authority	211 West Audrey, Pharr, TX 78577	29,000
The Housing Authority of City of Dallas, Texas	3939 North Hampton, Dallas, TX 75212	54,000
Beaumont Housing Authority	4925 Concord, Beaumont, TX 77708	37,000
Mission Housing Authority	906 East 8th Street, Mission, TX 78572	29,000
Tarrant County	100 East Weatherford, Suite 500, Fort Worth, TX 76196	63,000
Housing Authority of the City of Ogden	2661 Washington Boulevard, Ogden, UT 84401	54,307
Housing Authority of the County of Salt Lake	3595 South Main Street, Salt Lake City, UT 84115	86,620
Housing Authority of Salt Lake City	1776 South West Temple, Salt Lake City, UT 84115	96,354
Cedar City Houisng Authority	364 South 100 East, Cedar City, UT 84720	33,330
Cedar City Housing Authority	364 South 100 East, Cedar City, UT 84720	17,000
Newport News Redevelopment & Housing Authority	P.O. Box 797, Newport News, VA 23607	92,124
Norfolk Redevelopment and Housing Authority	201 Granby Street, Norfolk, VA 23510	98,173
Richmond Redevelopment Housing Authority	P.O. Box 26887, Richmond, VA 23261	62,620
Roanoke Redevelopment and Housing Authority	2624 Salem Turnpike, Northwest, Roanoke, VA 24017	48,480
Chesapeake Redevelopment & Housing Authority	1468 South Military Highway, Chesapeake, VA 23320	47,557
Hampton Redevelopment and Housing Authority	Post Office Box 280, Hampton, VA 23669	44,139
Petersburgh Redevelopment and Housing Authority	P.O. Box 311, 128 South Sycamore Street, Petersburgh, VA 23803–0311.	43,430
Waynesboro Redevelopment and Housing Authority	1700 New Hope Road, Waynesboro, VA 22980	36,810

APPENDIX A.—FISCAL YEAR 2004 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER; FAMILY SELF SUFFICIENCY PROGRAM—Continued

Organization	Address/City/State/Zip code	Amount
City of Virginia Beach	2424 Courthouse Drive, Municipal Center, Bldg. 18–A, Virginia Beach, VA 23456.	46,498
James City County	5248 Olde Towne Road, Suite 10, Williamsburg, VA 23188	45,650
Virginia Housing Development Authority	601 South Belvidere Street, Richmond, VA 23220	186,561
Fairfax County Redevelopment and Housing Authority	3700 Pender Drive, Suite 300, Fairfax, VA 22030	63,000
County of Loudon	102 Heritage Way, North East, Suite 103, Leesburg, VA 20176	63,000
Prince William County Office of Housing and Community Development.	15941 Donald Curtis Drive, Suite 112, Woodbridge, VA 22191	52,293
Danville Redevelopment and Housing Authority	651 Cardinal Place, Danville, VA 24541	34,000
Harrisonburg Redevelopment and Housing Authority	P.O. Box 1071, Harrisonburg, VA 22803	22,628
Richmond Redevelopment Housing Authority	P.O. Box 26887, Richmond, VA 23261	63,000
Newport News Redevelopment & Housing Authority	P.O. Box 797, Newport News, VA 23607	35,763
Burlington Housing Authority	65 Main Street, Burlington, VT 05401	95,794
Vermont State Housing Authority	One Prospect Street, Montpelier, VT 05602	178,109
Seattle Housing Authority	120 6th Avenue North, PO Box 19028, Seattle, WA 98109–1028	201,321
King County Housing Authority	600 Andover Park West, Tukwila, WA 98188	126,000
Housing Authority of the City of Bremerton	P.O. Box 4460, 110 Russell Road, Bremerton, WA 98312	41,574
Housing Authority of the County of Clallam	2603 South Francis Street, Port Angeles, WA 98362	44,357
Housing Authority of the City of Tacoma	902 South L Street, Tacoma, WA 98405	63,000
Housing Authority of the City of Everett	3107 Colby Avenue, P.O. Box 1547, Everett, WA 98201	69,468
City of Longview Housing Authority	1207 Commerce Avenue, Longview, WA 98632	35,357
Housing Authority City of Kelso	1415 South Tenth, Kelso, WA 98626	22,394
Housing Authority of Island County	7 Northwest 6th Street, Coupeville, WA 98239–3400	45,471
Bellingham Whatcom County Housing Authority	P.O. Box 9701, 208 Unity Street, Bellingham, WA 98227–9701	39,394
Kitsap Consolidated Housing Authority	9307 Bayshore Drive, Northwest, Silverdale, WA 98383	95,531
Housing Authority of Snohomish Authority	12625 4th Avenue West, Suite 200, Everett, WA 98204	52,564
Housing Authority of Thurston County	503 West Fourth Avenue, Olympia, WA 98501–1009	126,000
Pierce County Housing Authority	603 South Polk Street, Tacoma, WA 98444	63,000
Spokane Housing Authority	55 West Mission, Suite 104, Spokane, WA 99201	102,842
Housing Authority of Chelan & the City of Wenatchee	1555 South Methow, Wenatchee, WA 98801	15,302
Housing Authority of Jefferson County	5210 Kuhn Street, Port Townsend, WA 98368	36,724
Housing Authority of the City of Vancouver	2500 Main Street, Suite 200, Vancouver, WA 98660	49,543
Pierce County Housing Authority	603 South Polk Street, Tacoma, WA 98444	63,000
Housing Authority of the County of Clallam	2603 South Francis Street, Port Angeles, WA 98362	44,357
Housing Authority of Chelan & the City of Wenatchee	1555 South Methow, Wenatchee, WA 98801	15,301
Seattle Housing Authority	120 6th Avenue North, PO Box 19028, Seattle, WA 98109–1028	60,120
Dunn County Housing Authority	1421 Stout Road, Menomonie, WI 54751	35,580
Housing Authority of Racine County	837 Main Street, Racine, WI 53403	18,262
Brown County Housing Authority	111 North Jefferson Street, Room 608, Green Bay, WI 54301–5026.	100,139
City of Kenosha Housing Authority	625 52nd Street, Room 98, Kenosha, WI 53140–3480	46,200
City of Appleton Housing Authority	925 W. Northland Avenue, Appleton, WI 54914	37,222
Walworth County Housing Authority	35 South Wisconsin Street, Elkhorm, WI 53121	35,076
Oconto County Housing Authority	1201 Main Street, Oconto, WI 54153	54,075
Brown County Housing Authority	111 North Jefferson Street, Room 608, Green Bay, WI 54301–5026.	47,740
Charleston Housing	P.O. Box 86, Charleston, WV 25321–0086	33,370
Housing Authority of the City of Tacoma	902 South L Street, Tacoma, WA 98405	63,000
Housing Authority of the City of Vancouver	2500 Main Street, Suite 200, Vancouver, WA 98660	49,543
Housing Authority of the County of Clallam	2603 South Francis Street, Port Angeles, WA 98362	88,714
Housing Authority of Thurston County	503 West Fourth Avenue, Olympia, WA 98501–1009	126,000
King County Housing Authority	600 Andover Park West, Tukwila, WA 98188	126,000
Kitsap Consolidated Housing Authority	9307 Bayshore Drive, Northwest, Silverdale, WA 98383	95,531
Pierce County Housing Authority	603 South Polk Street, Tacoma, WA 98444	126,000
Seattle Housing Authority	120 6th Avenue North, PO Box 19028, Seattle, WA 98109–1028	261,441
Spokane Housing Authority	55 West Mission, Suite 104, Spokane, WA 99201	102,842
Brown County Housing Authority	111 North Jefferson Street, Room 608, Green Bay, WI 54301–5026.	147,879
City of Appleton Housing Authority	925 W. Northland Avenue, Appleton, WI 54914	37,222
City of Kenosha Housing Authority	625 52nd Street, Room 98, Kenosha, WI 53140–3480	46,200
Dunn County Housing Authority	1421 Stout Road, Menomonie, WI 54751	35,580
Housing Authority of Racine County	837 Main Street, Racine, WI 53403	18,262
Oconto County Housing Authority	1201 Main Street, Oconto, WI 54153	54,075
Walworth County Housing Authority	35 South Wisconsin Street, Elkhorm, WI 53121	35,076
Benwood Housing Authority	2200 Marshall Street, Benwood, WV 26031	35,849
Charleston Housing	P.O. Box 86, Charleston, WV 25321–0086	33,370
Greenbrier County Housing Authority	Rt 2, Box 142, Lewisburg, WV 24901	30,027
Housing Authority of Mingo County	P.O. Box 2239, Williamson, WV 25661	31,193
Housing Authority of the City of Buckhannon	23½ Hinkle Drive, Buckhannon, WV 26201	26,390
The Fairmont and Morgantown Housing Authority	P.O. Box 2738, 103 12th Street, Fairmont, WV 26554	53,025
The Huntington West Virginia Housing Authority	300 West 7th Avenue, Huntington, WV 25701	35,519

[FR Doc. E6–17723 Filed 10–23–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4665–N–34]

Conference Call Meeting of the Manufactured Housing Consensus Committee

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of upcoming meeting via conference call.

SUMMARY: This notice sets forth the schedule and proposed agenda of the upcoming meeting of the Manufactured Housing Consensus Committee (the Committee) to be held via telephone conference. The meeting is open to the general public, which may participate by following the instructions below.

DATES: The conference call meeting will be held on Monday, November 13, 2006, from 11 a.m. to 3 p.m. (EST).

ADDRESSES: Information concerning the conference call can be obtained from the Department of Housing and Urban Development (HUD), Office of Manufactured Housing Programs. Interested parties can link onto HUD's Web site for Manufactured Housing for instructions concerning how to participate, and for contact information for the conference call, in the section marked ''Business'' ''Manufactured Housing Consensus Committee Information''. The link can be found at: *http://www.hud.gov/offices/hsg/sfh/mhs/mhshome.cfm.*

Alternately, interested parties may contact Elsie Draughn of the Office of Manufactured Housing at (202) 708–6423 (this is not a toll-free number) for conference call information.

FOR FURTHER INFORMATION CONTACT: William W. Matchneer III, Associate Deputy Assistant Secretary, Office of Regulatory Affairs and Manufactured Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–6409 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Notice of this meeting is provided in accordance with Sections 10(a) and (b) of the Federal Advisory Committee Act (5 U.S.C. App. 2) and 41 CFR 102–3.150. The Manufactured Housing Consensus Committee was established under Section 604(a)(3) of the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended, 42 U.S.C. 5403(a)(3). The Committee is charged with providing recommendations to the Secretary to adopt, revise, and interpret manufactured home construction and safety standards and procedural and enforcement regulations, and with developing and recommending proposed model installation standards to the Secretary.

The purpose of the conference call meeting is to permit the Committee, at its request, to continue its review, and to take action on further recommendations to the Secretary regarding proposed changes to Title 24, Code of Federal Regulations, Part 3280 (Manufactured Home Construction and Safety Standards (the Standards)).

Tentative Agenda

A. Roll Call.

B. Welcome and Opening remarks.

C. Full Committee meeting to take actions on proposed changes to 24 CFR Part 3280 (the Standards) and Truss Test Protocol.

D. Adjournment.

Dated: October 18, 2006.

Brian D. Montgomery,

Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. E6–17722 Filed 10–23–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications.

SUMMARY: The following applicants have applied for scientific research permits to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended.

DATES: To ensure consideration, written comments must be received on or before November 24, 2006.

ADDRESSES: Written comments should be submitted to the Chief, Endangered Species Division, Ecological Services, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act. Documents will be available for public inspection, by appointment only, during normal business hours at the U.S. Fish and Wildlife Service, 500 Gold Ave., SW., Room 4102, Albuquerque, New Mexico. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Chief, Endangered Species Division, (505) 248–6920.

SUPPLEMENTARY INFORMATION:

Permit No. TE–837751

Applicant: Bureau of Reclamation, Phoenix, Arizona.

Applicant requests an amendment to an existing permit to conduct presence/absence surveys and enhance propagation for Gila Chub (*Gila intermedia*) within Arizona.

Permit No. TE–820337

Applicant: Apache-Sitegreaves National Forests, Springerville, Arizona.

Applicant requests an amendment to an existing permit to conduct presence/absence surveys for the following species within Arizona: Mexican gray wolf (*Canis lupus baileyi*), lesser long-nosed bat (*Leptonycteris curasoae yerbabuenae*), Colorado pikeminnow (*Ptychocheilus lucius*), and Gila Chub (*Gila intermedia*).

Permit No. TE–826091

Applicant: Bureau of Land Management, Phoenix, Arizona.

Applicant requests an amendment to an existing permit to conduct presence/absence surveys and enhance propagation for Gila Chub (*Gila intermedia*) within Arizona.

Permit No. TE–105165

Applicant: U.S. Army—White Sands Missile Range, White Sands Missile Range, New Mexico.

Applicant requests an amendment to an existing permit to survey, collect, and monitor Todsen's pennyroyal (*Hedeoma todsenii*) within New Mexico.

Authority: 16 U.S.C. 1531, *et seq.*

Dated: October 12, 2006.

Christopher Todd Jones,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. E6–17746 Filed 10–23–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by November 24, 2006.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: Jose C. Dominguez, Tampa, FL, PRT–134124.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Theodore M. Fowler Jr., Raleigh, NC, PRT–135130.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: James E. Young, McGehee, AR, PRT–137378.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Marine Mammals

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing marine mammals (50 CFR part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: Larry R. McNeill, Sandy, UT, PRT–133557.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Southern Beaufort Sea polar bear population in Canada for personal, noncommercial use.

Dated: October 6, 2006.

Lisa J. Lierheimer,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E6–17715 Filed 10–23–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits for marine mammals.

SUMMARY: The following permits were issued.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on the dates below, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Fish and Wildlife Service issued the requested permits subject to certain conditions set forth therein.

MARINE MAMMALS

Permit number	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
126547	Dennis C. Miller	71 FR 43207 July 31, 2006	September 27, 2006.
126555	Roger Hosfelt	71 FR 43207 July 31, 2006	September 27, 2006.
126629	Stacee L. Frost	71 FR 43207, July 31, 2006	September 28, 2006.

Dated: October 6, 2006.

Lisa J. Lierheimer,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E6–17719 Filed 10–23–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Aquatic Nuisance Species Task Force Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Aquatic Nuisance Species (ANS) Task Force. The meeting is open to the public. The meeting topics are identified in the **SUPPLEMENTARY INFORMATION** section.

DATES: The ANS Task Force will meet from 8 a.m. to 5 p.m. on Tuesday, November 7 and Wednesday, November 8, and from 8 a.m. to 12 p.m. on Thursday, November 9, 2006.

ADDRESSES: The ANS Task Force meeting will be held at the Holiday Inn Arlington, 4610 North Fairfax Drive, Arlington, VA 22203; (703) 243–9800. Minutes of the meeting will be maintained by the Chief, Division of Environmental Quality, U.S. Fish and Wildlife Service, Suite 322, 4401 North Fairfax Drive, Arlington, Virginia 22203, and will be made available for public inspection during regular business hours, Monday through Friday. The minutes can also be viewed on the ANS Task Force Web site at: *http://anstaskforce.gov/meetings.php.*

FOR FURTHER INFORMATION CONTACT: Scott Newsham, ANS Task Force Executive Secretary, at (703) 358–1796, or by e-mail at *Scott_Newsham@fws.gov*.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), this notice announces meetings of the ANS Task Force. The ANS Task Force was established by the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990.

Topics to be covered during the ANS Task Force meeting include: responding to invasive species, invasive species related databases, ANS Task Force Strategic Plan, and Committee and Regional Panel reports. The agenda and other related meeting information can be viewed on the ANS Task Force Web site at: *http://anstaskforce.gov/meetings.php.*

Dated: October 16, 2006.

Mamie A. Parker,

Co-Chair, Aquatic Nuisance Species Task Force, Assistant Director—Fisheries & Habitat Conservation.

[FR Doc. E6–17710 Filed 10–23–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Draft Management and Control Plan for Asian Carps in the United States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability and request for comments.

SUMMARY: This notice announces the availability of the draft ''Management and Control Plan for Asian Carps in the United States.'' This draft document was prepared by the Asian Carp Working Group of the Aquatic Nuisance Species Task Force. We are seeking public comments on this draft document. Comments received will be considered during the preparation of the final national management and control plan, which will guide cooperative and integrated management of Asian carps in the United States.

DATES: Submit your comments on the draft ''Management and Control Plan for Asian Carps in the United States'' by December 26, 2006.

ADDRESSES: The draft document is available from the Executive Secretary, Aquatic Nuisance Species Task Force, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Arlington, VA 22203; FAX (703) 358–1800. It also is available on our webpage at *http://www.anstaskforce.gov/*. Comments may be hand-delivered, mailed, or sent by fax to the address listed above. You may send comments by e-mail to: *AsianCarpPlan@fws.gov*.

FOR FURTHER INFORMATION CONTACT: Scott Newsham, Executive Secretary, Aquatic Nuisance Species Task Force, at *scott_newsham@fws.gov* or (703) 358–1796.

SUPPLEMENTARY INFORMATION: There are many carps native to Asia, including seven that have been introduced to the United States. For the purposes of this document the term ''Asian carps'' refers to four species: black carp (*Mylopharyngodon piceus*), bighead carp (*Hypophthalmichthys nobilis*), grass carp (*Ctenopharyngodon idella*), and silver carp (*H. molitrix*). Feral bighead, grass, and silver carps have all established reproducing populations in several major rivers of the United States. To date, there have been six confirmed collections of adult black carp by commercial fishers in the United States and unconfirmed reports of repeated captures of adult black carp in the Mississippi River and its tributaries over the past 13 years. There have been no collections of black carp eggs and larvae or observations of spawning.

The Aquatic Nuisance Species Task Force, which is authorized by the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701 *et seq.*), and the U.S. Fish and Wildlife Service organized an Asian Carp Working Group (Working Group) to develop a comprehensive national Asian carp management and control plan. The Working Group agreed that the desired endpoint of the plan is the extirpation of Asian carps in the wild, except for non-reproducing grass carp within planned locations [i.e., areas where nuisance aquatic vegetation can be controlled using planned introductions of sterile (triploid) fish contained within a designated area]. The Working Group was charged with developing a plan that first and foremost protects our Nation's natural resources. The Working Group was also charged with developing solutions that would allow for a viable aquaculture industry when implemented. Therefore, a framework for the responsible use of domestic stocks of Asian carp is described throughout the plan. It is in this context that the Working Group developed strategies and recommendations that address seven goals to protect the Nation's natural resources. This collaborative process was highly successful and nearly all issues were resolved. The Working Group developed 46 strategies and 129 recommendations to manage and control Asian carps (see Table I, page viii, of the draft plan). However, two issues were not resolved within the Working Group. In-depth discussions for these two issues are presented in Recommendation 3.1.15.10 (page 50), ''Use of triploid black carp on aquaculture facilities,'' and Recommendation 3.1.18.1 (page 59), ''Commercial, domestic transport of live farm-raised bighead and grass carps,'' in the draft plan. The discussion presented for each of these two issues includes a series of management questions that remain to be resolved before strategies and recommendations can be formulated to effectively address these unresolved issues.

Risk levels for potential pathways of introduction were proposed based on both the likelihood for an introduction to occur and the potential for adverse

ecological and/or economic effects (see Table 3.1.1, page 30, of the draft plan). However, the Working Group did not agree on the use of pathway risk levels or the majority of the proposed risk levels. To effectively implement the plan, the Working Group recommends (see Recommendation 3.7.1.3, page 111, in the draft plan) additional efforts to integrate, sequence, and prioritize recommendations from among all sections of this plan.

We are seeking public comments on the two unresolved issues mentioned above, as well as all aspects of the draft plan. Submit your comments by the date listed under **DATES** using one of the methods listed under **ADDRESSES**.

Authority: The authority for this action is the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701 *et seq.*).

Dated: September 25, 2006.

Everett Wilson,

Acting Co-Chair, Aquatic Nuisance Species Task Force, Acting Assistant Director—Fisheries & Habitat Conservation.

[FR Doc. E6–17794 Filed 10–23–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–055–5853–EU]

Proposed Information Collection—Alternative Land-Use Planning Scenarios for the Upper Las Vegas Wash Conservation Transfer Area

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Withdraw of Notice Published on October 12, 2006.

SUMMARY: The Bureau of Land Management Las Vegas Field Office is withdrawing the **Federal Register** Notice published on October 12, 2006 on the Proposed Information Collection Notice of Request for Comments. This Proposed Information Collection Notice of Request for Comments will be published at a later date.

FOR FURTHER INFORMATION CONTACT: You may contact Gayle Marrs-Smith, Project Manager at (702) 515–5156, or by e-mail at *Gayle_Marrs-Smith@nv.blm.gov.*

Dated: October 11, 2006

Juan Palma,

Field Manager, Las Vegas Field Office.

[FR Doc. 06–8819 Filed 10–23–06; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–EI; WYW147286]

Wyoming: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), the Bureau of Land Management (BLM) received a petition for reinstatement from E. C. Yegen for competitive oil and gas lease WYW147286 for land in Campbell County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Branch of Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $163 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW147286 effective February 1, 2006, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. BLM has not issued a valid lease affecting the lands.

Pamela J. Lewis,

Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. E6–17810 Filed 10–23–06; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–EI; WYW147281]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), the Bureau of Land Management (BLM) received a petition for reinstatement from E. C. Yegen for competitive oil and gas lease WYW47281 for land in Campbell County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Branch of Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $163 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW147281 effective February 1, 2006, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. BLM has not issued a valid lease affecting the lands.

Pamela J. Lewis,

Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. E6–17816 Filed 10–23–06; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–926–07–1420–BJ–TRST]

Montana: Filing of Plat of Survey

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of Filing of Plat of Survey.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM Montana State Office, Billings, Montana, 30 days from the date of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Martin Bonorden, Cadastral Surveyor, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate

Drive, Billings, Montana, 59101–4669, telephone (701) 227–7730 or (406) 896–5009.

SUPPLEMENTARY INFORMATION: This survey, executed at the request of the Crow Agency, through the Rocky Mountain Regional Director, Bureau of Indian Affairs, Billings, Montana, was necessary to determine Trust and Tribal land.

The lands we surveyed are:

Principal Meridian, Montana

T. 4 S., R. 32 E.

The plat, in 1 sheet, representing the dependent resurvey of a portion of the subdivisional lines and the adjusted original meanders of the former left bank of the Big Horn River, downstream, through sections 14, 15, 22, and 23, the subdivision of sections 14, 15, and 22, and the survey of the meanders of the present left bank of the Big Horn River, downstream, through sections 14, 15, and 22, and certain division of accretion lines in sections 14, 15, and 22, Township 4 South, Range 32 East, Principal Meridian, Montana, was accepted September 28, 2006.

We will place copies of the plat, in 1 sheet, and related field notes we described in the open files. They will be available to the public as a matter of information.

If BLM receives a protest against this survey, as shown on the plat, in 1 sheet, prior to the date of the official filing, we will stay the filing pending our consideration of the protest.

We will not officially file this plat, in 1 sheet, until the day after we have accepted or dismissed all protests and they have become final, including decisions or appeals.

Dated: October 18, 2006.

Thomas M. Deiling,

Chief Cadastral Surveyor, Division of Resources.

[FR Doc. E6–17748 Filed 10–23–06; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before October 7, 2006. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St., NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service,1201 Eye St., NW, 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by November 8, 2006

John W. Roberts,

Acting Chief, National Register/National Historic Landmarks Program.

ILLINOIS

Cook County

Austin Town Hall Park Historic District, Roughly bounded by West Lake St., N. Central Ave., N. Parkside Ave., and West Race Ave., Chicago, 06001015

Cook County Hospital Administration Building, 1835 W. Harrison St., Chicago, 06001017

Goldblatt Bros. Department Store, 4700 S. Ashland Ave., Chicago, 06001016

Patten, Charles H., House, 117 N. Benton St., Palatine, 06001018

Woman's Club of Evanston, 1702 Chicago Ave., Evanston, 06001020

La Salle County

Hotel Kaskaskia Buildings (Boundary Increase), 217 Marquette St. and 629 Second St., LaSalle, 06001023

Lake County

Lake Bluff Upton Commercial Historic District, 20, 31–113 E. Scranton, 26–40 (even) E. Center Ave., and 550 N. Sheridan, Lake Bluff, 06001021

McLean County

Cedar Crest Additon Historic District, Roughly bounded by Constitutional Trail, Division St., Highland Ave. and Fell Ave., Normal, 06001022

Montgomery County

Brown Shoe Company Factory, 212 S. State St., Litchfield, 06001019

St. Clair County

Curtiss—Wright Hangars 1 and 2, 2200 Vector Dr., 2300 Vector Dr., Cahokia, 06001024

MICHIGAN

Delta County

Minneapolis Shoal Light Station, (Light Stations of the United States MPS) In northern Green Bay 6.6 mi. S of Peninsula Point, NW of Lake Michigan, Bay de Noc, 06001025

Livingston County

Galloway, John H. and Martha Durfee, House, 216 Higgins St., Howell, 06001030

Muskegon County

Muskegon South Breakwater Light, (Light Stations of the United States MPS) At south breakwater end in Lake Michigan, 0.4 mi. SW of Muskegon Lake entry channel, Muskegon, 06001026

Tuscola County

First Presbyterian Church, 6505 Church St., Cass City, 06001029

MISSOURI

Greene County

Franklin Springfield Motor Co. Building, 312–314 E. Olive St., Springfield, 06001027

NEW YORK

Dutchess County

Maxon Mills Feed Elevator, Main St. and Furnace Bank Rd., Wassaic, 06001028

OREGON

Josephine County

Siskiyou Smokejumper Base, Smokejumper Way, 4 mi. SE of Cave Junction off OR 199, Cave Junction, 06001035

Lane County

Rice Apartments, (Residential Architecture of Eugene, Oregon MPS) 360 W. 13th Ave., Eugene, 06001031

Thompson—Roach Building, (Eugene West University Neighborhood MPS) 544–550 E. 13th Ave., Eugene, 06001032

Multnomah County

Grand Central Public Market, (Portland Eastside MPS) 808 SE. Morrison St., Portland, 06001034

Sellwood Branch YMCA, 1436 SE. Spokane St., Portland, 06001033

SOUTH CAROLINA

Florence County

Florence Public Library, 319 S. Irby St., Florence, 06001041

TENNESSEE

Coffee County

Wilkinson—Keele House, 313 S. Ramsey St., Manchester, 06001040

Davidson County

Phillips, Thomas W., Memorial, 1101 19th Ave. S., Nashville, 06001036

Marion County

Kelly's Ferry Road and Cemetery, (Chickamauga-Chattanooga Civil War-Related Sites in Georgia and Tennessee MPS) US 41 near Kelly's Ferry Church of God, Guild, 06001037

Van Buren County

Rocky River Crossing and Road, Rocky River and a continuation of Pleasant Hill Cemetery Rd., Spencer, 06001038

Wilson County

Williamson Chapel CME Church Complex, (Rural African-American Churches in Tennessee MPS) 1576 Needmore Rd., Greenlawn, 06001039

VIRGINIA

Bedford County

Pleasant View, 5050 Bellevue Rd., Forest, 06001043

Rockingham County

Longs Chapel, 1334B Fridley's Gap Rd., Harrisonburg, 06001042

WEST VIRGINIA

Berkeley County

Mason, James, House and Farm, Address Restricted, Hedgesville, 06001044

Mingo County

Williamson Historic District, Roughly bounded by the Norfolk and Western RR, Pritchard, Polpar, Park, Mulberry and Elm Sts., Williamson, 06001045

Monongalia County

Lynch Chapel United Methodist Church, Jct. of Cty Rd. 41 and Cty Rd. 32, Morgantown, 06001046

A request for *removal* has been made for the following resources:

IOWA

Clay County

Ross, Seymour, Round Barn (Iowa Round Barns: The Sixty Year Experiment TR) Off IA 374 Clay vicinity, 86001422

TENNESSEE

Blounty County

Alcoa South Plant Office (Blount County MPS) Hall Rd. Alcoa, 89001070

Rutherford County

Jenkins, Hiram, House 1556 Gresham Ln. Murgreesboro, 89000504

Williamson County

Liberty School (Williamson County MRA) Liberty Church Rd., 1/4 mi. N of Concord Rd., Brentwood vicinity, 88000317

[FR Doc. E6–17732 Filed 10–23–06; 8:45 am]

BILLING CODE 4312–51–P

INTERNATIONAL BOUNDARY AND WATER COMMISSION UNITED STATES AND MEXICO

United States Section; Notice of Availability of a Draft Final Environmental Assessment and Finding of No Significant Impact for Improvements to the Mission and Common Levee Systems, in the Lower Rio Grande Flood Control Project, Located in Hidalgo County, TX

AGENCY: United States Section, International Boundary and Water Commission (USIBWC), United States and Mexico.

ACTION: Notice of Availability of Draft Environmental Assessment (EA) and Finding of No Significant Impact (FONSI).

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Final Regulations (40 CFR parts 1500 through 1508); and the United States Section's Operational Procedures for Implementing Section 102 of NEPA, published in the **Federal Register** September 2, 1981, (46 FR 44083); the United States Section hereby gives notice that the Draft Environmental Assessment and Finding of No Significant Impact for *Improvements to the Mission and Common Levee Systems,* in the Lower Rio Grande Flood Control Project, located in Hidalgo County, Texas are available.

FOR FURTHER INFORMATION CONTACT: Gilbert G. Anaya, Supervisory Environmental Protection Specialist; Environmental Management Division; United States Section, International Boundary and Water Commission; 4171 N. Mesa, C–100; El Paso, Texas 79902. Telephone: (915) 832–4702, e-mail: *gilbertanaya@ibwc.state.gov.*

SUPPLEMENTAL INFORMATION:

Background

The USIBWC is authorized to construct, operate, and maintain any project or works projected by the United States of America on the Lower Rio Grande Flood Control Project (LRGFCP) as authorized by the Act of the 74th Congress, Sess. I Ch. 561 (H.R. 6453), approved August 19, 1935 (49 Stat. 660), and codified at 22 U.S.C. Section 277, 277a, 277b, 277c, and Acts amendatory thereof and supplementary thereto. The LRGFCP was constructed to protect urban, suburban, and highly developed irrigated farmland along the Rio Grande delta in the United States and Mexico.

The USIBWC, in cooperation with the TPWD, prepared this Draft Environmental Assessment (Draft EA) for the proposed action of raising the Mission and Common Levee Systems located in Hidalgo County, Texas to improve flood control. These two adjacent levee systems are part of the LRGFCP that extends approximately 180 miles from the Town of Peñitas in south Texas to the Gulf of Mexico. The Mission Levee extends approximately 12 miles along the Rio Grande, downstream from the Town of Peñitas. The Common Levee System, approximately 5.3 miles long, consists of the Common Levee and Anzalduas Dike, which connects the Common Levee to Anzalduas Dam.

Proposed Action

The Proposed Action would increase flood containment capacity of the Mission and Common Levee Systems to meet the 3-foot freeboard design criterion for flood protection. Height increases between 2 and 6 feet are typically needed to reach the design freeboard value throughout the Mission Levee System. For the Common Levee, typical increases in levee height range from 3 to 8 feet, and for the Anzalduas Dike, from 0 to 4 feet. The increase in levee height will also expand the levee footprint by lateral extension of the structure.

Along with the increase in levee height, structural improvements will also be required for levee segments throughout the downstream reach of the Mission Levee and the Common Levee System where seepage is a potential problem. These improvements will consist of either a slurry cutoff barrier or a riverside impermeable liner.

Alternatives to the Proposed Action

A *No Action Alternative* was evaluated for the Mission and Common Levee Systems. This alternative will retain the existing configuration of the two systems, as designed over 30 years ago, and the current level of protection currently associated with this system. Under severe storm events, current containment capacity may be insufficient to fully control Rio Grande flooding, with risks to personal safety and potential property damage.

Summary of Findings

Pursuant to National Environmental Policy Act (NEPA) guidance (40 Code of Federal Regulations 1500–1508), The President's Council on Environmental Quality issued regulations for NEPA implementation which included provisions for both the content and procedural aspects of the required Environmental Assessment. The USIBWC completed an EA of the potential environmental consequences of raising the Mission and Common Levee Systems to meet current requirements for flood control. The EA, which supports this Finding of No Significant Impact, evaluated the Proposed Action and No Action Alternative.

Mission Levee System Evaluation

No Action Alternative

The No Action Alternative was evaluated as the single alternative action to the Proposed Action. The No Action Alternative will retain the current configuration of the Mission Levee System, with no impacts to biological and cultural resources, land use, community resources, or environmental health issues. In terms of flood protection, however, current containment capacity under the No Action Alternative may be insufficient to fully control Rio Grande flooding under severe storm events, with

associated risks to personal safety and property.

Proposed Action

Biological Resources. Improvements to the Mission Levee corridor would affect *plant communities* through excavation and fill activities. Impacts would occur on the levee sidewalls where fill will be added, and within the expanded levee footprint area. Potential acreage removed and impacts to four vegetation communities identified along the Mission Levee project area are as follows: (1) removal of up to 34.2 acres of *mesquite-acacia woodland*, in various stages of succession, along the levee corridor, (approximately 19 percent of thorn woodland located within the levee right-of-way); (2) removal of up to 77.5 acres of *herbaceous vegetation* along the levee corridor; impacts would be short-term as herbaceous vegetation would be rapidly re-established and is represented primarily by Bufflegrass, an invasive species; (3) up to 1.1 acres of *wetlands/riparian communities* will be modified along an irrigation intake channel; these communities are represented primarily by phragmites—arundo emergent and semi-emergent plants; and (4) minimum removal of *agricultural lands* is anticipated, less than 0.5 acre.

Thorn woodlands and wetlands along the Mission levee corridor provide the best quality wildlife habitat. Some wildlife species may utilize these areas as transit corridors, but that usage is likely limited. Natural resource areas with quality wildlife habitat adjacent to the riverside of the Mission Levee system occupy approximately 33 percent of the 12.1 miles total length, as follows: 2.4 miles along the Lower Rio Grande Valley (LRGV) National Wildlife Refuge; 1.3 miles along the Bentsen-Rio Grande Valley State Park; and 0.3 mile along the Chihuahua Woods Preserve. Based on regional distribution, 26 Threatened and Endangered (T&E) species habitat could be found in the project area. Improvements to the existing levee system are not likely to affect those habitats. Consultation with TPWD and the U.S. Fish & Wildlife Service (USFWS) will be conducted to schedule construction activities to minimize potential impacts on those species and their habitat.

Twenty-one *wetlands* and open water areas that met criteria as jurisdictional waters of the United States were identified within the Mission Levee right-of-way (ROW). None of these wetlands will be directly impacted by the levee expansion project. A single wetlands area, located outside the current levee ROW but within the potential levee expansion area, will be impacted by construction activities at the new levee crossing at the Peñitas Pumping Plant intake channel. Construction activities may remove approximately 1 acre from wetlands that flank the irrigation intake channel.

Cultural Resources. According to a preliminary cultural resources evaluation conducted in support of the EA preparation, improvements to the Mission Levee System have a potential to impact *historic archaeological materials* at six locations, as well as a known prehistoric archaeological resource (41HG143). No areas considered to be high probability for the occurrence of unknown prehistoric archaeological sites were identified in previous studies or during the current archival research. However, areas of historic occupation sometimes contain a prehistoric component and should also be considered as possible locations for prehistoric archaeological sites because European settlers also considered prehistorically utilized landform surfaces (stable surfaces) as desirable living surfaces. Four *historic-age resources* exist within the current Mission Levee ROW and are engineering elements of the levee system. These resources will likely be redesigned to some extent by proposed modifications to the levee, or may undergo a moderate visual impact by encroachment of the expanded levee footprint. One additional historical resource, the La Lomita Chapel, is located near the Mission Levee project within a National Register of Historic Places District, but outside the potential effects area.

Water Resources. Improvements to the levee system will increase flood containment capacity to control the design flood event as evaluated by hydraulic modeling. A minimum change in floodwater surface elevation, less than 1 inch, is anticipated as a result of the levee height increase for the Mission Levee System. Levee footprint expansion will not affect water bodies with exception of the new crossing at the Peñitas Pumping Plant intake channel.

Land Use. The approximate 113-acre expansion of the Mission Levee will impact mostly herbaceous vegetation dominated by invasive species (approximately 78 acres). Up to 34 acres of thorn woodland, a higher quality habitat, will also be removed. Removal of agricultural lands will be limited to 0.5 acre. Construction impacts along sections of the Riverside Subdivision of Madero will be temporarily affected by construction activities.

Community Resources. Improvements to the Mission Levee System, individually or in combination with the Common Levee System, represent an influx of federal funds into Hidalgo County and will have a positive local economic impact; however, the benefit will be limited to the construction period and represents less than 0.2 percent of the annual county employment, income, and sales values. No adverse impacts to disproportionately high minority and low-income populations were identified. Minimum utilization of public roads during construction is anticipated; a temporary increase in access road use will be required for equipment mobilization to staging areas.

Environmental Health Issues. Improvements to the Mission Levee System represent less than 1 percent of the Hidalgo County annual emissions inventory for five air criteria pollutants. Moderate increases in ambient noise levels will result from excavation and fill activities, with no transient or long-term exposures above threshold values for adverse impacts. No waste storage or disposal sites were identified within the expanded Mission Levee footprint and its vicinity.

Indirect Impacts. No significant indirect impacts of the Mission Levee Improvements were identified.

Best Management Practices and Mitigation. Engineering design measures will include optimization of the levee expansion alignment to the extent possible to avoid impact to sensitive vegetation and natural resources management areas, including Bentsen-Rio Grande Valley State Park and the LRGV National Wildlife Refuge. Mitigation for cultural resources, as required, will be coordinated between the Texas Historic Commission and the USIBWC. Levee expansion will be rerouted across the Edinburg irrigation intake channel to protect the historic-age Peñitas pumping station. Prior to construction, site surveys will determine the type (herbaceous or woody) vegetation to be removed and separation between construction corridor(s) and boundaries of wetlands.

During construction, best management practices (BMP) include development of a storm water pollution prevention plan to minimize impacts of receiving waters, including use of sediment barriers and soil wetting to minimize erosion. To the extent possible, construction activities will be scheduled to occur outside the migratory bird nesting season.

Following construction, expanded levees and the construction corridor will be promptly revegetated using native herbaceous or wooded indigenous species, as agreed with the

natural resources management agency where the corridor is located. The USIBWC, in coordination with the USFWS, is developing approximately 30 acres of new wetlands as mitigation for levee improvements throughout the LRGFCP.

Common Levee System Proposed Action and Alternatives

No Action Alternative

The No Action Alternative was evaluated as the single alternative action to the Proposed Action. The No Action Alternative will retain the current configuration of the Common Levee System, with no impacts to biological and cultural resources, land use, and soil, community resources, or environmental health. In terms of flood protection, however, current containment capacity under the No Action Alternative may be insufficient to fully control Rio Grande flooding under severe storm events, with associated risks to personal safety and property.

Proposed Action

Biological Resources. The Common Levee System corridor runs primarily through agricultural areas. Approximately 1 mile of the total length of the 5.2-mile levee system runs along two units of the LRGV National Wildlife Refuge. No thorn woodland will be removed along the levee expansion, while 3.9 acres of low density woodland will be removed along Anzalduas Dike. The 3.9 acres along the Anzalduas Dike represent 10 percent of the total area of thorn woodland within the Common Levee System (including both the Common Levee and the Anzalduas Dike areas). A single wetlands/open water area located within the Common Levee ROW is located outside the 100-foot buffer area for the proposed levee expansion, and will not be affected by construction activities. Removal of T&E species habitat, including woodland habitat suitable for the ocelot, would be minimal along the Common Levee System corridor. For other species whose habitat is potentially present near the levee corridor, construction activities will be scheduled to minimize impacts to those species and their habitat.

Cultural Resources. No areas of high probability for the occurrence of unknown prehistoric archaeological sites have been reported along the Common Levee System, and none were identified during the current archival research conducted in preparation of the EA. Preliminary investigations indicate that two historic-age resources exist within the current Mission Levee ROW and are engineering elements of the levee system. These resources will undergo minor modifications at the levee tie-ins, or may undergo a moderate visual impact by the encroachment of the expanded levee footprint.

Water Resources. The Common Levee System was evaluated with the updated hydraulic model to determine if changes to water surface elevations will be affected by the proposed improvements to the levee system. As in the case of the Mission Levee System, a minimum change in floodwater surface elevation, less than 1 inch, is anticipated as a result of the levee height increase.

Land Use. The proposed expansion of the Common Levee System will occur entirely within the ROW. No urban development is located near the proposed levee expansion area. The expansion will remove approximately 62 acres of herbaceous vegetation along the Common Levee and approximately 6 acres of herbaceous vegetation along the Anzalduas Dike. Alignment of the levee expansion will be adjusted to minimize removal of established wooded vegetation along the Gabrielson and Cottam Units of the LRGV National Wildlife Refuge. Anzalduas Dam County Park, where Anzalduas Dike is located, will be temporarily affected during project construction. No impacts to agricultural lands are anticipated.

Community Resources. Improvements to the Common Levee System, individually or in combination with the Mission Levee System, represent an influx of federal funds into Hidalgo County that will have a positive local economic impact; however, the benefit will be limited to the construction period and represents less than 0.2 percent of the annual county employment, income, and sales values. No adverse impacts to disproportionately high minority and low-income populations were identified. Minimum utilization of public roads during construction is anticipated; a temporary increase in use of the access road will be required for equipment mobilization to staging areas.

Environmental Health Issues. Construction of the Common Levee System represents less than 1 percent of the Hidalgo County annual emissions inventory for five air criteria pollutants. Moderate increases in ambient noise levels will result from excavation and fill activities, with no transient or long-term exposures above threshold values for adverse impacts. No waste storage or disposal sites were identified within the expanded levee footprint and its vicinity.

Best Management Practices and Mitigation. Engineering design measures will include optimization of the levee expansion alignment to the extent possible to avoid impact to sensitive vegetation and natural resources management areas within the LRGV National Wildlife Area. Mitigation for cultural resources, as required, will be coordinated between the Texas Historic Commission and the USIBWC. During construction, BMPs include development of a storm water pollution prevention plan to minimize impacts of receiving waters, including use of sediment barriers and soil wetting to minimize erosion. Following construction, expanded levees and the construction corridor will be promptly revegetated using native herbaceous indigenous species.

Availability

Single hard copies of the Draft Environmental Assessment and Finding of No Significant Impact may be obtained by request at the above address. Electronic copies may also be obtained from the USIBWC Home Page at *www.ibwc.state.gov.*

Dated: October 17, 2006.

Susan Daniel,

General Counsel.

[FR Doc. E6–17680 Filed 10–23–06; 8:45 am]

BILLING CODE 7010–01–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–570]

In the Matter of Certain Flash Memory Chips, Flash Memory Systems, and Products Containing Same; Notice of a Commission Determination Not To Review an Initial Determination Terminating the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') of the presiding administrative law judge (''ALJ'') terminating the above-captioned investigation under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). The Commission has terminated the investigation based on a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., telephone 202–708–2310, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC

20436. Copies of all 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) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on May 16, 2006, based on a complaint filed on April 11, 2006, by Lexar Media, Inc. (''Lexar'') of Fremont, California. 71 FR 28387. The complaint alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain flash memory chips, flash memory systems, and products containing same by reason of infringement of claims 1 and 2 of U.S. Patent No. 6,801,979; claims 1–7 of U.S. Patent No. 6,397,314; and claims 1–13, 15, and 16 of U.S. Patent No. 6,978,342. The complaint named three respondents: Toshiba Corporation of Japan; Toshiba America, Inc. of New York, New York; and Toshiba America Electronic Components, Inc. of Irvine, California (collectively the ''respondents''). The complaint further alleged that an industry in the United States exists as required by subsection (a)(2) of section 337. On August 31, 2006, Acclaim Innovations, LLC, which had become the assignee of the asserted patents, was permitted to intervene in the investigation as a co-complainant.

On September 29, 2006, the co-complainants and all respondents filed a joint motion to terminate the investigation on the basis of a settlement agreement. The Commission Investigative Attorney filed a response in support of the motion on October 10, 2006.

The ALJ issued the subject ID on October 11, 2006, granting the joint motion for termination. No party petitioned for review of the ID pursuant to 19 CFR 210.43(a), and the Commission found no basis for ordering a review on its own initiative pursuant to 19 CFR 210.44. The Commission has determined not to review the ID.

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 210.21(a)(2), (b) and 210.42(h)(3) of the Commission's Rules of Practice and Procedure.

By order of the Commission.

Issued: October 18, 2006.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E6–17770 Filed 10–23–06; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1103–NEW]

Office of Community Oriented Policing Services; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: COPS Interoperable Communications Technology Program (ICTP) Assessment.

The Department of Justice (DOJ) Office of Community Oriented Policing Services (COPS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The revision of a currently approved information collection is published to obtain comments from the public and affected agencies.

The purpose of this notice is to allow for 60 days for public comment until December 26, 2006. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Rebekah Dorr, Department of Justice Office of Community Oriented Policing Services, 1100 Vermont Avenue, NW., Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Proposed collection; comments requested.

(2) *Title of the Form/Collection:* COPS Interoperable Communications Technology Program (ICTP) Assessment.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* None. U.S. Department of Justice Office of Community Oriented Policing Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Law enforcement and partner public safety agencies that are recipients of COPS ICTP grants from Fiscal Years 2003–2006.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:*

It is estimated that approximately 400 respondents across a three-year assessment period can provide responses within 90 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 600 total burden hours.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: October 18, 2006.

Lynn Bryant,

Department Clearance Officer, PRA, Department of Justice.

[FR Doc. E6–17754 Filed 10–23–06; 8:45 am]

BILLING CODE 4410–AT–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0007]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: Release and Receipt of Imported Firearms, Ammunition and Implements of War.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until December 26, 2006. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Kevin Boydston, Chief, Firearms and Explosives Import Branch, 244 Needy Road, Martinsburg, WV 25401.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Release and Receipt of Imported Firearms, Ammunition and Implements of War.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 6A (5330.3C). Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. *Other:* Business or other for-profit, Not-for-profit institutions. The data provided by this information collection request is used by ATF to determine if articles imported meet the statutory and regulatory criteria for importation and if the articles shown on the permit application have been actually imported.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 20,000 respondents will complete a 24 minute form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 8,000 annual total burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: October 18, 2006.

Lynn Bryant,

Department Clearance Officer, Department of Justice.

[FR Doc. E6–17753 Filed 10–23–06; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

United States Parole Commission

Public Announcement; Pursuant to the Government in the Sunshine Act (Pub. L. 94–409) [5 U.S.C. Section 552b]

TIME AND DATE: 10 a.m., Thursday, October 26, 2006.

PLACE: 5550 Friendship Blvd., Fourth Floor, Chevy Chase, MD 20815.

STATUS: Open.

MATTERS TO BE DISCUSSED: The following matters have been placed on the agenda for the open Parole Commission meeting:

1. Approval of Minutes of Previous Commission Meeting.

2. Reports from the Chairman, Commissioners, Chief of Staff, and Section Administrators.

3. Proposed Amendment to 28 CFR Section 2.25 regarding the use of video conferencing for probable cause hearings.

4. Proposed Amendment to 28 CFR Section 2.66 regarding the use of the advance consent procedure in the expedited revocation process.

5. Discussion of District of Columbia Crime Emergency.

6. Discussion of Process for Cases Designated Original Jurisdiction.

AGENCY CONTACT: Thomas W. Hutchison, Chief of Staff, United States Parole Commission. (301) 492–5990.

Dated: October 19, 2006.

Rockne Chickinell,

General Counsel, U.S. Parole Commission.

[FR Doc. 06–8870 Filed 10–20–06; 11:50 am]

BILLING CODE 4410–31–M

DEPARTMENT OF JUSTICE

United States Parole Commission

Public Announcement; Pursuant To The Government In the Sunshine Act (Pub. L. 94–409) [5 U.S.C. Section 552b]

DATE AND TIME: 11:30 a.m., Thursday, October 26, 2006.

PLACE: U.S. Parole Commission, 5550 Friendship Boulevard, 4th Floor, Chevy Chase, Maryland 20815.

STATUS: Closed Meeting.

MATTERS TO BE CONSIDERED: The following matters will be considered during the closed portion of the Commission's Business Meeting:

Petitions for reconsideration involving five original jurisdiction cases pursuant to 28 CFR 2.27.

AGENCY CONTACT: Thomas W. Hutchison, Chief of Staff, United States Parole Commission, (301) 492–5990.

Dated: October 19, 2006.

Rockne Chickinell,

General Counsel, U.S. Parole Commission.

[FR Doc. 06–8871 Filed 10–20–06; 11:50 am]

BILLING CODE 4410–31–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Social, Behavioral, and Economic Sciences; Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Social, Behavioral, and Economic Sciences (#1171).

Date/Time: November 16, 2006; 8:30 a.m. to 5 p.m. November 17, 2006; 8:30 a.m. to 1 p.m.

Place: Holiday Inn Arlington Hotel, 4610 North Fairfax Drive, Arlington, VA 22230 (Clarendon Banquet Room).

Type of Meeting: Open.

Contact Person: Mr. Tyrone Jordan, Office of the Assistant Director, Directorate for Social, Behavioral, and Economic Sciences, National Science Foundation, 4201 Wilson Boulevard, Room 905, Arlington, VA 22230, 703–292–8741.

Summary Minutes: May be obtained from contact person listed above.

Purpose of Meeting: To provide advice and recommendations to the National Science Foundation on major goals and policies pertaining to Social, Behavioral and Economic Sciences Directorate programs and activities.

Agenda: November 16, 2006, Meeting for New Advisory Committee Members. Introduction of New Advisory Committee Members and Staff, Review of Minutes, and Directorate Updates. Human and Social Dynamics (HSD) Priority Area Update. Division of Behavioral and Cognitive Sciences (BCS) COV.

November 17, 2006, IPAMM. Cyberinfrastructure. Identification of Agenda Items for Next Meeting.

Dated: October 19, 2006.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 06–8841 Filed 10–23–06; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Notice of Meeting; Sunshine Act

TIME AND DATE: 9:30 a.m., Tuesday, October 31, 2006.

PLACE: NTSB Conference Center, 429 L'Enfant Plaza, SW., Washington, DC 20594.

STATUS: The one item is open to the public.

MATTERS TO BE CONSIDERED:

7715A—Aircraft Accident Report—Runway Overrun and Collision, Platinum Jet Management, LLC, Bombardier Challenger CL–600–1A11, N370V, Teterboro, New Jersey, February 2, 2005.

NEWS MEDIA CONTACT: Keith Holloway, Telephone: (202) 314–6100.

Individuals requesting specific accommodations should contact Chris Bisett at (202) 314–6305 by Friday, October 27, 2006.

The public may view the meeting via a live or archived webcast by accessing a link under ''News & Events'' on the NTSB home page at *www.ntsb.gov.*

FOR FURTHER INFORMATION CONTACT: Vicky D'Onofrio, (202) 314–6410.

Dated: October 20, 2006.

Vicky D'Onofrio,

Federal Register Liaison Officer.

[FR Doc. 06–8894 Filed 10–20–06; 2:59 pm]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

[IA–05–021]

In the Matter of Andrew Siemaszko; Amendment of Order Prohibiting Involvement INNRC-Licensed Activities

I

On April 21, 2005, the NRC issued an order (Order or April 21, 2005 Order) to Mr. Andrew Siemaszko, which, although not immediately effective, would prohibit his involvement in NRC-licensed activities for a period of five years for reasons stated therein. This amendment, which incorporates the April 21, 2005 Order as if fully set out herein, is issued solely for the purpose of providing notice to Mr. Siemaszko of additional grounds upon which the NRC staff relies in support of the April 21, 2005 Order.

II

Based on the statement of facts set forth in the Order, the Staff determined, and hereunder reiterates, that Mr. Siemaszko engaged in deliberate misconduct in violation of 10 CFR 50.5(a)(2) in submitting to FENOC information that he knew to be incomplete or inaccurate in a respect material to the NRC. Under the relevant provisions of that regulation, an employee of a licensee may not deliberately submit to the NRC or a licensee information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC. In the Order, the Staff premised the finding that Mr. Siemaszko violated that regulation based on the actions described in the Order relating to two documents; Work Order No. 00–001846–000 and Condition Report 2000–1037.

The Staff has determined that Mr. Siemaszko's actions with respect to three additional documents which were submitted to the NRC present additional instances in which he engaged in deliberate misconduct in violation of 10 CFR 50.5(a)(2). Accordingly, notice is provided that the grounds upon which the April 21, 2005 Order was issued are hereby amended to include those instances as described below.

III

On August 3, 2001, the Nuclear Regulatory Commission (NRC) issued Bulletin 2001–001, ''Circumferential Cracking of Reactor Pressure Vessel Head Penetration Nozzles,'' (Bulletin) to holders of operating licenses for pressurized water nuclear power reactors. The NRC requested that addressees provide information related to the structural integrity of the reactor pressure vessel head penetration (VHP) nozzles for their respective facilities, including the extent of VHP nozzle leakage and cracking that had been found to date, the inspections and repairs that had been undertaken to satisfy applicable regulatory requirements, and the basis for concluding that their plans for future inspections would ensure compliance with applicable regulatory requirements. The information was required to be submitted to the NRC in writing in accordance with the 10 CFR 50.54(f).

FirstEnergy Nuclear Operating Company's (FENOC's) supplemental written responses to the Bulletin, dated October 17, 2001 (Serial Letter 2735) and October 30, 2001 (Serial Letter 2741 and Serial letter 2744), set forth inaccurate, incomplete or otherwise misleading information, provided by Mr. Siemaszko to FENOC which, in turn, provided it to the NRC. For instance, Mr. Siemaszko was the source of the information in a table summarizing the previous three (1996, 1998, 2000) refueling outage nozzle inspection results which was included in Serial Letter 2735 (as attachment 2) which was included, with minor changes, in Serial Letter 2741 (as attachment 2). The information provided in that table did not accurately identify the nozzles that were obscured in those three outages. Mr. Siemaszko knew that the table included incomplete or inaccurate information in some respect material to the NRC but nevertheless, on October 17, 2001, he signed off on the issuance of Serial Letter 2735.

Furthermore, Mr. Siemaszko provided inaccurate, incomplete or otherwise misleading information to FENOC,

which FENOC submitted to the NRC in FENOC's supplemental written response to the Bulletin, dated October 30, 2001 (Serial Letter 2744). For instance, Mr. Siemaszko produced, assembled and labeled the pictures which were included in Serial Letter 2744 as further proof of the safe condition of the head. However, Mr. Siemaszko mislabeled some of the pictures and knew that the collection of the pictures that were provided to the NRC did not accurately reveal the true condition of the head which in reality was substantially worse than shown through those images.

IV

The NRC determined, in the April 21, 2005 Order, that Mr. Siemaszko's submission of inaccurate and incomplete information in condition report No. 2000–1037 and Work Order No. 00–001846–000 was of very high safety and regulatory significance. Had the NRC been aware of this incomplete and inaccurate information, the NRC would likely have taken immediate regulatory action to shut down the Davis-Besse plant and require FENOC to implement appropriate corrective actions. The additional examples cited above provide further support for the determination in the April 21, 2005 Order that NRC cannot have reasonable assurance that Mr. Siemaszko will conduct NRC-licensed activities in compliance with regulatory requirements. The NRC is not proposing to modify the sanctions which were imposed on Mr. Siemaszko in the April 21, 2005 Order or otherwise alter the statement or terms of that Order by the citation of these three additional examples.

V

In accordance with 10 CFR 2.202, Mr. Siemaszko must, and any other person adversely affected by this Amendment of Order may, submit an answer to this Amendment of Order within 20 days of the date hereof. The answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Amendment of Order and shall set forth the matters of fact and law on which Mr. Siemaszko or other person adversely affected relies and the reasons as to why the Amendment of Order should not have been issued. Any answer shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Rulemakings and Adjudications Staff, Washington, DC 20555–0001. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator, NRC Region III, 2443 Warrenville Road, Lisle, Il 60532–4352, and to Mr. Siemaszko if the answer is by a person other than Mr. Siemaszko. Because of a potential disruption in delivery of mail to United States Government offices, it is requested that answer 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* and also to the Office of the General Counsel either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov*. In light of the fact that Mr. Siemaszko filed a timely request for hearing relating to the April 21, 2005 Order, which hearing has been commenced, a further request for hearing is not required to be filed for this Amendment of Order.

Nuclear Regulatory Commission.

Dated this 17th day of October 2006.

Martin J. Virgilio,

Deputy Executive Director for Materials, Research, State and Compliance Programs, Office of the Executive Director for Operations.

[FR Doc. E6–17839 Filed 10–23–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Request for a License To Import Radioactive Waste

Pursuant to 10 CFR 110.70 ''Public notice of receipt of an application,'' please take notice that the Nuclear Regulatory Commission has received the following request for an import license. Copies of the request are available electronically through ADAMS and can be accessed through the Public Electronic Reading Room (PERR) link *http://www.nrc.gov/NRC/ADAMS/index.html* at the NRC Homepage.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

The information concerning this import license application follows.

NRC IMPORT LICENSE APPLICATION

Name of applicant, date of application, date received, Application No., Docket No.	Description of material		End use	Country of origin
	Material type	Total quantity		
UniTech Services Group, Inc., August 17, 2006, September 7, 2006, IW019, 11005650.	Class A radioactive waste consisting of source, special nuclear and byproduct materials as contaminants of various materials including paper, cardboard, plastic, metals, cloth, rubber, wood, etc.	Up to 30,000 lbs. or 5,000 cubic feet of various contaminated materials.	Imported materials will be characterized and sorted by type and by levels of radioactivity. All materials imported will be returned (see export license application XW011) to Canadian customers for appropriate disposition. No materials imported under this license will remain or be disposed of in the U.S.	Canada.

Dated this 13th day of October 2006 at Rockville, Maryland.

For the Nuclear Regulatory Commission.

Margaret M. Doane,

Deputy Director, Office of International Programs.

[FR Doc. E6–17749 Filed 10–23–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Request for a License To Export Radioactive Waste

Pursuant to 10 CFR 110.70 ''Public notice of receipt of an application,'' please take notice that the Nuclear Regulatory Commission has received the following request for an export license. Copies of the request are available electronically through ADAMS and can be accessed through the Public Electronic Reading Room (PERR) link *http://www.nrc.gov/NRC/ADAMS/index.html* at the NRC Homepage.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington DC 20555; the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

The information concerning this import license application follows.

NRC EXPORT LICENSE APPLICATION

Name of applicant date of application, date received, Application No., Docket No.	Description of material		End use	Country of origin
	Material type	Total quantity		
UniTech Services Group, Inc., August 17, 2006, September 7, 2006, XW011, 11005649.	Class A radioactive waste consisting of source, special nuclear and byproduct materials including paper, cardboard, plastic, metals, cloth, rubber, wood, etc.	Up to 30,000 lbs. Or 5,000 cubic feet of contaminated materials.	All contaminated materials imported from Canada under NRC License IW019 will be returned to Canadian customers for appropriate disposition.	Canada.

Dated this 13 day of October 2006 at Rockville, Maryland.

For the Nuclear Regulatory Commission.

Margaret M. Doane,

Deputy Director, Office of International Programs.

[FR Doc. E6–17751 Filed 10–23–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[EA–06–249]

In the Matter of Certain Licensees Authorized To Possess and Transfer Items Containing Radioactive Material Quantities of Concern; Order Imposing Fingerprinting and Criminal History Records Check Requirements for Unescorted Access to Certain Radioactive Materials and Modification of the Additional Security Measures (Effective Immediately)

I

The Licensees identified in Attachment 1 [1] to this Order hold licenses issued in accordance with the Atomic Energy Act (AEA) of 1954, as amended, by the U.S. Nuclear Regulatory Commission (NRC or Commission) or Agreement States, authorizing them to possess and transfer items containing radioactive materials in quantities of concern. On August 8, 2005, the Energy Policy Act of 2005 (EPAct) was enacted. Section 652 of the EPAct amended section 149 of the AEA to require fingerprinting and a Federal Bureau of Investigation (FBI) identification and criminal history records check of any person who is permitted unescorted access to radioactive materials subject to regulation by the Commission, and which the Commission determines to be of such significance to the public health and safety or the common defense and security as to warrant fingerprinting and background checks. NRC has decided to implement this requirement, in part, prior to the completion of the rulemaking to implement the provisions under the EPAct, which is underway, because a deliberate malevolent act by an individual with unescorted access to these radioactive materials has a potential to result in significant adverse impacts to the public health and safety or the common defense and security. Those exempted from fingerprinting requirements under 10 CFR 73.59 (71 FR 33,989 (June 13, 2006)) for access to Safeguards Information [2] (SGI) are also exempt from the fingerprinting requirements under this Order. In addition, individuals who have a favorably-decided U.S. Government criminal history record check within the last five (5) years, or individuals who have an active federal security clearance (provided in each case that they make available the appropriate documentation), have satisfied the EPAct fingerprinting requirement and need not be fingerprinted again. Individuals who have been fingerprinted and granted access to SGI by the reviewing official under EA–06–155 do not need to be fingerprinted again.

II

Subsequent to the terrorist events of September 11, 2001, the NRC issued a security Order requiring certain Licensees who may transport radioactive material quantities of concern to implement Additional Security Measures (ASMs) for radioactive materials. The requirements imposed by that Order (RAMQC Order), and certain measures licensees have developed to comply with that Order, were designated by the NRC as SGI and were not released to the public. One specific ASM imposed by the RAMQC Order required licensees to conduct local background checks to determine the trustworthiness and reliability of individuals needing unescorted access to radioactive materials. ''Access'' to these radioactive materials means that an individual could exercise some physical control over the material or device. At that time, the NRC did not

[1] Attachment 1 contains sensitive information and will not be released to the public.

[2] Safeguards Information is a form of sensitive, unclassified, security-related information that the Commission has the authority to designate and protect under section 147 of the AEA.

have the authority, except in the case of power reactor licensees, to require licensees to submit fingerprints for an FBI criminal history records checks of individuals being considered for unescorted access to radioactive materials subject to NRC regulations. Therefore, in accordance with section 149 of the AEA, as amended by the EPAct, the Commission is imposing the FBI criminal history records check requirements, as set forth in this Order, including Attachment 2 to this Order, on all Licensees identified in Attachment 1 to this Order, which are currently authorized to possess or transfer items containing radioactive materials quantities of concern. These requirements will remain in effect until the Commission determines otherwise.

In addition, pursuant to 10 CFR 2.202, I find that in light of the common defense and security matters identified above, which warrant the issuance of this Order, the public health, safety, and interest require that this Order be effective immediately.

III

Accordingly, pursuant to Sections 81, 149, 161b, 161i, 161o, 182, and 186 of the AEA of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR Parts 30 and 73, It Is Hereby Ordered, Effective Immediately, That All Licensees Identified in Attachment 1 to This Order Shall Comply With the Requirements Set Forth in This Order.

A. All licensees identified in Attachment 1 to this Order shall comply with the following requirements:

1. The Licensee shall, within twenty (20) days of the date of this Order, establish and maintain a fingerprinting program that meet the requirements of Attachment 2 to this Order, for unescorted access to radioactive materials that equal or exceed the quantities listed in Table 1 of the RAMQC Order.

2. The Licensee shall, in writing, within twenty (20) days of the date of this Order, notify, the Commission (1) receipt and confirmation that compliance with the Order will be achieved or (2) if it is unable to comply with any of the requirements described in Attachment 2, or (3) if compliance with any of the requirements is unnecessary in its specific circumstances. The notification shall provide the Licensee's justification for seeking relief from or variation of any specific requirement.

B. In accordance with the NRC's ''Order Imposing Fingerprinting and Criminal History Check Requirements for Access to Safeguards Information'' (EA–06–155), issued on August 21, 2006, only the NRC-approved reviewing official shall review results from an FBI criminal history records check. The reviewing official shall determine whether an individual may have, or continue to have, unescorted access to radioactive materials that equal or exceed the quantities listed in the RAMQC Order. Fingerprinting and the FBI identification and criminal history records check are not required for individuals that are exempted from fingerprinting requirements under 10 CFR 73.59 (71 FR 33,989 (June 13, 2006)) for access to SGI. In addition, individuals who have a favorably decided U.S. Government criminal history records check within the last five (5) years, or have an active federal security clearance provided in each case that the appropriate documentation is made available to the Licensee's reviewing official, have satisfied the EPAct fingerprinting requirement and need not be fingerprinted again.

C. Fingerprints shall be submitted and reviewed in accordance with the procedures described in Attachment 2 to this Order. Individuals who have been fingerprinted and granted access to SGI by the reviewing official under Order EA–06–155 do not need to be fingerprinted again.

D. The Licensee may allow any individual who currently has unescorted access to radioactive materials, in accordance with the RAMQC Order, to continue to have unescorted access without being fingerprinted, pending a decision by the reviewing official (based on fingerprinting, an FBI criminal history records check and a trustworthy and reliability determination) that the individual may continue to have unescorted access to radioactive materials that equal or exceed the quantities listed in the RAMQC Order. The licensee shall complete implementation of the requirements of Attachment 2 to this Order by January 15, 2007.

E. The ASMs of the RAMQC Order are modified as follows:

1. The requirement for a local criminal history check in ASM 2.d.(1) is superseded by the FBI criminal history records check. All other requirements in ASM 2.d.(1) are still applicable.

Licensee responses to Condition A.2. shall be submitted to the Director, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555. In addition, Licensee responses shall be marked as ''Security-Related Information—Withhold Under 10 CFR 2.390.''

The Director, Office of Federal and State Materials and Environmental Management Programs, may, in writing, relax or rescind any of the above conditions upon demonstration of good cause by the Licensee.

IV

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within twenty (20) days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time in which to submit an answer or request a hearing must be made in writing to the Director, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which the Licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, Office of the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Material Litigation and Enforcement at the same address, and to the Licensee if the answer or hearing request is by a person other than the Licensee. Because of possible delays in delivery of mail to United States Government offices, it is requested that answers 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* and also to the Office of the General Counsel either by means of facsimile transmission to (301) 415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his/her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309.

If a hearing is requested by the Licensee or a person whose interest is

adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions as specified above in Section III shall be final twenty (20) days from the date of this Order without further Order or proceedings.

If an extension of time for requesting a hearing has been approved, the provisions as specified above in Section III shall be final when the extension expires, if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated this 17th day of October 2006.

For the Nuclear Regulatory Commission.

Charles L. Miller,

Director, Office of Federal and State Materials and Environmental Management Programs.

Attachment 1—List of Applicable Materials Licensees

Redacted

Attachment 2—Requirements for Fingerprinting and Criminal History Checks of Individuals When Licensee's Reviewing Official Is Determining Unescorted Access to Radioactive Materials Subject to EA–06–249

General Requirements

Licensees shall comply with the following requirements of this attachment.

1. Each Licensee subject to the provisions of this attachment shall fingerprint each individual who is seeking or permitted unescorted access to RAMQC. The Licensee shall review and use the information received from the Federal Bureau of Investigation (FBI) and ensure that the provisions contained in the subject Order and this attachment are satisfied.

2. The Licensee shall notify each affected individual that the fingerprints will be used to secure a review of his/her criminal history record and inform the individual of the procedures for revising the record or including an explanation in the record, as specified in the ''Right to Correct and Complete Information'' section of this attachment.

3. Fingerprints for unescorted access need not be taken if an employed individual (e.g., a Licensee employee, contractor, manufacturer, or supplier) is relieved from the fingerprinting requirement by 10 CFR 73.59 for access to Safeguards Information, has a favorably-decided U.S. Government criminal history check within the last five (5) years, or has an active federal security clearance. Written confirmation from the Agency/employer which granted the federal security clearance or reviewed the criminal history check must be provided for wither of the latter two cases. The Licensee must retain this documentation for a period of three (3) years from the date the individual no longer requires unescorted access to radioactive materials associated with the Licensee's activities.

4. All fingerprints obtained by the Licensee pursuant to this Order must be submitted to the Commission for transmission to the FBI.

5. The Licensee shall review the information received from the FBI and consider it, in conjunction with the trustworthy and reliability requirements of the RAMQC Order, in making a determination whether to grant, or continue to allow, unescorted access to radioactive materials.

6. The Licensee shall use any information obtained as part of a criminal history records check solely for the purpose of determining an individual's suitability for unescorted access to RAMQC.

7. The Licensee shall document the basis for its determination whether to grant, or continue to allow, unescorted access to RAMQC.

Prohibitions

A Licensee shall not base a final determination to deny an individual access to radioactive materials solely on the basis of information received from the FBI involving: an arrest more than one (1) year old for which there is no information of the disposition of the case, or an arrest that resulted in dismissal of the charge or an acquittal.

A Licensee shall not use information received from a criminal history check obtained pursuant to this Order in a manner that would infringe upon the rights of any individual under the First Amendment to the Constitution of the United States, nor shall the Licensee use the information in any way which would discriminate among individuals on the basis of race, religion, national origin, sex, or age.

Procedures for Processing Fingerprint Checks

For the purpose of complying with this Order, Licensees shall, using an appropriate method listed in 10 CFR 73.4, submit to the NRC's Division of Facilities and Security, Mail Stop T–6E46, one completed, legible standard fingerprint card (Form FD–258, ORIMDNRCOOOZ) or, where practicable, other fingerprint records for each individual seeking unescorted access to RAMQC, to the Director of the Division of Facilities and Security, marked for the attention of the Division's Criminal History Check Section. Copies of these forms may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by calling (301) 415–5877, or by e-mail to *forms@nrc.gov.* Practicable alternative formats are set forth in 10 CFR 73.4. The Licensee shall establish procedures to ensure that the quality of the fingerprints taken results in minimizing the rejection rate of fingerprint cards due to illegible or incomplete cards.

The NRC will review submitted fingerprint cards for completeness. Any Form FD–258 fingerprint record containing omissions or evident errors will be returned to the Licensee for corrections. The fee for processing fingerprint checks includes one re-submission if the initial submission is returned by the FBI because the fingerprint impressions cannot be classified. The one free re-submission must have the FBI Transaction Control Number reflected on the re-submission. If additional submissions are necessary, they will be treated as initial submittals and will require a second payment of the processing fee.

Fees for processing fingerprint checks are due upon application. Licensees shall submit payment with the application for processing fingerprints by corporate check, certified check, cashier's check, money order, or electronic payment, made payable to ''U.S. NRC.'' [For guidance on making electronic payments, contact the Facilities Security Branch, Division of Facilities and Security, at (301) 415–7404]. Combined payment for multiple applications is acceptable. The application fee (currently $27) is the sum of the user fee charged by the FBI for each fingerprint card or other fingerprint record submitted by the NRC on behalf of a Licensee, and an NRC processing fee, which covers administrative costs associated with NRC handling of Licensee fingerprint submissions. The Commission will directly notify Licensees who are subject to this regulation of any fee changes.

The Commission will forward to the submitting Licensee all data received from the FBI as a result of the Licensee's application(s) for criminal history checks, including the FBI fingerprint record.

Right To Correct and Complete Information

Prior to any final adverse determination, the Licensee shall make available to the individual the contents of any criminal records obtained from the FBI for the purpose of assuring correct and complete information. Written confirmation by the individual of receipt of this notification must be maintained by the Licensee for a period of one (1) year from the date of the notification.

If, after reviewing the record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, or update the alleged deficiency, or to explain any matter in the record, the individual may initiate challenge procedures. These procedures include either direct application by the individual challenging the record to the agency (i.e., law enforcement agency) that contributed the questioned information, or direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Assistant Director, Federal Bureau of Investigation Identification Division, Washington, DC 20537–9700 (as set forth in 28 CFR 16.30 through 16.34). In the latter case, the FBI forwards the challenge to

the agency that submitted the data and requests that agency to verify or correct the challenged entry. Upon receipt of an official communication directly from the agency that contributed the original information, the FBI Identification Division makes any changes necessary in accordance with the information supplied by that agency. The Licensee must provide at least ten (10) days for an individual to initiate an action challenging the results of an FBI criminal history records check after the record is made available for his/her review. The Licensee may make a final determination on unescorted access RAMQC based upon the criminal history record only upon receipt of the FBI's ultimate confirmation or correction of the record. Upon a final adverse determination on unescorted access to RAMQC, the Licensee shall provide the individual its documented basis for denial. Unescorted access to RAMQC shall not be granted to an individual during the review process.

Protection of Information

1. Each Licensee who obtains a criminal history record on an individual pursuant to this Order shall establish and maintain a system of files and procedures for protecting the record and the personal information from unauthorized disclosure.

2. The Licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, his/her representative, or to those who have a need to access the information in performing assigned duties in the process of determining unescorted access to RAMQC. No individual authorized to have access to the information may re-disseminate the information to any other individual who does not have a need-to-know.

3. The personal information obtained on an individual from a criminal history record check may be transferred to another Licensee if the Licensee holding the criminal history record receives the individual's written request to re-disseminate the information contained in his/her file, and the gaining Licensee verifies information such as the individual's name, date of birth, social security number, sex, and other applicable physical characteristics for identification purposes.

4. The Licensee shall make criminal history records, obtained under this section, available for examination by an authorized representative of the NRC to determine compliance with the regulations and laws.

5. The Licensee shall retain all fingerprint and criminal history records received from the FBI, or a copy if the individual's file has been transferred, for three (3) years after termination of employment or denial to unescorted access to the panoramic or underwater irradiator sealed sources. After the required three (3) year period, these documents shall be destroyed by a method that will prevent reconstruction of the information in whole or in part.

[FR Doc. E6–17762 Filed 10–23–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Meetings; Sunshine Act

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATES: Weeks of October 23, 30, November 6, 13, 20, 27, 2006.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of October 23, 2006

Tuesday, October 24, 2006

9:30 a.m.—Briefing on Transshipment and Domestic Shipment Security of Radioactive Material Quantities of Concern (RAMQC) (Closed—Ex. 3) (morning session).

1:30 p.m.—Briefing on Transshipment and Domestic Shipment Security of Radioactive Material Quantities of Concern (RAMQC) (Closed—Ex. 3 and 9) (afternoon session).

Wednesday, October 25, 2006

9:30 a.m.—Briefing on Institutionalization and Integration of Agency Lessons Learned (Public Meeting) (Contact: John Lamb, 301–415–1727).

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

1:25 p.m.—Affirmation Session (Public Meeting) (Tentative) a. Final Rule: National Source Tracking of Sealed Sources (RIN 3150–AH48) (tentative)

1:30 p.m.—Briefing on Resolution of GSI–191, Assessment of Debris Accumulation on PWR Sump Performance (Public Meeting) (Contact: Michael L. Scott, 301–415–0565)

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Week of October 30, 2006—Tentative

There are no meetings scheduled for the Week of October 30, 2006.

Week of November 6, 2006—Tentative

Wednesday, November 8, 2006

9:30 a.m.—Briefing on Digital Instrumentation and Control (Public Meeting) (Contact: Paul Rebstock, 301–415–3295).

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Thursday, November 9, 2006

9:30 a.m.—Briefing on Draft Final Rule—Part 52 (Early Site permits/ Standard Design Certification/ Combined Licenses) (Public Meeting) (Contact: Dave Matthews, 301–415–1199).

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Week of November 13, 2006—Tentative

There are no meetings scheduled for the Week of November 13, 2006.

Week of November 20, 2006—Tentative

There are no meetings scheduled for the Week of November 20, 2006.

Week of November 27, 2006—Tentative

There are no meetings scheduled for the Week of November 27, 2006.

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* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Michelle Schroll, (301) 415–1662.

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The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/what-we-do/policy-making/schedule.html.*

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g., braille, large print), please notifiy 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.

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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 19, 2006.

R. Michelle Schroll,

Office of the Secretary.

[FR Doc. 06–8867 Filed 10–20–06; 10:52 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from September 29, 2006, to October 12, 2006. The last biweekly notice was published on October 10, 2006 (71 FR 59529).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, 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 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner/requestor intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner/requestor intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or

fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, *Attention:* Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, *Attention:* Rulemaking and Adjudications Staff; (3) E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, *HearingDocket@nrc.gov;* or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, *Attention:* Rulemakings and Adjudications Staff at (301) 415–1101, verification number is (301) 415–1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and it is requested that copies be transmitted either by means of facsimile transmission to (301) 415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to the attorney for the licensee.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(i)–(viii).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov.*

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Units 1, 2, and 3, Maricopa County, Arizona

Date of amendments request: August 16, 2006.

Description of amendments request: The proposed amendments would revise several Surveillance Requirements (SRs) in Technical Specification (TS) 3.8.1, ''AC Sources—Operating,'' to allow these SRs to be performed, or partially performed, in reactor modes that currently are not allowed by the TSs. The proposed changes would also require certain SRs to be performed at a power factor of ≤0.9 if performed with the emergency diesel generators synchronized to the grid, unless grid conditions do not permit.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The emergency diesel generators (DGs) and their associated emergency loads are accident mitigating features, rather than accident initiating equipment. Each DG is dedicated to a specific vital bus and these buses and DGs are independent of each other. There is no common mode failure provided by the testing changes proposed in this license amendment request (LAR) that would cause multiple bus failures. Therefore, there will be no significant impact on any accident probabilities by the approval of the requested amendment.

The design of plant equipment is not being modified by these proposed changes.

The changes include an increase in the online time the DG will be paralleled to the grid in Mode[s] 1, 2, 3, and 4. The overall time that the DG is paralleled in all modes (outage/non-outage) should remain unchanged. As such, the ability of the DGs to respond to a design basis accident (DBA) can be adversely impacted by the proposed changes. However, the impacts are not considered significant based on the DG under test maintaining its ability to respond to an auto-start signal were one to be received during testing, along with the ability of the remaining DG to mitigate a DBA or provide a safe shutdown, and data that shows that the DG itself will not perturb the electrical system significantly. Furthermore, the proposed amendments for surveillance requirements (SR) 3.8.1.10 and SR 3.8.1.14 share the same electrical configuration alignment to the current monthly 1-hour loaded surveillance.

SR changes that are consistent with Industry/Technical Specification Task Force (TSTF) Standard Technical Specification (STS) change TSTF–283, Revision 3 and NUREG–1432, Revision 2 have been approved by the NRC, and the on-line tests allowed by the TSTF and the NUREG are only to be performed for the purpose of establishing operability of the DG being tested. Performance of these SRs during previously restricted modes will require an assessment to assure plant safety is maintained or enhanced.

The proposed changes to SRs 3.8.1.10 and 3.8.1.14 to require that these SRs be performed at a power factor of ≤0.9 if performed with the emergency diesel generators synchronized to the grid unless grid conditions do not permit are consistent with NRC-approved NUREG–1432, Standard Technical Specifications, Combustion Engineering Plants, and NRC-approved TSTF–276, Revision 2. This requirement ensures that the DG is tested under load conditions that are as close to design basis conditions as possible. A power factor of ≤0.9 is representative of the actual inductive loading a DG would see under design basis accident conditions. Under certain conditions, however, the proposed change allows the surveillance to be conducted at a power factor other than ≤0.9. These conditions occur when grid voltage is high, and the additional field excitation needed to get the power factor to ≤0.9 results in voltages on the emergency busses that are too high. Under these conditions, the power factor should be maintained as close as practicable to 0.9 while still maintaining acceptable voltage limits on the emergency busses. In other circumstances, the grid voltage may be such that the DG excitation levels needed to obtain a power factor of 0.9

may not cause unacceptable voltages on the emergency busses, but the excitation levels are in excess of those recommended for the DG. In such cases, the power factor shall be maintained as close as practicable to 0.9 without exceeding DG excitation limits.

As stated above, a power factor ≤0.9 should be able to be achieved when performing this SR at power and synchronized with offsite power by transferring house loads from the auxiliary transformer to the startup transformer in order to lower the Class 1E bus voltage. Transferring house loads from the auxiliary transformer to the startup transformer is routinely performed at power, in accordance with procedure 40OP–9NA03. The circuit breakers supplying the house loads (NAN–S01 and NAN–S02) from the auxiliary and startup transformers are interlocked such that one supply breaker does not open until the alternate supply breaker is closed. This ensures that the bus remains energized during the transfer.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different accident from any accident previously evaluated?

Response: No.

The proposed changes would create no new accidents since no changes are being made to the plant that would introduce any new accident causal mechanisms. Equipment will be operated in the same configuration currently allowed by other DG SRs that allow testing in plant Modes 1, 2, 3, and 4. This license amendment request does not impact any plant systems that are accident initiators or adversely impact any accident mitigating systems.

Therefore, the proposed change does not create the possibility of a new or different accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes do not involve a significant reduction in a margin of safety. The margin of safety is related to the ability of the fission product barriers to perform their design safety functions during and following an accident situation. These barriers include the fuel cladding, the reactor coolant system, and the containment system. The proposed changes to the testing requirements for the plant DGs do not affect the operability requirements for the DGs, as verification of such operability will continue to be performed as required (except during different allowed modes). Continued verification of operability supports the capability of the DGs to perform their required function of providing emergency power to plant equipment that supports or constitutes the fission product barriers. Only one DG is tested at a time and the remaining DG will be available to safely shut down the plant or respond to a DBA, if required. Consequently, the performance of these fission product barriers will not be impacted by implementation of the proposed amendment.

In addition, the proposed changes involve no changes to safety setpoints or limits established or assumed by the accident analysis. On this and the above basis, no safety margins will be impacted.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on that review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Attorney for licensee: Michael G. Green, Senior Regulatory Counsel, Pinnacle West Capital Corporation, P.O. Box 52034, Mail Station 8695, Phoenix, Arizona 85072–2034.

NRC Branch Chief: David Terao.

Dominion Energy Kewaunee, Inc., Docket No. 50–305, Kewaunee Power Station, Kewaunee County, Wisconsin

Date of amendment request: September 25, 2006.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 4.2.a, ''ASME Code Class 1, 2, 3, and MC Components and Supports.'' The revised TS 4.2.a, Item 2, would reference the American Society of Mechanical Engineers Code for Operation and Maintenance.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed change revises the Kewaunee Power Station (Kewaunee) Technical Specification (TS) TS 4.2.a.2 regarding in-service testing of ASME Code Class 1, Class 2 and Class 3 pumps and valves. The proposed change revises the TS to be consistent with the requirements of 10 CFR [Title 10, Code of Federal Regulations] 50.55a(f)(4) for pumps and valves which are classified as American Society of Mechanical Engineers (ASME) Code Class 1, Class 2 and Class 3. The proposed change incorporates revisions to the ASME Code that result in a net improvement in the measures for in-service testing of pumps and valves.

As a net improvement in the in-service testing of pumps and valves, the proposed change does not negatively impact any accident initiators, analyzed events, or assumed mitigation of accident or transient events. It does not involve the addition or removal of any equipment, or any design changes to the facility. Therefore, this proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The proposed change revises Kewaunee TS 4.2.a.2 regarding in-service testing of ASME Code Class 1, Class 2 and Class 3 pumps and valves, for consistency with the requirements of 10 CFR 50.55a(f)(4). The proposed change incorporates revisions to the ASME Code that result in a net improvement in the measures for testing pumps and valves.

The proposed change does not involve a modification to the physical configuration of the plant (i.e., no new equipment will be installed) or adversely affect methods governing normal plant operation. The proposed change will not impose any new or different requirements or introduce a new accident initiator, accident precursor, or malfunction mechanism. The proposed change does not alter existing test criteria or frequencies. Additionally, there is no change in the types or increases in the amounts of any effluent that may be released off-site and there is no increase in individual or cumulative occupational exposure. Therefore, this proposed change does not create the possibility of an accident of a different kind than previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

No. The proposed change revises TS 4.2.a.2 regarding in-service testing of ASME Code Class 1, Class 2, and Class 3 pumps and valves, for consistency with the requirements of 10 CFR 50.55a(f)(4). The proposed change incorporates revisions to the ASME Code that result in a net improvement in the measures for testing pumps and valves. The safety function of the affected pumps and valves will continue to be confirmed through testing. Therefore, this proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Bradley D. Jackson, Esq., Foley and Lardner, P.O. Box 1497, Madison, WI 53701–1497.

NRC Branch Chief: M. Murphy (Acting).

Dominion Nuclear Connecticut, Inc., Docket Nos. 50–336 and 50–423, Millstone Power Station, Unit Nos. 2 and 3, New London County, Connecticut

Date of amendment request: September 1, 2006.

Description of amendment request: The proposed amendment would revise the Millstone Power Station, Unit Nos. 2 and 3 (MPS2 and MPS3) Technical Specifications (TSs) to replace the terms

''trash racks and screens'' with the term ''strainers''.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1:

Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

Although the configurations of the existing sump screen and the replacement strainer assemblies are different, they serve the same fundamental purpose of passively removing debris from the sump's suction supply of the supported system pumps. Replacing trash racks with strainers does not adversely impact the adequacy of pump net positive suction head assumed in the safety analyses. In fact, it will improve it. Likewise, the proposed change does not reduce the reliability of any supported systems or introduce any new system interactions. A missile evaluation of the new strainer design concluded that there is no credible missile that could damage the strainer when needed during a loss-of-coolant accident [LOCA]. A jet impingement evaluation of the new strainer design concluded that there are no credible high energy line break jets that could damage the strainer when needed during a LOCA. The greatly increased surface area of the new strainer will reduce the approach velocity of the strainer face significantly, further decreasing the risk of impact from large debris entrained in the sump flow stream. The proposed rewording of the SRs [surveillance requirements] will continue to ensure that the ECCS [emergency core cooling system] sump suction inlet strainers show no evidence of structural distress or abnormal corrosion for MPS2 and [MPS]3 with or without the strainer modification complete. As such, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2:

Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

During the next refueling outage for each unit, DNC [Dominion Nuclear Connecticut, Inc.] is replacing the ECCS trash racks and screens with strainers in support of the response to Generic Letter 2004–02 on Millstone Units 2 and 3. The ECCS strainers are passive components in standby safety systems used for accident mitigation. As such, they are not accident initiators. Therefore, there is no possibility that this change could create any accident of any kind. A change to TS SRs 4.5.2.j for MPS2 and 4.5.2.d.2 for MPS3 addresses differences in nomenclature between the existing and [Generic Safety Issue] GSI–191 designs. These changes do not alter the nature of events postulated in the Final Safety Analysis Report nor do they introduce any unique precursor mechanisms. Therefore, the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3:

Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes do not adversely affect any plant safety limits, set points, or design parameters. The changes also do not adversely affect the fuel, fuel cladding, reactor coolant system (RCS), or containment integrity. Therefore, the proposed TS change, which revises the terminology associated with TS SRs, does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lillian M. Cuoco, Senior Nuclear Counsel, Dominion Nuclear Connecticut, Inc., Rope Ferry Road, Waterford, CT 06385.

NRC Acting Branch Chief: Brooke D. Poole.

Entergy Operations, Inc., Docket Nos. 50–313 and 50–368, Arkansas Nuclear One, Units 1 and 2 (ANO–1&2), Pope County, Arkansas

Date of amendment request: October 25, 2005.

Description of amendment request: The proposed change modifies inventory and inspection requirements associated with the Emergency Cooling Pond (ECP), which is a common cooling water source for ANO–1&2 during conditions that may render the normal cooling water source (Dardanelle Reservoir) unavailable.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The indicated ECP level is an operator aid for routine verification that the required ECP inventory of 70 acre-feet is maintained. Relocation of this indication to the TS [technical specification] Bases does not change the design basis and, therefore, has no impact on any accident described in the SAR [safety analysis report]. The relocation of excessive SR [surveillance requirement] details to the TS Bases does not reduce the level of testing required with regard to ECP operability verifications. Actual ECP inspection is more detailed than that currently described in the TSs. The relocation of this excessive detail to the TS Bases, therefore, has no impact on any accident described in the SAR. Finally, the inclusion of a new Action associated with the discovery of degradation of the ECP structure is more restrictive in that the proposed engineering evaluation must be performed within 7 days. Previously, the TS Bases did not require a completion time for this action. Actions associated with TS Limiting Conditions for Operation (LCO) or SRs are below the level of detail described in the SAR and, therefore, have no impact on any accident currently described in the SAR.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The aforementioned proposed change to the TSs does not require any physical alteration to the plant or alter plant design. The ECP is not an accident initiator. The proposed change does not adversely impact the function of the ECP as credited in any safety analyses for the prevention or mitigation of any accident.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change does not adversely impact a margin of safety analysis for any accident previously evaluated. Relocation of the indicated ECP level that corresponds to the required ECP volume of 70 acre-feet and the relocation of excessive SR details to the TS Bases will not result in a credible increase in nuclear safety risk. In addition, the TS Bases is part of the SAR and controlled under 10 CFR 50.59. The inclusion of a new action relocated from the TS Bases to the TS with completion time constraint is more conservative than currently described in the TS Bases. The proposed change acts to correct current TS deficiencies and, therefore, is considered risk neutral.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1700 K Street, NW., Washington, DC 20006–3817.

NRC Branch Chief: David Terao.

Entergy Gulf States, Inc., and Entergy Operations, Inc., Docket No. 50–458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana

Date of amendment request: September 19, 2006.

Description of amendment request: The proposed change will revise River Bend Station, Unit 1, (RBS) Technical Specifications (TS) Surveillance Requirement 3.6.1.3.5 to replace the currently specified frequency for leak testing containment purge supply and exhaust isolation valves with resilient seal materials with a requirement to test these valves in accordance with the Containment Leakage Rate Testing Program. The RBS Containment Leakage Rate Testing Program is implemented in accordance with the Code of Federal Regulations, Part 50, Appendix J, Option B, and Regulatory Guide (RG) 1.163, ''Performance-Based Containment Leak Test Program,'' dated September 1995. RG 1.163 allows a nominal test interval of 30 months for containment purge and vent valves.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

This change deletes the augmented testing requirement for these containment isolation valves and allows the surveillance intervals to be set in accordance with the Containment Leakage Rate Testing Programs. This change does not affect the system function or design. The purge valves are not an initiator of any previously analyzed accident. Leakage rates do not affect the probability of the occurrence of any accident. Operating history has demonstrated that the valves do not degrade and cause leakage as previously anticipated. Because these valves have been demonstrated to be reliable, these valves can be expected to perform the containment isolation function as assumed in the accident analyses. Therefore, there is no significant increase in the consequences of any previously evaluated accident.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

Extending the test intervals has no influence on, nor does it contribute in any way to, the possibility of a new or different kind of accident or malfunction from those previously analyzed. No change has been made to the design, function or method of performing leakage testing. Leakage acceptance criteria have not changed. No new accident modes are created by extending the testing intervals. No safety-related equipment or safety functions are altered as a result of this change.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The only margin of safety that has the potential of being impacted by the proposed changes involves the offsite dose consequences of postulated accidents which are directly related to the containment leakage rate. The proposed change does not alter the method of performing the tests nor does it change the leakage acceptance criteria. Sufficient data has been collected to demonstrate these resilient seals do not degrade at an accelerated rate.

Because of this demonstrated reliability, this change will provide sufficient surveillance to determine an increase in the unfiltered leakage prior to the leakage exceeding that assumed in the accident analysis.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mark Wetterhahn, Esq., Winston & Strawn LLP, 1700 K Street, NW., Washington, DC 20006.

NRC Branch Chief: David Terao.

Nuclear Management Company, LLC, Docket No. 50–255, Palisades Nuclear Plant (PNP), Van Buren County, Michigan

Date of amendment request: May 30, 2006.

Description of amendment request: The proposed amendment would revise Technical Specification (TS), Section 5.5.8, ''Steam Generator Program,'' to modify the steam generator (SG) provisions for tube inspections, as contained in the PNP TS Surveillance Requirements, Section 5.5.8.d. The purpose of these changes is to define the depth of the required tube inspections. WCAP–16208–P, ''NDE Inspection Length for CE [Combustion Engineering] Steam Generator Tubesheet Region Explosive Expansions,'' Revision 1, provided recommended tubesheet region inspection lengths for plants with CE-supplied steam generators with explosive expansions. This inspection length is referred to as C* (''C-Star''). Nuclear Management Company (NMC) intends to implement the C* inspection methodology for PNP.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed amendment does not involve a significant increase in the probability of an accident previously evaluated because the modification to TS Section 5.5.8.d maintains the existing design limits and would not increase the probability or consequences of an accident involving tube burst or primary to secondary accident-induced leakage, as previously analyzed in the UFSAR [Updated Final Safety Analysis Report]. Also, the tube burst and collapse criteria of NRC [Nuclear Regulatory Commission] Regulatory Guide 1.121, ''Basis for Plugging Degraded PWR Steam Generator Tubes,'' would continue to be satisfied.

Tube burst is precluded for a tube with defects within the tubesheet region because of the constraint provided by the tubesheet. As such, tube pullout resulting from the axial forces induced by primary to secondary differential pressures would be a prerequisite for tube burst to occur. A joint industry test program, WCAP–16208–P, has defined the nondegraded tube to tubesheet joint length required to preclude tube pullout C °) and maintain acceptable primary to secondary accident-induced leakage, assuming a 360° circumferential through wall crack existed immediately below this length. For PNP, C ° is 12.5 inches. Any degradation below C ° is shown by empirical test results and analyses to be acceptable, thereby precluding an event with consequences similar to a postulated tube rupture event.

WCAP–1 6208–P incorporates an assumed primary to secondary accident-induced leakage value of 0.1 gpm/SG. The NMC TSTF [Technical Specifications Task Force]–449 submittal to the NRC provided the PNP SG tube integrity related TS. LCO [Limiting Condition for Operation] 3.4.13, item d., ''PCS Operational Leakage,'' states that operational leakage through any one SG shall be limited to 150 gallons per day. The UFSAR Chapter 14.14–6 accident-induced leakage limit assumption based on MSLB [main steam-line break] is 0.3 gallons per minute (432 gallons per day). Therefore, the LCO leakage limit is conservatively less than the design basis accident induced leakage limit.

In summary, the proposed modifications to the PNP Technical Specifications maintain existing design limits and do not involve a significant increase in the probability or consequences of an accident previously evaluated in the UFSAR.

Therefore, operation of the facility in accordance with the proposed amendment

would not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated because SG tube leakage and structural integrity will continue to be maintained during all plant conditions upon implementation of the proposed inspection scope to the PNP TSs. The revised inspection scope does not introduce any new mechanisms that might result in a different kind of accident from those previously evaluated. Even with the limiting circumstances of a complete circumferential separation (360-degree through wall crack) of a tube below the C* length, tube pullout is precluded and leakage is predicted to be maintained within the TS limits during all plant conditions.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed amendment does not involve a significant reduction in a margin of safety. The requirements for the inspection of SG tubes are intended to ensure that this portion of the primary coolant system maintains its integrity. Tube integrity means that the tubes are capable of performing these functions in accordance with the plant design and licensing basis. Tube integrity includes both structural and leakage integrity. The proposed tubesheet inspection depth of 12.5 inches will ensure tube integrity is maintained because any degradation below C* is shown by empirical test results and analyses to be acceptable. In addition, operation with potential tube degradation below the C* inspection length continues to meet the margin of safety as defined by RG [Regulatory Guide] 1.121, ''Basis for Plugging Degraded PWR Steam Generator Tubes,'' and RG 1.83, ''Inservice Inspection of Pressurized Water Reactor Steam Generator Tubes.'' Therefore, the proposed modifications do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jonathan Rogoff, Esquire, Vice President, Counsel & Secretary, Nuclear Management Company, LLC, 700 First Street, Hudson, WI 54016.

NRC Branch Chief: Martin C. Murphy, Acting Branch Chief.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov.*

Dominion Nuclear Connecticut, Inc., Docket No. 50–423, Millstone Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: March 28, 2006.

Brief description of amendment: The amendment revised Facility Operating License No. NPF–49 by deleting Section 2.F, which specifies reporting of violations of the requirements of Section 2.C of the renewed operating license.

Date of issuance: October 4, 2006.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment No.: 234.

Facility Operating License No. NPF–49: The amendment revised the License.

Date of initial notice in ***Federal Register:*** May 9, 2006 (71 FR 26997).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 4, 2006.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of application for amendment: September 19, 2005, as supplemented by letters dated February 28, May 31, and September 26, 2006.

Brief description of amendment: The amendment revised Technical Specification (TS) 3.6.2.1, ''Containment Spray System.'' Specifically, the change revised the allowable outage time (AOT) for TS 3.6.2.1 from 72 hours to 7 days during fuel cycles 19 and 20. Per the license amendment request, the AOT extension may only be invoked twice (i.e., once for each train or twice for one train). The requested changes are sought to provide needed flexibility in the performance of selected corrective and preventative maintenance activities during power operations. Currently, the licensee's maintenance activities on containment spray system components are performed during the refueling outages; taking several days of ''around the clock'' effort.

Date of issuance: September 28, 2006.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment No.: 268.

Renewed Facility Operating License No. NPF–6: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 3, 2006 (71 FR 148). The supplements dated February 28, May 31, and September 26, 2006,

provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 28, 2006.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: August 17, 2005, as supplemented by letter dated May 19, 2006.

Brief description of amendment: The proposed changes revised the Operating License Condition (OLC) 2.C.(41) to add reference to a Nuclear Regulatory Commission (NRC) Safety Evaluation that allows the application of certain risk-informed, performance-based fire protection methods and tools.

Date of issuance: September 29, 2006.

Effective date: As of the date of issuance and shall be implemented within 90 days of issuance.

Amendment No: 170.

Facility Operating License No. NPF–29: The amendment revised the OLC 2.C.(41).

Date of initial notice in ***Federal Register:*** October 25, 2005 (70 FR 61658). The supplement dated May 19, 2006, provided additional information that clarified the change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 29, 2006

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: November 5, 2004.

Brief description of amendment: The amendment modified Waterford 3 Technical Specification (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. The NRC is not approving the request to delete TS 3.7.4.c, which 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.

Date of issuance: September 28, 2006.

Effective date: As of the date of issuance and shall be implemented 60 days from the date of issuance.

Amendment No.: 208.

Facility Operating License No. NPF–38: The amendment revised the Operating License and the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 7, 2004 (69 FR 70717).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 28, 2006.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: October 27, 2005.

Brief description of amendment: The amendment modified Surveillance Requirement (SR) 4.5.2e of Technical Specification (TS) 3.5.2, ''ECCS [Emergency Core Cooling Systems] Subsystems—Modes 1, 2 and 3,'' SR 4.6.2.1d of TS 3.6.2, ''Containment Spray System,'' and SR 4.7.3b of TS 3.7.3, ''Component Cooling Water and Auxiliary Component Cooling Water Systems,'' to remove the words ''during shutdown.'' This will provide flexibility allowing components required to be tested by these SRs to be tested online. Additionally, a revision to delete SR 4.7.12.1c of TS 3.7.12, ''Essential Services Chilled Water system,'' is approved. A modification permanently separating the safety and non-safety portions of the Essential Services Chilled Water system has eliminated the need for automatic isolation valves and thus this SR.

Date of issuance: October 6, 2006.

Effective date: As of the date of issuance and shall be implemented 60 days from the date of issuance.

Amendment No.: 209.

Facility Operating License No. NPF–38: The amendment revised the Technical Specifications and the Facility Operating License.

Date of initial notice in ***Federal Register:*** December 20, 2005 (70 FR 75491).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 6, 2006.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: October 25, 2005.

Brief description of amendment: The amendment modifies Waterford 3 Technical Specification 6.9.1.11, ''Core Operating Limits Report COLR,'' to add a methodology that will allow the use of zirconium diboride burnable absorber coating on fuel pellets.

Date of issuance: October 6, 2006.

Effective date: As of the date of issuance and shall be implemented 30 days from the date of issuance.

Amendment No.: 210.

Facility Operating License No. NPF–38: The amendment revised the Operating License and the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 6, 2005 (70 FR 72673).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 6, 2006.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: June 11, 2004, as supplemented by letters dated December 12, 2005, April 4, 2006, and July 28, 2006.

Brief description of amendments: This amendment incorporated a revision to the Technical Specifications (TSs) and licensing and design bases that relocates surveillance test intervals of various TS surveillance requirements to a new program, the Surveillance Frequency Control Program, which will be located in the Administrative Controls Section of the TSs. These amendments are pilot submittals in support of the Boiling Water Reactor Owners' Group Risk-Informed Initiative 5b, ''Relocate Surveillance Test Intervals to Licensee Control.''

Date of issuance: September 28, 2006.

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment Nos. 186, 147.

Facility Operating License Nos. NPF–39 and NPF–85. This amendment revised the facility operating licenses and the TSs.

Date of initial notice in ***Federal Register:*** May 24, 2005 (70 FR 29793). The supplements provided clarifying information that did not expand the scope of the application as originally

noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as originally published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 28, 2006.

No significant hazards consideration comments received: No.

FPL Energy Seabrook, LLC, Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: September 29, 2005, as supplemented on August 8, September 18, and September 28, 2006.

Description of amendment request: The amendment revised the Seabrook Station, Unit No. 1 Technical Specifications (TSs) to permit a one-time change in the steam generator tube inspection requirements to include a sampling of the bulges and over-expansions for portions of the steam generator tubes within the hot-leg tubesheet region.

Date of issuance: September 29, 2006.

Effective date: As of its date of issuance, and shall be implemented within 90 days.

Amendment No.: 112.

Facility Operating License No. NPF–86: The amendment revised the License and the Tss.

Date of initial notice in ***Federal Register:*** November 8, 2005 (70 FR 67749). The licensee's August 8 and September 28, 2006, supplements provided clarifying information that did not change the scope of the proposed amendment as described in the original notice of proposed action published in the **Federal Register**, and did not change the initial proposed no significant hazards consideration determination. The supplement dated September 18, 2006, modified the requested amendment to request a one-time change in lieu of a permanent one. This narrowing of scope did not alter the validity of the NRC staff's proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 29, 2006.

No significant hazards consideration comments received: No.

Indiana Michigan Power Company, Docket No. 50–315, Donald C. Cook Nuclear Plant, Unit 1, Berrien County, Michigan

Date of application for amendment: May 31, 2006.

Brief description of amendment: The amendment approved elimination of the resistance temperature detector (RTD) bypass piping and installing fast response thermowell-mounted RTDs in the reactor coolant system loop piping. The amendment also revised Surveillance Requirement 3.3.1.15 of the Technical Specifications, deleting the requirement to perform surveillance on the reactor coolant system RTD bypass loop flow rate.

Date of issuance: October 6, 2006.

Effective date: As of the date of issuance and shall be implemented prior to entry into Mode 2 from the fall 2006 refueling outage.

Amendment No.: 296.

Facility Operating License No. DPR–58: Amendment revise the Technical Specifications.

Date of initial notice in ***Federal Register:*** July 5, 2006 (71 FR 38182). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 6, 2006.

No significant hazards consideration comments received: No.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: January 30, 2006, as supplement by May 17 and August 29, 2006.

Brief description of amendment: The amendment revised the Cooper Nuclear Station Technical Specification Section 5.5.12, ''Primary Containment Leakage Rate Testing Program,'' to allow a one-time extension of no more than 5 years for the Type A, Integrated Leakage Rate Test (ILRT) interval. This revision is a one-time exception to the 10-year frequency of the performance-based leakage rate testing program for Type A tests as defined in Nuclear Energy Institute (NEI) document, NEI 94–01, Revision 0, ''Industry Guideline for Implementing Performance-Based Option of 10 CFR Part 50, Appendix J,'' pursuant to 10 CFR Part 50, Appendix J, Option B. The requested exception is to allow the ILRT to be performed within 15 years from the last ILRT, last performed on December 7, 1998.

Date of issuance: October 3, 2006.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment No.: 224.

Facility Operating License No. DPR–46: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** April 25, 2006 (71 FR 23957). The supplement dated May 17 and August 29, 2006, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 3, 2006.

No significant hazards consideration comments received: No.

Nine Mile Point Nuclear Station, LLC, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of application for amendment: January 18, 2006.

Brief description of amendment: The amendment deletes the reference to the hydrogen monitors in Technical Specification 3.6.11, ''Accident Monitoring Instrumentation.''

Date of issuance: October 2, 2006.

Effective date: As of the date of issuance to be implemented within 60 days.

Amendment No.: 191.

Facility Operating License No. DPR–63: Amendment revises the Technical Specifications and License.

Date of initial notice in ***Federal Register:*** July 18, 2006 (71 FR 40749) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 2, 2006.

No significant hazards consideration comments received: No.

Nuclear Management Company, LLC, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Units 1 and 2, Goodhue County, Minnesota

Date of application for amendments: December 13, 2005, supplemented by letters dated June 7, and July 21, 2006.

Brief description of amendments: The amendments revise technical specification 5.5.14 ''Containment Leakage Rate Testing Program'' for Prairie Island Nuclear Generating Plant Units 1 and 2, to allow a one-time interval extension of no more than 5 years for the Appendix J Type A, Integrated Leakage Rate Test.

Date of issuance: October 2, 2006.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment Nos.: 174 and 164.

Facility Operating License Nos. DPR–42 and DPR–60: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 31, 2006 (71 FR 5081) The supplemental information provided by letters dated June 7, and July 21, 2006, did not change the no significant hazards determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 2, 2006.

No significant hazards consideration comments received: No.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: January 19, 2006, as supplemented by letter dated June 20, 2006.

Brief description of amendments: The amendments deleted the antitrust conditions from the facility operating licenses.

Date of issuance: October 2, 2006.

Effective date: As of the date of issuance and shall be implemented within 90 days of issuance.

Amendment Nos.: Unit 1–189; Unit 2–191.

Facility Operating License Nos. DPR–80 and DPR–82: The amendments revised the Facility Operating Licenses.

Date of initial notice in ***Federal Register:*** April 14, 2006 (71 FR 19551) The supplemental letter dated June 20, 2006, provided additional information that clarified the application, and did not expand the scope of the application as originally noticed. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 2, 2006.

No significant hazards consideration comments received: No.

PPL Susquehanna, LLC, Docket No. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2 (SSES 1 and 2), Luzerne County, Pennsylvania

Date of application for amendments: November 9, 2004, as supplemented on December 15, 2005, June 30, 2006, August 18, 2006, and September 28, 2006.

Brief description of amendments: The amendments revise the SSES 1 and 2 Technical Specifications (TSs) 3.8.4, ''DC Sources—Operating,'' 3.8.5, ''DC Sources-Shutdown,'' 3.8.6, ''Battery Cell Parameters,'' and add a new TS Section, 5.5.13, ''Battery Monitoring and Maintenance Program.'' These changes are consistent with TS Task Force (TSTF) 360, Revision 1.

Date of issuance: September 28, 2006.

Effective date: As of the date of issuance and to be implemented within 60 days.

Amendment Nos.: 238 and 215.

Facility Operating License Nos. NPF–14 and NPF–22: The amendments revised the TSs and license.

Date of initial notice in ***Federal Register:*** January 17, 2006 (71 FR 2596). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 28, 2006.

The supplements dated December 15, 2005, June 30, 2006, August 18, 2006, and September 28, 2006, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

No significant hazards consideration comments received: No.

PSEG Nuclear LLC, Docket No. 50–311, Salem Nuclear Generating Station, Unit No. 2, Salem County, New Jersey

Date of application for amendment: September 21, 2005, as supplemented by letters dated June 28, 2006, and August 4, 2006.

Brief description of amendment: The amendment revises the extent of steam generator tube inspections in the hot-leg side of the tubesheet.

Date of issuance: September 28, 2006.

Effective date: As of the date of issuance, to be implemented within 60 days from date of issuance.

Amendment No.: 256.

Facility Operating License No. DPR–75: This amendment revised the Technical Specifications and License.

Date of initial notice in ***Federal Register:*** January 7, 2006 (71 FR 2594). The supplements did not expand the scope of the request, or change the original proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 28 2006.

No significant hazards consideration comments received: No.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of application for amendments: April 17, 2006.

No significant hazards consideration comments received: No.

Brief description of amendments: The proposed amendments deleted Section 2.G of the Facility Operating Licenses, which required reporting of violations of the requirements in Sections 2.C(1), 2.C(3), and 2.F of the Facility Operating Licenses.

Date of issuance: October 3, 2006.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment Nos.: Unit 2–205; Unit 3–197.

Facility Operating License Nos. NPF–10 and NPF–15: The amendments deleted Section 2.G of the Facility Operating Licenses.

Date of initial notice in ***Federal Register:*** May 9, 2006 (71 FR 27003) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 3, 2006.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket No. 50–259, Browns Ferry Nuclear Plant, Unit 1, Limestone County, Alabama

Date of application for amendment: August 16, 2004 (TS–433) as supplemented by letter dated September 30, 2005.

Brief description of amendment: The proposed amendment extends the frequency of ''once-per cycle'' from 18 to 24 months in several Technical Specification (TS) Surveillance Requirements. This change will allow the adoption of a 24-month refueling cycle.

Date of issuance: September 28, 2006.

Effective date: Date of issuance, to be implemented within 60 days.

Amendment No.: 263.

Renewed Facility Operating License No. DPR–33: Amendment revised the TSs.

Date of initial notice in ***Federal Register:*** March 29, 2005 (70 FR 15947). The supplement dated September 30, 2005, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards determination as published in the **Federal Register**. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 28, 2006.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket No. 50–259, Browns Ferry Nuclear Plant, Unit 1, Limestone County, Alabama

Date of amendment request: October 12, 2004, as supplemented April 27 and June 27, 2005 (TS–438).

Description of amendment request: The amendment revised the frequency requirement for Technical Specification (TS) Surveillance Requirement (SR) 3.6.1.3.8 by allowing a representative sample (approximately 20 percent) of excess flow check valves (EFCVs) to be tested every 24 months, so that each EFCV is tested once every 120 months. The current SR requires testing of each EFCV every 24 months.

Date of issuance: September 29, 2006.

Effective date: Date of issuance, to be implemented within 30 days.

Amendment No.: 264.

Facility Operating License Nos. DPR–33: Amendment revised the TSs.

*Date of initial notice in **Federal Register:*** March 29, 2005 (70 FR 15948). The supplemental letters provided clarifying information that did not expand the scope of the original application or change the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 29, 2006.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket No. 50–390, Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of application for amendment: February 24, 2006, as supplemented by letter dated May 8, 2006 (TS–06–02).

Brief description of amendment: The amendment revises the Updated Final Safety Analysis Report (UFSAR) by modifying the design and licensing basis to incorporate revised dose analysis inputs and results for the steam generator tube rupture accident. The analysis was revised as a result of an error in the computer model used to calculate the dose consequences to the Main Control Room subsequent to an accident.

Date of issuance: October 4, 2006.

Effective date: As of the date of issuance and shall be implemented as part of the next UFSAR update made in accordance with 10 CFR 50.71(e).

Amendment No.: 64.

Facility Operating License No. NPF–90: Amendment authorizes revision of the UFSAR.

*Date of initial notice in the **Federal Register:*** April 25, 2006 (71 FR 23962). The supplemental letter provided clarifying information that was within the scope of the initial notice and did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 4, 2006.

No significant hazards consideration comments received: No.

TXU Generation Company LP, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Unit Nos. 1 and 2, Somervell County, Texas

Date of amendment request: December 16, 2005, as supplemented by letters dated June 23 and August 25, 2006.

Brief description of amendments: The change revised Technical Specifications (TSs) 3.3.2, ''ESFAS [Engineered Safety Features Actuation System] Instrumentation''; and 3.5.2, ''ECCS [Emergency Core Cooling System]—Operating.''

Date of issuance: October 5, 2006.

Effective date: As of the date of issuance and shall be implemented within 120 days from the date of issuance for TS 3.5.2 revisions, and within 120 days from the completion of the 12th refueling outage of Unit 1, for TS 3.3.2 revisions.

Amendment Nos.: 129 and 129.

Facility Operating License Nos. NPF–87 and NPF–89: The amendments revised the Technical Specifications.

*Date of initial notice in **Federal Register:*** March 14, 2006 (71 FR 13179). The supplements dated June 23 and August 25, 2006, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 5, 2006.

No significant hazards consideration comments received: No.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: July 23, 2004, as supplemented by letters dated August 11 and September 22, 2006.

Brief description of amendment: The amendment revised Technical Specification (TS) 3.6.3, ''Containment Isolation Valves,'' by (1) adding the abbreviation ''(CIV)'' for containment isolation valve in Condition A of the Actions for the Limiting Condition for Operation; (2) deleting the note and revising Condition A to be for only one penetration flow path with one CIV inoperable; (3) revising the completion time for Required Condition A.1 from 4 hours to as much as 7 days depending on the category of the inoperable CIV; and (4) revising Condition C to be for two or more penetration flow paths with one CIV inoperable. The amendment also added two conditions to the license.

Date of issuance: September 28, 2006.

Effective date: Effective as of its date of issuance and shall be implemented prior to the start of Refueling Outage 18, which is scheduled to start in spring 2008.

Amendment No.: 167.

Facility Operating License No. NPF–42. The amendment revised Appendix A, ''Technical Specifications,'' and Appendix D, ''Additional Conditions,'' of the license.

*Date of initial notice in **Federal Register:*** December 7, 2004 (69 FR 70724). The supplemental letters dated August 11 and September 22, 2006, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 28, 2006.

No significant hazards consideration comments received: No.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: June 2, 2006.

Brief description of amendment: The amendment revised Surveillance Requirement 3.5.2.8 by replacing the phrase ''trash racks and screens'' with the word ''strainers.'' The amendment reflects the replacement of the containment sump suction inlet trash racks and screens with a complex strainer design with significantly larger effective area in the upcoming Refueling Outage 15.

Date of issuance: October 5, 2006.

Effective date: As of its date of issuance and shall be implemented prior to the entry into Mode 4 in the restart from the fall 2006 refueling outage.

Amendment No.: 168.

Facility Operating License No. NPF–42: The amendment revised the Technical Specifications.

*Date of initial notice in **Federal Register:*** July 18, 2006 (71 FR 40756) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 5, 2006.

No significant hazards consideration comments received: No.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: June 30, 2006.

Brief description of amendment: The amendment revised Technical Specification (TS) 5.5.9, ''Steam Generator (SG) Program,'' by changing the ''Refueling Outage 14'' to ''Refueling Outage 15'' in two places. This change extended the provisions for SG tube

repair criteria and inspections that were approved for Refueling Outage 14, and the subsequent operating cycle, in Amendment No. 162 issued April 28, 2005, to the upcoming Refueling Outage 15, and the subsequent operating cycle.

Date of issuance: October 10, 2006.

Effective date: As of its date of issuance and shall be implemented prior to entry into Mode 4 during the startup from Refueling Outage 15, scheduled to begin in October 2006.

Amendment No.: 169.

Facility Operating License No. NPF–42: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** July 24, 2006 (71 FR 41845) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 10, 2006.

No significant hazards consideration comments received: No.

Notice of Issuance of Amendments to Facility Operating Licenses and Final Determination of No Significant Hazards Consideration and Opportunity for a Hearing (Exigent Public Announcement or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov*.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and electronically on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If there are problems in accessing the document, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737, or by e-mail to *pdr@nrc.gov*. 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 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.[1] 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.

Each contention shall be given a separate numeric or alpha designation within one of the following groups:

1. *Technical*—primarily concerns/issues relating to technical and/or health and safety matters discussed or referenced in the applications.

2. *Environmental*—primarily concerns/issues relating to matters discussed or referenced in the environmental analysis for the applications.

3. *Miscellaneous*—does not fall into one of the categories outlined above.

As specified in 10 CFR 2.309, if two or more petitioners/requestors seek to co-sponsor a contention, the petitioners/requestors shall jointly designate a representative who shall have the authority to act for the petitioners/requestors with respect to that contention. If a petitioner/requestor seeks to adopt the contention of another sponsoring petitioner/requestor, the petitioner/requestor who seeks to adopt the contention must either agree that the sponsoring petitioner/requestor shall act as the representative with respect to that contention, or jointly designate with the sponsoring petitioner/requestor a representative who shall have the authority to act for the petitioners/requestors with respect to that contention.

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. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, *Attention:* Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, *Attention:* Rulemaking and Adjudications Staff; (3) E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, *HearingDocket@nrc.gov*; or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at (301) 415–1101, verification number is (301) 415–1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and it is requested that copies be transmitted either by means of facsimile transmission to (301) 415–3725 or by e-mail to *OGCMailCenter@nrc.gov*. A copy of the request for hearing and petition for leave to intervene should also be sent to the attorney for the licensee.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer or the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(i)–(viii).

Duke Power Company LLC, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of amendment request: September 27, 2006, as supplemented October 2 and 3, 2006.

The supplement dated October 2 and 3, 2006, provided additional information that claried the application, did not expand the scope of the original proposed no significant hazards consideration (NSHC) determination, and did not change the NRC staff's original proposed NSHC determination.

Description of amendment request: The amendments extend the Completion Time of Technical Specification 3.8.1, ''AC Sources—Operating,'' Required Action C.2.2.5 for one time only from 45 days to 75 days to allow time for repairs of Keowee Hydro Unit #2.

Date of issuance: October 3, 2006.

Effective date: As of the date of issuance and shall be implemented on or before October 3, 2006.

Amendment Nos.: 354, 356, 355.

Renewed Facility Operating License Nos. DPR–38, DPR–47, and DPR–55: Amendments revised the technical specifications.

Public comments requested as to proposed no significant hazards consideration (NSHC): Yes. Public notice of the proposed amendments was published in the *Greenville News* on September 29 and 30, and October 1, 2006, and in the *Anderson Independent* on September 29 and October 1, 2006. The notice issued a proposed NSHC and provided an opportunity to submit comments to the NRC staff on the Commission's proposed NSHC determination by close of business on October 3, 2006. No comments have been received.

The Commission's related evaluation of the amendment, finding of exigent circumstances, consultation with the State of South Carolina, and final NSHC determination are contained in a safety evaluation dated October 3, 2006.

Attorney for licensee: Ms. Lisa F. Vaughn, Duke Power Company LLC, 526 South Church Street, Charlotte, North Carolina, 28201–1006.

NRC Branch Chief: Evangelos C. Marinos.

[1] To the extent that the applications contain attachments and supporting documents that are not publicly available because they are asserted to contain safeguards or proprietary information, petitioners desiring access to this information should contact the applicant or applicant's counsel and discuss the need for a protective order.

Florida Power and Light Company, Docket No. 50–250, Turkey Point Nuclear Plant, Unit 3, Miami-Dade County, Florida

Date of amendment request: September 8, 2006.

Description of amendment request: The amendment allows the use of an alternate method for determining the position of Control Rod M–6, which has an inoperable analog rod position indicator (ARPI), until the ARPI is repaired, but no later than the Cycle 23 refueling outage scheduled for the fall of 2007.

Date of issuance: October 5, 2006.

Effective date: As of the date of issuance.

Amendment No.: 230.

Facility Operating License Nos. DPR–31: Amendment revises the technical specifications.

Public comments requested as to proposed no significant hazards consideration (NSHC): Yes (71 FR 54691, dated September 18, 2006). The notice provided an opportunity to submit comments on the Commission's proposed NSHC determination. No comments have been received. The notice also provided an opportunity to request a hearing by November 17, 2006, but indicated that if the Commission makes a final NSHC determination, any such hearing would take place after issuance of the amendment.

The Commission's related evaluation of the amendment, finding of exigent circumstances, state consultation, and final NSHC determination are contained in a safety evaluation dated October 5, 2006.

Attorney for licensee: M.S. Ross, Managing Attorney, Florida power and Light Company, P.O. Box 14000, Juno Beach, FL 33408–0420.

NRC Branch Chief: L. Raghavan.

Dated at Rockville, Maryland, this 13th day of October 2006.

For the Nuclear Regulatory Commission.

Catherine Haney,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E6–17546 Filed 10–23–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[EA–06–223]

In the Matter of USEC Inc. (Lead Cascade Facility) and All Other Persons Who Seek or Obtain Access to Safeguards Information Described Herein; Order Imposing Requirements for the Protection of and Access to Safeguards Information (Effective Immediately)

I

USEC Inc. (USEC or the Licensee) holds a license, issued in accordance with the Atomic Energy Act (AEA) of 1954, by the U.S. Nuclear Regulatory Commission (NRC or Commission) authorizing it to construct and operate a uranium enrichment test and demonstration facility in Piketon, Ohio. On July 15, 2003, NRC provided USEC, for its information, copies of Orders issued to Category III facilities on interim measures to enhance physical security at those facilities. Those Orders contained Safeguards Information.[1] In addition, in the future, the Commission may issue the Licensee additional Orders that require compliance with specific additional security measures to enhance security at the facility. These Orders are also expected to contain Safeguards Information, which cannot be released to the public and must be protected from unauthorized disclosure. Therefore, the Commission is imposing the requirements, as set forth in Attachments A, B, and C of this Order, so that the Licensee can receive these documents. This Order also imposes requirements for the protection of Safeguards Information in the hands of any person,[2] whether or not a Licensee of the Commission, who produces, receives, or acquires Safeguards Information.

On August 8, 2005, the Energy Policy Act of 2005 (EPAct) was enacted. Section 652 of the EPAct amended Section 149 of the AEA to require fingerprinting and a Federal Bureau of Investigation (FBI) identification and criminal history records check of any person who is to be permitted to have access to Safeguards Information. The NRC's implementation of this requirement cannot await the completion of the Safeguards Information rulemaking, which is underway, because the EPAct fingerprinting and criminal history check requirements for access to Safeguards Information were immediately effective upon enactment of the EPAct. Although the EPAct permits the Commission by rule to except certain categories of individuals from the fingerprinting requirement, which the Commission has done (see 10 CFR 73.59, 71 FR 33,989 (June 13, 2006)), it is unlikely that many Licensee employees are excepted from the fingerprinting requirement by the ''fingerprinting relief'' rule. Individuals relieved from the fingerprinting and criminal history checks under the relief rule include Federal, State, and local officials and law enforcement personnel; Agreement State inspectors, who conduct security inspections on behalf of the NRC; members of Congress and certain employees of members of Congress or Congressional Committees; representatives of the International Atomic Energy Agency or certain foreign government organizations. In addition, individuals who have a favorably-decided U.S. Government criminal history check within the last five (5) years, and individuals who have active Federal security clearances (provided in either case that they make available the appropriate documentation), have satisfied the EPAct fingerprinting requirement and need not be fingerprinted again. Therefore, in accordance with section 149 of the AEA, as amended by the EPAct, the Commission is imposing additional requirements, as set forth by this Order, for access to Safeguards Information so that affected licensees can obtain and grant access to Safeguards Information. This Order also imposes requirements for access to Safeguards Information by any person, from any person, whether or not a Licensee, Applicant, or Certificate Holder of the Commission or Agreement States.

Subsequent to the terrorist events of September 11, 2001, the NRC issued Orders requiring certain entities to implement Additional Security Measures (ASM) or Compensatory Measures (CM) for certain radioactive materials. The requirements imposed by these Orders, and certain measures licensees have developed to comply

[1] Safeguards Information is a form of sensitive, unclassified, security-related information that the Commission has the authority to designate and protect under section 147 of the AEA.

[2] Person means: (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency other than the Commission or the Department of Energy, except that the Department of Energy shall be considered a person with respect to those facilities of the Department specified in section 202 of the Energy Reorganization Act of 1974 (88 Stat. 1244), any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

with the Orders, were designated by the NRC as Safeguards Information. For some materials licensees, the storage and handling requirements for the Safeguards Information have been modified from the existing 10 CFR part 73 Safeguards Information requirements for reactors and fuel cycle facilities that require a higher level of protection; such Safeguards Information is designated as Safeguards Information—Modified Handling (SGI–M). However, the information subject to the SGI–M handling and protection requirements is Safeguards Information, and licensees and other persons who seek or obtain access to such Safeguards Information are subject to this Order.

II

The Commission has broad statutory authority to protect Safeguards Information and prohibit its unauthorized disclosure. Section 147 of the AEA, as amended, grants the Commission explicit authority to ''* * * issue such orders, as necessary to prohibit the unauthorized disclosure of safeguards information * * *.'' Furthermore, section 652 of the EPAct amended section 149 of the AEA to require fingerprinting and an FBI identification and a criminal history records check of each individual who seeks access to Safeguards Information. In addition, no person may have access to Safeguards Information unless the person has an established need-to-know and satisfies the trustworthy and reliability requirements of those Orders.

Licensees and all persons who produce, receive, or acquire Safeguards Information must ensure proper handling and protection of Safeguards Information, to avoid unauthorized disclosure, in accordance with the specific requirements for the protection of Safeguards Information contained in Attachments A, B, and C. The Commission hereby provides notice that it intends to treat violations of the requirements contained in Attachments A, B, and C, applicable to the handling and unauthorized disclosure of Safeguards Information, as serious breaches of adequate protection of the public health and safety and the common defense and security of the United States. Access to Safeguards Information is limited to those persons who have established a need-to-know the information, and are considered to be trustworthy and reliable, and who satisfy the fingerprinting and criminal history records check required by the EPAct and this Order. A ''need-to-know'' means a determination by a person having responsibility for protecting Safeguards Information that a proposed recipient's access to Safeguards Information is necessary in the performance of official, contractual, or Licensee duties of employment. The Licensee and all other persons who obtain Safeguards Information must ensure that they develop, maintain, and implement strict policies and procedures for the proper handling of Safeguards Information, to prevent unauthorized disclosure, in accordance with the requirements in Attachments A, B, and C. The Licensee must ensure that all contractors whose employees may have access to Safeguards Information either adhere to the Licensee's policies and procedures on Safeguards Information or develop, maintain, and implement their own acceptable policies and procedures. The Licensee remains responsible for the conduct of its contractors. The policies and procedures necessary to ensure compliance with applicable requirements contained in Attachments A, B, and C must address, at a minimum, the following: (1) The general performance requirement that each person who produces, receives, or acquires Safeguards Information shall ensure that Safeguards Information is protected against unauthorized disclosure; (2) protection of Safeguards Information at fixed sites, in use and in storage, and while in transit; (3) correspondence containing Safeguards Information; (4) access to Safeguards Information; (5) preparation, marking, reproduction, and destruction of documents; (6) external transmission of documents; (7) use of automatic data processing systems; and (8) removal of the Safeguards Information category.

To provide assurance that the Licensee is implementing appropriate measures to achieve a consistent level of protection to prohibit the unauthorized disclosure of Safeguards Information, the Licensee shall implement the requirements for access to Safeguards Information in this Order, including the requirements in Attachments A, B, and C of this Order. In addition, pursuant to 10 CFR § 2.202, I find that in light of the common defense and security matters identified above, which warrant the issuance of this Order, the public health, safety, and interest require that this Order be effective immediately.

III

Accordingly, pursuant to sections 53, 62, 63, 81, 147, 149, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR part 30, 10 CFR part 40, and 10 CFR part 70, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT LICENSEE AND ALL OTHER PERSONS WHO PRODUCE, RECEIVE, OR ACQUIRE THE ADDITIONAL SECURITY MEASURES IDENTIFIED ABOVE (WHETHER DRAFT OR FINAL), OR WHO SEEK OR OBTAIN ACCESS TO SAFEGUARDS INFORMATION, SHALL COMPLY WITH THE REQUIREMENTS SET FORTH IN THIS ORDER, INCLUDING THE REQUIREMENTS IN ATTACHMENTS A, B, AND C.

A. 1. No person may have access to Safeguards Information unless that person has a need-to-know the Safeguards Information, has been fingerprinted or who has a favorably decided FBI identification and criminal history records check, and satisfies all other applicable requirements for access to Safeguards Information. Fingerprinting and the FBI identification and criminal history records check are not required, however, for any person who is relieved from that requirement by 10 CFR 73.59 (71 FR 33,989 (June 13, 2006)) or who has a favorably-decided U.S. Government criminal history check within the last five (5) years, or who has an active Federal security clearance, provided in each case that the appropriate documentation is made available to the Licensee's NRC-approved reviewing official.

2. No person may have access to any Safeguards Information if the NRC has determined, based on fingerprinting and an FBI identification and criminal history records check, that the person may not have access to Safeguards Information.

B. No person may provide Safeguards Information to any other person except in accordance with condition III.A above. Prior to providing Safeguards Information to any person, a copy of this Order shall be provided to that person.

C. The Licensee shall comply with the following requirements:

1. The Licensee shall, within twenty (20) days of the date of this Order, establish and maintain a fingerprinting program that meets the requirements of Attachment C to this Order.

2. The Licensee shall, within twenty (20) days of the date of this Order, submit the fingerprints of one (1) individual who needs access to Safeguards Information and who the Licensee nominates as the ''reviewing official'' for determining access to Safeguards Information by other individuals. The NRC will determine whether this individual (or any subsequent reviewing official) may have access to Safeguards Information and, therefore, will be permitted to serve as

the Licensee's reviewing official.[3] The Licensee may, at the same time or later, submit the fingerprints of other individuals to whom the Licensee seeks to grant access to Safeguards Information. Fingerprints shall be submitted and reviewed in accordance with the procedures described in Attachment C of this Order.

3. The Licensee shall, in writing, within twenty (20) days of the date of this Order, notify the Commission, (1) if it is unable to comply with any of the requirements described in the Order, including Attachments A, B, and C, or (2) if compliance with any of the requirements is unnecessary in its specific circumstances. The notification shall provide the Licensee's justification for seeking relief from or variation of any specific requirement.

Licensee responses to C.1., C.2., and C.3. above shall be submitted to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. In addition, Licensee responses shall be marked as ''Security-Related Information—Withhold Under 10 CFR 2.390.'' The Director, Office of Nuclear Material Safety and Safeguards, may, in writing, relax or rescind any of the above conditions, on demonstration of good cause by the Licensee.

IV

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within twenty (20) days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time in which to submit an answer or request a hearing must be made in writing to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which the Licensee or other person adversely affected relies, and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, Office of the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555; to the Assistant General Counsel for Materials Litigation and Enforcement, at the same address; and to the Licensee, if the answer or hearing request is by a person other than the Licensee. Because of possible delays in delivery of mail to United States Government offices, it is requested that answers 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;* and also to the Office of the General Counsel, either by means of facsimile transmission, to 301–415–3725, or by e-mail, to *OGCMailCenter@nrc.gov.* If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which their interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309.

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the grounds that the Order, including the need for immediate effectiveness, is not based on adequate evidence, but on mere suspicion, unfounded allegations, or error. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section III above shall be final twenty (20) days from the date of this Order, without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section III shall be final when the extension expires, if a hearing request has not been received. AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

Dated this 4th day of October 2006.

For the Nuclear Regulatory Commission.

Jack R. Strosnider,

Director, Office of Nuclear Material Safety and Safeguards.

Attachment A—Modified Handling Requirements for the Protection of Certain Safeguards Information (SGI–M)

General Requirement

Information and material that the U.S. Nuclear Regulatory Commission (NRC) determines are safeguards information must be protected from unauthorized disclosure. In order to distinguish information needing modified protection requirements from the safeguards information for reactors and fuel cycle facilities that require a higher level of protection, the term ''Safeguards Information—Modified Handling'' (SGI–M) is being used as the distinguishing marking for certain materials licensees. Each person who produces, receives, or acquires SGI–M shall ensure that it is protected against unauthorized disclosure. To meet this requirement, licensees and persons shall establish and maintain an information protection system that includes the measures specified below. Information protection procedures employed by state and local police forces are deemed to meet these requirements.

Persons Subject to These Requirements

Any person, whether or not a licensee of the NRC, who produces, receives, or acquires SGI–M is subject to the requirements (and sanctions) of this document. Firms and their employees that supply services or equipment to materials licensees fall under this requirement if they possess SGI–M. A licensee must inform contractors and suppliers of the existence of these requirements and the need for proper protection. (See more under Conditions for Access).

State or local police units who have access to SGI–M are also subject to these requirements. However, these organizations are deemed to have adequate information protection systems. The conditions for transfer of information to a third party, i.e., need-to-know, would still apply to the police organization as would sanctions for unlawful disclosure. Again, it would be prudent for licensees who have arrangements with local police to advise them of the existence of SGI–M requirements.

Criminal and Civil Sanctions

The Atomic Energy Act of 1954, as amended, explicitly provides that any person, ''whether or not a licensee of the Commission, who violates any regulations adopted under this section shall be subject to the civil monetary penalties of section 234 of this Act.'' Furthermore, willful violation of any regulation or order governing safeguards information is a felony subject to criminal penalties in the form of fines or imprisonment, or both. *See sections 147b. and 223 of the Act.*

Conditions for Access

Access to SGI–M beyond the initial recipients of the order will be governed by

[3] The NRC's determination of this individual's access to Safeguards Information in accordance with the process described in Enclosure 3 to the transmittal letter of this Order is an administrative determination that is outside the scope of this Order.

the background check requirements imposed by the order. Access to SGI–M by licensee employees, agents, or contractors must include both an appropriate need-to-know determination by the licensee, as well as a determination concerning the trustworthiness of individuals having access to the information. Employees of an organization affiliated with the licensee's company, e.g., a parent company, may be considered as employees of the licensee for access purposes.

Need-To-Know

Need-to-know is defined as a determination by a person having responsibility for protecting SGI–M that a proposed recipient's access to SGI–M is necessary in the performance of official, contractual, or licensee duties of employment. The recipient must be made aware that the information is SGI–M and those having access to it are subject to these requirements as well as criminal and civil sanctions for mishandling the information.

Occupational Groups

Dissemination of SGI–M is limited to individuals who have an established need-to-know and who are members of certain occupational groups. These occupational groups are:

1. An employee, agent, or contractor of an applicant, a licensee, the Commission, or the United States Government;
2. A member of a duly authorized committee of the Congress;
3. The Governor of a State or his designated representative;
4. A representative of the International Atomic Energy Agency (IAEA) engaged in activities associated with the U.S./IAEA Safeguards Agreement who has been certified by the NRC;
5. A member of a state or local law enforcement authority that is responsible for responding to requests for assistance during safeguards emergencies;
6. A person to whom disclosure is ordered pursuant to section 2.744(e) of part 2 of part 10 of the Code of Federal Regulations; or
7. State Radiation Control Program Directors (and State Homeland Security Directors) or their designees.

In a generic sense, the individuals described above in (A) through (G) are considered to be trustworthy by virtue of their employment status. For non-governmental individuals in group (A) above, a determination of reliability and trustworthiness is required. Discretion must be exercised in granting access to the individuals in group (A). If there is any indication that the recipient would be unwilling or unable to provide proper protection for the SGI–M, they are not authorized to receive SGI–M.

Information Considered for Safeguards Information Designation

Information deemed SGI–M is information the disclosure of which could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of materials or facilities subject to NRC jurisdiction.

SGI–M identifies safeguards information which is subject to these requirements. These requirements are necessary in order to protect quantities of nuclear material significant to the health and safety of the public or common defense and security.

The overall measure for consideration of SGI–M is the usefulness of the information (security or otherwise) to an adversary in planning or attempting a malevolent act. The specificity of the information increases the likelihood that it will be useful to an adversary.

Protection While in Use

While in use, SGI–M shall be under the control of an authorized individual. This requirement is satisfied if the SGI–M is attended by an authorized individual even though the information is in fact not constantly being used. SGI–M, therefore, within alarm stations, continuously manned guard posts or ready rooms need not be locked in file drawers or storage containers.

Under certain conditions the general control exercised over security zones or areas would be considered to meet this requirement. The primary consideration is limiting access to those who have a need-to-know. Some examples would be:

- Alarm stations, guard posts and guard ready rooms;
- Engineering or drafting areas if visitors are escorted and information is not clearly visible;
- Plant maintenance areas if access is restricted and information is not clearly visible;
- Administrative offices (e.g., central records or purchasing) if visitors are escorted and information is not clearly visible;

Protection While in Storage

While unattended, SGI–M shall be stored in a locked file drawer or container. Knowledge of lock combinations or access to keys protecting SGI–M shall be limited to a minimum number of personnel for operating purposes who have a ''need-to-know'' and are otherwise authorized access to SGI–M in accordance with these requirements. Access to lock combinations or keys shall be strictly controlled so as to prevent disclosure to an unauthorized individual.

Transportation of Documents and Other Matter

Documents containing SGI–M when transmitted outside an authorized place of use or storage shall be enclosed in two sealed envelopes or wrappers. The inner envelope or wrapper shall contain the name and address of the intended recipient, and be marked both sides, top and bottom with the words ''Safeguards Information—Modified Handling.'' The outer envelope or wrapper must be addressed to the intended recipient, must contain the address of the sender, and must not bear any markings or indication that the document contains SGI–M.

SGI–M may be transported by any commercial delivery company that provides nation-wide overnight service with computer tracking features, U.S. first class, registered, express, or certified mail, or by any individual authorized access pursuant to these requirements.

Within a facility, SGI–M may be transmitted using a single opague envelope. It may also be transmitted within a facility without single or double wrapping, provided adequate measures are taken to protect the material against unauthorized disclosure. Individuals transporting SGI–M should retain the documents in their personal possession at all times or ensure that the information is appropriately wrapped and also secured to preclude compromise by an unauthorized individual.

Preparation and Marking of Documents

While the NRC is the sole authority for determining what specific information may be designated as ''SGI–M,'' originators of documents are responsible for determining whether those documents contain such information. Each document or other matter that contains SGI–M shall be marked ''Safeguards Information—Modified Handling'' in a conspicuous manner on the top and bottom of the first page to indicate the presence of protected information. The first page of the document must also contain (i) the name, title, and organization of the individual authorized to make a SGI–M determination, and who has determined that the document contains SGI–M, (ii) the date the document was originated or the determination made, (iii) an indication that the document contains SGI–M, and (iv) an indication that unauthorized disclosure would be subject to civil and criminal sanctions. Each additional page shall be marked in a conspicuous fashion at the top and bottom with letters denoting ''Safeguards Information—Modified Handling.''

In additional to the ''Safeguards Information—Modified Handling'' markings at the top and bottom of page, transmittal letters or memoranda which do not in themselves contain SGI–M shall be marked to indicate that attachments or enclosures contain SGI–M but that the transmittal does not (e.g., ''When separated from SGI–M enclosure(s), this document is decontrolled'').

In addition to the information required on the face of the document, each item of correspondence that contains SGI–M shall, by marking or other means, clearly indicate which portions (e.g., paragraphs, pages, or appendices) contain SGI–M and which do not. Portion marking is not required for physical security and safeguards contingency plans.

All documents or other matter containing SGI–M in use or storage shall be marked in accordance with these requirements. A specific exception is provided for documents in the possession of contractors and agents of licensees that were produced more than one year prior to the effective date of the order. Such documents need not be marked unless they are removed from file drawers or containers. The same exception applies to old documents stored away from the facility in central files or corporation headquarters.

Since information protection procedures employed by state and local police forces are deemed to meet NRC requirements, documents in the possession of these

agencies need not be marked as set forth in this document.

Removal From SGI–M Category

Documents containing SGI–M shall be removed from the SGI–M category (decontrolled) only after the NRC determines that the information no longer meets the criteria of SGI–M. Licensees have the authority to make determinations that specific documents *which they created* no longer contain SGI–M information and may be decontrolled. Consideration must be exercised to ensure that any document decontrolled shall not disclose SGI–M in some other form or be combined with other unprotected information to disclose SGI–M.

The authority to determine that a document may be decontrolled may be exercised only by, or with the permission of, the individual (or office) who made the original determination. The document shall indicate the name and organization of the individual removing the document from the SGI–M category and the date of the removal. Other persons who have the document in their possession should be notified of the decontrolling of the document.

Reproduction of Matter Containing SGI–M

SGI–M may be reproduced to the minimum extent necessary consistent with need without permission of the originator. Newer digital copiers which scan and retain images of documents represent a potential security concern. If the copier is retaining any information in memory, the copier cannot be connected to a network. It should also be placed in a location that is cleared and controlled for the authorized processing of SGI–M information. Different copiers have different capabilities, including some which come with features that allow the memory to be erased. Each copier would have to be examined from a physical security perspective.

Use of Automatic Data Processing (ADP) Systems

SGI–M may be processed or produced on an ADP system provided that the system is assigned to the licensee's or contractor's facility and requires the use of an entry code/password for access to stored information. Licensees must process this information in a computing environment that has adequate computer security controls in place to prevent unauthorized access to the information. An ADP system is defined here as a data processing system having the capability of long term storage of information. Word processors such as typewriters are not subject to the requirements as long as they do not transmit information off-site. (**NOTE:** If SGI–M is produced on a typewriter, the ribbon must be removed and stored in the same manner as other SGI–M information or media.) The basic objective of these restrictions is to prevent access and retrieval of stored SGI–M by unauthorized individuals, particularly from remote terminals. Specific files containing SGI–M will be password protected to preclude access by an unauthorized individual. SGI–M files may be transmitted over a network if the file is encrypted. In such cases, the licensee will select a commercially available encryption system that National Institute of Standards and Technology (NIST) has validated as conforming to Federal Information Processing Standards (FIPS). SGI–M files shall be properly labeled as ''Safeguards Information—Modified Handling'' and saved to removable media and stored in a locked file drawer or cabinet. The NIST maintains a listing of all validated encryption systems at *http://csrc.nist.gov/cryptval/140–1/1401val.htm.*

Telecommunications

SGI–M may not be transmitted by unprotected telecommunications circuits except under emergency or extraordinary conditions. For the purpose of this requirement, emergency or extraordinary conditions are defined as any circumstances that require immediate communications in order to report, summon assistance for, or respond to a security event (or an event that has potential security significance).

This restriction applies to telephone, telegraph, teletype, facsimile circuits, and to radio. Routine telephone or radio transmission between site security personnel, or between the site and local police, should be limited to message formats or codes that do not disclose facility security features or response procedures. Similarly, call-ins during transport should not disclose information useful to a potential adversary. Infrequent or non-repetitive telephone conversations regarding a physical security plan or program are permitted provided that the discussion is general in nature.

Individuals should use care when discussing SGI–M at meetings or in the presence of others to ensure that the conversation is not overheard by persons not authorized access. Transcripts, tapes or minutes of meetings or hearings that contain SGI–M shall be marked and protected in accordance with these requirements.

Destruction

Documents containing SGI–M must be destroyed when no longer needed. They may be destroyed by tearing into small pieces, burning, shredding or any other method that precludes reconstruction by means available to the public at large. Piece sizes one half inch or smaller composed of several pages or documents and thoroughly mixed are considered completely destroyed.

Attachment B—Trustworthiness and Reliability Requirements for Individuals Handling Safeguards Information

Licensees shall document the basis for concluding that there is reasonable assurance that individuals granted access to safeguards information are trustworthy and reliable, and do not constitute an unreasonable risk for malevolent use of the regulated material.

The trustworthiness, reliability, and verification of an individual's true identity shall be determined based on a background investigation. The background investigation shall address at least the past three (3) years, and, as a minimum, include a Federal Bureau of Investigation fingerprinting and criminal history check, verification of employment history, education, employment eligibility, credit check, and personal references. If an individual's employment has been less than the required three (3) year period, educational references may be used in lieu of employment history.

The licensee's background investigation requirements may be satisfied for an individual that has an active Federal security clearance.

Attachment C—Requirements for Fingerprinting and Criminal History Checks of Individuals When Licensee's Reviewing Official Is Determining Access to Safeguards Information

General Requirements

Licensees shall comply with the requirements of this attachment.

1. a. Each Licensee subject to the provisions of this attachment shall fingerprint each individual who is seeking or permitted access to Safeguards Information (SGI). The Licensee shall review and use the information received from the Federal Bureau of Investigation (FBI) and ensure that the provisions contained in the subject Order and this attachment are satisfied.

b. The Licensee shall notify each affected individual that the fingerprints will be used to secure a review of his/her criminal history record and inform the individual of the procedures for revising the record or including an explanation in the record, as specified in the ''Right to Correct and Complete Information'' section of this attachment.

c. Fingerprints need not be taken if an employed individual (e.g., a Licensee employee, contractor, manufacturer, or supplier) is relieved from the fingerprinting requirement by 10 CFR 73.59, has a favorably-decided U.S. Government criminal history check within the last five (5) years, or has an active Federal security clearance. Written confirmation from the Agency/employer which granted the Federal security clearance or reviewed the criminal history check must be provided. The Licensee must retain this documentation for a period of three (3) years from the date the individual no longer requires access to SGI associated with the Licensee's activities.

d. All fingerprints obtained by the Licensee pursuant to this Order must be submitted to the Commission for transmission to the FBI.

e. The Licensee shall review the information received from the FBI and consider it, in conjunction with the trustworthy and reliability requirements, in making a determination whether to grant access to Safeguards Information to individuals who have a need-to-know the SGI.

f. The Licensee shall use any information obtained as part of a criminal history records check solely for the purpose of determining an individual's suitability for access to Safeguards Information.

g. The Licensee shall document the basis for its determination whether to grant access to SGI.

2. The Licensee shall notify the NRC of any desired change in reviewing officials. The NRC will determine whether the individual

nominated as the new reviewing official may have access to Safeguards Information based on a previously-obtained or new criminal history check and, therefore, will be permitted to serve as the Licensee's reviewing official.

Prohibitions

A Licensee shall not base a final determination to deny an individual access to Safeguards Information solely on the basis of information received from the FBI involving: an arrest more than one (1) year old for which there is no information of the disposition of the case, or an arrest that resulted in dismissal of the charge or an acquittal.

A Licensee shall not use information received from a criminal history check obtained pursuant to this Order in a manner that would infringe upon the rights of any individual under the First Amendment to the Constitution of the United States, nor shall the Licensee use the information in any way which would discriminate among individuals on the basis of race, religion, national origin, sex, or age.

Procedures for Processing Fingerprint Checks

For the purpose of complying with this Order, Licensees shall, using an appropriate method listed in 10 CFR 73.4, submit to the NRC's Division of Facilities and Security, Mail Stop T–6E46, one completed, legible standard fingerprint card (Form FD–258, ORIMDNRCOOOZ) or, where practicable, other fingerprint records for each individual seeking access to Safeguards Information, to the Director of the Division of Facilities and Security, marked for the attention of the Division's Criminal History Check Section. Copies of these forms may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by calling (301) 415–5877, or by e-mail to *forms@nrc.gov*. Practicable alternative formats are set forth in 10 CFR 73.4. The Licensee shall establish procedures to ensure that the quality of the fingerprints taken results in minimizing the rejection rate of fingerprint cards due to illegible or incomplete cards.

The NRC will review submitted fingerprint cards for completeness. Any Form FD–258 fingerprint record containing omissions or evident errors will be returned to the Licensee for corrections. The fee for processing fingerprint checks includes one re-submission if the initial submission is returned by the FBI because the fingerprint impressions cannot be classified. The one free re-submission must have the FBI Transaction Control Number reflected on the re-submission. If additional submissions are necessary, they will be treated as initial submittals and will require a second payment of the processing fee.

Fees for processing fingerprint checks are due upon application. Licensees shall submit payment with the application for processing fingerprints by corporate check, certified check, cashier's check, money order, or electronic payment, made payable to ''U.S. NRC.'' [For guidance on making electronic payments, contact the Facilities Security Branch, Division of Facilities and Security, at (301) 415–7739]. Combined payment for multiple applications is acceptable. The application fee (currently $27) is the sum of the user fee charged by the FBI for each fingerprint card or other fingerprint record submitted by the NRC on behalf of a Licensee, and an NRC processing fee, which covers administrative costs associated with NRC handling of Licensee fingerprint submissions. The Commission will directly notify Licensees who are subject to this regulation of any fee changes.

The Commission will forward to the submitting Licensee all data received from the FBI as a result of the Licensee's application(s) for criminal history checks, including the FBI fingerprint record.

Right To Correct and Complete Information

Prior to any final adverse determination, the Licensee shall make available to the individual the contents of any criminal records obtained from the FBI for the purpose of assuring correct and complete information. Written confirmation by the individual of receipt of this notification must be maintained by the Licensee for a period of one (1) year from the date of the notification. If, after reviewing the record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, or update the alleged deficiency, or to explain any matter in the record, the individual may initiate challenge procedures. These procedures include either direct application by the individual challenging the record to the agency (i.e., law enforcement agency) that contributed the questioned information, or direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Assistant Director, Federal Bureau of Investigation Identification Division, Washington, DC 20537–9700 (as set forth in 28 CFR 16.30 through 16.34). In the latter case, the FBI forwards the challenge to the agency that submitted the data and requests that agency to verify or correct the challenged entry. Upon receipt of an official communication directly from the agency that contributed the original information, the FBI Identification Division makes any changes necessary in accordance with the information supplied by that agency. The Licensee must provide at least ten (10) days for an individual to initiate an action challenging the results of an FBI criminal history records check after the record is made available for his/her review. The Licensee may make a final SGI access determination based upon the criminal history record only upon receipt of the FBI's ultimate confirmation or correction of the record. Upon a final adverse determination on access to SGI, the Licensee shall provide the individual its documented basis for denial. Access to SGI shall not be granted to an individual during the review process.

Protection of Information

1. Each Licensee who obtains a criminal history record on an individual pursuant to this Order shall establish and maintain a system of files and procedures for protecting the record and the personal information from unauthorized disclosure.

2. The Licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, his/her representative, or to those who have a need to access the information in performing assigned duties in the process of determining access to Safeguards Information. No individual authorized to have access to the information may re-disseminate the information to any other individual who does not have a need-to-know.

3. The personal information obtained on an individual from a criminal history record check may be transferred to another Licensee if the Licensee holding the criminal history check record receives the individuals' written request to re-disseminate the information contained in his/her file, and the gaining Licensee verifies information such as the individual's name, date of birth, social security number, sex, and other applicable physical characteristics for identification purposes.

4. The Licensee shall make criminal history records, obtained under this section, available for examination by an authorized representative of the NRC to determine compliance with the regulations and laws.

5. The Licensee shall retain all fingerprint and criminal history records received from the FBI, or a copy if the individual's file has been transferred, for three (3) years after termination of employment or denial of access to SGI. After the required three (3) year period, these documents shall be destroyed by a method that will prevent reconstruction of the information in whole or in part.

[FR Doc. E6–17752 Filed 10–23–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NUREG–1852]

Demonstrating the Feasibility and Reliability of Operator Manual Actions in Response to Fire, Draft Report for Comment

AGENCY: Nuclear Regulatory Commission.

ACTION: Extension of comment period for NUREG 1852, ''Demonstrating the Feasibility and Reliability of Operator Manual Actions in Response to Fire, Draft Report for Comment.''

SUMMARY: On October 12, 2006 (71 FR 60200), the Nuclear Regulatory Commission (NRC) issued for public comment NUREG 1852, ''Demonstrating the Feasibility and Reliability of Operator Manual Actions in Response to Fire, Draft Report for Comment.'' A request has been made to extend the public comment period such that the public will have a full 60 days to review this report. Currently, the **Federal Register** specifies that the public comment period ends on November 6, 2006, less than 30 days after the issuance of the **Federal Register** Notice.

DATES: The comment period has been extended and now expires on December 12, 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 before this date.

ADDRESSES: Members of the public are invited and encouraged to submit written comments to Michael Lesar, Chief, Rulemaking, Directives and Editing Branch, Office of Administration, Mail Stop T6–D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Hand-deliver comments attention to Michael Lesar, 11545 Rockville Pike, Rockville, MD, between 7:30 a.m. and 4:15 p.m. on Federal workdays. Comments may also be sent electronically to *NRCREP@nrc.gov.*

This document, NUREG–1852, is available at the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* under Accession No. ML0623502923; on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/nuregs/docs4comment.html*; and at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. The PDR's mailing address is USNRC PDR, Washington, DC 20555; telephone (301) 415–4737 or (800) 397–4205; fax (301) 415–3548; e-mail *PDR@NRC.GOV.*

FOR FURTHER INFORMATION, CONTACT: Erasmia Lois, Human Factors and Reliability Branch, Office of Nuclear Regulatory Research, telephone (301) 415–6560, e-mail *exl1@nrc.gov.*

Dated at Rockville, Maryland, this 16th day of October, 2006.

For the Nuclear Regulatory Commission.

Jose Ibarra,

Chief, Human Factors and Reliability Branch, Probabilistic Risk and Applications, Division of Risk Assessment and Special Projects, Office of Nuclear Regulatory Research.

[FR Doc. E6–17824 Filed 10–23–06; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54609; File No. SR–FICC–2006–11]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating To Establishing New Reporting Processes To Support the Bilateral Comparison of Pool Details Associated With Specified Pool Trade Activity

October 16, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on June 15, 2006, the Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') and on June 30, 2006, amended the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by FICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would add new rules to FICC's Mortgage Backed Securities Division (''MBSD'') Rulebook that would establish new reporting processes to support the bilateral comparison of pool details associated with specified pool trade (''SPT'') activity.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FICC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FICC has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.[2]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this filing is to implement in MBSD's Rulebook new reporting processes to support the bilateral comparison of pool details associated with SPT's. This is the first of three new services MBSD plans to offer the mortgage-backed securities industry. The new services will be Real Time Trade Matching (''RTTM'') Specified Pool Trade Matching, Electronic Pool Notification Pool Substitution, and Central Counterparty Pool Netting with Guaranteed Settlement.[3]

Currently, MBSD does not support SPT matching. As a result, members must submit SPT's to MBSD as ''to be announced'' (''TBA'') trades for matching on a trade-for-trade basis. These trades are processed through MBSD's comparison and clearing system as TBA's and are risk managed at the TBA level using par amount.[4] MBSD reports these trades to members through the MBS Purchase and Sale Report and the Open Commitment Report, which reports provide binding confirmation of these trades to members but do not transmit actual pool level details to the member. Because these original trades must currently be submitted at the TBA level, MBSD members must perform exception processing to convert the SPT data to the associated TBA level. In addition, the selling member must utilize MBSD's EPN service to supplement the original trade submission with pool level details.

To make this process more efficient for its members, FICC is proposing to enable MBSD members to submit the pool number and original face for all SPT activity through RTTM. However, this proposal will not change how MBSD currently risk manages these trades at the TBA level. MBSD's rules will continue to stipulate that SPT's may be treated as TBA's in instances of member insolvency.

In addition, FICC proposes to make two new reports available to members: the RTTM Purchase and Sale Report and the RTTM Open Commitment Report.[5] These reports would reflect the submission of pool number and original

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by FICC.

[3] FICC has published two white papers that discuss its plans to develop central counterparty services for MBSD. *Fixed Income Clearing Corporation as Central Counterparty for Mortgage-Backed Securities* (June 2003) and *A Central Counterparty for Mortgage-Backed Securities: Paving the Way* (April 2006), which are available online at *http://www.ficc.com/mbs/docs/whitepapers/final.ccp.0617.pdf* and *http://www.dtcc.com/ThoughtLeadership/whitepapers/ccp.pdf*, respectively.

[4] Par amount could be the original face or current face submitted by members.

[5] These reports will not replace the MBSD's Purchase and Sale Report or the Open Commitment Report, which will continue to reflect specified pool trades as TBA trades.

face value[6] as matching criteria submitted by members. Finally, FICC is proposing to include new fees for the submission of SPTs to the Schedule of Charges in the MBSD Rulebook.

FICC believes that the proposed rule change is consistent with the requirements of section 17A of the Act[7] and the rules and regulations thereunder because it should improve the reporting of SPT information to members and thereby should improve the accurate reporting, clearance, and settlement of securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

FICC does not believe that the proposed rule change will have any impact, or impose any burden, on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

FICC has not solicited or received written comments relating to the proposed rule change. FICC will notify the Commission of any written comments it receives.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–FICC–2006–11 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington DC 20549–1090.

All submissions should refer to File No. SR–FICC–2006–11. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at FICC's principal office and on FICC's Web site at *http://ficc.com/gov/gov.docs.jsp?NS-query=#rf*. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submission should refer to File No. SR–FICC–2006–11 and should be submitted on or before November 14, 2006.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6–17731 Filed 10–23–06; 8:45 am]

BILLING CODE 8011–01–P

[6] In addition to pool number and original face value, existing matching fields (such as TBA CUSIP and price) will continue to be populated by members.

[7] 15 U.S.C. 78q–1.

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54613; File No. SR–NASDAQ–2006–043]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify the Operations of Its Recently-Approved ''Single Book'' Execution System

October 17, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 10, 2006, The NASDAQ Stock Market LLC (''Nasdaq'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by Nasdaq. Nasdaq has filed the proposal pursuant to section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to modify the operations of its recently-approved ''Single Book'' execution system.[5] Nasdaq states that, through quality control and testing, and feedback from the trading community, it has identified five modifications to the operation and rules governing the Single Book system that would improve the fair and orderly operation of the Nasdaq market.

Specifically, Nasdaq is proposing five changes: (1) Establishing a Pegged Order based upon changes to the Nasdaq Market Center inside, an order type that is currently available in the Nasdaq Market Center; (2) clarifying how certain order routing strategies would operate with respect to the New York Stock Exchange (''NYSE'') and American Stock Exchange (''Amex'') markets; (3) eliminating vestigial references to individual Nasdaq market

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] Securities Exchange Act Release No. 54155 (July 14, 2006), 71 FR 41291 (July 20, 2006) (File No. SR–NASDAQ–2006–001) (approving the ''Single Book Proposal''). *See also* Securities Exchange Act Release No. 53583 (March 31, 2006), 71 FR 19573 (April 14, 2006) (File No. SR–NASDAQ–2006–001) (''Single Book Proposal'').

participants—as opposed to the Nasdaq exchange—participating in the ITS system; (4) adopting the adjustment of open orders process currently approved and in use in the Nasdaq Market Center, rather than the one currently used in the INET system; and (5) reflecting the changes to the Nasdaq rules that have been approved since the Single Book Proposal was approved on July 14, 2006.

Nasdaq has designated this proposal as non-controversial. Nasdaq has requested that the Commission waive the 30-day pre-operative waiting period contained in that rule. Nasdaq states that, if such waiver is granted by the Commission, this rule proposal, which is effective upon filing with the Commission, would become operative upon the launch of the Single Book execution system (which Nasdaq currently expects to occur on October 16, 2006), pursuant to Exchange Act Rule 19b–4(f)(6). Below is the text of the proposed rule change. Proposed new language is *italicized* and proposed deletions are in [brackets].

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4120. Trading Halts

(a) No Change.

(b) Procedure for Initiating a Trading Halt.

(1)–(6) No Change.

(7)(A) A trading halt initiated under Rule 4120(a)(1), (4), (5) or (6) shall be terminated when Nasdaq releases the security for trading. Prior to terminating the halt, there will be a 5-minute [Quotation] *Display*. Only Period during which market participants may enter quotations *and orders* in that security in Nasdaq systems. At the conclusion of the 5-minute [Quotation] *Display* Only Period, the security shall be released for trading unless Nasdaq extends the [Quotation] *Display* Only Period for an additional 1-minute period pursuant to subparagraph (C) below. There shall be a period of between zero and 15 seconds (randomly selected) at which point the [Quotation] *Display* Only Period shall end and trading shall resume pursuant to Rule [4703] *4753*.

(B) A trading halt initiated under Rule 4120(a)(7) shall be terminated when Nasdaq releases the security for trading. Prior to terminating the halt, there will be a 15-minute [Quotation] *Display* Only Period during which market participants may enter quotes and orders in that security in Nasdaq systems. At the conclusion of the 15-minute [Quotation] *Display* Only Period, the security shall be released for trading unless Nasdaq extends the [Quotation] *Display* Only Period for one, two or three additional 5-minute [Quotation] *Display* Only Periods pursuant to subparagraph (C) below. At the conclusion of the [Quotation] *Display* Only Period(s), there shall be an additional delay of between zero and 15 seconds (randomly selected) and then trading shall resume pursuant to Rule [4703] *4753.*

(C) If at the end of a [Quotation] *Display* Only Period, Nasdaq detects a Liquidity Imbalance in the security, Nasdaq will extend the [Quotation] *Display* Only Period as permitted under subparagraphs (A) and (B) above. Liquidity Imbalances shall be established when: (1) *the Current Reference Prices, as defined in Rule 4752(a)(2)(A), disseminated 15 seconds and immediately prior to the end of the Display Only Period differ by greater than (i) 10 percent or (ii) 50 cents (whichever is greater), or (2) all buy or sell market orders will not be executed in the cross.*

[1. The Inside Match Prices, as defined in Rule 4703(a)(2), disseminated 15 seconds and immediately prior to the end of the Quotation Only Period differ by greater than (i) 10 percent or (ii) 50 cents (whichever is greater); or

2. The Halt Cross would execute at a price at which higher-priced marketable orders to buy or lower-priced marketable orders to sell would remain unexecuted.]

(8) No Change.

* * * * *

4751. Definitions

(a)–(e) No Change.

(f) The term ''Order Type'' shall mean the unique processing prescribed for designated orders that are eligible for entry into the System, and shall include:

(1)–(3) No Change.

(4) ''Pegged Orders'' are orders that, after entry, has their price automatically adjusted by the System in response to changes in *either the Nasdaq Market Center inside bid or offer or* bids or offers in the *national* market *system,* as appropriate. A Pegged Order can specify that its price will equal the inside quote on the same side of the market (''Primary Peg'') or the opposite side of the market (''Market Peg''). A Pegged Order may have a limit price beyond which the order shall not be executed. In addition, Pegged Orders may also establish their pricing relative to the appropriate bids or offers by the selection of one or more offset amounts that will adjust the price of the order by the offset amount selected. A new timestamp is created for the order each time it is automatically adjusted.

(5)–(8) No Change.

(g)–(i) No Change.

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4758. Order Routing

(a) Order Routing Process

(1) The Order Routing Process shall be available to Participants from 7:00 a.m. until 8:00 p.m. Eastern Time, and shall route orders as described below:

(A) Exchange-Listed Routing Options. The System provides four routing options for orders in exchange-listed securities. Of these four, only DOT is available for orders ultimately sought to be directed to either the New York Stock Exchange (''NYSE'') or the American Stock Exchange (''AMEX''). The System also allows firms to send individual orders to the NYSE Direct + System, and to elect to have orders not be sent to the AMEX. Except as noted below in SPDY, routed pegged orders in securities listed on another exchange, the System will consider the quotations of accessible markets. The four System routing options for NYSE and/or Amex listed orders are:

(i) No Change.

(ii) Reactive Electronic Only (''STGY'')—under this option, after checking the System for available shares, orders are sent to other available market centers for potential execution, per entering firm's instructions. When checking the book, the System will seek to execute at the price it would send the order to a destination market center. If shares remain un-executed after routing, they are posted on the book [and are not sent to the NYSE or AMEX]. Once on the book, should the order subsequently be locked or crossed by another accessible market center, the System shall route the order to the locking or crossing market center for potential execution in order to resolve the locked or crossed market. With the exception of the Minimum Quantity order type, all time-in-force parameters and order types may be used in conjunction with this routing option. This process is one of the routing strategies allowed by the System for all securities.

(iii) Electronic Only Scan (''SCAN'')—under this option, after checking the System for available shares, orders are sent to other available market centers for potential execution, per entering firm's instructions. When checking the book, the System will seek to execute at the price it would send the order to a destination market center. If shares remain un-executed after routing, they are posted on the book [and are not sent to the NYSE or AMEX]. Once on the book, should the order subsequently be locked or crossed by another market center, the System will not route the order to the locking or crossing market center. With the exception of the Minimum Quantity order type, all time-

in-force parameters and order types may be used in conjunction with this routing option. This process is one of the routing strategies allowed by the System for all securities *and shall be used for routing ITS Commitments.*

(iv) Aggressive Electronic Only (''SPDY'')—under this option, after checking the System for available shares, orders are sent to other available market centers for potential execution, per entering firm's instructions. When checking the book, the System will seek to execute at the price it would send the order to a destination market center. If shares remain un-executed after routing, they are posted on the book [and are not sent to the NYSE or AMEX]. Once on the book, should the order subsequently be locked or crossed by another accessible market center, the System shall route the order to the locking or crossing market center for potential execution in order to resolve the locked or crossed market. Market orders with the SPDY designation will, during a locked or crossed market, have their price adjusted by the System to match the best price displayed on the same side of the market as the market order (i.e., a buy order to the bid, a sell to the offer). If the order is for a security eligible for a de minimis exception to the trade-through rule set forth in Section 8 (d)(i) of the ITS Plan, the System will ignore AMEX prices when adjusting the SPDY order during a locked or crossed market. With the exception of the Minimum Quantity order type, all time-in-force parameters and order types may be used in conjunction with this routing option. This process is one of the routing strategies allowed by the System for all securities.

(B)–(C) No Change.

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4759. ITS Commitments

Until such time as Nasdaq withdraws from the ITS Plan, Quotes and Orders that are eligible for ITS will be processed by the System and routed to the appropriate Non-Nasdaq Participant Market as an ITS Commitment in accordance with the requirements of the ITS Plan and all applicable Nasdaq rules. Nasdaq shall participate in the ITS Plan as set forth below.

(a) No Change.

(b) Inbound ITS Commitments

(1) If the ITS Commitment contains an obvious error, the Nasdaq Market Center will decline it. For purposes of this Rule, a transaction may have an obvious error in any term, such as price, number of shares or other unit of trading, *or* identification of the security[, or if a specific commitment to trade has been executed with the wrong Nasdaq Market Maker].

(2)–(3) No Change.

(c) Outbound Commitments: Any ''commitment to trade,'' which is transmitted by [an]Nasdaq [Participant]to another Non-Nasdaq ITS Participant Market through ITS, shall be firm and irrevocable for the period of thirty seconds following transmission by the sender. All such commitments to trade shall, at a minimum:

(1)–(6) No Change.

(d) No Change.

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4761. Adjustment of Open Quotes and/or Orders

[The Nasdaq Market Center will automatically purge all open quotes and/or orders in all Nasdaq Market Center eligible securities resident in the system in response to issuer corporate actions related to a dividend, payment or distribution, on the ex-date of such actions, except where a cash dividend or distribution is less than one cent ($0.01).]

The Nasdaq Market Center will automatically adjust the price and/or size of open quotes and/or orders in all Nasdaq Market Center eligible securities (unless otherwise noted) resident in the system in response to issuer corporate actions related to a dividend, payment or distribution, on the ex-date of such actions, except where a cash dividend or distribution is less than one cent ($0.01), as follows:

(a) Quotes—All bid and offer side quotes shall be purged from the system.

(b) Sell Orders—Sell side orders in Nasdaq-listed and NYSE-listed securities shall not be adjusted by the system and must be modified, if desired, by the entering party, except for reverse splits where such sell side orders shall be purged from the system. Sell side orders in Amex-listed securities shall be adjusted in accordance with the procedures set forth below for Buy Orders in the event of a Stock Dividend or Stock Split.

(c) Buy Orders—Buy side orders shall be adjusted by the system based on the particular corporate action impacting the security (i.e. cash dividend, stock dividend, both, stock split, reverse split) as set forth below:

(1) Odd lot orders in ITS Securities that result from partial execution rather than order entry shall be canceled rather than adjusted.

(2) Cash Dividends: Buy side order prices shall be first reduced by the dividend amount and the resulting price will then be rounded down to the nearest penny unless marked ''Do Not Reduce''.

(3) Stock Dividends and Stock Splits: Buy side order prices shall be determined by first rounding up the dollar value of the stock dividend or split to the nearest penny. The resulting amount shall then be subtracted from the price of the buy order. Unless marked ''Do Not Increase'', the size of the order shall be increased by first, (A) multiplying the size of the original order by the numerator of the ratio of the dividend or split, then (B) dividing that result by the denominator of the ratio of the dividend or split, then (C) rounding that result to the next lowest share.

(4) Dividends Payable in Either Cash or Securities at the Option of the Stockholder: Buy side order prices shall be reduced by the dollar value of either the cash or securities, whichever is greater. The dollar value of the cash shall be determined using the formula in paragraph (2) above, while the dollar value of the securities shall be determined using the formula in paragraph (3) above. If the stockholder opts to receive securities, the size of the order shall be increased pursuant to the formula in subparagraph (3) above.

(5) Combined Cash and Stock Dividends/Split: In the case of a combined cash dividend and stock split/dividend, the cash dividend portion shall be calculated first as per section (1) above, and stock portion thereafter pursuant to sections (2) and/or (3) above.

(6) Reverse Splits: All orders (buy and sell) shall be cancelled and returned to the entering firm.

(d) Open buy and sell orders that are adjusted by the system pursuant to the above rules, and that thereafter continuously remain in the system, shall retain the time priority of their original entry.

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II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On July 14, 2006, the Commission approved SR–NASDAQ–2006–001,[6] a proposal to create an integrated execution facility—the ''Single Book''—from Nasdaq's three current facilities: The Nasdaq Market Center;[7] the Brut ECN; and the INET ECN. Nasdaq states that, through quality control and testing, and feedback from the Nasdaq community, it has identified five minor modifications to the operation and rules governing the Single Book that would improve the fair and orderly operation of the Nasdaq market.

(1) Nasdaq is proposing to modify Nasdaq Rule 4751(f)(4) to re-establish a Pegged Order based upon changes to the Nasdaq Market Center inside, an order type that is currently available in the Nasdaq Market Center.[8] As stated in Amendment 1 to the Single Book Proposal, Nasdaq originally focused on providing order types then available in the INET system, including Pegged Orders pegged to quotes and orders in the national market system other than in Nasdaq.[9] Nasdaq has determined that the having the ability to choose between Pegged Order based upon changes to the Nasdaq inside quotation or changes to the national best bid or offer would be a valuable tool for Nasdaq participants and that it would be relatively simple to revise this order type in the Single Book. Nasdaq states that the proposed Pegged Order would operate exactly as it is currently approved in the Nasdaq Market Center.

(2) Nasdaq is proposing to eliminate language from Nasdaq Rule 4758(a)(1)(A)(ii), (iii), and (iv) that Nasdaq states improperly indicates that orders in NYSE and Amex securities will not be routed to the NYSE and Amex. In fact, after NYSE and Amex have implemented their anticipated electronic trading platforms, Nasdaq states that those routing strategies—STGY, SCAN, and SPDY—may result in an order being routed to those markets. However, as stated in paragraph (a)(1)(A) of that rule, only the DOT routing strategy is used for orders that are directed by a participant to those markets. In addition, Nasdaq is proposing to add language to paragraph (a)(1)(A)(iii) stating that the SCAN routing strategy would be used to route Intermarket Trading System (''ITS'') commitments to the appropriate ITS exchanges.

(3) When Nasdaq begins operating as a national securities exchange for the purposes of trading NYSE and Amex securities, it will do so as a consolidated whole rather than as a collection of individual market participants. In the Single Book Proposal, Nasdaq systematically eliminated most references to individual market participant conduct in the System. It appears, however, that Nasdaq failed to eliminate several vestigial references in Nasdaq Rule 4759(c) to individual Nasdaq market participants—as opposed to the Nasdaq exchange—participating in the ITS system. Nasdaq is proposing to eliminate those references now, without otherwise changing that rule or Nasdaq's obligations under the ITS Plan.

(4) In the Single Book Proposal, Nasdaq proposed to adopt via Nasdaq Rule 4761 the INET process of purging open orders when a corporate event such as a stock split or dividend occurred, and to abandon the Nasdaq Market Center methodology for adjusting such open orders. After further dialogue with industry participants, Nasdaq has determined that many Nasdaq members prefer the current Nasdaq Market Center methodology for adjusting open orders rather than purging them because those members have not programmed their systems to adjust such orders themselves. By adopting the existing Nasdaq Market Center rule, Nasdaq Rule 4715, Nasdaq states that it would be relieving members of the burden of reprogramming their systems because the adjustment of orders will occur automatically within Nasdaq's system. Nasdaq believes it can modify this rule without burdening any of its other members because members that do not want Nasdaq to adjust their open orders in the event of a corporate action can choose simply to cancel their open orders at the end of the trading day.

(5) On July 28, 2006, Nasdaq submitted SR–NASDAQ–2006–019 which modified, among others, Nasdaq Rule 4120.[10] Nasdaq states that these modifications took effect on August 1, 2006, when Nasdaq began operating as a national securities exchange. In order to create a fully-transparent record of the development of the Nasdaq rule manual, Nasdaq believes it is necessary to demonstrate how the current rule, including the changes established in SR–NASDAQ–2006–019, differ from the rule approved in the Single Book Proposal and how the current rule would change when the Single Book system is implemented. Therefore, Nasdaq is proposing to modify the Nasdaq rule currently in effect to reflect changes that have already been approved in connection with the Single Book Proposal or that are required for use when the Single Book System is operational. Nasdaq states that the proposed changes to Nasdaq Rule 4120 are designed to re-establish the rule language already approved with respect to the Single Book Proposal and are therefore non-substantive.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 6 of the Act,[11] in general, and with sections 6(b)(5) of the Act,[12] in particular, in that the proposal is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, or to regulate by virtue of any authority conferred by the Act matters not related to the purposes of the Act or the administration of the exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change is subject to section 19(b)(3)(A)(iii) of the

[6] *See supra* note 5.

[7] References to the Nasdaq Market Center refer to the current NASDAQ execution system as opposed to the future execution system.

[8] *See* Nasdaq Rule 4701(mm).

[9] *See* Nasdaq Rule 4951(q) and Single Book Proposal at 19592.

[10] Securities Exchange Act Release No. 54248 (July 31, 2006), 71 FR 44738 (August 7, 2006) (File No. SR–NASDAQ–2006–019).

[11] 15 U.S.C. 78f.

[12] 15 U.S.C. 78f(b)(5).

Act[13] and Rule 19b–4(f)(6) thereunder[14] because the proposal: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative prior to 30 days after the date of filing or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that Nasdaq has given the Commission notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. Nasdaq states that it would make this rule proposal operative upon the launch of the Single Book system.

Nasdaq has satisfied the five-day pre-filing requirement and has requested that the Commission waive the 30-day pre-operative delay. Nasdaq states that it has carefully planned a detailed and thorough testing and roll-out schedule for the Single Book system, and has coordinated that schedule with numerous industry participants. Nasdaq states that to disrupt that schedule would cause substantial inconvenience for all involved and delay the launch of a process that Nasdaq believes would dramatically improve the Nasdaq Stock Market, whereas a delay would benefit none. The Commission believes that this proposal contains modifications to the Single Book rules that provide useful clarifications or represent modifications substantially similar to rules currently in effect at Nasdaq. The Commission believes that waiving the 30-day pre-operative delay is consistent with the protection of investors and the public interest because such waiver would permit Nasdaq to begin operation of its Single Book system under its current roll-out schedule. For this reason, the Commission designates the proposed rule change to be effective upon filing with the Commission.[15] The Commission notes that Nasdaq intends to make the proposed rule changes operative upon the launch of the Single Book execution system.

At any time within 60 days of the filing of such proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

[13] 15 U.S.C. 78s(b)(3)(A)(iii).

[14] 17 CFR 240.19b–4(f)(6).

[15] For the purposes only of waiving the 30-day pre-operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2006–043 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2006–043. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of Nasdaq. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2006–043 and should be submitted on or before November 14, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Jill M. Peterson,

Assistant Secretary.

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BILLING CODE 8011–01–P

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54614; File No. SR–NASD–2006–117]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Enhance the Brut Directed Cross Order

October 17, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 4, 2006, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by Nasdaq. Nasdaq has filed the proposal pursuant to section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to enhance the flexibility of the Brut Directed Cross Order by allowing it to check and, if appropriate, interact with available liquidity in any of Nasdaq's three execution systems (ITS/CAES System, Brut, and INET) before further processing. Nasdaq has designated this proposal as noncontroversial and has requested that the Commission waive the 30-day pre-operative waiting period contained in Rule 19b–4(f)(6)(iii) under the Act.[5]

The text of the proposed rule change is below. Proposed new language is in

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] 17 CFR 240.19b–4(f)(6)(iii).

italics; proposed deletions are in [brackets].

4903. Order Entry Parameter

(a) No Change.

(b) Brut Cross Orders—

(1) General. A Brut Cross Order is an order that is displayed in the System, and is executable against marketable contra-side orders in the System. The order also is eligible for routing to other market centers. If marketable upon receipt against both orders in the System as well as other market centers, the order shall execute first against System orders. With the exception of Directed Cross Orders, once a Brut Cross Order is routed (in whole or in part) to another market center, any remaining unexecuted or returned portion of the order shall be posted in System and shall no longer be eligible for routing to other market centers. Directed Cross Orders directed to the New York Stock Exchange shall remain at the exchange until executed or cancelled by the entering party.

(A)–(C) No Change.

(D) A Brut Cross Order may also be designated as a Directed Cross Order. A Directed Cross Order is an order that is entered into the System during market hours and is executable against marketable contra-side orders in the System. The order also is eligible for routing to other market centers. After being processed and exhausting available liquidity, the order is automatically routed to the specific market center selected by the entering party for potential execution. Any portion of the Directed Cross Order that remains unfilled after being routed to the selected market center will be returned to the entering party. For Directed Cross Orders directed to the New York Stock Exchange [if, after being processed in the Brut System and exhausting available liquidity in the Brut System], such orders will *first interact with any available liquidity in the Brut, INET, and ITS/CAES systems* [be automatically routed to the ITS/CAES System and INET for potential execution] and thereafter, if instructed by the entering party, to other market centers that provide automated electronic executions before being sent to the New York Stock Exchange. Directed Cross Orders directed to the New York Stock Exchange shall remain at the New York Stock Exchange until executed or cancelled by the entering party.

(E)–(F) No Change.

(c)–(f) No Change.

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II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq proposes to increase the flexibility of the Brut Directed Cross Order for orders directed to the New York Stock Exchange (''NYSE''). Currently parties entering a Brut Directed Cross Order directed to the NYSE have those orders first processed in the Brut System and, after exhausting available liquidity in the Brut System, thereafter automatically routed to the ITS/CAES System and Nasdaq's INET Facility for potential execution and finally, if instructed by the entering party, to other market centers that provide automated electronic executions before being sent to the NYSE. Nasdaq proposes to modify the behavior of the Brut Directed Cross Order so that it will now check and, if appropriate, interact with available liquidity in any of the following Nasdaq-operated execution facilities: The ITS/CAES System, Nasdaq's Brut Facility, and Nasdaq's INET Facility, before being sent upon request to other market centers that provide automated electronic executions before finally being delivered to the NYSE. Nasdaq notes that each Nasdaq-operated execution facility would be checked for available liquidity before the order is routed away to another market.[6]

Nasdaq believes that the above change will enhance the ability of market participants to take advantage of beneficial liquidity residing across all three of Nasdaq's current execution systems. Further, such processing will increase the likelihood of having users' NYSE-bound orders executed electronically thereby improving the speed and efficiency of the market as a whole. As before, no Brut Directed Cross Order will execute in a Nasdaq-operated execution venue at an inferior price to one that is available at an accessible alternative venue.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A of the Act,[7] in general, and with section 15A(b)(6) of the Act,[8] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change is subject to section 19(b)(3)(A)(iii) of the Act[9] and Rule 19b–4(f)(6) thereunder[10] because the proposal: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative prior to 30 days after the date of filing or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that Nasdaq has given the Commission notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

Nasdaq has fulfilled the five-day pre-filing requirement. Nasdaq has requested that the Commission waive the 30-day pre-operative delay. The Commission believes that waiving the 30-day pre-operative delay is consistent

[6] Telephone conversation between Tomas Moran, Associate General Counsel, Nasdaq, and Theodore S. Venuti, Attorney, Division of Market Regulation, Commission, on October 10, 2006.

[7] 15 U.S.C. 78*o*–3.

[8] 15 U.S.C. 78*o*–3(b)(6).

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6).

with the protection of investors and the public interest because such waiver would immediately allow a Brut Directed Cross Order to check and, if appropriate, interact with available liquidity in any of Nasdaq's three execution systems (ITS/CAES System, Brut, and INET) before further processing. For these reasons, the Commission designates the proposed rule change to be effective and operative upon filing with the Commission.[11]

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NASD–2006–117 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASD–2006–117. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of the NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASD–2006–117 and should be submitted on or before November 14, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6–17733 Filed 10–23–06; 8:45 am]

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[11] For the purposes only of waiving the 30-day pre-operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54616; File Nos. SR–NYSE–2006–77; SR–NASD–2006–112]

Self-Regulatory Organizations; New York Stock Exchange LLC and the National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Changes Relating to NYSE Rule 472 and NASD Rule 2711

October 17, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 27, 2006, the New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') and the National Association of Securities Dealers, Inc. (''NASD'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule changes as described in Items I, II, and III below, which Items have been prepared by the respective self-regulatory organizations. The NYSE and NASD (the ''SROs'') have filed the proposed rule changes as constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of existing rules pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(1) thereunder,[4] which renders them effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(1).

I. Self-Regulatory Organizations' Statements of the Terms of Substance of the Proposed Rule Changes

The Exchange proposes to amend NYSE Rule 472 to codify the Exchange's existing interpretive guidance relating to certain provisions of the rule and to make certain non-substantive, technical changes to the rule's text. The text of the proposed rule change is available on NYSE's Web site, *http://www.nyse.com,* at the NYSE's Office of the Secretary, and at the Commission's Public Reference Room.

NASD is proposing to amend NASD Rule 2711 to codify NASD's existing interpretive guidance relating to certain provisions of the rule and to make several non-substantive, technical changes to clarify the rule's intended meaning. The text of the proposed rule change is attached as Exhibit 5 to the NASD's rule filing.

II. Self-Regulatory Organizations' Statements of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In their filings with the Commission, the NYSE and NASD included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments they received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. The NYSE and NASD have prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organizations' Statements of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

(1) NYSE's Purpose

Background

NYSE Rule 472 is, in significant part, intended to improve the objectivity of research by requiring that investors be provided with conflict disclosures as well as other useful and reliable information with which to make investment decisions. Specifically, NYSE Rule 472 restricts the interaction between research departments and investment banking personnel; requires disclosure of financial interests in covered companies by the analyst and

the firm; requires disclosure of existing and potential investment banking relationships with subject companies; imposes quiet periods for issuance of research reports; restricts personal trading by analysts; requires disclosure of information that helps investors track the correlation between an analyst's rating and the stock's price movements; requires that a compensation committee, without investment banking representation, review and approve compensation of research analysts; prohibits research analysts from participating in the solicitation of investment banking business; and prohibits research analysts from participating in road shows related to investment banking transactions.

Since the 2002 amendments to NYSE Rule 472,[5] the Exchange has jointly published with NASD two memoranda that provide interpretive guidance to member organizations on a number of issues relating to NYSE Rule 472 and NASD's corresponding Rule 2711.[6] Further, on December 21, 2005, the Exchange and the NASD submitted to the Commission a joint report on the operation and effectiveness of their respective rules relating to research analyst conflicts of interest (the ''SRO Report''). Among the recommendations included in the SRO Report is that certain interpretations set forth in the two joint memoranda be codified as rule text. Accordingly, the Exchange is herein proposing amendments to NYSE Rule 472 consistent with these recommendations.[7]

Specifically, the Exchange is proposing to amend NYSE Rule 472 to reflect the interpretive guidance relating to (1) The definition of the term ''public appearance,'' (2) the definition of the term ''research report,'' (3) the definition of the term ''investment banking services,'' (4) the definition of the term ''household member,'' (5) the definition of the term ''equity security,'' (6) certain disclosure requirements, (7) compendium reports and (8) third-party research. In addition, the Exchange is proposing non-substantive, technical changes to NYSE Rule 472 where necessary to clarify the rule's intended meaning.

Definition of ''Public Appearance''

NYSE Rule 472.50 currently defines ''public appearance'' as any participation in a seminar, forum (including an interactive electronic forum), radio, television or print media interview, or other public speaking activity, or the writing of a print media article, in which a research analyst makes a recommendation or offers an opinion concerning an equity security.

The proposed rule change codifies existing interpretive guidance to NYSE Rule 472 which will:

(1) Include ''conference calls'' in the definition of ''public appearance.''[8]

(2) Provide that a conference call, seminar, forum (including an interactive electronic forum) or other public speaking activity in which a research analyst makes a recommendation or offers an opinion concerning an equity security constitutes a public appearance only if presented before fifteen (15) or more persons (the ''15-person standard'').[9] If a member organization can reasonably ascertain at a public speaking activity before fifteen (15) or more persons that those persons represent less than fifteen (15) separate investors, then it will not constitute a public appearance. The NYSE believes the 15-person standard is consistent with the proposed rule change to amend the definition of ''research report'' in NYSE Rule 472 (discussed below) and SEC Regulation Analyst Certification (''Regulation AC'').[10]

(3) Clarify that any conference call, seminar, forum (including an interactive electronic forum) or other public speaking activity in which a research analyst makes a recommendation or offers an opinion concerning an equity security before one or more representatives of the media constitutes a public appearance. Thus, a public speaking activity attended by at least one (1) representative of the media is a ''public appearance'' even if there are only three (3) other persons in attendance. The NYSE believes this interpretation is consistent with the current definition of ''public appearance'' which expressly includes radio, television and print media interviews because the media are a conduit to the public.

(4) Exclude from the definition of ''public appearance'' password-protected Webcasts, conference calls and similar events with fifteen (15) or more existing customers (either individuals or entities), provided that:

(a) The event participants have previously received the most current research report or other documentation pertaining to the equity security in question that includes the disclosures required by NYSE Rule 472; and

(b) The research analyst appearing at the event corrects or updates during the public appearance any disclosures that are inaccurate, misleading or no longer applicable.[11]

Definition of ''Research Report''

NYSE Rule 472.10(2) currently defines the term ''research report'' as a written or electronic communication which includes an analysis of equity securities of individual companies or industries, and provides information reasonably sufficient upon which to base an investment decision.

The proposed rule change would exclude from the definition of ''research report'' the following communications: (1) Reports discussing broad-based indices, such as the Russell 2000 or S&P 500 index; (2) reports commenting on economic, political or market conditions; (3) technical analysis concerning the demand and supply for a sector, index or industry based on trading volume and price; (4) statistical summaries of multiple companies' financial data, including listings of current ratings; (5) reports that recommend increasing or decreasing holdings in particular industries or sectors; and (6) notices of ratings or price target changes, provided that the member organization simultaneously directs the readers of the notice to the most recent research report on the subject company that includes all current applicable disclosures required by NYSE Rule 472 and that such research report does not contain materially misleading disclosure, including disclosures that are outdated or no longer applicable.[12]

[5] *See* Securities Exchange Act Release No. 45908 (May 10, 2002), 67 FR 34968 (May 16, 2002) (order approving SR–NYSE–2002–09).

[6] *See* NYSE Information Memo 02–26 (June 26, 2002) and NYSE Information Memo 04–10 (March 9, 2004).

[7] The SRO Report also recommended a number of substantive rule changes that extend beyond codifying existing interpretations of the provisions of NYSE Rule 472. As such, those changes are not included in this proposed rule change, which will take effect upon filing with the Commission pursuant to Section 19(b)(3)(A)(i) of the Act. Contemporaneously herewith, the Exchange filed a separate proposed rule change to implement those additional proposed amendments to NYSE Rule 472, SR–NYSE–2006–78.

[8] *See* NYSE Information Memo 02–26.

[9] *See* NYSE Information Memo 04–10.

[10] 17 CFR 242.500 *et seq.*

[11] *See* NYSE Information Memo 04–10.

[12] The NYSE believes that these exclusions essentially parallel those contained in SEC Regulation AC and the terms of the Research Analyst Global Settlement, an agreement among NASD, NYSE, the SEC, the North American Securities Administrators Association and twelve of the largest investment banks to resolve allegations regarding biased research. (*See also* NYSE Information Memos 02–26 and 04–10).

The Exchange notes that the proposed rule language to codify these interpretations may not be identical to that in the joint memoranda. The changes reflect, in part, the fact that the definition of ''research report'' was subsequently amended and no longer requires a recommendation. Also, in some instances, the Exchange has chosen language more appropriate for rule text. To the extent there are discrepancies, unless otherwise noted, the

The proposed rule change would codify an additional exclusion from the definition of ''research report'' for the following communications, even if they include an analysis of an individual security and information reasonably sufficient upon which to base an investment decision: (1) Any communication distributed to fewer than fifteen (15) persons; (2) periodic reports or other communications prepared for investment company shareholders or discretionary investment account clients that discuss individual securities in the context of a fund's or an account's past performance or the basis for previously made discretionary investment decisions; and (3) internal communications that are not given to customers. Thus, NYSE believes that, for example, a manager's discussion of fund performance in a mutual fund shareholder report would not constitute a research report.[13]

Additionally, the proposed rule change would codify an interpretation that communications that constitute statutory prospectuses that are filed as part of the registration statement are not considered ''research reports,'' even if they otherwise satisfy the definitional elements. The NYSE believes this exemption recognizes that prospectuses serve different purposes than research reports and, thus, are subject to a separate comprehensive regulatory scheme.

Definition of ''Investment Banking Services''

Under current NYSE Rule 472.20, the term ''investment banking services'' includes acting as an underwriter in an offering for the issuer; acting as a financial adviser in a merger or acquisition; providing venture capital, equity lines of credit, PIPEs, or similar investments; or serving as a placement agent for the issuer.

The proposed rule change would codify existing interpretive guidance that the definition of ''investment banking services'' also includes acting as a member of a selling group in a securities underwriting.[14]

Definition of ''Household Member''

Exchange Rule 472.40 currently defines the term ''household member'' to include any individual whose principal residence is the same as the research analyst's principal residence.

The proposed rule change would codify that the definition of ''household member'' does not include an unrelated person who shares the same residence as a research analyst provided that the research analyst and unrelated person are financially independent of one another. Thus, according to the NYSE, for example, an analyst's roommate or apartment mate, who is financially independent of the analyst, would not be considered a ''household member'' for purposes of the restrictions on personal trading and disclosure requirements in NYSE Rule 472.[15]

Definition of ''Equity Security''

Currently, ''equity security'' is not defined in NYSE Rule 472. The proposed rule change would add ''equity security'' as a defined term in paragraph 472.140 and would codify existing interpretive guidance that, for purposes of this rule, the term has the meaning ascribed to it in Section 3(a)(11)[16] of the Securities Exchange Act of 1934.[17]

Disclosure Requirements

NYSE Rule 472(k) sets forth a number of disclosure requirements for research reports and for public appearances by research analysts. In addition to disclosures relating to conflicts, this provision requires that a member organization disclose the meanings of ratings used in the member organization's rating system, the distribution of buy, hold, and sell ratings assigned by the member organization, and a price chart that plots the assignment or changes of the analyst's ratings and price targets for the subject company against the movement of the subject company's stock price over time. NYSE Rule 472.70 supplements this provision stating that the ratings disclosures be current as of the end of the most recent calendar quarter (or the second most recent calendar quarter if the publication date is less than fifteen (15) calendar days after the most recent calendar quarter).

The NYSE believes the proposed rule change to amend NYSE Rule 472 would clarify the existing requirement that the ratings distribution in a research report should reflect the current distribution of the most recent ratings that the member organization has issued for all subject companies, within the previous twelve (12) months.[18]

In addition, the proposed rule change would amend NYSE Rule 472(k)(1)(i)h to clarify that a price chart is required only if a research report contains either a rating or a price target, and the member organization has assigned a rating or price target to the subject company for at least one (1) year.[19]

The proposed rule change would also make certain non-substantive, technical changes to the disclosure requirements of NYSE Rule 472 in order to clarify that such disclosures are required only in certain research reports. Specifically, the proposed rule change would amend NYSE Rule 472 to clarify that: (1) A research report must disclose the meanings of ratings used in the member organization's ratings system only if the report contains a rating of the subject company's stock; (2) a research report must disclose the member organization's ratings distribution information only if the report contains a rating; and (3) a research report must disclose valuation methods used in determining price targets only if the report contains a price target.

Compendium Reports

NYSE Rule 472(k)(1)(iii)d provides that when a member organization distributes a research report covering six or more companies, for purposes of the rule's disclosure requirements, such report may direct the reader in a clear manner to the applicable current disclosures in written or electronic format.

The proposed rule change would codify the existing interpretation that an electronic compendium report—a research report covering six (6) or more subject companies—may include a hyperlink to the required disclosures. A paper-based compendium report must provide either a toll-free number to call or a postal address to write for the required disclosures and may also include a Web address of the member organization where the disclosures can be found.[20]

Third-Party Research

First, the proposed rule change would add new paragraph (k)(4) (''Third-Party Research Reports'') to NYSE Rule 472 to codify existing interpretative guidance that when a member organization distributes research produced by another member organization, a non-member organization affiliate (*e.g.*, a foreign broker-dealer or an investment adviser) or an independent third party, the member organization must disclose: (1) The member organization's and its affiliate's ownership of the subject company's securities, pursuant to NYSE

substance of the existing interpretations is not intended to be different than those set forth in the joint memoranda.

[13] The NYSE believes that these exclusions parallel those contained in SEC Regulation AC. (*See* NYSE Information Memo 04–10).

[14] *See* NYSE Information Memo 02–26.

[15] *See* NYSE Information Memo 02–26.

[16] 15 U.S.C. 78c(a)(11).

[17] *See* NYSE Information Memo 02–26 and 04–10.

[18] *See* NYSE Information Memo 04–10.

[19] *See* NYSE Information Memo 02–26.

[20] *See* NYSE Information Memo 02–26.

Rule 472(k)(1)(i)c; (2) the member organization's and its affiliate's investment banking relationships with the subject company, pursuant to NYSE Rule 472(k)(1)(i)a; (3) the member organization's market making activities in the subject company's securities, pursuant to NYSE Rule 472(k)(1)(i)b; and (4) any other actual, material conflict of interest of the analyst or member organization, pursuant to NYSE Rule 472(k)(1)(iii)d (the ''third-party disclosures'').[21] Where a member organization distributes another member organization's research report, the distributing member organization must include the third-party disclosures as they pertain to the distributing member organization's relationship to the subject company, whereas the member organization whose report is being distributed is subject to all disclosure requirements under NYSE Rule 472.[22]

Second, the proposed rule change clarifies that the third-party disclosures noted above shall not apply to research prepared by an independent third-party that the member organization makes available to its customers either upon request or through a member organization-maintained Web site. However, according to the NYSE, a member organization that makes a non-member organization affiliate's research report available to its customers upon request or through its Web site must include the third-party disclosures.

Third, the amendments set forth the review and approval requirements for third-party research distributed by a member organization. The amended rule provides that a supervisory analyst qualified under NYSE Rule 344 must approve, pursuant to NYSE Rule 472(a)(2), by signature or initial, any third-party research distributed by a member organization. In addition, a supervisory analyst or qualified person designated pursuant to NYSE Rule 342(b)(1) (*e.g.*, a person who has taken and passed the Series 9/10, or another examination acceptable to the Exchange which demonstrates competency relevant to assigned responsibilities, including the Series 24 if taken and passed after July 1, 2001) must review third-party research distributed by a member organization to determine that the third-party disclosures are complete and accurate, and that the content of the research report is consistent with all applicable standards regarding communications with the public.

The joint interpretive memoranda indicate that distribution of independent third-party research through a soft-dollar arrangement is not encompassed by the disclosure requirements. The proposed rule change would supersede this interpretation. Thus, when a member organization distributes independent third-party research through a soft-dollar arrangement, the third-party disclosure requirements would apply, unless another exception is available (*e.g.*, where such research is provided upon customer request or furnished directly by the research provider to the customer).[23]

Other Changes

In addition, changes are proposed to delete the term ''member'' as used in NYSE Rule 472 to reflect the recent reorganization of the Exchange.[24]

The Exchange has filed the proposed rule change for immediate effectiveness. The effective date and the implementation date will be the date of the filing.

(2) NYSE's Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5)[25] of the Act which requires, among other things, that the rules of the Exchange are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to perfect the mechanism of a free and open market and national market system, and in general to protect investors and the public interest. The Exchange believes that the proposed rule change will enhance the clarity and consistency of the research analyst rules, thereby facilitating the goals of reducing conflicts of interest and fraudulent and manipulative practices, and providing investors with more objective, reliable information upon which to base investment decisions.

(3) NASD's Purpose

NASD Rule 2711 (Research Analysts and Research Reports) is intended to improve the objectivity of research and provide investors with important conflicts disclosures and other useful and reliable information with which to make investment decisions. Generally, NASD Rule 2711 restricts the relationship between research and investment banking; requires disclosure of financial interests in covered companies by the analyst and the firm; requires disclosure of existing and potential investment banking relationships with subject companies; imposes quiet periods for issuance of research reports; restricts personal trading by analysts; requires disclosure of information that helps investors track the correlation between an analyst's rating and the stock's price movements; requires that a compensation committee, without investment banking representation, review and approve compensation of research analysts; prohibits research analysts from participating in the solicitation of investment banking business; and prohibits research analysts from participating in road shows related to investment banking transactions.

Since adoption of the rule in 2002,[26] NASD has jointly published with the New York Stock Exchange (''NYSE'') two memoranda that provide interpretive guidance to members on a number of issues relating to the rule. *See* NASD *Notice to Members* 02–39 (July 2002) and NASD *Notice to Members* 04–18 (March 2004). On December 21, 2005, NASD and the NYSE submitted to the Commission a joint report on the operation and effectiveness of the SRO rules relating to research analyst conflicts of interest (the ''SRO Report''). In connection with that report, NASD staff performed a detailed review of NASD Rule 2711 and recommended various rule changes, among them, codifying certain existing interpretations.[27]

The proposed rule change would make express in NASD Rule 2711 a number of existing interpretations, most of which have previously been set forth in the two joint interpretive memoranda. Specifically, NASD is

[21] *See* NYSE Information Memos 02–26 and 04–10.

[22] *See* NYSE Information Memos 02–26 and 04–10.

[23] A ''soft-dollar'' arrangement involves an agreement whereby a money manager receives research or brokerage services from a broker-dealer in exchange for brokerage commissions from transactions for clients' accounts. In furnishing research, the broker-dealer may produce it in-house or obtain it from a third-party.

[24] *See* Securities Exchange Act Release No. 53382 (February 27, 2006), 71 FR 11251 (March 6, 2006) (order approving SR–NYSE–2005–77).

[25] 15 U.S.C. 78f(b)(5).

[26] *See* Securities Exchange Act Release No. 45908 (May 10, 2002), 67 FR 34968 (May 16, 2002) (order approving SR–NASD–2002–021).

[27] The SRO Report also recommended a number of substantive rule changes that extend beyond codifying existing interpretations of the provisions of Rule 2711. Those changes are not included in this proposed rule change, but are the subject of a separate proposed rule change SR–NASD–2006–113, which has been filed contemporaneously herewith.

proposing to amend NASD Rule 2711 to make express in the rule language the interpretive guidance contained in *Notice to Members* 02–39 and *Notice to Members* 04–18 relating to (1) the definition of ''equity security,'' (2) the definition of ''investment banking services,'' (3) the definition of ''member of a research analyst's household,'' (4) the definition of ''public appearance,'' (5) the definition of ''research report,'' (6) certain disclosure requirements, (7) compendium reports and (8) third-party research. In addition, NASD is proposing non-substantive, technical changes to NASD Rule 2711 where necessary to clarify the rule's intended meaning.

Definition of ''Equity Security''

Currently, ''equity security'' is not defined in NASD Rule 2711. The proposed rule change would add ''equity security'' as a defined term in paragraph (a)(1) and would codify existing interpretive guidance that for purposes of this rule, the term has the meaning ascribed to it in Section 3(a)(11) of the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(11). *See Notice to Members* 02–39.

Definition of ''Investment Banking Services''

NASD Rule 2711(a)(2) defines ''investment banking services'' to include, without limitation, acting as an underwriter in an offering for the issuer; acting as a financial adviser in a merger or acquisition; providing venture capital, equity lines of credit, PIPEs or similar investments; or serving as placement agent for the issuer.

The proposed rule change would renumber paragraph (a)(2) as paragraph (a)(3) in light of the rule change discussed above and would codify an existing interpretation that the definition of ''investment banking services'' also includes acting as a member of a selling group in a securities underwriting. *See Notice to Members* 02–39. Additionally, the proposed rule change would make a technical change to clarify that the acronym PIPE stands for ''private investment, public equity transactions.''

Definition of ''Member of a Research Analyst's Household''

NASD Rule 2711(a)(3) defines a ''member of a research analyst's household'' as any individual whose principal residence is the same as the research analyst's principal residence.

The proposed rule change would renumber paragraph (a)(3) as paragraph (a)(4) in light of the rule change discussed above and would codify an existing interpretation that excludes from this definition any unrelated person who shares the same residence as a research analyst provided that the research analyst and unrelated person are financially independent of one another. Thus, according to NASD, for example, an analyst's roommate or apartment-mate, who is financially independent of the analyst, would not be considered a member of the analyst's household for purposes of the restrictions on personal trading and disclosure requirements in NASD Rule 2711. *See Notice to Members* 02–39.

Definition of ''Public Appearance''

NASD Rule 2711(a)(4) defines ''public appearance'' as any participation in a seminar, forum (including an interactive electronic forum), radio, television or print media interview, or other public speaking activity, or the writing of a print media article, in which a research analyst makes a recommendation or offers an opinion concerning an equity security.

The proposed rule change would renumber paragraph (a)(4) as paragraph (a)(5) in light of the rule change discussed above and would codify several existing interpretations relating to the definition of ''public appearance.'' First, NASD proposes to include conference calls in the definition. *See Notice to Members* 02–39.

Second, NASD proposes to amend the definition to expressly provide that only a conference call, seminar, forum (including an interactive electronic forum) or other public speaking activity before 15 or more persons constitutes a ''public appearance.'' NASD believes this 15-person standard is consistent with SEC Regulation Analyst Certification (''Regulation AC'') and the proposed amendment to the definition of ''research report'' under NASD Rule 2711 (discussed below). *See Notice to Members* 04–18. As set forth in *Notice to Members* 04–18, the 15-person standard applies to separate investors. Thus, according to NASD, where a research analyst can ascertain at a public speaking activity before 15 or more individuals that those individuals represent fewer than 15 separate investors, then such activity would not constitute a ''public appearance.''

Third, the proposed rule change would amend the definition to provide that any conference call, seminar, forum or other public speaking activity before one or more representatives of the media constitutes a ''public appearance'' if the research analyst makes a recommendation or offers an opinion concerning an equity security. *See Notice to Members* 04–18. Thus, according to NASD, even if there are only five persons in attendance at a public speaking activity, if one of those persons is a representative of the media, the event will be a ''public appearance.'' NASD believes this interpretation is consistent with the current definition, which expressly includes radio, television and print media interviews because the media are a conduit to the public.

Finally, NASD proposes to exclude from the definition password-protected Webcasts, conference calls and similar events with 15 or more existing customers (either individuals or entities), provided that the event participants have previously received the most current research report or other documentation that includes the disclosures required by NASD Rule 2711 and the research analyst appearing at the event corrects or updates during the public appearance any disclosures that are inaccurate, misleading or no longer applicable. *See Notice to Members* 04–18.

Definition of ''Research Report''

NASD Rule 2711(a)(8) defines ''research report'' as a written or electronic communication that includes an analysis of equity securities of individual companies or industries, and that provides information reasonably sufficient upon which to base an investment decision.

The proposed rule change would renumber paragraph (a)(8) as paragraph (a)(9) in light of the rule change discussed above and would codify an existing interpretation that communications that are limited to the following do not meet the definition of ''research report'': (1) Discussions of broad-based indices, such as the Russell 2000 or S&P 500 index; (2) commentaries on economic, political or market conditions; (3) technical analyses concerning the demand and supply for a sector, index or industry based on trading volume and price; (4) statistical summaries of multiple companies' financial data, including listings of current ratings; (5) recommendations regarding increasing or decreasing holdings in particular industries or sectors; and (6) notices of ratings or price target changes, provided that the member simultaneously directs the readers of the notice to the most recent research report on the subject company that includes all current applicable disclosures required by NASD Rule 2711 and that such research report does not contain materially misleading disclosure, including disclosures that are outdated or no

longer applicable. *See Notice to Members* 02–39.[28]

In addition, the proposed rule change would codify three exclusions from the definition of ''research report'' for certain communications, even if they include an analysis of an individual equity security and information reasonably sufficient upon which to base an investment decision. First, NASD proposes to exclude any communication distributed to fewer than 15 persons. *See Notice to Members* 04–18.[29] This exclusion supersedes the interpretive guidance provided in *Notice to Members* 02–39 that an analysis prepared by a registered representative for a specific customer's account would not be considered a research report. Second, NASD proposes to exclude periodic reports or other communications prepared for investment company shareholders or discretionary investment account clients that discuss individual securities in the context of a fund's or an account's past performance or the basis for previously made discretionary investment decisions. Thus, NASD believes that, for example, a manager's discussion of fund performance in a mutual fund shareholder report would not constitute a research report. *See Notice to Members* 04–18.[30] Third, NASD proposes to exclude from the definition internal communications that are not given to current or prospective customers. *See Notice to Members* 02–39.[31]

Additionally, the proposed rule change would codify an interpretation that communications that constitute statutory prospectuses that are filed as part of the registration statement are not considered ''research reports,'' even if they meet the definitional elements. NASD believes prospectuses serve different purposes than research reports and are subject to a separate comprehensive regulatory scheme.

NASD is also proposing a non-substantive, technical change to the definition of ''research report'' to clarify that written communications include electronic communications. NASD believes that this change would be consistent with the definition of ''research report'' in SEC Regulation AC.

Disclosure Requirements

NASD Rule 2711(h) sets forth a number of disclosure requirements for research reports and public appearances by research analysts. In addition to disclosures relating to conflicts, this provision requires that a member disclose the meanings of ratings used in the member's rating system, the distribution of buy, hold, and sell ratings assigned by the member, and a price chart that plots the assignment or changes of the analyst's ratings and price targets for the subject company against the movement of the subject company's stock price over time.

The proposed rule change would amend NASD Rule 2711(h)(5) to codify the existing interpretation that the ratings distribution should reflect the current distribution of the most recent ratings that the member has issued for all subject companies, unless the most recent rating was issued more than 12 months ago. *See Notice to Members* 04–18. In addition, the proposed rule change would amend NASD Rule 2711(h)(6) to clarify that a price chart is required if a research report contains either a rating or a price target; however, a member is not required to provide a price chart if the research report does not include a rating or price target. *See Notice to Members* 04–18.

The proposed rule change would also make certain non-substantive, technical changes to the disclosure requirements of NASD Rule 2711(h) in order to clarify that such disclosures are required only in certain research reports. Specifically, NASD proposes to amend: (1) NASD Rule 2711(h)(4) to clarify that a research report must disclose the meanings of ratings used in the member's ratings system only if the report contains a rating of the subject company's stock; (2) NASD Rule 2711(h)(5) to clarify that a research report must disclose the member's ratings distribution information only if the report contains a rating; and (3) NASD Rule 2711(h)(7) to clarify that a research report must disclose valuation methods used in determining price targets only if the report contains a price target.

Compendium Reports

NASD Rule 2711(h)(11) provides that when a member distributes a research report covering six or more companies, for purposes of the rule's disclosure requirements, such report may direct the reader in a clear manner as to where the reader may obtain the applicable current disclosures in written or electronic format.

The proposed rule change would codify the existing interpretation that an electronic compendium report—a research report covering six or more subject companies—may include a hyperlink to the required disclosures. A paper-based compendium report must provide either a toll-free number to call or a postal address to write for the required disclosures and may also include a Web address of the member where the disclosures can be found. *See Notice to Members* 02–39.

Third-Party Research

The proposed rule change would add new paragraph (h)(13) to NASD Rule 2711 to codify the existing interpretive guidance relating to members' disclosure obligations in the context of distributing third-party research. Proposed new paragraph (h)(13)(A) would make express the existing interpretation that when a member distributes research produced by another member, a non-member affiliate (*e.g.*, a foreign broker-dealer or an investment adviser) or an independent third party, the member must disclose (1) The member's and its affiliate's ownership of the subject company's securities, pursuant to NASD Rule 2711(h)(1)(B); (2) the member's and its affiliate's investment banking relationships with the subject company, pursuant to NASD Rule 2711(h)(2)(A)(ii); (3) the member's market making activities in the subject company's securities, pursuant to NASD Rule 2711(h)(8); and (4) any other actual, material conflict of interest of the analyst or member, pursuant to NASD Rule 2711(h)(1)(C) (the ''third-party disclosures''). Thus, according to NASD, when a member distributes another member's research report, the distributing member must include the third-party disclosures as pertains to the distributing member's relationship to the subject company, while the member whose report is being distributed must comply with all of the disclosure requirements under NASD Rule 2711. *See Notice to Members* 02–39 and *Notice to Members* 4–18.[32]

[28] NASD believes that these exclusions essentially parallel those contained in SEC Regulation AC and the terms of the so-called ''Global Settlement,'' an agreement among NASD, NYSE, the SEC, the North American Securities Administrators Association and ten of the largest investment banks to resolve allegations regarding biased research.

NASD notes that the proposed rule language to codify these interpretations is not identical to that in the joint memoranda. The changes reflect, in part, the fact that the definition of ''research report'' was subsequently amended and no longer requires a recommendation. Also, in some instances, NASD has chosen language more appropriate for rule text. In any event, unless otherwise noted, the substance of the existing interpretations are not intended to be different than those set forth in the joint memoranda.

[29] NASD believes that this exclusion parallels SEC Regulation AC.

[30] NASD believes that this exclusion parallels SEC Regulation AC.

[31] NASD believes that this exclusion parallels SEC Regulation AC.

[32] New paragraph (h)(13) and existing paragraphs (h)(1)(C), (h)(2)(A)(ii) and (h)(8) of NASD Rule 2711

The joint interpretive memoranda indicate that distribution of independent third-party research through a soft-dollar arrangement is not encompassed by the disclosure requirements. According to NASD, the proposed rule change would supersede this interpretation. Thus, NASD believes that when a member distributes independent third-party research through a soft-dollar arrangement, the third-party disclosure requirements would apply, unless another exception is available (*e.g.*, where such research is provided upon customer request).

The proposed rule change would codify the existing interpretation that a member is not required to make the third-party disclosures when the member makes independent third-party research reports available to its customers upon request or through a member-maintained Web site. *See Notice to Members* 02–39 and *Notice to Members* 04–18. However, a member that makes a non-member affiliate's research report available to its customers upon request or through its Web site must include the third-party disclosures. *See Notice to Members* 04–18.

Finally, NASD believes that consistent with the requirements of NASD Rule 2210(b)(1), the proposed rule change would clarify that a registered principal must approve by signature or initial any third-party research distributed by a member. This requirement may be met by the signature or initial of a supervisory analyst approved pursuant to Rule 344 of the New York Stock Exchange (*i.e.*, a Series 16 Supervisory Analyst). All third-party research distributed by a member must be reviewed by the designated principal (or Series 16 Supervisory Analyst, as the case may be) to determine that the applicable disclosures required by NASD Rule 2711 are complete and accurate, and the content of the research report is consistent with all applicable standards regarding communications with the public.

With respect to research reports prepared by a member, NASD reminds members that the content of the research report must be approved by an individual who has passed either (1) the Series 24 and the Series 87 or (2) the Series 16. If the member elects to have a Series 16 approve the content of research, then a Series 24 principal who has also passed either the Series 87 or the Series 16 must supervise the conduct of both the Series 16 Supervisory Analyst and the research analyst. *See* NASD Rule 1022(a)(5) and NASD *Notice to Members* 04–81 (November 2004). Similar to the approach set forth above regarding the approval of third-party research, NASD will permit any registered principal or a Series 16 Supervisory Analyst to supervise for compliance with the disclosure provisions (only) of NASD Rule 2711. According to NASD, all other content of the research report must continue to be approved by an individual who has passed either the Series 24 and the Series 87, or the Series 16. NASD reminds members that in accordance with NASD Rule 3010 (Supervision), all personnel reviewing both member and third-party research must be qualified by virtue of experience and training to carry out such review.

NASD has filed the proposed rule change for immediate effectiveness. The effective date and the implementation date will be the date of filing, September 27, 2006.

(4) NASD's Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[33] which requires, among other things, that NASD rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that the proposed rule change will enhance the clarity and consistency of the research analyst rules, thereby facilitating the goals of reducing conflicts of interest and fraudulent and manipulative practices, and providing investors with more objective, reliable information upon which to base investment decisions.

B. Self-Regulatory Organizations' Statements on Burden on Competition

The NYSE and NASD do not believe that the proposed rule changes will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organizations' Statements on Comments on the Proposed Rule Changes Received From Members, Participants, or Others

The NYSE and NASD have neither solicited nor received written comments.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

The foregoing rule changes have become effective pursuant to Section 19(b)(3)(A) of the Act[34] and paragraph (f)(1) of Rule 19b–4 thereunder,[35] in that the proposed rule changes constitute a stated policy, practice or interpretation with respect to the meaning, administration, or enforcement of an existing rule. At any time within 60 days of the filing of the proposed rule changes, the Commission may summarily abrogate such rule changes if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule changes are consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Numbers SR–NYSE–2006–77 and/or SR–NASD–2006–112 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Numbers SR–NYSE–2006–77 and/or SR–NASD–2006–112. These file numbers should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the

will be renumbered pursuant to related rule filing SR–NASD–2006–113, discussed herein at note 27.

[33] 15 U.S.C. 78o–3(b)(6).

[34] 15 U.S.C. 78s(b)(3)(A).

[35] 17 CFR 240.19b4–4(f)(1).

public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal offices of the NYSE and NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to the File Numbers SR–NYSE–2006–77 and/or SR–NASD–2006–112 and should be submitted on or before November 14, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[36]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6–17744 Filed 10–23–06; 8:45 am]

BILLING CODE 8011–01–P

[36] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54615; File No. SR–NYSE–2006–37]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto Relating to Exchange Rule 86 (Automated Bond System®)

October 17, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 16, 2006, the New York Stock Exchange LLC) (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed Amendment Nos. 1 and 2 to the proposed rule change on August 4, 2006[3] and October 10, 2006,[4] respectively. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaced and superseded the original filing in its entirety.

[4] Amendment No. 2 replaced and superseded Amendment No. 1 in its entirety.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NYSE seeks to replace Exchange Rule 86 to implement changes to the Automated Bond System (''ABS®''), which would be re-named ''NYSE Bonds℠.'' The text of the proposed rule change is available on the NYSE's Web site (*http://www.nyse.com*), at the NYSE's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to replace current Exchange Rule 86 with a new rule that would accommodate and promote increased bond market activity and greater transparency in bond trading on the Exchange. The new rule would continue to enumerate the NYSE's primary rule relating to bond trading as Exchange Rule 86. The automated system in which bonds would trade would be re-named ''NYSE Bonds.'' Other Exchange rules that relate to trading of bonds in NYSE Bonds would be amended to conform to new Exchange Rule 86.

Users[5] of NYSE Bonds would have the ability to buy and sell bonds through the NYSE Bonds automated execution facility. To obtain authorized access to NYSE Bonds, a member organization of the Exchange would have to enter into a service agreement with the Exchange thereby subscribing to NYSE Bonds. Non-members who wish to trade on NYSE Bonds would have to do so through a written sponsorship agreement with a subscribing member organization of the Exchange.

[5] In the proposed rules, ''User'' means any Subscriber, Sponsoring Member Organization, Sponsored Participant, or Authorized Trader that is authorized to obtain access to NYSE Bonds. *See* proposed NYSE Rule 86(b)(2)(M).

Bonds To Be Traded on NYSE Bonds

Debt securities that currently trade on ABS would also trade on NYSE Bonds. Such debt securities include, but are not limited to the following: Corporate bonds (including convertible bonds), international bank bonds, foreign government bonds, U.S. government bonds, government agency bonds, municipal bonds, and debt-based structured products. In a separate filing, the Exchange has requested that the Commission provide relief pursuant to Section 36 of the Act[6] to provide an exemption from the provisions of Section 12(a) of the Act[7] to permit NYSE member organizations to trade bonds that are not registered under Section 12(b) of the Act,[8] but are issued by NYSE-listed companies and their wholly owned subsidiaries and that meet other conditions.[9] Should this exemption be granted, trading in bonds covered by the exemption would occur via the NYSE Bonds system.

Any security traded on NYSE Bonds would be referred to as a ''bond'' for purposes of Exchange Rule 86. Any security traded on NYSE Bonds would have to be listed, or otherwise admitted to dealing, on the Exchange. Today, the majority of NYSE bond volume is in corporate debt, with approximately 94% in non-convertible bonds, including certain debt-based structured products, and approximately 6% in convertible bonds.

NYSE Bonds Trading Rules

The proposed rules designate the types of orders that could be entered into NYSE Bonds and the minimum unit of trading for bonds traded through the system. Initially, Users of NYSE Bonds would be allowed to enter limit orders (''NYSE Bonds Limit Orders'') and reserve orders (''NYSE Bonds Reserve Orders''). A NYSE Bonds Reserve Order would be a limit order, a portion of which would be displayed and a portion of which would remain as undisplayed or reserve size. As the technology of the NYSE Bonds system continues to be implemented, all order types that are currently available in ABS also could be available in NYSE Bonds. Such order types may include ''Next Day,'' ''Cash,'' ''Day,''[10] and ''Good 'til

[6] 15 U.S.C. 78mm.

[7] 15 U.S.C. 78*l*(a).

[8] 15 U.S.C. 78*l*(b).

[9] *See* Securities Exchange Act Release No. 51998 (July 8, 2005), 70 FR 40748 (July 14, 2005) (File No. S7–06–05).

[10] ''NYSE Bonds Day Orders'' would have to be designated for specific trading sessions or, by

Cancelled'' (''GTC'').[11] The Exchange would notify its member organizations when additional order types became available for use.

The minimum unit of trading in NYSE Bonds would be one bond. This minimum unit of trading would apply to both the displayed and undisplayed portion of a NYSE Bonds Reserve Order. A bond is usually traded in denominations of $1,000 (*i.e.*, the original principal amount of a bond is usually $1,000). A unit of trading in bonds other than $1,000 could be designated by the Exchange for specific issues of bonds denominated in U.S. dollars or foreign currencies. Bonds with less than $1,000 original principal amount could trade on NYSE Bonds, provided the User first aggregated the bonds into denominations of $1,000. Bids or offers for less than $1,000 would have to specify the original principal amount of the bond. The maximum size for any bond order would be 1,000,000 bonds. NYSE Bonds would accept and display bids and offers in bonds priced to three decimal places.

The Exchange would place parameters on priced orders that crossed the market by establishing price collar thresholds. The Exchange believes that these thresholds would help avoid executions at erroneous prices. Initially, these collars would be set at one percentage point of par value outside the Exchange best bid and offer. The Exchange could modify the price collar thresholds from time to time, upon prior notice to NYSE Bonds Users. The Exchange would reject an order sent to NYSE Bonds if the limit price of an incoming order to buy were one percentage point of par value higher than the price of the then-current best offer displayed on NYSE Bonds, or if the limit price of an incoming order to sell were one percentage point of par value lower than the then-current price of the NYSE Bonds' best bid.

NYSE Bonds would be an electronic order-driven matching system. NYSE Bonds orders submitted by Users would be displayed, matched, and executed on a price/time priority basis. Orders that were marketable at the time of entry would be matched and executed. An order would be marketable when it entered the NYSE Bonds system if contra side interest were available at that price or a better price. Orders that were not marketable at the time of entry would post to the NYSE Bonds order ''book.'' Orders that were marketable beyond the price collar threshold would be rejected by the system.

If an order were entered capable of trading at a better price than the then-best priced contra-side order on the NYSE Bonds book, the system would match the incoming order against the resting order at the resting order's price, thereby providing price improvement to the incoming order. For example, assume the NYSE Bonds market in the relevant bond is 101 bid, offered at 102 (1,000 × 1,000). A NYSE Bonds Limit Order to buy 1,000 bonds comes in priced at 103. The order would be executed at 102, providing 1 point of price improvement to the incoming order. With the same market, assume a NYSE Bonds Limit Order to buy 1,000 bonds at 104 comes into the NYSE Bonds system. The order would be rejected as it would violate the price collar threshold of one percentage point of par value.

As previously discussed, NYSE Bonds would accept limit and reserve orders. Undisplayed reserve interest in NYSE Bonds would always yield to displayed orders at a particular price. Most orders matched on NYSE Bonds would be locked-in trades and would be submitted to a registered clearing agency with accrued interest calculated according to the defined eligibility characteristics of the particular bond.[12] Such accrued interest would be distributed to the seller. Settlement of corporate bond trades would be ''regular way,'' *i.e.*, three-day settlement.

Bond Trading Sessions

NYSE Bonds would have three trading sessions during which ordinary trading would occur: (1) The Opening Bond Trading Session (4 a.m. until 9:30 a.m. e.t.); (2) the Core Bond Trading Session, which would likely have the greatest market activity (9:30 a.m. until 4 p.m. e.t.); and (3) the Late Bond Trading Session (4 p.m. until 8 p.m. e.t.). Orders for one or more of these sessions could be entered in NYSE Bonds beginning at 3:30 a.m. e.t., and the orders would queue until the beginning of the designated Bond Trading Session(s). Users entering orders into NYSE Bonds would be required to designate for each such order the trading session(s) for which the order would be available for execution. If an order were not designated for any particular trading session the order would, by default, be available for execution only in the Core Bond Auction and the Core Bond Trading Session.[13]

Orders could be designated only for Bond Trading Sessions—not Bond Auctions. Therefore, while orders could be designated and ''available'' only for Trading Sessions, they would be ''eligible'' for execution in the Auctions that would launch the designated Trading Session provided the orders were entered before the related Auction commenced. If orders were designated for either the Opening Bond Trading Session or the Core Bond Trading Session and were entered after commencement of the related Auction, the order would be available only for ordinary trading in the designated Bond Trading Session. The Late Bond Trading Session would not commence with a Bond Auction. An order designated for execution in any Trading Session could be cancelled at any time as long as the order had not been executed, except that a User could cancel an order eligible for execution in a Bond Auction at any time until two minutes prior to the beginning of the particular Auction.

Bond Auctions

At the commencement of both the Opening Bond Trading Session and the Core Bond Trading Session, there would be a single-priced execution called a Bond Auction. The Opening Bond Trading Session would begin with the Opening Bond Auction. The Core Bond Trading Session would begin with the Core Bond Auction. During these Bond Auctions, all marketable orders received by NYSE Bonds as of that time and, if so designated for the related Bond Trading Session, would be matched and executed at the Indicative Match Price (''IMP'').

The IMP would be defined as: (1) The price at which the maximum volume of

default, such orders would participate only in the Core Bond Auction and the Core Bond Trading Session.

[11] ''NYSE Bonds Good 'Til Cancelled Orders'' would be permitted to participate only in the Core Bond Auction and the Core Bond Trading Session.

[12] The Exchange submits completed trades to one of the subsidiaries of the Depository Trust Clearing Corporation (''DTCC'') for clearance and settlement. The National Securities Clearing Corporation (''NSCC''), a subsidiary of DTCC, provides clearance and settlement services for government agency, corporate, and municipal bonds that trade on ABS. While the Government Securities Division of the Fixed Income Clearing Corporation (''FICC''), another subsidiary of DTCC, provides clearance and settlement services for transactions in U.S. government bonds, the Exchange does not currently have an agreement with FICC for such settlement and clearance. Presently, U.S. government bonds that trade on ABS are traded ex-clearing (*i.e.*, the parties to the transaction arrange for manual clearing and settlement). The Exchange plans to submit trades on a locked-in basis to FICC for clearance and settlement in 2007. Until such time as the Exchange has such an agreement with the FICC, the U.S. government bonds that trade on NYSE Bonds would continue to trade ex-clearing as they do today on ABS. Trades that would not be locked-in would be those in bonds that are not set up for the Exchange's registered clearing agency, or bonds having a face value other than $1,000.

[13] ''NYSE GTC Orders'' could execute only in the Core Bond Auction and the Core Bond Trading Session.

bonds are executable; (2) if there are two or more prices at which the maximum volume of bonds are executable, the price that is closest to the closing price of that bond on the previous trading day, or if the bond did not trade on the previous day, the price that is closest to the closing price on the last day that the bond traded; or (3) if bond orders to buy and bond orders to sell are not marketable, the highest priced bid. The lowest priced offer would not become the IMP as the system would accept only one price for the IMP, and by default, that would be the highest priced bid. The price collar threshold would act as a determining factor for those orders that would either enter the system or be rejected by the system.

One initial order on a single side (*i.e.,* only a buy order or only a sell order) could establish the IMP, but, unless marketable orders were entered into the NYSE Bonds system at appropriate times, no execution, and hence no Bond Auction, would take place. A Bond Auction would be an execution at the IMP. Therefore, to have a Bond Auction, at least one marketable bond order to buy or sell would have to be available to execute against contra-side interest. When the price of an order to buy is equal to or greater than the price of an order to sell, an Auction execution would occur. Beginning 30 minutes prior to the Opening Bond Trading Session and various times thereafter, the IMP for the Opening Bond Auction and any Imbalance [14] associated with it would be published by the Exchange.

A User could cancel an order eligible for execution in either Bond Auction at any time until two minutes prior to the beginning of the particular Auction. The matching and execution of orders in an Auction would be instantaneous. The sequence of Bond Auctions and Bond Trading Sessions on NYSE Bonds would provide a seamless, continuous trading day that would begin at 3:30 a.m. e.t. and would continue until 8 p.m. e.t.

NYSE Bonds Order Entry and Execution

To post an order in a particular bond on NYSE Bonds, a User would be required to enter certain basic information including: cusip number, order quantity, order type (*i.e.,* NYSE Bonds Limit Order or NYSE Bonds Reserve Order); price (up to three decimals); account type indicator (''P'' for principle or ''A'' for agent); time in force (*i.e.,* Opening Bond Trading Session, Core Bond Trading Session, and/or Late Bond Trading Session and GTC); and whether the order is buy, sell, or sell/short. The staff of the Division of Market Regulation of the Commission has stated that it would not recommend that the Commission take enforcement action if short sales in exchange-listed bonds and debentures are effected without complying with Rule 10a–1 under the Act.[15] By this filing, the Exchange seeks continued effect of this ruling.

NYSE Bonds would accept orders beginning at 3:30 a.m. e.t., and orders could be entered throughout the trading day. Orders designated for the Opening Bond Trading Session that are entered into the system before 4 a.m. e.t. also would be eligible for the Opening Bond Auction. At 4 a.m. e.t., orders designated for the Opening Bond Trading Session would first be matched and executed in the Opening Bond Auction at the IMP. During this instantaneous Auction, the orders would be matched based on price/time priority. At various times during the period from 3:30 a.m. to 4 a.m., the IMP of the Opening Bond Auction, and any Imbalance associated therewith, would be published via a data feed. The data feed would provide Imbalance information in real time, and it would be available to Users, third-party data vendors, and other interested parties who agree to terms established by the Exchange. An Imbalance would be published any time one occurred, including when new orders are entered into NYSE Bonds that might affect the relevant Auction.

Orders designated for a specific Trading Session automatically would be included in the Bond Auction that launches the designated Trading Session. The Opening Bond Auction would launch the Opening Bond Trading Session, and the Core Bond Auction would launch the Core Bond Trading Session. Therefore, an order designated for the Opening Bond Trading Session would be ''available'' to participate in the Opening Bond Trading Session, and if such order were entered into the system before 4 a.m. e.t., it also would be ''eligible'' for participation in the Opening Bond Auction. Similarly, an order designated for and thus ''available'' for the Core Bond Trading Session would be included in the Core Bond Auction if entered before the Core Bond Auction occurs at 9:30 a.m. e.t.

An order designated for more than one Bond Trading Session would potentially straddle both Bond Auctions depending on the time the order is entered. As described above, an order designated for the Opening Bond Trading Session would first have an opportunity to match and execute in the Opening Bond Auction at the IMP. If such order does not execute in the Opening Bond Auction, either because the Auction did not occur or because the order did not match with interest on the contra side, the order would then have a second opportunity to participate in ordinary trading in the Opening Bond Trading Session, which would last from 4 a.m. until 9:30 a.m. e.t. Thereafter, if the same order does not trade in the Opening Bond Trading Session, it would have a third opportunity to trade in the Core Bond Auction at the IMP, which would occur at 9:30 a.m. e.t. If the same order does not trade in the Core Bond Auction, it would be cancelled unless it is designated for either of the next two trading sessions (*i.e.,* the Core Bond Trading Session (9:30 a.m. until 4 p.m. e.t.) and the Late Bond Trading Session (4 p.m. until 8 p.m. e.t.). Therefore, if the same order is designated for the Core Bond Trading Session and the Late Bond Trading Session, it would get a fourth and perhaps a fifth opportunity to trade during the trading day, if not cancelled. Thus, the designation of a bond order in NYSE Bonds would determine the order's eligibility to participate in either or both of the Bond Auctions and its availability to participate in additional Bond Trading Sessions.

NYSE Bonds would accept orders for the Core Bond Auction and Core Bond Trading Session from 3:30 a.m. e.t. until 9:30 a.m. e.t. Such orders would queue until 9:30 a.m. e.t. when the Core Bond Auction takes place. Like the Opening Bond Auction, marketable orders would be instantaneously matched and executed at the IMP in the Core Bond Auction. Those orders would be matched based on price/time priority. Like the Opening Bond Auction, at various times during the period from 3:30 a.m. to 9:30 a.m. e.t., the IMP of the Core Bond Auction, and any Imbalance associated therewith, would be published via a data feed. As discussed above, an order designated for execution in the Core Bond Trading Session could be cancelled at any time as long as it had not been executed, except that a User could not cancel an order eligible for execution in the Core Bond Auction inside of two minutes prior to the beginning of the Core Bond Auction.

An order designated for the Late Bond Trading Session would be eligible for

[14] *See* proposed NYSE Rule 86(b)(2)(F) (defining ''Imbalance'' as the number of buy or sell NYSE Bonds orders that cannot be matched with other orders at the Indicative Match Price at any given time).

[15] *See* Securities Exchange Act Release No. 30772 (June 3, 1992), 57 FR 24415 (June 9, 1992) (File No. S7–13–92). The Exchange deems this determination by the Commission Staff to apply to Exchange Rule 440B (Short Sales).

ordinary trading in the Late Bond Trading Session beginning at 4 p.m. and lasting until 8 p.m e.t. If the order does not trade in the Late Bond Trading Session, it would be cancelled. No Bond Auction would occur at the beginning of the Late Bond Trading Session. An order that is not designated for a particular trading session would be available only for the Core Bond Trading Session and the Core Bond Auction.

Clearly Erroneous Executions

The NYSE Bonds rules would define a ''clearly erroneous execution'' to be one where there is an obvious error in any term, such as price, unit of trading, or identification of the bond.[16] A User that receives an erroneous execution could request the Exchange review the transaction. A clearly erroneous execution would be determined by Exchange personnel. The request for review would have to be made via telephone, facsimile, or email and would have to be submitted within 30 minutes of the trade in question. The other party (or parties) to the trade would be notified of the request for review. Thereafter, an Officer of the Exchange or a designee would review the transaction and would make a determination as to whether there was a ''clearly erroneous execution.'' The reviewer could make this determination with or without supporting documentation from any party to the transaction. The Exchange would be able to review a request that is submitted more than 30 minutes after the transaction. This review would be determined on a case-by-case basis in a manner that promotes a fair and orderly market and does not unfairly discriminate against Users of NYSE Bonds.

If the reviewer determined that the execution was not clearly erroneous, no corrective action would be taken in relation to the transaction. If the reviewer determined that the transaction were clearly erroneous, the transaction could be deemed null and void or equitably modified. If one party did not agree with the determination, that party could request further review or an appeal by a panel of reviewers that includes Exchange personnel and representatives of two NYSE Bonds subscribers who are not associated with the parties to the trade in question. Depending on the outcome of the appeal, the transaction would either remain unchanged or be deemed null and void. An appeal would not result in a new modification of the terms of the transaction, as this result would be available only at the initial review of the transaction.

NYSE Bonds System Disruption or Malfunction or Equipment Changeover

The proposed rule further provides that, in the event of any system disruption, malfunction, or equipment changeover in the NYSE Bonds trading facility, an Officer of the Exchange or a designee, without the need for a request for review, would review transactions affected by a system disruption, malfunction, or equipment changeover and decide if any transactions are erroneous. In such situations, the Officer of the Exchange or the designee could declare the transaction to be unchanged, null and void, or modified as appropriate. The rule also provides that, absent extraordinary circumstances, any such action of the Exchange Officer or a designee shall be taken within 30 minutes of detection of the system disruption, malfunction, or equipment changeover, or an erroneous transaction resulting from such system problem. If an erroneous transaction occured as a result of a system disruption, system malfunction, or equipment changeover, each party to the erroneous transaction would be notified of the situation and the specific action as soon as practicable. Thereafter, the User aggrieved by the action could appeal such action.[17]

Halting, Suspending, and Closing of Bond Trading on the Exchange

The proposed rule provides for the halting, suspension, and closing of bond trading on NYSE Bonds when: (1) In the Exchange's regulatory capacity, it is necessary or appropriate to maintain a fair and orderly market, to protect investors, or is in the public interest, due to extraordinary circumstances or unusual market conditions; (2) in the case of an individual bond, the related stock has been halted, suspended, or closed on the Exchange or the primary listing Exchange for regulatory purposes; (3) in the case of an individual bond, that bond has been halted, suspended, or closed on the primary listing Exchange for regulatory purposes; (4) news reports have a material impact on an individual bond, its issuer, or related stock of its issuer; and (5) the authority under which a bond trades on the Exchange or on its primary market is revoked (*i.e.,* the bond is delisted).

When bond trading is halted under any of the circumstance described above, a halt message at the beginning and end of the halt would be disseminated to all NYSE Bonds Users. This trading halt would be referred to as a ''Bond Halt.'' During the Bond Halt, orders could enter the system and queue according to price/time priority. The IMP, and any Imbalance associated with such halt, would be published as soon as the Bond Halt commenced and would continue to be published until the conclusion of the halt. When the Bond Halt is concluded, trading would resume with a Bond Halt Auction, which would include matching and execution of orders at the IMP. The IMP would be determined during the Bond Halt. At the conclusion of the Bond Halt Auction, ordinary trading would resume in the Bond Trading Session (''Opening,'' ''Core,'' or ''Late'') that is in progress at the conclusion of the halt. Bond halts would be implemented to maintain a fair and orderly market and to dampen volatility.

Dissemination of Trading Information

The Exchange would publish a real-time bond data feed to NYSE Bonds Users that would reflect all orders in time sequence in the NYSE Bonds order ''book.'' Because NYSE Bonds would be a purely order-driven system, the Exchange would not disseminate any information on a particular bond if there are no orders posted in the ''book'' for such bond. In addition to the NYSE Bonds order ''book,'' the data feed also would include the last sale price (with corresponding number of bonds) as executions occur. The NYSE Bonds data feed would be available for purchase by non-subscribing market participants, third-party data vendors, and other interested parties who agree to the Exchange's terms.

Member Organization and Non-Member Access to the NYSE Bonds System

Only member organizations of the Exchange would be able to enter into written service agreements with the Exchange specifically providing for authorized access to NYSE Bonds (*i.e.*, a ''NYSE Bonds Service Agreement''). A non-member who wished to trade bonds on NYSE Bonds could do so as a ''Sponsored Participant'' of a subscribing member organization (''Sponsoring Member Organization''). The Sponsoring Member Organization's service agreement with the Exchange would have to include the name of the Sponsored Participant and to identify such entity as the Sponsored Participant.

The proposed rule requires the Sponsoring Member Organization and the Sponsored Participant to maintain a written ''sponsorship agreement.'' The

[16] *See* proposed NYSE Rule 86(b)(2)(H) and (j)(1).

[17] *See* proposed NYSE Rule 86(j).

sponsorship agreement would have to be agreed to by both the Sponsoring Member Organization and the Sponsored Participant. The proposed sponsorship agreement would have to include the following provisions:

(A) Sponsoring Member Organization must acknowledge and agree that:

(i) All orders entered by a Sponsored Participant and any person acting on behalf of or in the name of such Sponsored Participant and any executions occurring as a result of such orders are binding in all respects on the Sponsoring Member Organization;

(ii) Sponsoring Member Organization is responsible for any and all actions taken by such Sponsored Participant and any person acting on behalf of or in the name of such Sponsored Participant; and

(iii) Sponsoring Member Organization must provide the Exchange with a Notice of Consent acknowledging its responsibility for the orders, executions, and actions of its Sponsored Participant at issue.

(B) Sponsored Participant must have written policies and procedures in place that comply with the Exchange's bylaws, rules, and procedures and with the rules of the Commission with regard to the Exchange, as if Sponsored Participant were a Member Organization of the Exchange.

(C) Sponsored Participant must maintain, keep current, and provide to the Sponsoring Member Organization a list of Authorized Traders who may obtain access to NYSE Bonds on behalf of the Sponsored Participant.

(D) Sponsored Participant must provide training to its Authorized Traders regarding the Sponsored Participant's obligations under this rule, other rules of the Exchange, and the rules of the Commission, and assure that these Authorized Traders receive appropriate training prior to any use or access to NYSE Bonds.

(E) Sponsored Participant must not permit anyone other than Authorized Traders to use or obtain access to NYSE Bonds.

(F) Sponsored Participant must have in place and must enforce written policies and procedures that provide reasonable security precautions to prevent unauthorized use or access to NYSE Bonds, including unauthorized entry of information into NYSE Bonds or the information and data made available therein. Sponsored Participant understands and agrees that Sponsored Participant is responsible for any and all orders, trades, and other messages and instructions entered, transmitted, or received under identifiers, passwords, and security codes of Authorized Traders, and for the trading and other consequences thereof.

(G) Sponsored Participant acknowledges its responsibility to establish adequate written procedures and controls that permit it to effectively monitor its employees', agents', and customers' use and access to the Exchange for compliance with the terms of this agreement and all relevant rules of the Exchange and the Commission.

(H) Sponsored Participant shall pay when due all amounts, if any, payable to Sponsoring Member Organization, the Exchange, NYSE Bonds, or any other third parties that arise from the Sponsored Participants access to and use of NYSE Bonds. Such amounts include, but are not limited to, applicable exchange and regulatory fees.

Reports and Recordkeeping

Users of NYSE Bonds would have to comply with all relevant rules of the Exchange and the Commission in relation to reports and recordkeeping of transactions on NYSE Bonds, including Exchange Rules 342 and 440 and Rules 17a–3 and 17a–4 under the Act.[18]

Applicability of Section 11(a) and (b) of the Act

Section 11(a) of the Act[19] prohibits a member of a national securities exchange from effecting transactions on that exchange for its own account, the account of an associated person, or an account over which it or its associated person exercises investment discretion, unless an exception applies. This general prohibition would not impact trading on NYSE Bonds because Rule 11a1–4(T) under the Act[20] deems transactions in bonds on a national securities exchange for a member's own account to be consistent with Section 11(a). Similarly, Section 11(b) of the Act[21] and Rule 11b–1 thereunder,[22] which pertain to specialists and market-makers, would not be implicated because there would be no specialists or market makers on NYSE Bonds.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[23] that an Exchange have rules that 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.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which NYSE consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2006–37 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2006–37. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's

[18] 17 CFR 240.17a–3 and 240.17a–4.

[19] 15 U.S.C. 78k(a).

[20] 17 CFR 240.11a1–4(T).

[21] 15 U.S.C. 78k(b).

[22] 17 CFR 240.11b–1.

[23] 15 U.S.C. 78f(b)(5).

Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2006–37 and should be submitted on or before November 14, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[24]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6–17745 Filed 10–23–06; 8:45 am]

BILLING CODE 8011–01–P

[24] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #10650]

Alaska Disaster #AK–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 State of Alaska (FEMA–1663–DR), dated 10/16/2006.

Incident: Severe Storms, Flooding, Landslides, and Mudslides.

Incident Period: 08/15/2006 through 08/25/2006.

Effective Date: 10/16/2006.

Physical Loan Application Deadline Date: 12/15/2006.

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 10/16/2006, 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: Chugach Reaa (10), Denali Borough, Matanuska-Susitna Borough.

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 10650.

(Catalog of Federal Domestic Assistance Number 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E6–17769 Filed 10–23–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10519 and # 10520]

New York Disaster Number NY–00022

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 4.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of New York (FEMA–1650–DR), dated 07/03/2006.

Incident: Severe Storms and Flooding.

Incident Period: 06/26/2006 through 07/10/2006.

Effective Date: 10/16/2006.

Physical Loan Application Deadline Date: 10/30/2006.

EIDL Loan Application Deadline Date: 04/03/2007.

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: The notice of the President's major disaster declaration for the State of New York, dated 07/03/2006, is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 10/30/2006.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Roger B. Garland,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E6–17768 Filed 10–23–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #10625]

Virginia Disaster Number VA–00008

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment 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, Inc. Severe Storms and Flooding due to TS Ernesto.

Incident Period: 08/29/2006 through 09/07/2006.

Effective Date: 10/06/2006.

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: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of *Virginia,* dated 09/22/2006, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: *Newport News (City).*

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008).

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E6–17766 Filed 10–23–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10644 and # 10645]

Virginia Disaster # VA–00006

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the Commonwealth of *Virginia* dated 10/16/2006.

Incident: Tropical Storm Ernesto.

Incident Period: 08/30/2006 through 09/01/2006.

Effective Date: 10/16/2006.

Physical Loan Application Deadline Date: 12/15/2006.

Economic Injury (EIDL) Loan Application Deadline Date: 07/16/2007.

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 Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Gloucester, Hampton (City), Newport News (City), Northumberland, Richmond (City)

Contiguous Counties:

Virginia: Chesterfield, Henrico, James City, King and Queen, Lancaster, Mathews, Middlesex, Poquoson (City), Richmond, Westmoreland, York

The Interest Rates are:

	Percent
Homeowners With Credit Available Elsewhere	6.250
Homeowners Without Credit Available Elsewhere	3.125
Businesses With Credit Available Elsewhere	7.934
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
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 10644 B and for economic injury is 10645 0.

The State which received an EIDL Declaration # is *Virginia.*

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

October 16, 2006.

Steven C. Preston,

Administrator.

[FR Doc. E6–17767 Filed 10–23–06; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 5586]

Bureau of Political Military Affairs; Arms Export Control Act; Determinations

Pursuant to section 654(c) of the Foreign Assistance Act of 1961, as amended, notice is hereby given that:

(1) On August 18, 2006, the President made a determination pursuant to section 36 of the Arms Export Control Act, as amended; and

(2) The President has concluded that publication of such determination would be harmful to the national security of the United States.

Michael W. Coulter,

Deputy Assistant Secretary, Department of State.

[FR Doc. E6–17796 Filed 10–23–06; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice 5585]

Culturally Significant Objects Imported for Exhibition Determinations: ''El Greco to Picasso: Time, Truth, and History''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''El Greco to Picasso: Time, Truth, and History,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Solomon R. Guggenheim Foundation Museum, New York, New York, from on or about November 17, 2006, until on or about March 28, 2007, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Paul Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/453–8050). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: October 17, 2006.

C. Miller Crouch,

Principal Deputy Assistant Secretary, for Educational and Cultural Affairs, Department of State.

[FR Doc. E6–17782 Filed 10–23–06; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 5884]

Notice of Intent To Prepare an Environmental Impact Statement and To Conduct Scoping Meetings and Notice of Floodplain and Wetland Involvement; Transcanada Keystone Pipeline; Correction

ACTION: Notice; correction.

SUMMARY: On October 11, 2006, Notice was published in the **Federal Register** (volume 71, number 196, 59849–58951) pertaining to the reporting of ''Notice of Intent To Prepare an Environmental Impact Statement and To Conduct Scoping Meetings and Notice of Floodplain and Wetland Involvement; Transcanada Keystone Pipeline, L.P.'' The referenced notice is hereby corrected to change two dates on page 59849 from the 28th to the 26th, so that the current two lines that read ''October 28, 2006, 7 to 10 p.m., Clark, South Dakota'' and ''October 28, 2006, 7 to 10 p.m., Seward, Nebraska'' instead reads

''October 26, 2006, 7 to 10 p.m., Clark, South Dakota'' and ''October 26, 2006, 7 to 10 p.m., Seward, Nebraska'', respectively.

FOR FURTHER INFORMATION CONTACT: For further information contact Elizabeth A. Orlando, Foreign Affairs Officer, U.S. Department of State, (telephone: 202/647–4284). The address is: U.S. Department of State, OES/ENV, Room 2657, Washington, DC 20520.

Dated: October 18, 2006.

David Brown,

Office Director, Bureau of Oceans and International Environmental and Scientific Affairs/Office of Environmental Policy, Department of State.

[FR Doc. E6–17792 Filed 10–23–06; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2006–37]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption, part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of the FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before November 13, 2006.

ADDRESSES: Send comments on the petition 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–2006–25308, FAA–2006–25916, FAA–2006–24241, or FAA–2006–24521 at the beginning of your comments. If you wish to receive confirmation that the FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to *http://dms.dot.gov.* You may review the public docket containing the petition, 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 Dockets Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Annette Kovite, 425–227–1262, Transport Airplane Directorate (ANM–113), Federal Aviation Administration, 1601 Lind Ave., SW., Renton, WA 98057–3356; or Frances Shaver (202–267–9681), Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on October 16, 2006.

Eve Taylor Adams,

Acting Director, Office of Rulemaking.

Petitions for Exemption

Docket No.: FAA–2006–25308.
Petitioner: Progressive Aerodyne, Inc.
Section of 14 CFR Affected: §§ 21.190.
Description of Relief Sought: Petitioner seeks an exemption to operate the SeaRey amphibian airplane under the Experimental Light Sport Aircraft (ELSA) category. This exemption would be necessary to operate the airplane's retractable landing gear. The petitioner also wants to exercise the privilege of the exemption outside the United States because its airplane is sold in many different countries, and most of them have reciprocity with the FAA.

Petitions for Exemption

Docket No.: FAA–2006–25916.
Petitioner: Alaska Airlines, Inc.
Section of 14 CFR Affected: § 121.313(j)(1)(ii).
Description of Relief Sought: Exemption from 14 CFR 121.313(j)(1)(ii) would allow Alaska Airlines to eliminate the requirement for a procedure on their B737–400 combination passenger/cargo operations for a flight attendant to enter the pilot compartment in the event a flight crew member becomes incapacitated.

Petitions for Exemption

Docket No.: FAA–2006–24241.
Petitioner: Aero Sports Connection.
Sections of 14 CFR Affected: § 21.190(c)(2) and 21.191(i)(1).
Description of Relief Sought: The exemption would allow light-sport aircraft certification for certain aircraft equipped with retractable landing gear. The petitioner proposes to administer the exemption as a community-wide exemption, maintained by Aero Sports Connection and provided at no cost to complying applicants.

Petitions for Exemption

Docket No.: FAA–2006–24521.
Petitioner: Aero Sports Connection.
Sections of 14 CFR Affected: § 21.190(b), 21.191(i)(1), 21.191(i)(2)(iii), and 21.191(i)(3).
Description of Relief Sought: The exemption would allow an increase in the maximum takeoff weights for certain lighter-than-air (LTA) aircraft operating as light-sport aircraft (LSA).

[FR Doc. E6–17827 Filed 10–23–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Executive Committee of the Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Executive Committee of the Aviation Rulemaking Advisory Committee.

DATES: The meeting will be on November 16, 2006, at 10 a.m.

ADDRESSES: The meeting will take place at the Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 2nd floor, Bessie Coleman Room.

FOR FURTHER INFORMATION CONTACT: Gerri Robinson, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–9678; fax (202) 267–5075; e-mail *Gerri.Robinson@faa.gov.*

SUPPLEMENTARY INFORMATION: Under section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), we are giving notice of a meeting of the Executive Committee of the Aviation Rulemaking Advisory Committee taking place on November 8, 2006, at the Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. The agenda includes:

- ISO Feedback.
- Future taskings of ARAC.

• Issue Area Status Reports from Assistant Chairs.

• Remarks from other EXCOM members.

Attendance is open to the interested public but limited to the space available. The FAA will arrange teleconference service for individuals wishing to join in by teleconference if we receive notice by Nov. 8. Arrangements to participate by teleconference can be made by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Callers outside the Washington metropolitan area are responsible for paying long-distance charges.

The public must arrange by Nov. 8 to present oral statements at the meeting. The public may present written statements to the executive committee by providing 25 copies to the Executive Director, or by bringing the copies to the meeting.

If you are in need of assistance or require a reasonable accommodation for this meeting, please contact the person listed under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Washington, DC, on October 18, 2005.

Eve Taylor Adams,

Acting Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. E6–17825 Filed 10–23–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA 2006–26126]

Agency Information Collection Activities: Request for Comments for New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA invites public comment about our intentions to request the Office of Management and Budget (OMB) approval for a new information collection, which is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by December 26, 2006.

ADDRESSES: You may submit comments identified by DOT DMS Docket Number FHWA–2006–26126 to the Docket Clerk, by any of the following methods:

• *Web site: http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.

• *Fax:* 1–202–493–2251.

• *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.

• *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Docket: For access to the docket to read background documents or comments received go to *http://dms.dot.gov* at any time or to Room 401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Elissa Konove, Office of the Chief Financial Officer, HCF–10, (202) 366–4617, Fax (202) 366–7493, or e-mail *elissa.konove@dot.gov*. For legal questions, please contact Mr. Livaughn Chapman, Office of the Chief Counsel, (202) 366–8839, *livaughn.chapman@fhwa.dot.gov;* Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Request Forms for Fund Transfers to Other Agencies and Among Title 23 Programs.

Background: Sections 1108, 1119(b), 1935, and 1936 of Public Law 109–59, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) expanded the transferability of funds to other agencies and among programs. This notice establishes requirements for initiating the transferring of apportioned and allocated funds between entities and between projects and programs to carry out these provisions of law. The types of transfers affected by this notice are:

A. Transfer of funds from a State to the FHWA pursuant to U.S.C. Title 23, § 104(k)(3);

B. Transfer of funds from a State to a Federal Agency other than FHWA;

C. Transfer of funds from a State to another State;

D. Transfer of funds from Federal Transit Administration to FHWA;

E. Transfer of funds between programs; and

F. Transfer of funds between projects.

The party initiating the fund transfer must fill out a FHWA transfer request form. Information required to fill out a transfer form will include the requester's contact information; a description of the program/project the transfer will come from and go to, the fiscal year, the program code, a demo ID or an urban area when applicable, and the amount to be transferred. The form must be approved by the applicable State Department of Transportation and concurred on by the correlating FHWA Division Office.

Respondents: 50 State Transportation Departments, the District of Columbia, and Puerto Rico.

Frequency: As Needed.

Estimated Average Burden per Response: 30 minutes.

Estimated Total Annual Burden Hours: It is estimated that a total of 600 responses will be received annually, which would equal a total annual burden of 300 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued On: October 19, 2006.

James R. Kabel,

Chief, Management Programs and Analysis Division.

[FR Doc. E6–17802 Filed 10–23–06; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

October 18, 2006.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed

and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before November 24, 2006 to be assured of consideration.

Financial Crimes Enforcement Network (FinCEN)

OMB Number: 1506–0003.
Type of Review: Revision.
Title: Currency Transaction Reports by Casinos—Nevada.
Form: FinCEN 103N.
Description: Casinos in Nevada file form 103–N for currency transactions in excess of $10,000 a day pursuant to 31 U.S.C. 5313(a) and 31 CFR 103.22(a)(2) and Nevada rule 6A. Criminal investigators, and taxation and regulatory enforcement authorities use the form during the course of investigations involving financial crimes.
Respondents: Business and other for profit.
Estimated Total Reporting Burden: 76,001 hours.
Clearance Officer: Russell Stephenson, (202) 354–6012, Department of the Treasury, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183.
OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Michael A. Robinson,
Treasury PRA Clearance Officer.
[FR Doc. E6–17788 Filed 10–23–06; 8:45 am]
BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

Correction to Submission for OMB Review

October 18, 2006.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

Financial Crimes Enforcement Network (FinCEN)

OMB Number: 1506–0004.
Type of Review: Revision.
Title: Currency Transaction Reports.
Form: FinCEN 104.
Correction: In the **Federal Register** Notice published October 18, 2006, page 61537, make the following correction:

The burden hours ''7,499,995 hours'' should read ''6,249,995''.

Michael A. Robinson.
Treasury PRA Clearance Officer.
[FR Doc. E6–17789 Filed 10–23–06; 8:45 am]
BILLING CODE 4810–02–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice of new system of records.

SUMMARY: The Privacy Act of 1974, 5 U.S.C. 552(e)(4), requires that all agencies publish in the **Federal Register** a notice of the existence and character of their systems of records. Notice is hereby given that the Department of Veterans Affairs (VA) is establishing a new system of records entitled ''Automated Safety Incident Surveillance and Tracking System-VA'', (99VA13).

DATES: Comments on the establishment of this new system of records must be received no later than November 24, 2006. If no public comment is received, the new system will become effective November 24, 2006.

ADDRESSES: Written comments concerning the proposed system of records may be submitted by mail or hand-delivery to Director, Office of Regulations Management (00REG1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; by fax to (202) 273–9026; or by e-mail to ''*VARegulations@mail.va.gov*''. All relevant material received before November 24, 2006 will be considered. Comments will be available for public inspection at the above address in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Veterans Health Administration (VHA) Privacy Officer, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (727) 320–1839.

SUPPLEMENTARY INFORMATION:

I. Description of Proposed Systems of Records

The Automated Safety Incident Surveillance and Tracking System (ASISTS) is an information management system that serves as the backbone of VA's management of work-related injuries and illnesses. The national database provides support for disease reporting, surveillance, and intervention, and as an integrated system, brings together different professional groups in a single community of practice to manage the various aspects of occupational injuries and illnesses in an efficient fashion.

ASISTS allows VA to identify, characterize, and track adverse events involving and the progress of injured and ill current and former employees, trainees, contractors, subcontractors, volunteers, and other individuals working collaboratively with VA. It allows the affected individuals to file their initial report of injury or illness, supervisors to describe the setting of and events leading up to the injury or illness, and safety personnel to describe the results of their investigation. It supports electronic transmission of workers' compensation claims, causes of incidents, and other aspects of the cases to the Department of Labor through an electronic linkage with the Workers Compensation-Management Information System, which maintains the Department of Labor records, and provides these individuals with access to a copy of their filed information. These system functions are currently available through other approved systems of records, including the Employee Medical File System Records (Title 38)–VA (08VA05).

The database allows VA to collect data related to blood-borne pathogen exposure and other causes of injury and illness, in accordance with the recordkeeping requirements of the Occupational Safety and Health Act of 1970, Public Law 91–596 84 STAT. 1590. It enables VA to identify system-wide problems and opportunities for focused education, examine emerging causes and clusters of incidents, evaluate the effectiveness of health and safety programs, and support research in the area of occupational medicine.

The records and information in ASISTS may be used to examine or identify individual cases or file claims of work-related injuries and illnesses; to evaluate health and safety systems performance through statistical analysis; to track and evaluate services and medical care of injured or ill workers; to develop and manage the planning, distribution, and use of resources; and

to identify clusters and outbreaks. The data may also be used by institutional members of an accident review board or an incident review board, a multidisciplinary group of health and safety professionals, as well as representatives from human resources, safety, occupational health, and infection control for the review of root causes of injuries. The data may also be used for audits, reviews, and investigations by staff of the facilities, the Regional Directors' Offices, VA Central Office, and the VA Office of Inspector General (OIG), and for quality assurance audits, reviews, and investigations.

The national database located at the Austin Automation Center in Austin, Texas, will provide data to support new safety initiatives to reduce incidents, work-related injuries and illnesses, and workers' compensation claims.

II. Proposed Routine Use Disclosures of Data in the System

VA is proposing to establish the following routine use disclosures of information that will be maintained in the system:

1. VA may disclose on its own initiative any information in this system, except the names and addresses of veterans and their dependents, that is relevant to a suspected or reasonably imminent violation of law, whether civil, criminal, or regulatory in nature and whether arising by general or program statute or by regulation, rule, or order issued pursuant thereto, to a Federal, State, local, or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule, or order. VA may also disclose on its own initiative the names and addresses of veterans and their dependents to a Federal agency charged with the responsibility of investigating or prosecuting civil, criminal, or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, rule, or order.

VA must be able to disclose information within its possession on its own initiative that pertains to a violation of law to the appropriate authorities in order for them to investigate and enforce those laws. VA may disclose the names and home addresses of veterans and their dependents only to Federal entities with law enforcement responsibilities under 38 U.S.C. 5701(a) and (f). Accordingly, VA has so limited this routine use.

2. VA may disclose information to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made on behalf of and at the request of that individual.

Individuals sometimes request the help of a Member of Congress in resolving some issue relating to a matter before VA. When the Member of Congress writes VA, VA must be able to provide sufficient information to be responsive to the inquiry.

3. VA may disclose information to the National Archives and Records Administration (NARA) in records management inspections conducted under authority of Title 44 of United States Code.

NARA is responsible for archiving old records no longer actively used but which may be appropriate for preservation and for the physical maintenance of the Federal government's records. VA must be able to turn records over to NARA in order to determine the proper disposition of such records.

4. VA may disclose information to the Department of Justice (DOJ), including United States Attorneys, or in a proceeding before a court, adjudicative body, or other administrative body when VA, its employees, or any of its components is a party to or has an interest in the litigation or the adjudicative or administrative process, or when the litigation or process is likely to affect VA, its employees, or any of its components, and the use of these records is deemed to be relevant and necessary to the litigation or process, provided that the disclosure is compatible with the purpose for which the records were collected.

When VA is involved in litigation or an adjudicative or administrative process, or occasionally when another party is involved in litigation or an adjudicative or administrative process, and VA policies or operations could be affected by the outcome of the litigation or process, VA must be able to disclose information to the court, the adjudicative or administrative body, or the parties involved. A determination would be made in each instance that, under the circumstances involved, the purpose served by use of the information in the particular litigation or process is compatible with the purpose for which VA collected the information.

5. VA may disclose information for program review purposes and the seeking of accreditation and/or certification to survey teams of the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), College of American Pathologists, American Association of Blood Banks, and similar national accreditation agencies or boards with which VA has a contract or agreement to conduct such reviews, but only to the extent that the information is necessary and relevant to the review.

VA health care facilities undergo certification and accreditation by several national accreditation agencies or boards to comply with regulations and good medical practices. VA must be able to disclose information for program review purposes and the seeking of accreditation and/or certification of health care facilities and programs.

6. VA may disclose information to officials of the Merit Systems Protection Board (MSPB) and the Office of Special Counsel when requested in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions, promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

VA must be able to disclose information to the MSPB to assist it in fulfilling its responsibilities regarding Federal employees.

7. VA may disclose information to the Equal Employment Opportunity Commission (EEOC) when requested in connection with investigations of alleged or possible discrimination practices, examination of Federal affirmative employment programs, compliance with the Uniform Guidelines of Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978.

VA must be able to disclose information to the EEOC to assist it in fulfilling its responsibilities to protect employee rights.

8. VA may disclose information to the Federal Labor Relations Authority (FLRA), including its General Counsel, when requested in connection with the investigation and resolution of allegations of unfair labor practices or the resolution of exceptions to arbitrator awards when a question of material fact is raised, in matters before the Federal Service Impasses Panel, and to investigate representation petitions and conduct or supervise representation elections.

VA must be able to disclose information to the FLRA to comply with the statutory mandate under which FLRA operates.

9. VA may disclose information to individuals, organizations, private or public agencies, or other entities with which VA has a contract or agreement, or where there is a subcontract to perform such services as VA may deem practicable for the purposes of laws

administered by VA, in order for the contractor or subcontractor to perform the services of the contract or agreement.

VA must be able to provide information to contractors or subcontractors with which VA has a contract or agreement in order to perform the services of the contract or agreement. In these situations, safeguards are provided in the contract prohibiting the contractor or subcontractor from using or disclosing the information for any purpose other than that described in the contract.

10. VA may disclose information to labor unions operating at the facility level as members of institutional review boards [accident review boards] to review root causes of injuries.

VA must be able to use and disclose the information to allow the facility and labor unions to review and provide corrective measures for injury prevention.

11. VA may disclose information to the Department of Labor for the electronic filing of workers compensation claims, as provided by 5 U.S.C. 8121.

VA must be able to provide information to the Department of Labor for workers compensation claims filed by injured VA employees through the Workers Compensation Management Information System and an Electronic Data Interface to the Department of Labor by entering information into the Automated Safety Incident Surveillance and Tracking System, into a designated form.

III. Compatibility of the Proposed Routine Uses

The Privacy Act permits VA to disclose information about individuals without their consent for a routine use when the information will be used for a purpose that is compatible with the purpose for which VA collected the information. In all of the routine use disclosures described above, either the recipient of the information will use the information in connection with a matter relating to one of VA's programs or to provide a benefit to VA, or disclosure is required by law.

The notice of intent to publish and an advance copy of the system notice have been sent to the appropriate Congressional committees and to the Director of the Office of Management and Budget (OMB) as required by the Privacy Act, 5 U.S.C. 552a(r), and guidelines issued by OMB, 65 FR 77677, December 12, 2000.

Approved: October 3, 2006.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

99VA13

SYSTEM NAME: AUTOMATED SAFETY INCIDENT SURVEILLANCE AND TRACKING SYSTEM-VA

SYSTEM LOCATION:

Records are maintained at each Department of Veterans Affairs (VA) health care facility with back-up computer tape information being stored at off-site locations in most cases. Address locations for VA facilities are listed in VA Appendix 1 of the biennial publication of the VA system of records. In addition, records may be maintained at the Department of Veterans Affairs Central Office (VACO), 810 Vermont Avenue, NW., Washington, DC; VA Data Processing Centers; VA OI Field Offices; Veterans Integrated Service Network Offices; and Employee Education Systems.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The records include information concerning current and former employees, trainees, contractors, subcontractors, volunteers, and other individuals working collaboratively with VA.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records may include:

1. Identifying information (e.g., name, date of birth, age, sex, social security number, taxpayer identification number);
2. Address information (e.g., home and/or mailing address, home telephone number, emergency contact information such as name, address, telephone number, and relationship);
3. Information on injuries and illnesses attributed to work (e.g., cause, severity, type of injury, body part affected, risk, and contributing factors);
4. Criteria necessary to meet the injury and illness reporting requirements for the Federal Accident Reporting System and its successors under the Occupational Safety and Health Act; and
5. Abstract information (e.g., environmental and epidemiological registries).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Chapters 11, 31, 33, 43, 61, 63, and 83; 38 U.S.C. § 501; 38 U.S.C. Chapter 74.

PURPOSE(S):

The records and information may be used to examine or identify individual cases or file claims of work-related injuries and illnesses; to evaluate health and safety systems performance through statistical analysis; to track and evaluate services and medical care of injured or ill workers; to develop and manage the planning, distribution, and utilization of resources; and to identify clusters and outbreaks. The data may also be used by institutional members of an accident review board or an incident review board, a multidisciplinary group of health and safety professionals, as well as representatives from human resources, safety, occupational health, and infection control for the review of root causes of injuries. The data may also be used for audits, reviews, and investigations by staff of the facilities, the Regional Directors' Offices, VA Central Office, and the VA Office of Inspector General (OIG), and for quality assurance audits, reviews, and investigations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. VA may disclose on its own initiative any information in this system, except the names and addresses of veterans and their dependents, which is relevant to a suspected or reasonably imminent violation of law, whether civil, criminal, or regulatory in nature and whether arising by general or program statute or by regulation, rule, or order issued pursuant thereto, a Federal, State, local, or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule, or order. VA may also disclose on its own initiative the names and addresses of veterans and their dependents to a Federal agency charged with the responsibility of investigating or prosecuting civil, criminal, or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, rule, or order.

2. VA may disclose information to a Congressional office from the record of an individual in response to an inquiry from the Congressional office on behalf of and at the request of that individual.

3. VA may disclose information to the National Archives and Records Administration (NARA) in records management inspections conducted under authority of Title 44 of United States Code.

4. VA may disclose information to the Department of Justice (DOJ), including United States Attorneys, or in a proceeding before a court, adjudicative body, or other administrative body when VA, its employees, or any of its components is a party to or has an interest in the litigation or the

adjudicative or administrative process, or when the litigation or process is likely to affect VA, its employees, or any of its components, and the use of these records is deemed to be relevant and necessary to the litigation or process, provided that the disclosure is compatible with the purpose for which the records were collected.

5. VA may disclose information for program review purposes and the seeking of accreditation and/or certification to survey teams of the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), College of American Pathologists, American Association of Blood Banks, and similar national accreditation agencies or boards with which VA has a contract or agreement to conduct such reviews, but only to the extent that the information is necessary and relevant to the review.

6. VA may disclose information to officials of the Merit Systems Protection Board (MSPB) and the Office of Special Counsel when requested in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions promulgated in 5 U.S.C. §§ 1205 and 1206, or as may be authorized by law.

7. VA may disclose information to the Equal Employment Opportunity Commission (EEOC) when requested in connection with investigations of alleged or possible discrimination practices, examination of Federal affirmative employment programs, compliance with the Uniform Guidelines of Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978.

8. VA may disclose information to the Federal Labor Relations Authority (FLRA), including its General Counsel, when requested in connection with the investigation and resolution of allegations of unfair labor practices or the resolution of exceptions to arbitrator awards when a question of material fact is raised, in matters before the Federal Service Impasses Panel, and to investigate representation petitions and conduct or supervise representation elections.

9. VA may disclose information to individuals, organizations, private or public agencies, or other entities with which VA has a contract or agreement, or where there is a subcontract to perform such services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor or subcontractor to perform the services of the contract or agreement.

10. VA may disclose information to labor unions operating at the facility level as members of institutional review boards [accident review boards] to review root causes of injuries.

11. VA may disclose information to the Department of Labor for the electronic filing of workers compensation claims, as provided by 5 U.S.C. 8121.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained electronically on magnetic tape, disk, or laser optical media with copies of back-up computer files maintained at off-site locations in most cases.

RETRIEVABILITY:

Records are retrieved by name, social security number, or other assigned identifiers of the individuals on whom they are maintained.

SAFEGUARDS:

1. Access to VA working and storage areas is restricted to VA personnel on a ''need-to-know'' basis; strict control measures are enforced to ensure that disclosure to these individuals is also based on this same principle. Generally, VA file areas are locked after normal duty hours, and the facilities are protected from outside access by the Federal Protective Service or other security personnel.

2. Access to computer rooms at health care facilities is generally limited by appropriate locking devices and restricted to authorized VA employees and vendor personnel. Automated Data Processing (ADP) peripheral devices are placed in secure areas, which are locked, with limited access, or are otherwise protected. Records may be accessed by authorized VA employees, and access is controlled at two levels; the systems recognize authorized users by series of individually unique passwords/codes as a part of each data message, and access is limited to only those who need the information in the performance of their official duties. Information downloaded from ASISTS and maintained on personal computers is afforded similar storage and access protections as data maintained in the original files. Access to information stored on automated storage media at other VA locations is controlled by individually unique passwords/codes.

RETENTION AND DISPOSAL:

The Master (National Database) and local files are cut-off at the end of the calendar year and destroyed or deleted 6 years after cut-off. The Office of Public Health and Environmental Hazards in VACO files are destroyed or deleted when no longer needed for administrative and operational purposes. Back-up files are deleted when the master file has been deleted or replaced by a subsequent back-up file.

SYSTEM MANAGER(S) AND ADDRESS:

Official responsible for policies and procedures: Office of Public Health and Environmental Hazards (13), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Officials maintaining the system: Director at the facility where the employee was associated.

NOTIFICATION PROCEDURE:

Individuals seeking information on the existence and content of a record pertaining to them should contact the VA facility location at which they are or were employed, or performed work. Inquiries should include the person's full name, social security number, dates of employment or work, and return address.

RECORD ACCESS PROCEDURE:

(See Notification Procedure above.)

CONTESTING RECORD PROCEDURES:

(See Notification Procedure above.)

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by employees, trainees, contractors, subcontractors, volunteers, and other affected individuals; supervisors; health and safety professionals at facilities; clinical personnel; workers' compensation personnel; and human resources staff.

[FR Doc. E6–17756 Filed 10–23–06; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register

Vol. 71, No. 205

Tuesday, October, 24, 2006

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Notice of Intent To Prepare a Supplement to the Stockpile Stewardship and Management Programmatic Environmental Impact Statement—Complex 2030

Correction

In notice document E6–17508 beginning on page 61731 in the issue of Thursday, October 19, 2006, make the following correction:

On page 61731, in the second column, under the heading ''**DATES**'', in the sixth line, ''January 17, 2006'' should read ''January 17, 2007''.

[FR Doc. Z6–17508 Filed 10–23–06; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Tuesday,
October 24, 2006

Part II

Department of Housing and Urban Development

24 CFR Part 970
Demolition or Disposition of Public Housing Projects; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 970

[Docket No. FR–4598–F–02]

RIN 2577–AC20

Demolition or Disposition of Public Housing Projects

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final rule.

SUMMARY: This final rule revises HUD's regulations governing demolition or disposition of public housing projects. This rule establishes the general and specific requirements for HUD approval of demolition or disposition applications, relocation of residents, resident participation in the form of consultation and opportunity to purchase a public housing project, the replacement of units, and a new authority for a public housing agency (PHA) to demolish a small number of its units without a formal application under certain circumstances, referred to as ''*de minimis*'' demolition. This final rule follows a December 15, 2004, proposed rule and makes several changes in response to public comment.

DATES: *Effective Date:* November 24, 2006.

FOR FURTHER INFORMATION CONTACT: Ainars Rodins, Director, Public and Indian Housing Special Application Center, Department of Housing and Urban Development, Ralph H. Metcalfe Federal Building, 77 West Jackson Boulevard, Room 2401, Chicago, IL 60604–3507; telephone: (312) 353–6236 (this is not a toll-free number). Persons with hearing or speech impairments may access that number toll-free through TTY by calling the Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

On December 15, 2004, HUD published a proposed rule (69 FR 75188) entitled ''Demolition or Disposition of Public Housing Projects.'' This rule proposed to implement revisions to section 18 of the U.S. Housing Act of 1937 (1937 Act) (42 U.S.C. 1437p) (section 18) made by the Quality Housing and Work Responsibility Act of 1998 (Pub. L. 105–276, approved October 21, 1998) (QHWRA). Section 18 generally pertains to the demolition and disposition of public housing projects, including application and other requirements. The main features of the QHWRA revisions to section 18 are:

- A change in the burden of proof required for HUD approval of an application for demolition or disposition. Rather than HUD having to independently make certain findings, as long as the PHA certifies truthfully to the relevant factors, HUD will approve the application.
- The resident opportunity to purchase a project, which, by regulation, applied in the case of both demolition and disposition, is now by statute available only for proposed dispositions of public housing projects.
- The former requirement for one-for-one replacement of demolished units was eliminated.
- Former section 18(d) of the 1937 Act was removed. That section provided that a PHA could not ''take any action'' to demolish a public housing project, or portion of a project, without HUD approval. Similar language in 24 CFR 970.7(a) and 970.25(a) is designed to make certain that HUD can track units being phased out for funding purposes. That language is not intended to create any private right of action.
- A small, ''*de minimis*'' exception to the requirements of section 18 is made that allows the lesser of 5 percent of a PHA's public housing units or five units to be demolished, if the space will be used for meeting service or other needs of residents or if the units are beyond repair.
- Consolidation of occupancy in buildings for the purpose of improving living conditions or providing more efficient services to residents is allowed.
- If replacement units are put back on the site of a demolished project, they must be significantly fewer in number than the number of units demolished.
- The Uniform Relocation Act (42 U.S.C. 4601 *et seq.*) is statutorily not applicable to residents of projects to be demolished or disposed, but there are specific notice and relocation requirements for those residents.

There is a more detailed description of the statutory changes in the preamble to the proposed rule at 69 FR 75188.

II. This Final Rule

This final rule follows publication of the December 15, 2004, proposed rule and takes into consideration all comments received. Section III of this preamble summarizes the issues raised by the public commenters and provides HUD's responses.

In consideration of the public comments, and in order to clarify certain legal points, HUD has made several changes at the final rule stage.

- The exception in § 970.3(b)(5) for common areas and unoccupied units for use in Family Self-Sufficiency (FSS) programs has been expanded to include HUD-approved economic self-sufficiency services and activities to promote employment of public housing residents.
- In § 970.3(b)(11), the explanation of the acronym ''DOFA'' (date of full availability) has been eliminated because the correct explanation is now given at § 970.3(b)(2).
- In § 970.3(b)(12), a clarification is made that the regulation does not apply to disposition of property for mixed-finance development under 24 CFR part 941, subpart F.
- In § 970.7(a)(6), the rule clarifies that a relocation plan must include reasonable accommodations for persons who require such accommodations under law. This addition simply clarifies existing law.
- The requirement in proposed § 970.7(a)(9), that a PHA provide the estimated balance of project debt with a disposition application, has been eliminated because HUD has independent access to that information.
- The proposed 2-year time limitation on completion of demolition or disposition in § 970.7(b)(1) has been removed.
- The rule clarifies references to the HOPE VI program and mandatory conversion in § 970.9(b) relating to exceptions from the resident opportunity to purchase, and, in § 970.9(c), includes a clarifying reference to the definition of ''established eligible organizations.''
- In § 970.11, which contains the procedures for sales offers to resident organizations, the final rule gives the PHAs 3 business days to provide information in response to the residents' initial expression of interest, rather than the proposed same-day response (see § 970.11(d)(6)).
- In § 970.13, HUD has incorporated more explanation about environmental review procedures and policies into the environmental review provisions.
- In § 970.15, which relates to criteria for HUD approval of demolition requests, the use of housing construction cost (HCC) in the test for obsolescence is replaced with a percentage of total development cost (TDC).
- In § 970.21(c)(2), this rule clarifies that the use of Urban Development Action Grant (UDAG) funds under 42 U.S.C. 5318 and HOME Investment Partnership Act (HOME) funds under 42 U.S.C. 12701 *et seq.*, as well as Community Development Block Grant (CDBG) funds under 42 U.S.C. 5301 *et*

seq., can trigger relocation obligations under section 104(d) of the Housing and Community Development Act of 1974.

• In § 970.27, relating to the requirements for *de minimis* demolition, the definition of ''beyond repair'' is removed, and a clarification is added to the effect that PHAs must still comply with applicable laws outside of the 1937 Act, including environmental authorities and civil rights requirements.

• The phrase ''notwithstanding any other provision of law'' is added to § 970.31, which contains the requirement that any on-site replacement units be significantly fewer in number than the number of units demolished.

III. Discussion of the Public Comment on the December 15, 2004, Proposed Rule

The public comment period for the proposed rule closed on February 14, 2005. Fourteen commenters submitted comments. Commenters included industry trade associations, PHAs, and individuals. A summary of the issues raised by the commenters follows.

A number of commenters stated that they generally support the rule. A commenter stated that it supports the ''streamlined changes'' to the regulations. Another commenter favorably cited the provision allowing PHAs to rescind requests for demolition or disposition if conditions have changed (§ 970.7(b)(2)), and that an offer only has to be made to resident organizations in the case of disposition (§ 970.11). Another commenter stated that the rule is now better organized and easier to read.

One commenter stated support for the following specific provisions: §§ 970.7, 970.15, and 970.17, which provide for HUD deference to a PHA's ''unique knowledge of local conditions,'' and §§ 970.15 and 970.17, permitting a PHA to certify that portions of its housing stock are no longer viable for public housing ''according to more realistic standards.'' The commenter stated that these provisions will give PHAs greater flexibility to develop alternative housing programs and preserve its other existing housing stock.

This commenter also stated support for § 970.19 providing for a waiver of the duty to retire outstanding obligations. Sections 970.9 and 970.11 would provide for ''reasonable prior notice to residents.'' While PHAs would ''no longer be obligated to wait for a period of time for the resident to organize'' in the case of a disposition, they would only be obligated to make an offer to existing resident organizations. Proposed § 970.25, allowing the PHA to consolidate occupancies, will provide ''greater flexibility in allocating scarce resources.'' Section 970.27, providing for a *de minimis* exception to demolition requirements, will ''grant the PHA relief from the substantial administrative burdens'' involved in making small changes to its public housing stock.

A. General Comments

Comment: One commenter requested an extension of time to file public comments, stating that the rule could have a large impact and that time for further research was necessary.

Response: HUD provided 60 days for public comment. This time span is in accordance with HUD's policy as stated in 24 CFR 10.1, and experience has shown that this period is generally sufficient time for the public to comment on HUD's proposed rules, and HUD determined that this was the case for this rule.

Comment: HUD should continue to refine and streamline this rule for greater flexibility. Another commenter stated that HUD should remove ''all unnecessary and redundant regulations to streamline the demolition and disposition process.''

Response: HUD continually seeks to improve its regulations.

B. Comments on Specific Provisions

1. Demolition or Disposition for Mixed-Finance Projects

Comment: Demolition or disposition related to mixed-finance development should be exempt from the requirements of this rule, or such disposition should be exempt. Some commenters raising this issue stated that because mixed-finance projects are already heavily regulated and time-consuming, they should not have to undergo a separate complete approval process under this rule. These and other commenters stated that there is already substantial overlap between the mixed-finance approval process and the approval process under this rule, and to the extent that there are some different requirements (such as environmental review and offer of sale to residents), the entire approval process could be done as part of mixed-finance approval, or at least PHAs should be given that option.

Response: The rule does exempt public housing developments that are conveyed by a PHA prior to the date of full availability (DOFA) to enable an owner entity to develop the property using the mixed-finance development method (see 24 CFR 970.3(b)(11)). In addition, HUD agrees with the commenters that section 18 of the 1937 Act and this regulation do not apply to public housing property to be used for mixed-finance developments. This final rule revises 24 CFR 970.3(b)(12) to clarify this point.

Comment: Section 970.2(a)(11) of the currently codified regulations should be read to exempt mixed-finance projects from a separate disposition review process, although HUD (according to the commenter, incorrectly) does not read the section this way. Some other commenters also cited proposed § 970.3(b)(11) as well as § 970.3(b)(12) for the same proposition. Other commenters cited proposed § 970.3(b)(12) for the proposition that mixed-finance public housing does not require a demolition/disposition application, and asked that HUD's Mixed-Finance Guidebook be amended accordingly.

Response: See the response to the preceding comment. Additionally, all guidance and application materials will be revised accordingly.

Comment: The rule should contain a clear statement that mixed-finance projects are exempt. HUD should ''clarify'' its regulations on this issue, because working on complex issues with multiple departments at HUD may cause delays that increase development costs and that are detrimental to residents. Sections 970.3(b)(11) and (12) should be revised to exempt ''any public housing development or land on which a public housing development formerly stood that is conveyed by a PHA to an owner entity pursuant to an approved proposal under 24 CFR part 941, subpart F.'' If HUD chooses not to exempt mixed-finance projects in their entirety, HUD should add a new § 970.3(c) as follows:

> Land or public housing disposed of prior to the start of construction in or due to mixed-finance development is not exempt under this part. Although development under 24 CFR part 941, subpart F is not exempt from this part 970, for such development under part 941, subpart F, HUD will collect all information required by part 970 during the approval process described at 24 CFR part 941, subpart F.

Response: The rule does exempt public housing developments that are conveyed by a PHA prior to the date of full availability (DOFA) to enable an owner entity to develop the property using the mixed-finance development method (see 24 CFR 970.3(b)(11)). HUD believes that §§ 970.3(b)(11) and (12) resolve the issues raised by these comments.

Comment: Independent appraisals should not be required where a property is undergoing disposition for a nominal

price or for use in a mixed-finance project, because most such dispositions are for a nominal or *de minimis* price. PHAs should not have to obtain an independent appraisal for dispositions at less than fair market value (FMV). Section 970.7(a)(10) should be revised to read:

> In the case of disposition, an estimate of the fair market value of the property, established on the basis of one independent appraisal, unless HUD determines that another method of valuation is sufficient, as described in § 970.10(c).

Three commenters stated that § 970.19(c)(2) should be revised to read:

> Another method of valuation is clearly sufficient and the expense of an independent appraisal is unjustified because of the limited nature of the property interest involved or other available data, including, but not limited to, transfers for less than fair market value.

Response: HUD reserves the right to request a determination of fair market value (FMV) of the property. Assessing the market value of a property is a common business practice and assists in evaluating any gain or loss. HUD only requires an appraisal if the property is advertised for bid and, even then, not in all cases. HUD recognizes that in some cases, a full appraisal is not necessary and has accepted tax assessors' opinions for dollar deals, negotiated sales, and leases in order to meet the appraisal requirement. Appraisal would not be required for disposition based on commensurate public benefit. Even in the case of public sale, appraisal is not required under some circumstances as indicated in § 970.19 of the proposed rule. Language in the proposed rule stated that an independent appraisal is required unless ''HUD determines that another method of valuation is clearly sufficient and the expense of an independent appraisal is unjustified.'' (See proposed § 970.7(a)(10), final § 970.7(a)(9).) Therefore, HUD has not adopted suggestions from commenters regarding proposed § 970.7(a)(10), since the result is the same under both the proposed rule and the commenter's suggested language.

2. De Minimis Demolition, Proposed § 970.27

Comment: Section 970.27(c)(2) defines ''beyond repair'' for the de minimis demolition exception. This definition should be removed to provide PHAs with more discretion. One commenter stated that it may not be appropriate to rehabilitate a property even if costs fall just under the HCC. Some commenters stated that ''this rigid definition conflicts with the spirit of the de minimis exception'' to limit regulatory burdens.

Response: Since this proposed definition may be overly restrictive, HUD is adopting the requested change. This final rule removes language in § 970.27(c)(2) defining ''beyond repair.''

3. The Use of Proceeds of Demolition, Proposed § 970.19(e)(2)(i)

Comment: The proposed rule should permit as much flexibility as possible for the use of the proceeds of disposition. Several commenters stated that the listing of specific examples of permissible uses of proceeds should be removed from § 970.19(e)(2)(i). An additional section should be added stating that proceeds will be allowed for use on all projects benefiting public housing residents and low-income families. One commenter stated that the phrase ''or for other low-income housing purposes'' should be added to the section.

Response: HUD did not adopt suggestions by commenters to remove the examples from the rule, since HUD believes that examples provide clarity to the rule (however, the examples are not intended to limit flexibility). HUD is not adopting a suggestion by commenters to add additional explanatory language since the proposed regulatory language does permit net proceeds to be used for the provision of low-income housing or to benefit the residents of the PHA.

Comment: Proposed § 970.19(e)(2)(ii) provides that the net proceeds of disposition may be used for ''leveraging amounts for securing commercial enterprises, on-site in public housing developments of the PHA, appropriate to serve the needs of the residents.'' Some commenters stated that this provision should be explicitly expanded to define ''on-site'' as including either current public housing sites or ''former public housing property which is disposed of for purposes including commercial enterprises.'' The commenters stated that there is an urgent need for commercial enterprises, such as grocery stores, pharmacies, and other services on and around public housing developments, and HUD is unlikely to consider such enterprises as an appropriate use of current public housing property.

Response: HUD incorporates statutory language from 42 U.S.C. 1437p(a)(5)(B)(ii) in § 970.19(e)(2)(ii) and believes this language is clear. However, HUD may provide additional guidance in this area after issuance of the final rule.

4. Definition of ''End of Initial Operating Period (EIOP), '' Proposed § 970.5

Comment: The definition of end of initial operating period (EIOP) should be conformed to the definition in 24 CFR part 941.

Response: HUD has decided to use DOFA instead of EIOP throughout the rule, and so this final rule removes the definition of EIOP.

5. Exemption for Disposition for Homeownership Programs, Proposed § 970.3(b)(3)

Comment: Several commenters stated that they support the exemption in § 970.3(b)(3) of homeownership programs under public housing homeownership programs under sections 5(h), 21, and 32 of the 1937 Act from the disposition approval process. A commenter stated that some provisions of the current regulations conflict with the homeownership programs, and that there should be ''expedited adoption'' of the homeownership exemption and that notices required ''to keep the PIC system up to date occur as part of the final rule making process.'' Commenters also stated that the exemption is not sufficiently broad and should be extended to all homeownership programs, including ''Section 24/9'' and ''Nehemiah-like'' programs. Some commenters stated that a new § 970.3(b)(16) be added as follows:

> The conveyance of a public housing project or vacant land formerly containing a public housing project for the purpose of providing homeownership opportunities under Section 24, Section 9, Middle-Income, Nehemiah, or other HUD-approved homeownership program.

Response: The purpose of this exemption is to allow for the removal of units outside of this regulation for use in a statutory homeownership program. While ''Nehemiah-like'' activities may be eligible under HOPE VI, homeownership may or may not be the result of a HOPE VI plan. In addition, any disposition as part of a HOPE VI plan is subject to section 18 of the 1937 Act and hence this implementing regulation. On the other hand, the Section 5(h) and 32 programs both provide a statutory basis for removal of units from the program under the requirement that the units be used for homeownership. It is these types of programs to which the exemption is addressed. In order to clarify this focus, this final rule refers to ''statutory predecessor'' homeownership programs.

6. Time Limit for Completion, Timetable, and Plan in PHA Plan, Proposed § 970.7

Comment: Commenters objected to the 2-year time limit in § 970.7(b)(1) for completion of demolition or disposition. Because project approval, relocation of tenants, and obtaining funding take varying amounts of time depending on the project, there should be no time limit. There is a potential conflict between § 970.7(a)(4), which requires the PHA to submit with its application a general timetable, and the 2-year time limit. There are too many variables involved to limit the process to 2 years. Instead, the timetable submitted under § 970.7(a)(4) should determine the time limit.

In addition, there is no statutory basis for the 2-year limitation, and HUD should consider PHA applications for extensions under appropriate circumstances. The 2-year limitation might be impossible for larger projects to meet, and instead there should be a firm date after which no HUD money could be spent on the property except for demolition and disposition costs. A solution might be to revise § 970.7(b)(1) to require that a PHA ''must either (a) commence any demolition or disposition within 2 years of the date of HUD's approval or (b) complete any demolition or disposition within 3 years of the date of HUD's approval.''

Response: While the majority of demolitions and dispositions can be accomplished in 2 years, there may be some cases where a longer period is required. Therefore, this final rule adopts the commenters' suggestion and removes the 2-year requirement.

Comment: Section 970.7(a)(1) should not require an identical timetable and description in the application and the PHA's plan. This requirement is antithetical to a streamlined process, and requires PHAs to submit, in effect, multiple applications for every demolition or disposition. The administrative burden will be extensive and will create delays, and having two identical submissions will not improve the process. For example, if, during the process, it were discovered that another property should have been included, the proposed rule would require the PHA to wait until the next annual plan submission before including the property. It should be sufficient under the statute for the PHA to specifically authorize demolition of a certain number of units in a certain neighborhood, and have the specific units listed in the demolition application. Accordingly, § 970.7(a)(1) should be revised to read:

A certification that the PHA has described the demolition or disposition in the approved PHA Annual Plan under 24 CFR part 903 (except in the case of small, high-performing, or MTW PHAs eligible for streamlined annual plan treatment), and that the application submitted pursuant to this part otherwise complies with section 18 of the Act, 42 U.S.C. 1437p, and this part * * *

The timetable requirement is unrealistic because the description in the annual plan could anticipate a slightly different formulation of units, land, or other components that the agency is actually able to submit, and it is not clear from the regulation what to do in such a case. To require the PHA plan and the application to be identical serves no rational purpose and provides (because of minor differences that may arise) a basis for challenging or delaying a legitimate and necessary undertaking. Instead, the PHA plan should be ''substantially descriptive'' of the proposed action in order to facilitate general public comments.

Another commenter stated that, while the intention to carry out a demolition or disposition would be stated in the annual plan, ''it is often difficult to predict accurately the timeline within which a project will be played out.''

Response: Section 970.7 only requires that the description of the housing proposed to be demolished or disposed of in the approved PHA Annual Plan be identical to the application submitted pursuant to 24 CFR part 970. The Annual Plan requirements ask for limited demolition/disposition information as it relates to the planning process where the application requires more detailed information along with justifications and certifications. Since a PHA may amend the plan and submit significant changes to HUD, HUD disagrees with commenters that would suggest that only a certification be required for the contents of the PHA's plan.

The Annual Plan's purpose is to provide a framework for local accountability and an easily identifiable source by which public housing residents, participants, and other members of the public may locate basic PHA policies, rules, and requirements; the PHA's mission for serving the needs of low-income families; and the PHA's goals and objectives to enable the PHA to reach that mission. The application for demolition/disposition is a specific request for demolition and/or disposition. HUD does not believe that this requirement is duplicative or burdensome.

Comment: One commenter stated that ''at a time when there is a trend towards demolishing and disposing of public housing units, we must ensure that we do not make it easier'' for PHAs to remove units. For this reason, the provision exempting small and high-performing PHAs from certifying their demolition plans in their annual plans should be removed.

Response: PHAs that are small or high performers are not entirely exempt from certifying their demolition plans. Those PHAs that are eligible to submit a streamlined plan are required to submit a certification listing the policies the PHA has revised since submission of its last Annual Plan, including those involving demolition and disposition. HUD believes that this certification is appropriate for PHAs using the streamlined plan process.

7. Resident Relocation, Proposed §§ 970.21, 970.23

a. Notice to Residents, Proposed § 970.21(e)(1)

Comment: The required 90-day notice of demolition or disposition is too short. Only 20 percent of all new rental construction in the past decade has been targeted for low-income and extremely low-income people. Given the shortage of affordable rental units for low-income and extremely low-income people, it may be extremely difficult for families to find affordable rental housing within 90 days. The rule should require 6 months' advance notice.

Response: The statute refers to 90 days' notice; however, it also should be noted that a PHA may not commence demolition or complete disposition until all residents are relocated. Since the rule, as proposed, addressed the commenter's concerns, HUD does not adopt this comment.

b. Uniform Relocation Act (URA) Procedures

Comment: The rule provides an exemption from the URA, but the substitute procedures are ''the functional equivalent'' of URA procedures. The use of HUD funds for relocation costs (in proposed § 970.23) would reduce the availability of those funds for other necessary uses. The use of disposition proceeds for relocation should be considered for those PHAs seeking waivers from using disposition proceeds to pay down debt.

Response: HUD recognizes that much of what is required under URA is similar to the requirements in part 970. However, these requirements are statutory (see 42 U.S.C. 1437p(a)(4)(A)(iii)). HUD disagrees with the statement that funds for relocation costs would reduce the availability of those funds for other uses since other

funds are available for relocation costs. The comment pertaining to the use of disposition proceeds is not adopted because doing so would conflict with the requirements of § 970.19 of this rule and 42 U.S.C. 1437p(a)(5).

c. Use of Vouchers

Comment: Given the funding shortfalls in the voucher program (citing that only 95 percent of 2004 vouchers are being funded, and the proposed FY 2006 budget would cut project-based assistance by $272 million), HUD should require PHAs to ''confirm landlord stability'' in the tenant-based and project-based voucher programs before certifying that a resident has been relocated. The commenter also states that the rule should require PHAs to track relocated families for at least 3 years, and that this data is to be shared with HUD.

Response: The comments related to vouchers are beyond the scope of this rule. As to relocation, the relocation provisions are required by statute (see 42 U.S.C. 1437p(a)(4)(A)(iii)). The statutory requirement is that demolition not commence until each resident is relocated, and the rule appropriately implements that requirement. Therefore, no change is made to the final rule.

8. Reference to HOPE VI, Proposed § 970.9(b)(3)(iii)

Comment: Section 970.9(b)(3)(iii) incorrectly references part 970 as including regulations for HOPE VI relocation. This reference should be revised.

Response: The rule addresses circumstances in which a PHA is not required to make an offering to residents. The rule takes into account (1) HOPE VI revitalization (see 42 U.S.C. 1437v), (2) mandatory removal from inventory of distressed units for which there is no potential to revitalize under 24 CFR part 971 (authorized by the 1996 Omnibus Consolidated Rescissions and Appropriation Act, Pub. L. 104–134, approved April 26, 1996), and (3) the required conversion of distressed housing to tenant-based assistance under 42 U.S.C 1437z–5.

9. Environmental Review Provisions, Proposed § 970.13

Comment: Several commenters objected to environmental review provisions in proposed § 970.13. Commenters stated that an environmental review should not be required for a known re-use unless such re-use involves PIH funds. Commenters also stated that:

> The Preamble describes known use so broadly that a housing authority disposing of property would have to get Part 58 approval for a future use such as a purely privately funded project * * *. That result places a disproportionate burden on housing authorities to obtain environmental approvals not otherwise required by the placement of HUD funds into a project. It also requires a housing authority to essentially subsidize activities by a third party outside of the public housing program. For situations in which housing authorities dispose of land that will no longer be used for public housing purposes, any required environmental review should be passed on to the purchaser. Accordingly, § 970.13(b) should be revised to read:
>
> The environmental review is limited to the demolition or disposition action and any known re-use involving public housing funding. For the purposes of this section, known re-use means: (1) architectural, engineering, or design plans for the re-use exist and go beyond preliminary stages and (2) either of the following is true: (a) HUD public housing funding has been committed; or (b) a grant application for HUD public housing funding has been submitted to HUD.

One commenter stated that the provision that environmental review is not required for an unknown future re-use is too general, and the term ''unknown'' should be defined. Another commenter stated that it is unlikely that a PHA does not know the future re-use of its property. The process of obtaining an environmental review is ''onerous'' because the responsibility for the review is on the local governmental entity. ''In reality, this usually shifts the cost burden to the housing agency because the city is unlikely to cover the expense of environmental review.''

Response: HUD believes that the proposed preamble language provided clarity regarding what is a ''known future reuse'' and what is an ''unknown reuse'' and has placed the language describing the factors used to determine whether a future re-use is ''known'' in the text of the final rule.

The suggested revision to § 970.13(b) is not adopted since an environmental review is applicable when there is a ''federal action,'' such as HUD approving an application for demolition or disposition or a related request for release of funds. The requirement is not necessarily limited to public housing funding. HUD does not agree that the environmental review is ''onerous'' and points out that § 970.13 does permit HUD to make a finding in accordance with 24 CFR 58.11(d) and may itself perform the environmental review under the provision of 24 CFR part 50 if a PHA objects in writing to the responsible entity performing the review under 24 CFR part 58.

Comment: Dispositions by sealed-bid solicitations should be conducted without an environmental assessment. This would allow PHAs to ''test the disposition market'' without the expense of an environmental review and also give relief to the transferee from the costs of having to conduct an environmental review prior to acquisition.

Environmental review should not be required for mixed-finance projects or for de minimis demolitions under § 970.27. ''There is little difference'' between mixed-finance development and redevelopment using the Capital Fund, where environmental review is not required. Since the de minimis exception is for cases where the demolition action is ''not substantive,'' the environmental review requirement should be eliminated for these demolitions as well.

Response: See the response to the preceding comment. The commenter's statement that environmental review is not required for development and redevelopment using the Capital Fund is not correct (see 24 CFR 58.1(b)(6)(i)). Environmental review is required because federal financial assistance is involved.

10. Substitution of Units, Proposed § 970.7(b)(3)

Comment: Section 970.7(b)(3) should be revised to allow ''de minimis'' substitution of units. While HUD needs to be able to track units, the proposed rule is unduly restrictive. Redevelopment in an urban setting sometimes requires the substitution of small parcels in order to produce efficiency or meet local zoning or code requirements. The proposed provisions will cause unnecessary delays in these cases. To avoid this problem, § 970.7(b)(3) should be revised to read:

> A PHA may request to either substitute units or add units to those originally included in the approved demolition or disposition application, without submitting a new application for those units, so long as such a request involves (a) units within the same project number or (b) the substitution or addition of no more than 3 units in project numbers adjacent to the project that is the subject of the disposition.

In the alternative, HUD should permit amendments to approved demolition or disposition applications. In that case, the section should be revised to read:

> A PHA may either substitute units or add units to those originally included in the approved demolition or disposition application through an amendment to the application, so long as such a request involves (a) units within the same project number or (b) the substitution or addition of no more than 10 units in project numbers adjacent to the project that is the subject of the disposition.

One commenter stated that ''PHAs should be permitted a greater degree of flexibility to substitute units within developments in order to effectuate the stated goal of consolidation of occupancies.''

Response: The comments regarding ''de minimis'' substitution of units are not adopted since applications are approved for specific reasons and reviewed on a case-by-case basis. Not all units in a given public housing project are equivalent to all others, and considerations include not only the units themselves but such factors as location, amenities, and appearance. However, PHAs can apply for and obtain approval to demolish a larger set of units than they actually plan to demolish, including the units they may wish to substitute. The PHA could then substitute units within the approved larger group. Thus, PHAs can effectively have the ability to substitute units for demolition and still comply with this rule.

11. Offer to Existing Resident Organizations, Proposed § 970.11

Comment: One commenter supported the general idea of excluding demolitions (so that the offer to purchase to residents applies only to disposition), HOPE VI, and mandatory conversion projects from the resident offer requirement. However, the rule stops short by not also excluding projects where the PHA has consolidated vacancies as permitted by section 18. Excluding such developments does not seem to further any legitimate purpose, and will penalize PHAs that consolidate occupancies to improve the living conditions of their residents or to provide greater efficiency in serving residents. Why would HUD want to discourage such efforts?

Commenters stated that the procedures for the offering to residents are unduly cumbersome and time-consuming. The entire process could take from 135 to 225 days, and such a delay is unreasonable. The rule should ensure that the entire process is completed within 30 days and that the decision of the PHA is not subject to an appeal process. One commenter stated that ''[p]roposal 970.11(h) would provide for an extension of the time, from 30 days to 120 days, for appealing resident organizations desiring to buy a complex, but receiving a rejected purchase proposal. Should the rejection be justified, and HUD agrees, it would seem that this proposal would further delay the redevelopment of a project. HUD should waive this requirement or certainly limit it to a nominal time frame if there is no organized resident group.''

Extending the time frame for HUD to review the PHA decision from 30 days to 120 days will place an additional burden on the PHA. Timing is a key factor, and it is essential that disposition applications be processed by the HUD Special Application Center as expeditiously as possible. However, the proposed appeals process could add an additional 120 days or more to the application approval process. In addition, the uncertainty of how long the review period could last will likely hinder a PHA's ability to consummate market transactions with private partners and could unnecessarily deter private partners from working with PHAs on real estate transactions. The time frame for HUD to render a decision on an appeal should remain 30 days.

Response: The rule does permit a PHA to consolidate without submitting a disposition application and, therefore, the offer to existing resident organizations under this rule is not applicable. The comments regarding the time for resident consultation are not adopted since the procedures for offer of sale to established eligible organizations is statutory. The comment regarding the 120-day HUD appeal process is not adopted since the 120-day period relates to the maximum amount of time HUD has to consider an appeal from a resident organization. HUD believes that there is no uncertainty as to how long the review period could last, since the period is a maximum of 120 days. HUD's experience in this area reflects the possibility that some appeals may require the full 120 days to review and render a decision.

Comment: Proposed § 970.11(d)(6), which requires the PHA to provide sales materials to the resident organization on the same day as it receives the resident's expression of interest, has too short a time frame. The provision should be revised to read, ''The PHA must supply the totality of all the terms of sale and all the necessary materials to the residents no later than 3 business days from the day it receives the residents' initial expression of interest.''

Response: HUD adopts this comment. This final rule revises the third sentence of § 970.11(d)(6) to read: ''The PHA must supply the totality of all the terms of sale and all necessary material to the residents no later than 3 business days from the day it receives the residents' initial expression of interest.''

Comment: The resident offer provision should be expanded. Contrary to HUD's assertions in the proposed rule, there are many PHAs that do not have resident organizations. HUD should include a requirement that PHAs have to inform tenants of their right to organize and allow them the opportunity to organize before moving forward with any disposition plans. The $25 per unit/per year for resident participation activities should be used for resident organizations.

In addition, the 60 days provided for residents to secure financing is not enough. Residents should get 90 days. This commenter stated that, contrary to proposed § 970.11(h), residents should have a right to appeal any HUD ruling in court.

Response: HUD does not adopt this comment since the resident-offer provision, as required by the existing regulation, proved to be overly time-consuming and unworkable in some situations where there was not yet a resident organization formed. The suggestion to give residents 90 days to secure financing is beyond statutory requirements and to allow an extended period of time would again delay the process unnecessarily. As for the right to judicial appeal, residents are not prevented by this section from pursuing any available judicial review; § 970.11(h) simply provides for finality of the administrative review process.

12. Exemption of Areas Used for Family Self-Sufficiency (FSS), Proposed § 970.3(b)(5)

Comment: The exemption for common and unoccupied areas being used for an FSS program is correct, but should be expanded to all areas being used for supportive services regardless of whether they are being used in the statutory FSS program.

Response: After consideration of this issue, HUD agrees that HUD's policy in this area, should ''encourage and reward employment and economic self-sufficiency'' (see 42 U.S.C. 1437a(2)(D).) ''Employment and economic self-sufficiency'' includes FSS and other HUD-approved self-sufficiency activities. This final rule revises 24 CFR 970.3(b)(5) accordingly.

13. Review Under the Public Housing Assessment System (PHAS)

Comment: Two commenters stated that when a PHA submits a property for demolition or disposition, it acknowledges that the units are in need of substantial repair and is working to resolve the problem. Such units should not be required to be reviewed under PHAS or scored as part of the PHA's overall rating. The PHA should not be penalized by HUD for the condition of the units being demolished or subject to disposition.

Response: Changes to PHAS scoring are outside the scope of this rule.

14. Exemption for Eminent Domain Taking, Proposed § 970.3(b)(8)

Comment: One commenter stated that the preamble and regulatory provisions on eminent domain taking do not match. In particular, the preamble states that HUD must be a party to the eminent domain proceeding, that HUD must approve any out-of-court settlement for the transfer of PHA-owned property, and that additional adjustments may be made to account for changes in law. These requirements do not appear in the rule text.

This commenter stated that the rule should clearly state that commencement of litigation is not required in those states such as Ohio where the first step toward an eminent domain taking occurs before litigation. This commenter also stated that material should be added to the rule that explains how to obtain HUD approval for an eminent domain taking and which HUD office to contact.

Response: HUD does not adopt this comment since the proposed regulatory provisions address the fact of the exemption only. To fully explain the process of eminent domain is beyond the scope of this rule. This final rule does not limit the start of condemnation proceedings to the filing in a court but accepts the determination as to when the condemnation proceedings commence under state law.

15. Resident Consultation Requirement, Proposed § 970.9

Comment: The rule should have ''safe harbor'' criteria for resident consultation that, once met, ensure that the requirement has been fulfilled. This comment cites an example of a situation where the commenter states that more than 30 meetings were held with residents over 2 years, and HUD did not find the consultation adequate but required the PHA to sign a memorandum of understanding (MOU) with the resident council in which the parties agreed to the action. This requirement exceeds any reasonable interpretation of ''consultation.'' This comment suggests an additional sentence be added to read:

> The requirement for resident consultation will be satisfied where the PHA has invited all affected residents and resident organizations to attend at least three meetings at which the proposed demolition or disposition plan is presented in writing to those attending and the PHA affords the residents in attendance the right to present their comments orally and later in writing.

Response: The comment is not adopted. The statute requires consultation with residents who will be affected by the action and HUD believes that PHAs should have flexibility in this area. HUD shall review consultation on a case-by-case basis. HUD does not consider it appropriate to specify how many meetings are necessary for resident consultation, but as proposed § 970.9 requires, a PHA must submit copies of any written comments submitted to the PHA and any evaluation that the PHA has made of the comments.

Comment: Proposed § 970.9(c), which provides that established, eligible resident organizations may act for residents, ''does not identify any standards that must be met by nonprofit organizations that may act on behalf of residents. At a minimum, nonprofit organizations should have a history of working with the residents of the affected community and should be able to demonstrate the capacity and ability to assist the resident organization with real estate transactions.''

Response: Proposed § 970.9 makes reference to 24 CFR part 964 to define what is a resident management corporation. Additionally, part 964 contains language stating that a nonprofit organization is one that is ''validly incorporated under the laws of the state in which it is located.'' This standard has been clarified in the final rule. HUD believes that the rule is sufficient and that adopting the comment would make the rule too prescriptive and inflexible in this regard.

16. Method of Disposition, Proposed § 970.19

Comment: There should be an additional disposition option besides public solicitation for not less than FMV, or negotiated sale. The rule should also permit a sale by public solicitation for less than FMV. Why prohibit a sale on this basis? It does not serve anyone's interest to require the PHA to retain title solely because the purchaser willing to pay the most for it will not pay the appraised value. Whether or not to accept such a bid should be within the PHA's discretion.

Response: The proposed rule permitted HUD to authorize sale for less than fair market value. No change is made to this final rule as a result of this comment.

Comment: Two commenters stated that the rule requires an assessment of commensurate public benefits when selling for less than FMV. HUD required a showing of commensurate public benefits for a negotiated sale of greater than FMV. This requirement was a waste of time because there was no chance of anyone other than the offeror offering more than the negotiated price, and placed the PHA at risk of receiving less money because the offeror might decide to lower the offer and risk losing the property. The rule should be changed to allow for a negotiated price at greater than the appraised value without showing a commensurate public benefit.

Response: The rule merely requires a showing of a commensurate public benefit for a sale of less than FMV. HUD will not require a showing of commensurate public benefit for a negotiated sale of greater than FMV on and after implementation date of the final rule.

17. Program of Modifications Is Not Cost-Effective, Proposed § 970.15(a)(2)

Comment: The test for obsolescence—whether a reasonable program of modifications is cost-effective to return a development or portion to useful life—should be based on 90 percent of total development cost (TDC), rather than 100 percent of housing construction cost (HCC), as proposed.

Response: HUD has eliminated proposed references to HCC for clarity purposes and revised language in the final rule to reflect 62.5 percent of TDC for elevator structures and 57.14 percent of TDC for all other types of structures, which is the functional equivalent of 100 percent of HCC. Such a change does not eliminate the flexibility the proposed rule offered.

18. PIH Information Center (PIC) System

Comment: A trade association commenter stated that its members have found that the limitations of the PIC system for tracking public housing units make it difficult to demolish or dispose of units that should otherwise be eligible for demolition or disposition. As an example, if a PHA has two buildings under one public housing project number, and it decides to demolish one and apply for funding for replacement housing, it cannot later apply to replace the second building because, as far as the system is concerned, the PHA has already received replacement housing funding for that project.

Response: Technical issues related to PIC were not addressed in the proposed rule and are outside the scope of this rulemaking.

19. Replacement Units, Proposed § 970.31

Comment: This section, which provides that replacement housing units

may be placed back on-site if the number of units is significantly fewer than the number of units demolished, should be prefaced with the phrase, ''notwithstanding any other provision of law.'' This phrase would mirror current law.

Response: The final rule makes the suggested change. Section 18(d) of the 1937Act (42 U.S.C. 1437p(d)) provides for placing replacement units back on site ''notwithstanding any other provision of law.''

20. Application Requirements Generally, Proposed §§ 970.7, 970.29

Comment: This proposed section requires submission of too much information and should be streamlined. HUD would approve an application based on a PHA's certification as to specific conditions of the property and evidence that the PHA complied with resident consultation requirements. This should result in a simpler process. One purpose of the statute, to eliminate the burden on PHAs, is overshadowed by HUD's demand for more information than is required.

Response: The rule does reflect statutory language. PHAs determine whether a project is eligible for demolition or disposition and are permitted to certify to this unless HUD has information that the PHA's certification is incorrect. Certification forms reflect language from section 18(b) of the 1937 Act. However, the application process will be updated to conform to any changes made by this rule.

Comment: Commenters stated that proposed § 970.29, which provides the rules for HUD's rejection of an application, is too broad or too vague. Proposed § 970.29(a)(3), which states that HUD may disapprove an application if it has information inconsistent with the application, is too vague concerning what that contrary information may be. ''The rule should be more explicit on what information or data may be requested so that PHAs are not subject to the vagaries of those conducting the application process.'' This section implies that HUD can ask for additional information after it reviews the application, and that, since HUD reviews the PHA's annual and 5-year plans, HUD personnel should know what to ask before their review. As written, the section could cause lengthy delays.

The phrase ''HUD will disapprove an application if HUD determines * * *'' should be changed to ''HUD will disapprove an application only if HUD determines * * *'' because, as written, the phrase implies that HUD may disapprove an application for some other reason. A commenter objected to proposed § 907.29(a) because it does not define what ''clearly inconsistent'' means, and because the phrase ''if HUD determines'' vests absolute discretion in the agency regardless of how clear and convincing a case the PHA has made. This commenter stated that the section should be revised to read:

> HUD will disapprove an application only if any certification by the PHA required under this part is:
> (a) Inconsistent with the approved PHA Plan; or
> (b) Arbitrary, capricious, made in bad faith, or constitutes an abuse of discretion.

Response: Language in this section reflects statutory requirements. Each proposal is unique and must be reviewed on a case-by-case basis. HUD may reject an application for demolition or disposition if the reason for the proposed action is not in conformance with the statute.

21. Other Miscellaneous Application Requirements, Proposed § 970.7

a. Estimate of Project Debt, § 970.7(a)(9)

Comment: Proposed § 970.7(a)(9), requiring PHAs to submit estimate of project debt, should be removed. This information is readily available to HUD and not to PHAs.

Response: This comment is adopted since HUD currently maintains such information. However, if HUD determines the project still has debt, it will assume the PHA is asking for a waiver of the requirement to use the proceeds to repay the debt, if the PHA has shown another use for the proceeds.

b. Consultation With Appropriate Government Officials, § 970.7(a)(15)

Comment: This requirement could ''require a great deal of extra effort if the PHA's project is trying to move forward during a change in local government.'' The rule should allow more latitude in case of change in local political volatility.

Response: HUD disagrees with this commenter and believes that the rule does allow for latitude. Section 970.7(a)(15)(iii) provides that, where the local government consistently fails to respond to the PHA's attempt at consultation, including letters, request for meetings, public notice and other reasonable efforts, documentation of those attempts are acceptable. HUD will review such documentation on a case-by-case basis to determine if the consultation requirement was met. Because of the large amount of variations in local situations, HUD does not consider it appropriate to make a general rule as to what action on the part of the public body will be required to meet the consultation requirement in situations where the local government does not respond.

Comment: The rule should have a ''safe harbor'' standard so that it is known when the PHA has satisfied the consultation requirement. Otherwise, jurisdictions could delay the process. For example, if a racially concentrated project were to be demolished to provide for integration of its residents into non-concentrated neighborhoods, a jurisdiction opposed to integration could refuse to issue the letter required in proposed § 970.7(a)(15)(ii) and allege that the PHA did not consult. By establishing threshold criteria, the PHA could establish that it had consulted adequately even absent the letter. A new paragraph should be added to § 970.7(a)(15) to read:

> The requirement for consultation with local government officials will be satisfied where the PHA has either met or offered to meet with the appropriate government officials on three occasions at which the proposed demolition or disposition plan was presented in writing to those attending and the PHA has responded in writing to any written objections, comments, or concerns received within ten days following the third such meeting or offer to meet.

Response: As discussed in the response to the preceding comment, because of the variances in local situations, HUD does not believe it is possible to provide a safe harbor standard that will be applicable in all cases.

IV. Findings and Certifications

Paperwork Reduction Act

The information collection requirements in this rule have been approved by OMB under section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and assigned OMB Control number 2577–0157. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

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 the private sector. This final rule does not impose any Federal mandates on any state, local, or tribal government, or the private sector within the meaning of UMRA.

Environmental Impact

A Finding of No Significant Impact (FONSI) with respect to the environment was made with respect to the proposed rule in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI remains applicable and is available for public inspection between 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the FONSI by calling the Regulations Division at (202) 708–3055 (this is not a toll-free number).

Impact on Small Entities

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.

This rule is concerned solely with the requirements for PHAs to apply for demolition or disposition of the public housing developments that they administer. However, many of the requirements of this rule were already present under the existing regulations regarding public housing demolition or disposition. To the extent that this rule would alter the previous requirements, it would do so in ways that are likely to either leave the economic impact unchanged or lower such impact. For example, because of a statutory change, the rule would no longer require PHAs to have a replacement housing plan. The rule would provide greater flexibility than before in how PHAs can use the proceeds from disposition of a property. The rule would provide for demolition of a minimal number of units without submitting an application. Thus, the rule certainly would not impose a greater administrative burden on entities than previously, and in some ways would lower the administrative requirements for demolishing or disposing of public housing units. Therefore, the undersigned certifies that this final rule will not have a significant economic impact on a substantial number of small entities, and an initial regulatory flexibility analysis is not required.

Federalism Impact

Executive Order 13132 (entitled ''Federalism'') prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on state and local governments and is not required by statute, or preempts state law, unless the relevant requirements of section 6 of the executive order are met. This rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the executive order.

Executive Order 12866, Regulatory Planning and Review

OMB reviewed this final rule under Executive Order 12866 (entitled Regulatory Planning and Review). OMB determined that this rule is a significant regulatory action, as defined in section 3(f) of the order (although not economically significant, as provided in section 3(f)(1) of the order). The docket file is available for public inspection from 8 a.m. to 5 p.m. in the Regulations Division, Office of General Counsel, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the docket file by calling the Regulations Division at (202) 708–3055 (this is not a toll-free number).

List of Subjects in 24 CFR Part 970

Grant programs—housing and community development, Public housing, Reporting and recordkeeping requirements.

The Catalog of Federal Domestic Assistance program number for the program affected by this final rule is 14.850.

■ For the reasons stated in the preamble, HUD revises 24 CFR part 970 as follows:

■ 1. 24 CFR part 970 is revised to read as follows:

PART 970—PUBLIC HOUSING PROGRAM—DEMOLITION OR DISPOSITION OF PUBLIC HOUSING PROJECTS

Sec.

970.1 Purpose.
970.3 Applicability.
970.5 Definitions.
970.7 General requirements for HUD approval of a PHA demolition/disposition application.
970.9 Resident participation—consultation and opportunity to purchase.
970.11 Procedures for the offer of sale to established eligible organizations.
970.13 Environmental review requirements.
970.15 Specific criteria for HUD approval of demolition requests.
970.17 Specific criteria for HUD approval of disposition requests.
970.19 Disposition of property; use of proceeds.
970.21 Relocation of residents.
970.23 Costs of demolition and relocation of displaced tenants.
970.25 Required and permitted actions prior to approval.
970.27 De minimis exception to demolition requirements.
970.29 Criteria for disapproval of demolition or disposition applications.
970.31 Replacement units.
970.33 Effect on Operating Fund Program and Capital Fund Program.
970.35 Reports and records.

Authority: 42 U.S.C. 1437p and 3535(d).

§ 970.1 Purpose.

This part states requirements for HUD approval of a public housing agency's application for demolition or disposition (in whole or in part) of public housing developments assisted under Title I of the U.S. Housing Act of 1937 (Act). The regulations in 24 CFR part 85 are not applicable to this part.

§ 970.3 Applicability.

(a) This part applies to public housing developments that are owned by public housing agencies (PHAs) and that are subject to annual contributions contracts (ACCs) under the Act.

(b) This part does not apply to the following:

(1) PHA-owned section 8 housing, or housing leased under former sections 10(c) or 23 of the Act;

(2) Demolition or disposition before the date of full availability (DOFA) of property acquired incident to the development of a public housing project (however, this exception shall not apply to dwelling units under ACC);

(3) The conveyance of public housing for the purpose of providing homeownership opportunities for lower-income families under sections 21 and 32 of the Act (42 U.S.C. 1437s and 42 U.S.C. 1437z–4, respectively), the homeownership program under former section 5(h) of the Act (42 U.S.C. 1437c(h)), or other predecessor homeownership programs;

(4) The leasing of dwelling or non-dwelling space incident to the normal operation of the project for public housing purposes, as permitted by the ACC;

(5) Making available common areas and unoccupied dwelling units in public housing projects to provide HUD-approved economic self-sufficiency services and activities to promote

employment of public housing residents;

(6) The reconfiguration of the interior space of buildings (e.g., moving or removing interior walls to change the design, sizes, or number of units) without ''demolition,'' as defined in § 970.5. (This includes the conversion of bedroom size, occupancy type, changing the status of unit from dwelling to non-dwelling.);

(7) Easements, rights-of-way, and transfers of utility systems incident to the normal operation of the development for public housing purposes, as permitted by the ACC;

(8) A whole or partial taking by a public or quasi-public entity (taking agency) authorized to take real property by its use of police power or exercise of its power of eminent domain under state law. A taking does not qualify for the exception under this paragraph unless:

(i) The taking agency has been authorized to acquire real property by use of its police power or power of eminent domain under its state law;

(ii) The taking agency has taken at least the first step in formal proceedings under its state law; and

(iii) If the taking is for a federally assisted project, the Uniform Relocation Act (URA) (42 U.S.C. 4601 *et seq.*) applies to any resulting displacement of residents and it is the responsibility of the taking agency to comply with applicable URA requirements.

(9) Demolition after conveyance of a public housing project to a non-PHA entity in accordance with an approved homeownership program under Title III of the Cranston-Gonzalez National Affordable Housing Act (HOPE I) (42 U.S.C. 1437aaa note);

(10) Units or land leased for non-dwelling purposes for one year or less;

(11) A public housing property that is conveyed by a PHA prior to DOFA to enable an owner entity to develop the property using the mixed-finance development method;

(12) Disposition of public housing property for development pursuant to the mixed-finance development method at 24 CFR part 941, subpart F;

(13) Demolition under the de minimis exception in § 970.27, except that the environmental review provisions apply, including the provisions at §§ 970.7(a)(16) and 970.13(b) of this part;

(14) Demolition (but not disposition) of severely distressed units as part of a revitalization plan under section 24 of the Act (42 U.S.C. 1437v) (HOPE VI) approved after October 21, 1998;

(15) Demolition (but not disposition) of public housing developments removed from a PHA's inventory under section 33 of the Act, 42 U.S.C. 1437z–5.

§ 970.5 Definitions.

ACC, or *annual contributions contract*, is defined in 24 CFR 5.403.

Act means the United States Housing Act of 1937, 42 U.S.C. 1437 *et seq.*

Appropriate government officials mean the Chief Executive Officer or officers of a unit of general local government.

Assistant Secretary means the Assistant Secretary for Public and Indian Housing at HUD.

Chief Executive Officer of a unit of general local government means the elected official or the legally designated official, who has the primary responsibility for the conduct of that entity's governmental affairs. Examples of the chief executive officer of a unit of general local government are: the elected mayor of a municipality; the elected county executive of a county; the chairperson of a county commission or board in a county that has no elected county executive; and the official designated pursuant to law by the governing body of a unit of general local government.

Demolition means the removal by razing or other means, in whole or in part, of one or more permanent buildings of a public housing development. A demolition involves any four or more of the following:

(1) Envelope removal (roof, windows, exterior walls);

(2) Kitchen removal;

(3) Bathroom removal;

(4) Electrical system removal (unit service panels and distribution circuits); or

(5) Plumbing system removal (e.g., either the hot water heater or distribution piping in the unit, or both).

Disposition means the conveyance or other transfer by the PHA, by sale or other transaction, of any interest in the real estate of a public housing development, subject to the exceptions stated in § 970.3.

DOFA, or date of full availability, means the last day of the month in which substantially all (95 percent or more) of the units in a housing development are available for occupancy.

Firm financial commitment means a commitment that obligates a creditable source, lender, or equity provider, to the lending or equity investment of a specific sum of funds to be made on or before a specific date(s) and may contain contingencies or conditions that must be satisfied by the borrower (or entity receiving equity investments) before the closing of the transaction. The condition of a firm commitment must be that it is enforceable by the borrower (or entity receiving the equity investment) upon the satisfaction of all contingencies or conditions.

PHA Plan—Means the PHA's initial, annual, and 5-year submissions under section 5A of the U.S. Housing Act of 1937, 42 U.S.C. 1437c–1.

Resident Advisory Board (RAB) has the same meaning as in § 903.13(a) of this title.

Resident Council means a resident organization, the role and requirements of which are as described in 24 CFR part 964.

Total development cost has the same meaning as in 24 CFR 941.103.

§ 970.7 General requirements for HUD approval of a PHA demolition/disposition application.

(a) *Application for HUD Approval.* A PHA must obtain written approval from HUD before undertaking any transaction involving demolition or disposition of PHA-owned property under the ACC. Where a PHA demolishes or disposes of public housing property without HUD approval, no HUD funds may be used to fund the costs of demolition or disposition or reimburse the PHA for those costs. HUD will approve an application for demolition or disposition upon the PHA's submission of an application with the required certifications and the supporting information required by this section and §§ 970.15 or 970.17. Section 970.29 specifies criteria for disapproval of an application. Approval of the application under this part does not imply approval of a request for additional funding, which the PHA must make separately under a program that makes available funding for this purpose. The PHA shall submit the application for demolition or disposition and the timetable in a time and manner and in a form prescribed by HUD. The supporting information shall include:

(1) A certification that the PHA has described the demolition or disposition in the PHA Annual Plan and timetable under 24 CFR part 903 (except in the case of small or high-performing PHAs eligible for streamlined annual plan treatment), and that the description in the PHA Annual Plan is identical to the application submitted pursuant to this part and otherwise complies with section 18 of the Act (42 U.S.C. 1437p) and this part;

(2) A description of all identifiable property, by development, including land, dwelling units, and other improvements, involved in the proposed demolition or disposition;

(3) A description of the specific action proposed, such as:

(i) Demolition, disposition, or demolition with disposition;

(ii) If disposition is involved, the method of sale;

(4) A general timetable for the proposed action(s), including the initial contract for demolition, the actual demolition, and, if applicable, the closing of sale or other form of disposition;

(5) A statement justifying the proposed demolition or disposition under the applicable criteria of §§ 970.15 or 970.17;

(6) If applicable, a plan for the relocation of tenants who would be displaced by the proposed demolition or disposition (including persons with disabilities requiring reasonable accommodations and a relocation timetable as prescribed in § 970.21);

(7) A description with supporting evidence of the PHA's consultations with residents, any resident organizations, and the Resident Advisory Board, as required under § 903.9 of this title;

(8) In the case of disposition only, evidence of compliance with the offering to resident organizations, as required under § 970.9;

(9) In the case of disposition, an estimate of the fair market value of the property, established on the basis of one independent appraisal, unless otherwise determined by HUD, as described in § 970.19(c);

(10) In the case of disposition, estimates of the gross and net proceeds to be realized, with an itemization of estimated costs to be paid out of gross proceeds and the proposed use of any net proceeds in accordance with § 970.19;

(11) An estimate of costs for any required relocation housing, moving costs, and counseling.

(12) Where the PHA is requesting a waiver of the requirement for the application of proceeds for repayment of outstanding debt, the PHA must request such a waiver in its application, along with a description of the proposed use of the proceeds;

(13) A copy of a resolution by the PHA's Board of Commissioners approving the specific demolition or disposition application (or, in the case of the report required under § 970.27(e) for ''de minimis'' demolitions, the Board of Commissioner's resolution approving the ''de minimis'' action) for that development or developments or portions thereof. The resolution must be signed and dated after all resident and local government consultation has been completed;

(14) Evidence that the application was developed in consultation with appropriate government officials as defined in § 970.5, including:

(i) A description of the process of consultation with local government officials, which summarizes dates, meetings, and issues raised by the local government officials and the PHA's responses to those issues;

(ii) A signed and dated letter in support of the application from the chief executive officer of the unit of local government that demonstrates that the PHA has consulted with the appropriate local government officials on the proposed demolition or disposition;

(iii) Where the local government consistently fails to respond to the PHA's attempts at consultation, including letters, requests for meetings, public notices, and other reasonable efforts, documentation of those attempts;

(iv) Where the PHA covers multiple jurisdictions (such as a regional housing authority), the PHA must meet these requirements for each of the jurisdictions where the PHA is proposing demolition or disposition of PHA property;

(15) An approved environmental review of the proposed demolition or disposition in accordance with 24 CFR parts 50 or 58 for any demolition or disposition of public housing property covered under this part, as required under 24 CFR 970.13;

(16) A certification that the demolition or disposition application does not violate any remedial civil rights order or agreement, voluntary compliance agreement, final judgment, consent decree, settlement agreement, or other court order or agreement;

(17) Any additional information necessary to support the application and assist HUD in making determinations under this part.

(b) *Completion of demolition/disposition or rescissions of approval.*

(1) HUD will consider a PHA's request to rescind an earlier approval to demolish or dispose of public housing property, where a PHA submits a resolution from the Board of Commissioners and submits documentation that the conditions that originally led to the request for demolition or disposition have significantly changed or been removed.

(2) The Assistant Secretary will not approve any request by the PHA to either substitute units or add units to those originally included in the approved demolition or disposition application, unless the PHA submits a new application for those units that meet the requirements of this part.

§ 970.9 Resident participation—consultation and opportunity to purchase.

(a) *Resident consultation.* PHAs must consult with residents who will be affected by the proposed action with respect to all demolition or disposition applications. The PHA must provide with its application evidence that the application was developed in consultation with residents who will be affected by the proposed action, any resident organizations for the development, PHA-wide resident organizations that will be affected by the demolition or disposition, and the Resident Advisory Board (RAB). The PHA must also submit copies of any written comments submitted to the PHA and any evaluation that the PHA has made of the comments.

(b) *Resident organization offer to sell—applicability.* In the situation where the PHA applies to dispose of a development or portion of a development:

(1) The PHA shall, in appropriate circumstances as determined by the Assistant Secretary, initially offer the property proposed for disposition to any eligible resident organization, eligible resident management corporation as defined in 24 CFR part 964, or to a nonprofit organization acting on behalf of the residents at any development proposed for disposition, if the resident entity has expressed an interest in purchasing the property for continued use as low-income housing. The entity must make the request in writing to the PHA, no later than 30 days after the resident entity has received the notification of sale from the PHA;

(2) If the resident entity has expressed an interest in purchasing the property for continued use as low-income housing, the entity, in order for its purchase offer to be considered, must:

(i) In the case of a nonprofit organization, be acting on behalf of the residents of the development; and

(ii) Demonstrate that it has obtained a firm commitment for the necessary financing within 60 days of serving its written notice of interest under paragraph (b)(1) of this section.

(3) The requirements of this section do not apply to the following cases, which have been determined not to present an appropriate opportunity for purchase by a resident organization:

(i) A unit of state or local government requests to acquire vacant land that is less than two acres in order to build or expand its public services (a local government wishes to use the land to build or establish a police substation); or

(ii) A PHA seeks disposition outside the public housing program to privately

finance or otherwise develop a facility to benefit low-income families (e.g., day care center, administrative building, mixed-finance housing under 24 CFR part 941 subpart F, or other types of low-income housing);

(iii) Units that have been legally vacated in accordance with the HOPE VI program, the regulations at 24 CFR part 971, or the mandatory conversion regulations at 24 CFR part 972, excluding developments where the PHA has consolidated vacancies;

(iv) Distressed units required to be converted to tenant-based assistance under section 33 of the 1937 Act (42 U.S.C. 1437z-5); or

(vi) Disposition of non-dwelling properties, including administration and community buildings, and maintenance facilities.

(4) If the requirements of this section are not applicable, as provided in paragraph (b)(3) of this section, the PHA may proceed to submit to HUD its application under this part to dispose of the property, or a portion of the property, without affording an opportunity for purchase by a resident organization. However, PHAs must consult with their residents in accordance with paragraph (a) of this section. The PHA must submit documentation with date and signatures to support the applicability of one of the exceptions in paragraph (b)(3) of this section. Examples of appropriate documentation include, but are not limited to: a letter from the public body that wants to acquire the land, copies of memoranda or letters approving the PHA's previous application under part 970 or mandatory conversion plan, and the HUD transmittal document approving the proposed revitalization plan.

(c) *Established eligible organizations.* Where there are eligible resident organizations, eligible resident management corporations as defined in 24 CFR part 964, or nonprofit organizations acting on behalf of the residents as defined in 24 CFR part 964 (collectively, ''established eligible organizations''), that have expressed an interest, in writing, to the PHA within 30 days of the date of notification of the proposed sale, in purchasing the property for continued use as low-income housing at the affected development, the PHA shall follow the procedures for making the offer described in § 970.11.

§ 970.11 Procedures for the offer of sale to established eligible organizations.

In making an offer of sale to established eligible organizations as defined in § 970.9(c) in the case of proposed disposition, the PHA shall proceed as follows:

(a) *Initial written notification of sale of property.* The PHA shall send an initial written notification to each established eligible organization (for purposes of this section, an established eligible organization that has been so notified is a ''notified eligible organization'') of the proposed sale of the property. The notice of sale must include, at a minimum, the information listed in paragraph (d) of this section;

(b) *Initial expression of interest.* All notified eligible organizations shall have 30 days to initially express an interest, in writing, in the offer (''initial expression of interest''). The initial expression of interest need not contain details regarding financing, acceptance of an offer of sale, or any other terms of sale.

(c) *Opportunity to obtain firm financial commitment by interested entity.* If a notified eligible organization expresses interest in writing during the 30-day period referred to in paragraph (b) of this section, no disposition of the property shall occur during the 60-day period beginning on the date of the receipt of the written notice of interest. During this period, the PHA must give the entity expressing interest an opportunity to obtain a firm financial commitment as defined in § 970.5 for the financing necessary to purchase the property;

(d) *Contents of initial written notification.* The initial written notification to established eligible organizations under paragraph (a) of this section must include at a minimum the following:

(1) An identification of the development, or portion of the development, involved in the proposed disposition, including the development number and location, the number of units and bedroom configuration, the amount and use of non-dwelling space, the current physical condition (fire damaged, friable asbestos, lead-based paint test results), and percent of occupancy;

(2) A copy of the appraisal of the property and any terms of sale;

(3) Disclosure and description of the PHA's plans for reuse of land, if any, after the proposed disposition;

(4) An identification of available resources (including its own and HUD's) to provide technical assistance to the organization to help it to better understand its opportunity to purchase the development, the development's value, and potential use;

(5) A statement that public housing developments sold to resident organizations will not continue to receive capital and operating subsidy after the completion of the sale;

(6) Any and all terms of sale that the PHA will require, including a statement that the purchaser must use the property for low-income housing. If the PHA does not know all the terms of the offer of sale at the time of the notice of sale, the PHA shall include all the terms of sale of which it is aware. The PHA must supply the totality of all the terms of sale and all necessary material to the residents no later than 3 business days from the day it receives the residents' initial expression of interest;

(7) A date by which an established eligible organization must express its interest, in writing, in response to the PHA's offer to sell the property proposed for demolition or disposition, which shall be up to 30 days from the date of the official written offer of sale from the PHA;

(8) A statement that the established eligible organization will be given 60 days from the date of the PHA's receipt of its letter expressing interest to develop and submit a proposal to the PHA to purchase the property and to obtain a firm financial commitment, as defined in § 970.5. The statement shall explain that the PHA shall approve the proposal from an organization if the proposal meets the terms of sale and is supported by a firm commitment for financing. The statement shall also provide that the PHA can consider accepting an offer from the organization that differs from the terms of sale. The statement shall explain that if the PHA receives proposals from more than one organization, the PHA shall select the proposal that meets the terms of sale, if any. In the event that two proposals from the development to be sold meet the terms of sale, the PHA shall choose the best proposal. If no proposal meets the terms of sale, the PHA in its discretion may or may not select the best proposal.

(e) *Response to the notice of sale.* The established eligible organization or organizations have up to 30 days to respond to the notice of sale from the PHA. The established eligible organization shall respond to the PHA's notice of sale by means of an initial expression of interest under paragraph (b) of this section.

(f) *Resident proposal.* The established eligible organization has up to 60 days from the date the PHA receives its initial expression of interest and provides all necessary terms and information to prepare and submit a proposal to the PHA for the purchase of the property of which the PHA plans to dispose, and to obtain a firm commitment for financing. The

resident's proposal shall provide all the information requested in paragraph (i) of this section.

(g) *PHA Review of Proposals.* The PHA has up to 60 days from the date of receipt of the proposal or proposals to review the proposals and determine whether they meet the terms of sale described in the PHA's offer or offers. If the PHA determines that the proposal meets the terms of sale, within 14 days of the date of this determination, the PHA shall notify the organization of that fact and that the proposal has been accepted. If the PHA determines that the proposal differs from the terms of sale, the PHA may accept or reject the proposal at its discretion;

(h) *Appeals.* The established eligible organization has the right to appeal the PHA's decision to the Assistant Secretary for Public and Indian Housing, or his designee, by sending a letter of appeal within 30 days of the date of the PHA's decision to the field office director. The letter of appeal must include copies of the proposal and any related correspondence, along with a statement of reasons why the organization believes the PHA should have decided differently. HUD shall render a decision within 30 days, and notify the organization and the PHA by letter within 14 days of such decision. If HUD cannot render a decision within 30 days, HUD will so notify the PHA and the established eligible organization in writing, in which case HUD will have an additional 30 days in which to render a decision. HUD may continue to extend its time for decision in 30-day increments for a total of 120 days. Once HUD renders its decision, there is no further administrative appeal or remedy available.

(i) *Contents of the organization's proposal.* The established eligible organization's proposal shall at a minimum include the following:

(1) The length of time the organization has been in existence;

(2) A description of current or past activities that demonstrate the organization's organizational and management capability, or the planned acquisition of such capability through a partner or other outside entities (in which case the proposal should state how the partner or outside entity meets this requirement);

(3) To the extent not included in paragraph (i)(2) of this section, the organization's experience in the development of low-income housing, or planned arrangements with partners or outside entities with such experience (in which case the proposal should state how the partner or outside entity meets this requirement);

(4) A statement of financial capability;

(5) A description of involvement of any non-resident organization (such as non-profit, for-profit, governmental, or other entities), if any, the proposed division of responsibilities between the non-resident organization and the established eligible organization, and the non-resident organization's financial capabilities;

(6) A plan for financing the purchase of the property and a firm financial commitment as stated in paragraph (c) of this section for funding resources necessary to purchase the property and pay for any necessary repairs;

(7) A plan for using the property for low-income housing;

(8) The proposed purchase price in relation to the appraised value;

(9) Justification for purchase at less than the fair market value in accordance with § 970.19(a) of this part, if appropriate;

(10) Estimated time schedule for completing the transaction;

(11) Any additional items necessary to respond fully to the PHA's terms of sale;

(12) A resolution from the resident organization approving the proposal; and

(13) A proposed date of settlement, generally not to exceed 6 months from the date of PHA approval of the proposal, or such period as the PHA may determine to be reasonable.

(j) *PHA obligations.* The PHA must:

(1) Prepare and distribute the initial notice of sale pursuant to 24 CFR 970.11(a), and, if any established eligible organization expresses an interest, any further documents necessary to enable the organization or organizations to make an offer to purchase;

(2) Evaluate proposals received, make the selection based on the considerations set forth in paragraph (b) of this section, and issue letters of acceptance or rejection;

(3) Prepare certifications, where appropriate, as provided in paragraph (k) of this section;

(4) Comply with its obligations under § 970.7(a) regarding tenant consultation and provide evidence to HUD that the PHA has met those obligations. The PHA shall not act in an arbitrary manner and shall give full and fair consideration to any offer from a qualified resident management corporation, resident council of the affected development, or a nonprofit organization acting on behalf of the residents, and shall accept the proposal if the proposal meets the terms of sale.

(k) *PHA post-offer requirements.* After the resident offer, if any, is made, the PHA shall:

(1) Submit its disposition application to HUD in accordance with section 18 of the Act and this part. The disposition application must include complete documentation that the resident offer provisions of this part have been met. This documentation shall include:

(i) A copy of the signed and dated PHA notification letter(s) to each established eligible organization informing them of the PHA's intention to submit an application for disposition, the organization's right to purchase the property to be disposed of; and

(ii) The responses from each organization.

(2)(i) If the PHA accepts the proposal of an established eligible organization, the PHA shall submit revisions to its disposition application to HUD in accordance with section 18 of the Act and this part reflecting the arrangement with the resident organization, with appropriate justification for a negotiated sale and for sale at less than fair market value, if applicable.

(ii) If the PHA rejects the proposal of the resident organization, the resident organization may appeal as provided in paragraph (h) of this section. Once the appeal is resolved, or, if there is no appeal, and the 30 days allowed for appeal has passed, HUD shall proceed to approve or disapprove the application.

(3) HUD will not process an application for disposition unless the PHA provides HUD with one of the following:

(i) An official board resolution or its equivalent from each established eligible organization stating that such organization has received the PHA offer, and that it understands the offer and waives its opportunity to purchase the project, or portion of the project, covered by the disposition application;

(ii) A certification from the executive director or board of commissioners of the PHA that the 30-day time frame to express interest has expired and no response was received to its offer; or

(iii) A certification from the executive director or board of commissioners of the PHA with supporting documentation that the offer was otherwise rejected.

§ 970.13 Environmental review requirements.

(a) Activities under this part (including de minimis demolition pursuant to § 970.27) are subject to HUD environmental regulations in 24 CFR part 58. However, HUD may make a finding in accordance with 24 CFR 58.11(d) of this title and may itself perform the environmental review under the provisions of 24 CFR part 50

if a PHA objects in writing to the responsible entity performing the review under 24 CFR part 58.

(b) The environmental review is limited to the demolition or disposition action and any known re-use, and is not required for any unknown future re-use. Factors that indicate that the future site reuse can reasonably be considered to be known include the following:

(1) Private, Federal, state, or local funding for the site reuse has been committed;

(2) A grant application involving the site has been filed with the Federal government or a state or local unit of government;

(3) The Federal government or a state or unit of local government has made a commitment to take an action, including a physical action, that will facilitate a particular reuse of the site; and

(4) Architectural, engineering, or design plans for the reuse exist that go beyond preliminary stages.

(c) In the case of a demolition or disposition made necessary by a disaster that the President has declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.,* or a disaster that has been declared under state law by the officer or entity with legal authority to make such declaration, pursuant to 24 CFR 50.43 and 24 CFR 58.33, the provisions of 40 CFR 1506.11 will apply.

§ 970.15 Specific criteria for HUD approval of demolition requests.

(a) In addition to other applicable requirements of this part, HUD will approve an application for demolition upon the PHA's certification that it meets the following statutory criteria, unless the application meets the criteria for disapproval under 24 CFR 270.29. An application for the demolition of all or a portion of a public housing project must certify that the project:

(1) Is obsolete as to physical condition, location, or other factors, making it unsuitable for housing purposes, and no reasonable program of modifications is cost-effective to return the public housing project or portion of the project to useful life; and

(2) In the case of an application for demolition of a portion of a project, the demolition will help to ensure the viability of the remaining portion of the project.

(b) As to paragraph (a)(1) of this section:

(1) Major problems indicative of obsolescence are:

(i) As to physical condition: Structural deficiencies that cannot be corrected in a cost-effective manner (settlement of earth below the building caused by inadequate structural fills, faulty structural design, or settlement of floors), or other design or site problems (severe erosion or flooding);

(ii) As to location: physical deterioration of the neighborhood; change from residential to industrial or commercial development; or environmental conditions as determined by HUD environmental review in accord with 24 CFR part 50, which jeopardize the suitability of the site or a portion of the site and its housing structures for residential use; or

(iii) There are other factors that have seriously affected the marketability, usefulness, or management of the property.

(2) HUD generally shall not consider a program of modifications to be cost-effective if the costs of such program exceed 62.5 percent of total development cost (TDC) for elevator structures and 57.14 percent of TDC for all other types of structures in effect at the time the application is submitted to HUD.

(c) As to paragraph (a)(2) of this section, a partial demolition will be considered to ensure the viability of the remaining portion if the application certifies that the demolition will reduce development density to permit better access by emergency, fire, or rescue services, or improve marketability by reducing the density to that of the neighborhood or other developments in the PHA's inventory.

§ 970.17 Specific criteria for HUD approval of disposition requests.

In addition to other applicable requirements of this part, HUD will approve a request for disposition by sale or other transfer of a public housing project or other real property if the PHA certifies that the retention of the property is not in the best interests of the residents or the PHA for at least one of the following reasons, unless information available to HUD is inconsistent with the certification:

(a) Conditions in the area surrounding the project (density, or industrial or commercial development) adversely affect the health or safety of the tenants or the feasible operation of the project by the PHA;

(b) Disposition allows the acquisition, development, or rehabilitation of other properties that will be more efficiently or effectively operated as low-income housing developments;

(c) The PHA has otherwise determined the disposition to be appropriate for reasons that are consistent with the goals of the PHA and the PHA Plan and that are otherwise consistent with the Act;

(d) In the case of disposition of property other than dwelling units (community facilities or vacant land), the PHA certifies that:

(1) The non-dwelling facilities or land exceeds the needs of the development (after DOFA); or

(2) The disposition of the property is incidental to, or does not interfere with, continued operation of the remaining portion of the development.

§ 970.19 Disposition of property; use of proceeds.

(a) Where HUD approves the disposition of real property of a development, in whole or in part, the PHA shall dispose of the property promptly for not less than fair market value (in which case there is no showing of commensurate public benefit required), unless HUD authorizes negotiated sale for reasons found to be in the best interests of the PHA or the federal government; or dispose of the property for sale for less than fair market value (where permitted by state law), based on commensurate public benefits to the community, the PHA, or the federal government justifying such an exception. General public improvements, such as streets and bridges, do not qualify as commensurate public benefits.

(b) A PHA may pay the reasonable costs of disposition, and of relocation of displaced tenants allowable under § 970.21, out of the gross proceeds, as approved by HUD.

(c) To obtain an estimate of the fair market value before the property is advertised for bid, the PHA shall have one independent appraisal performed on the property proposed for disposition, unless HUD determines that:

(1) More than one appraisal is warranted; or

(2) Another method of valuation is clearly sufficient and the expense of an independent appraisal is unjustified because of the limited nature of the property interest involved or other available data.

(d) To obtain an estimate of the fair market value when a property is not publicly advertised for bid, HUD may accept a reasonable valuation of the property.

(e) A PHA shall use net proceeds, including any interest earned on the proceeds (after payment of HUD-approved costs of disposition and relocation under paragraph (a) of this section), subject to HUD approval, as follows:

(1) Unless waived by HUD, for the retirement of outstanding obligations, if any, issued to finance original development or modernization of the project; and

(2) To the extent that any net proceeds remain, after the application of proceeds in accordance with paragraph (e)(1) of this section, for:

(i) The provision of low-income housing or to benefit the residents of the PHA, through such measures as modernization of lower-income housing or the acquisition, development, or rehabilitation of other properties to operate as lower-income housing; or

(ii) Leveraging amounts for securing commercial enterprises, on-site in public housing developments of the PHA, appropriate to serve the needs of the residents.

(f) For dispositions for the purpose stated in § 970.17(b), a PHA must demonstrate to the satisfaction of HUD that the replacement units are being provided in connection with the disposition of the property. A PHA may use sale proceeds in accordance with paragraph (e) to fund the replacement units.

§ 970.21 Relocation of residents.

(a) *Relocation of residents on a nondiscriminatory basis and relocation resources.* A PHA must offer each family displaced by demolition or disposition comparable housing that meets housing quality standards (HQS) and is located in an area that is generally not less desirable than the location of the displaced persons. The housing must be offered on a nondiscriminatory basis, without regard to race, color, religion, creed, national origin, handicap, age, familial status, or gender, in compliance with applicable Federal and state laws. For persons with disabilities displaced from a unit with reasonable accommodations, comparable housing should include similar accommodations. Such housing may include:

(1) Tenant-based assistance, such as assistance under the Housing Choice Voucher Program, 24 CFR part 982, except that such assistance will not be considered ''comparable housing'' until the family is actually relocated into such housing;

(2) Project-based assistance; or

(3) Occupancy in a unit operated or assisted by the PHA at a rental rate paid by the family that is comparable to the rental rate applicable to the unit from which the family is vacated.

(b) *In-place tenants.* A PHA may not complete disposition of a building until all tenants residing in the building are relocated.

(c) *Financial resources.* (1) Sources of funding for relocation costs related to demolition or disposition may include, but are not limited to, capital funds or other federal funds currently available for this purpose;

(2) If Federal financial assistance under the Community Development Block Grant (CDBG) program, 42 U.S.C. 5301 *et seq.* (including loan guarantees under section 108 of the Housing and Community Development Act of 1974, 42 U.S.C. 5308 *et seq.*); the Urban Development Action Grant (UDAG) program, 42 U.S.C. 5318 *et seq.*; or HOME program, 42 U.S.C. 12701 *et seq.* is used in connection with the demolition or disposition of public housing, the project is subject to section 104(d) of the Housing and Community Development Act of 1974, 42 U.S.C. 5304(d) (as amended)), including the relocation payment provisions and the anti-displacement provisions, which require that comparable replacement dwellings be provided within the community for the same number of occupants as could have been housed in the occupied and vacant, occupiable low- and moderate-income units demolished or converted to another use.

(d) *Relocation timetable.* For the purpose of determining operating subsidy eligibility under 24 CFR part 990, a PHA must provide the following information in the application or immediately following application submission:

(1) The number of occupied units at the time of demolition/disposition application approval;

(2) A schedule for the relocation of those residents on a month-by-month basis.

(e) The PHA is responsible for the following:

(1) Notifying each family residing in the development of the proposed demolition or disposition 90 days prior to the displacement date, except in cases of imminent threat to health and safety. The notification must include a statement that:

(i) The development or portion of the development will be demolished or disposed of;

(ii) The demolition of the building in which the family resides will not commence until each resident of the building has been relocated;

(iii) Each family displaced by such action will be provided comparable housing, which may include housing with reasonable accommodations for disability, if required under section 504 of the Rehabilitation Act of 1973 and HUD's regulations in 24 CFR part 8, as described in paragraph (a) of this section;

(2) Providing for the payment of the actual and reasonable relocation expenses of each resident to be displaced, including residents requiring reasonable accommodations because of disabilities;

(3) Ensuring that each displaced resident is offered comparable replacement housing as described in paragraph (b) of this section; and

(4) Providing any necessary counseling for residents that are displaced.

(f) In addition, the PHA's plan for the relocation of residents who would be displaced by the proposed demolition or disposition must indicate:

(1) The number of individual residents to be displaced;

(2) The type of counseling and advisory services the PHA plans to provide;

(3) What housing resources are expected to be available to provide housing for displaced residents; and

(4) An estimate of the costs for counseling and advisory services and resident moving expenses, and the expected source for payment of these costs.

(g) The Uniform Relocation Act does not apply to demolitions and dispositions under this part.

§ 970.23 Costs of demolition and relocation of displaced tenants.

Where HUD has approved demolition of a project, or a portion of a project, and the proposed action is part of a program under the Capital Fund Program (24 CFR part 905), the costs of demolition and of relocation of displaced residents may be included in the budget funded with capital funds pursuant to section 9(d) of the Act (42 U.S.C. 1437g(d)) or awarded HOPE VI or other eligible HUD funds.

§ 970.25 Required and permitted actions prior to approval.

(a) A PHA may not take any action to demolish or dispose of a public housing development or a portion of a public housing development without obtaining HUD approval under this part. HUD funds may not be used to pay for the cost to demolish or dispose of a public housing development or a portion of a public housing development, unless HUD approval has been obtained under this part. Until the PHA receives HUD approval, the PHA shall continue to meet its ACC obligations to maintain and operate the property as housing for low-income families. However, the PHA may engage in planning activities, analysis, or consultations without seeking HUD approval. Planning activities may include project viability

studies, capital planning, or comprehensive occupancy planning. The PHA must continue to provide full housing services to all residents that remain in the development. A PHA should not re-rent these units at turnover while HUD is considering its application for demolition or disposition. However, the PHA's operating subsidy eligibility will continue to be calculated as stated in 24 CFR part 990.

(b) A PHA may consolidate occupancy within or among buildings of a development, or among developments, or with other housing for the purposes of improving living conditions of, or providing more efficient services to residents, without submitting a demolition or disposition application.

§ 970.27 De minimis exception to demolition requirements.

(a) A PHA may demolish units without submitting an application if the PHA is proposing to demolish not more than the lesser of:

(1) five dwelling units; or

(2) 5 percent of the total dwelling units owned by the PHA over any 5-year period.

(b) The 5-year period referred to in paragraph (a)(2) of this section is the 5 years counting backward from the date of the proposed de minimis demolition, except that any demolition performed prior to October 21, 1998, will not be counted against the five units or 5 percent of the total, as applicable. For example, if a PHA that owns 1,000 housing units wishes to demolish units under this de minimis provision on July 1, 2004, and previously demolished two units under this provision on September 1, 2000, and two more units on July 1, 2001, the PHA would be able to demolish one additional unit for a total of five in the preceding 5 years. As another example, if a PHA that owns 60 housing units as of July 1, 2004, had demolished two units on September 1, 2000, and one unit on July 1, 2001, that PHA would not be able to demolish any further units under this ''de minimis'' provision until after September 1, 2005, because it would have already demolished 5 percent of its total.

(1) In order to qualify for this exemption, the space occupied by the demolished unit must be used for meeting the service or other needs of public housing residents (use of space to construct a laundry facility, community center, child care facility, office space for a general provider; or for use as open space or garden); or

(2) The unit being demolished must be beyond repair.

(d) PHAs utilizing this section will comply with environmental review requirements at 24 CFR 970.13 and, if applicable, the requirements of 24 CFR 8.23.

(e) For recordkeeping purposes, PHAs that wish to demolish units under this section shall submit the information required in § 970.7(a)(1), (2), (12), (13), and (14). HUD will accept a certification from the PHA that one of the two conditions in paragraph (c) of this section apply unless HUD has independent information that requirements for ''de minimis'' demolition have not been met.

§ 970.29 Criteria for disapproval of demolition or disposition applications.

HUD will disapprove an application if HUD determines that:

(a) Any certification made by the PHA under this part is clearly inconsistent with:

(1) The PHA Plan;

(2) Any information and data available to HUD related to the requirements of this part, such as failure to meet the requirements for the justification for demolition or disposition as found in §§ 970.15 or 970.17; or

(3) Information or data requested by HUD; or

(b) The application was not developed in consultation with:

(1) Residents who will be affected by the proposed demolition or disposition as required in § 970.9; and

(2) Each resident advisory board and resident council, if any, of the project (or portion thereof) that will be affected by the proposed demolition or disposition as required in § 970.9, and appropriate government officials as required in § 970.7.

§ 970.31 Replacement units.

Notwithstanding any other provision of law, replacement public housing units may be built on the original public housing location or in the same neighborhood as the original public housing location if the number of the replacement public housing units is significantly fewer than the number of units demolished. Such development must comply with 24 CFR part 905, Public Housing Capital Fund Program, as well as 24 CFR part 941.

§ 970.33 Effect on the Operating Fund Program and Capital Fund Program.

The provisions of 24 CFR part 990, the Public Housing Operating Fund Program, and 24 CFR part 905, the Public Housing Capital Fund Program, apply.

§ 970.35 Reports and records.

(a) After HUD approval of demolition or disposition of all or part of a project, the PHA shall provide information on the following:

(1) Actual completion of each demolition contract by entering the appropriate information into HUD's applicable data system, or providing the information by another method HUD may require, within a week of making the final payment to the demolition contractor, or expending the last remaining funds if funded by force account;

(2) Execution of sales or lease contracts by entering the appropriate information into HUD's applicable data system, or providing the information by another method HUD may require, within a week of execution;

(3) The PHA's use of the proceeds of sale by providing a financial statement showing how the funds were expended by item and dollar amount;

(4) Amounts expended for closing costs and relocation expenses, by providing a financial statement showing this information for each property sold; and

(5) Such other information as HUD may from time to time require.

(b) [Reserved]

Dated: October 12, 2006.

Orlando J. Cabrera,

Assistant Secretary for Public and Indian Housing.

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Part III

Department of Housing and Urban Development

Additional Waivers Granted to and Alternative Requirements for the State of Mississippi Under Public Law 109–148; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5051–N–07]

Additional Waivers Granted to and Alternative Requirements for the State of Mississippi Under Public Law 109–148

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of waivers and alternative requirements.

SUMMARY: As described in the **SUPPLEMENTARY INFORMATION** section of this Notice, HUD is authorized by statute to waive statutory and regulatory requirements and specify alternative requirements for this grant, upon the request of the state grantee. This Notice describes the additional waivers for the disaster recovery grants made to the State of Mississippi under the subject appropriations act.

DATES: *Effective Date:* October 30, 2006.

FOR FURTHER INFORMATION CONTACT: Jan C. Opper, Director, Disaster Recovery and Special Issues Division, Office of Block Grant Assistance, Department of Housing and Urban Development, Room 7286, 451 Seventh Street, SW., Washington, DC 20410, telephone number (202) 708–3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339. FAX inquiries may be sent to Mr. Opper at (202) 401–2044. (Except for the ''800'' number, these telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

Authority To Grant Waivers

A Federal fiscal year 2006 supplemental appropriation for the Community Development Block Grant (CDBG) program was in the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006 (Pub. L. 109–148, approved December 30, 2005), that appropriated $11.5 billion for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure in the most impacted and distressed areas related to the consequences of the covered disasters.

The 2006 Act authorizes the Secretary to waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or use by the recipient of these funds and guarantees, except for requirements related to fair housing, nondiscrimination, labor standards, and the environment, upon a request by the state and a finding by the Secretary that such a waiver would not be inconsistent with the overall purpose of the statute. The following additional waivers and alternative requirements for funds provided under the 2006 Act are in response to requests from the State of Mississippi.

The Secretary finds that the following waivers and alternative requirements, as described below, are not inconsistent with the overall purpose of Title I of the Housing and Community Development Act of 1974, as amended (the 1974 Act), or the Cranston-Gonzalez National Affordable Housing Act, as amended.

Under the requirements of the Department of Housing and Urban Development Act, as amended (42 U.S.C. 3535(q)), regulatory waivers must be published in the **Federal Register**.

Except as described in this and other notices applicable to these grants, statutory and regulatory provisions governing the Community Development Block Grant program for states, including those at 24 CFR part 570, shall apply to the use of these funds. In accordance with the appropriations act cited above, HUD will reconsider every waiver in this Notice on the two-year anniversary of the day this Notice is published.

Waiver Justification

In general, waivers already granted to the State of Mississippi and alternative requirements already specified for CDBG disaster recovery grant funds provided under Public Law 109–148 apply. The notices in which these prior waivers and alternative requirements applicable to Mississippi appear are 71 FR 7666, published February 13, 2006, and 71 FR 34457, published June 14, 2006.

The provisions of this Notice do not apply to funds provided under the annual CDBG program. The provisions provide additional flexibility in program design and implementation and implement statutory requirements unique to this appropriation.

Eligibility—wind pool reinsurance premium. The state requested that HUD grant an eligibility waiver to permit it to pay reinsurance costs for two years for the wind pool for insurance maintained by the Mississippi Windstorm Underwriting Association (MWUA). HUD was initially concerned that allowing this activity would artificially depress the costs of insurance in the wind pool area and result in people making redevelopment decisions that did not take into account the real balance of risks and benefits of living in the impacted areas. The state responded by pointing out that even with the reinsurance in place insurance rates would still rise substantially, that the state would disclose to ratepayers the risk that rates would increase more if reinsurance rates remained high after grant assistance ended, and that the state was simultaneously working to raise building standards to help ameliorate actual risks and possibly lower eventual insurance costs. HUD considered the request and the state's response and agreed that it is consistent with the overall purposes of the 1974 Act for the state to fund, in accordance with the terms described in the state's Action Plan, the reinsurance coverage for the wind pool maintained by MWUA.

Low- and moderate-income household benefit for multi-unit housing projects. Rehabilitation and reconstruction of housing is an eligible CDBG activity. HUD has already granted the state an eligibility waiver to allow new construction of housing. Now the state has requested a related waiver to allow it to fund multi-unit projects and to measure benefit to low- and moderate-income households in such projects in a manner more supportive of mixed-income housing than the *structure* basis required by 24 CFR 570.483(b)(3). (Under the cited regulation, the general rule is that at least 51 percent of the residents of an assisted *structure* must be income eligible.)

HUD has reviewed other housing assistance programs that measure benefit differently: by the housing *unit.* Under the unit approach, one or more of the units in a structure must house income-eligible families, but the remainder of the units may be market-rate, so long as the proportion of assistance provided compared to the overall project budget is no more than the proportion of units that will be occupied by income-eligible households compared to the number of units in the overall project. In other words, the rule under the structure approach is that a nickel of CDBG assistance to a structure means that 51 percent of the units must meet income requirements. Under the proportional units approach, the number of income-eligible units is proportional to the amount of assistance provided. Based on HUD experience, the second approach is generally more compatible with large-scale development of mixed-income housing.

There is HUD precedent for using the proportional unit basis in two programs familiar to the state: (1) the CDBG program rule has a built-in exception that allows limited use of the unit basis for multi-unit non-elderly new

construction structures with between 20 and 50 percent low- and moderate-income occupancy, and (2) the HOME Investment Partnerships program, HUD's primary housing production program, successfully uses its own variation on the proportional unit approach. After review of the state's Action Plan for Disaster Recovery and learning more about the state's intention to encourage mixed-income housing development, HUD has determined that it is consistent with the overall purposes of the 1974 Act to provide the state the requested additional flexibility in measuring program benefit.

Therefore, the waiver and alternative requirements allow the state a choice. The state may measure benefit within a housing development project (1) according to the existing CDBG requirements, (2) according to the HOME program requirements at 24 CFR 92.205(d) or (3) according to the modified CDBG alternative requirements specified in this notice, which extend the CDBG exception noted above. The state must select and use just one method for each project. For these purposes, the term ''project'' will have the same meaning as in the HOME program at 24 CFR 92.2.

Unlike the HOME program, the CDBG program does not regulate the maximum amount of assistance per unit, require unit and income reviews in the years following initial occupancy, require a specific form of subsidy layering review, or define affordability. The state is reminded, however, that CDBG does require that costs be necessary and reasonable and that the state must develop procedures and documentation to ensure that its housing investments meet this requirement. The state must also meet all civil rights and fair housing requirements.

Overall Benefit to Low- and Moderate-Income Persons

The State of Mississippi has repeated its request that the Secretary waive the requirement that 50 percent of the CDBG funds received by the state under the grant made under Public Law 109–148 be for activities that benefit persons of low and moderate income (see 71 FR 7666, published February 13, 2006, for the waiver granted under Public Law 109–148 to the original 70 percent requirement). In a June 14, 2006, notice (71 FR 34457) the Secretary granted a waiver of the overall benefit requirement for the Public Law 109–148 grant to the extent that the state could carry out the activity of compensation for housing loss, (the costs of which the state believed at the time would consume the majority of its grant), in an ''income-blind'' manner because the disaster affected households without regard to income. Because the current $1.3 billion estimate of demand for this program under the eligibility criteria specified by the state is substantially less than the approximately $3.255 billion estimated and approved in the Action Plan, the state now plans to modify the activity and reallocate funds to additional beneficiary groups or to other activities through a substantial amendment to its Action Plan. Note that the June 14 waiver does not cover activities added or modified under such a substantial amendment. To recognize the actual size of the program and because the state subsequently repeated its request for an overall benefit waiver that covers all activities, HUD is replacing the June 14 waiver and alternative requirements with the updated waiver and alternative requirements in this notice. (Substantial amendments to the state's program after the date of this notice may trigger further updates.)

To grant this waiver, the Secretary must find that it is ''not inconsistent'' with the CDBG program's primary purpose. This purpose is stated at 42 U.S.C. 5301(c):

> ''The primary objective of this chapter and of the community development program of each grantee under this chapter is the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income.''

Further, Public Law 109–148 stipulates that, to decrease or eliminate the overall benefit requirement below 50 percent, the Secretary of HUD must also make a finding of ''compelling need'' for the waiver.

The Secretaries of HUD have granted very few overall benefit waivers for past disaster recoveries. The Secretary reset the percentage requirement for Grand Forks, North Dakota, to the actual pre-storm percentage of income-eligible residents in the affected area, and included the proviso that the City serve low- and moderate-income persons first, whenever feasible. HUD also allowed the State of Maine, following severe ice storms, an overall benefit waiver that permitted the state to use its entire grant to assist private utilities with uninsured service restoration costs. Logically, a utility grid or service area cannot be restored for one income group alone, and this type of disaster affects everyone in an area, regardless of income. There was no practical methodology in this example for allocating costs among income groups. In these two cases, the waiver supported some area-wide activity such as buyouts or infrastructure that arguably resulted in a larger total number of assisted low- and moderate-income households than if more targeted and measurable assistance had been provided.

The case in Mississippi is more complicated than those in Maine and Grand Forks, because of the large number of political sub-jurisdictions, choice of possible activities, the effects of the mix of activities, population movement, and the catastrophic scale of the disaster. As in Maine, whole areas of Mississippi were impacted regardless of income (and far more severely in Mississippi than in Maine), so many of the state's proposed activities are area- or sector-wide. As in Grand Forks, the majority of Mississippians in the most impacted areas were not income-eligible prior to the storm so the state's recovery strategy must necessarily address the needs of a range of income groups.

Mississippi has a much larger CDBG grant than either Maine or Grand Forks. Although the state plans to use the homeowner assistance funds very rapidly, it will take somewhat longer to budget and to use the remainder of the grant, and to determine the final benefit figures for the programs it plans to undertake.

In considering the waiver request, HUD again examined the available post-disaster data on unmet recovery needs and the percentages of low- and moderate-income populations residing in the most impacted areas at the time of the disaster (Hancock County: 43 percent, Harrison County: 41 percent, Jackson County: 37 percent, Pearl River County: 41 percent.). HUD accepts the position of the state that one of the state's compelling needs for assistance in the disaster-affected area is to help re-establish homeowners outside the floodplain who suffered major uninsured flood damage. (The state designated this as its ''primary need.'')

HUD also considered the other CDBG disaster recovery activities the state is undertaking. After the June 14 waiver, the state made Action Plan amendments including some additional CDBG disaster recovery activities that do not qualify under the low- and moderate-income national objective, such as assistance to private utilities, wind pool re-insurance (mentioned elsewhere in this notice) and regional infrastructure development. In its Action Plan, the state described how these activities would address its disaster recovery needs. However, the state has not yet published Action Plan amendments describing the uses of all grant funds.

HUD considered the data and the state's justification for its request.

Considering that the state has not yet budgeted all of its grant funds in the Action Plan, it has a large amount of unbudgeted funds, it will be reallocating previously budgeted funds, and a substantial number of low- and moderate-income persons were impacted by the disaster, HUD decided that the Department does not have enough information to conclude that the state has compelling need for a waiver of overall benefit for the entire grant at this time.

Based on the compelling need presented for the activities already included in the Action Plan for Disaster Recovery for the grant made under Public Law 109–148, HUD is granting the state a waiver of the requirement that at least 50 percent of the supplemental CDBG grant funds provided under Public Law 109–148 primarily benefit persons of low and moderate income, to the extent necessary to permit Mississippi to carry out the activities contained in its March 31, June 28, and July 12, 2006, Action Plan submissions, provided that the state must give reasonable priority for the balance of its funds to activities that will primarily benefit persons of low and moderate income. HUD expects the grantee to maintain low- and moderate-income benefit documentation for each activity providing such benefit. This waiver of overall benefit does not cover activities that may be added or modified under a substantial amendment to the activities mentioned in the Action Plan submissions listed above.

Previously, the state agreed to examine other housing needs and to pursue other sources of funding to provide assistance for other compelling housing needs, such as for homeless and special needs populations, for low-income renters, and for uninsured low-income homeowners. HUD expects the state to continue these efforts.

HUD is not granting the state's request that all of its activities be carried out under the national objective of ''urgent need'' because such a waiver would effectively grant an overall benefit waiver for the entire grant. HUD expects the state to principally benefit low- and moderate-income persons in activities where such design is feasible and reasonable, and to design its activities to meet the ''slum-blight'' or urgent need national objective otherwise. Consistent with the principles discussed above, HUD will be open to considering a further extension of the waiver when the uses of the balance of the available funds are proposed by the state.

HUD also reminds the state that, pursuant to the instruction in Public Law 109–148, all waivers in this notice must be reconsidered on the two-year anniversary date of this notice.

Applicable Rules, Statutes, Waivers, and Alternative Requirements

1. *General note.* Except as described in this Notice, the statutory, regulatory, and notice provisions that shall apply to the use of these funds are:

a. Those governing the funds appropriated under Public Law 109–148 and already published in the **Federal Register**, including those in Notices 71 FR 7666, published February 13, 2006; and 71 FR 34457, published June 14, 2006; and

b. Those governing the Community Development Block Grant program for states, including those at 42 U.S.C. 5301 et seq. and 24 CFR part 570.

2. *Low- and moderate-income benefit for multi-unit housing projects.* HUD will consider assistance for a multi-unit housing project to benefit low- and moderate-income households in the following circumstances:

(a)(i) The CDBG assistance defrays the development costs of a housing project providing eligible permanent residential units that, upon completion, will be occupied by low- and moderate-income households; and

(ii) If the project is rental, the units occupied by low- and moderate-income households will be leased at affordable rents. The grantee or unit of general local government shall adopt and make public its standards for determining ''affordable rents'' for this purpose; and

(iii) The proportion of the total cost of developing the project to be borne by CDBG funds is no greater than the proportion of units in the project that will be occupied by low- and moderate-income households; or

(b) When CDBG funds defray the development costs of eligible permanent residential units, such funds shall be considered to benefit low and moderate income persons if the grantee follows the provisions of 24 CFR 92.205(d); or

(c) The requirements of 24 CFR 570.483(b)(3) are met.

(d) The state must select and use just one method for each project.

(e) The term ''project'' will have the same meaning as in the HOME program at 24 CFR 92.2.

(f) If the state applies option (a) or (b) above to a housing project, 24 CFR 570.483(b)(3) is waived for that project.

3. *Eligibility—wind pool reinsurance premium.* 42 U.S.C. 5305(a) is waived to the extent necessary to make eligible payment of wind pool reinsurance premiums in accordance with the state's approved Action Plan and published program design.

4. *Overall benefit.* 42 U.S.C. 5301(c) and 5304(b)(3), and 24 CFR 570.484 and 24 CFR 91.325(b)(4)(ii) with respect to the overall benefit requirement are waived to the extent necessary to permit Mississippi to carry out the activities contained in its March 31, June 28, and July 12, 2006, Action Plan submissions, provided that:

a. The state must give reasonable priority for the balance of its funds to activities which will primarily benefit persons of low and moderate income; and

b. The State will maintain documentation of the low- and moderate-income benefit attributable to each assisted activity, if feasible, and report on such benefit to HUD as part of the regular quarterly reports.

5. *Information collection approval note.* HUD has approval for information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) under OMB control number 2506–0165, which expires August 31, 2007. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, nor is a person required to respond to, a collection of information unless the collection displays a valid control number.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers for the disaster recovery grants under this Notice are as follows: 14.219; 14.228.

Finding of No Significant Impact

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4321(2)(C)). The FONSI is available for public inspection between 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the finding by calling the Regulations Division at (202) 708–3055 (this is not a toll-free number).

Dated: October 19, 2006.

Roy A. Bernardi,

Deputy Secretary.

[FR Doc. 06–8856 Filed 10–19–06; 3:19 pm]

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT OCTOBER 24, 2006

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Grant and Cooperative Agreement Handbook:
- Training grant and award procedures; published 10-24-06

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airman certification:
- Airmen and medical certificate holders; disqualification based on alcohol violations and refusals to submit to drug or alcohol testing
  - Correction; published 10-24-06

Airworthiness directives:
- Airbus; published 9-19-06
- Cirrus Design Corp.; published 9-19-06
- Raytheon; published 9-19-06

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Exportation and importation of animals and animal products:
- Spring viremia of carp; import restrictions on certain live fish, fertilized eggs, and gametes; comments due by 10-30-06; published 8-30-06 [FR E6-14478]

AGRICULTURE DEPARTMENT

Federal Crop Insurance Corporation

Crop insurance regulations:
- Nursery crop insurance provisions; comments due by 10-31-06; published 9-1-06 [FR E6-14364]

COMMERCE DEPARTMENT

Foreign-Trade Zones Board

Applications, hearings, determinations, etc.:
- Georgia
  - Eastman Kodak Co.; x-ray film, color paper, digital media, inkjet paper, entertainment imaging, and health imaging; Open for comments until further notice; published 7-25-06 [FR E6-11873]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:
- Atlantic highly migratory species—
  - Commercial shark management measures; comments due by 11-1-06; published 10-5-06 [FR E6-16408]
- West Coast States and Western Pacific fisheries—
  - Pacific Coast groundfish; comments due by 10-31-06; published 9-1-06 [FR E6-14558]
- West Coast states and Western Pacific fisheries—
  - Pacific Coast groundfish; comments due by 10-31-06; published 9-29-06 [FR 06-08373]
- West Coast States and Western Pacific fisheries—
  - Pacific Coast groundfish; comments due by 11-2-06; published 10-3-06 [FR 06-08402]

DEFENSE DEPARTMENT

Defense Acquisition Regulations System

Acquisition regulations:
- Export-controlled information and technology; comments due by 11-2-06; published 10-17-06 [FR E6-17231]

DEFENSE DEPARTMENT

Personnel Security Program:
- Personnel security clearance procedures; comments due by 10-30-06; published 8-30-06 [FR E6-14361]

ENERGY DEPARTMENT

Energy Efficiency and Renewable Energy Office

Alternative Fuel Transportation Program:
- Replacement fuel goal modification; comments due by 11-3-06; published 9-19-06 [FR E6-15516]

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Practice and procedure:
- Critical energy infrastructure information; comments due by 11-2-06; published 10-3-06 [FR E6-15822]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
- Montana; comments due by 11-3-06; published 8-30-06 [FR E6-14452]
- Texas; comments due by 10-30-06; published 9-28-06 [FR E6-15933]
- West Virginia; comments due by 10-30-06; published 9-28-06 [FR E6-15981]

Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:
- West Virginia; comments due by 11-1-06; published 10-2-06 [FR E6-16177]

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
- 2, 6-Diisopropylnaphthalene; comments due by 10-31-06; published 9-1-06 [FR E6-14545]
- Benthiavalicarb-isopropyl; comments due by 10-31-06; published 9-1-06 [FR 06-07313]
- Ethofumesate; comments due by 10-30-06; published 8-30-06 [FR E6-14431]
- S-metolachlor; comments due by 10-30-06; published 8-30-06 [FR E6-14443]

Solid wastes:
- State underground storage tank program approvals—
  - New Hampshire; comments due by 11-3-06; published 10-4-06 [FR E6-16375]
  - New Hampshire; comments due by 11-3-06; published 10-4-06 [FR E6-16376]

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:
- Individuals with hearing and speech disabilities; telecommunications relay services and speech-to-speech services; comments due by 10-30-06; published 9-13-06 [FR E6-14901]
  - Correction; comments due by 10-30-06; published 9-27-06 [FR 06-08180]

Radio services, special:
- Personal radio services—
  - Medical transmitters operation in the 400 MHz band; spectrum requirements; comments due by 10-31-06; published 8-2-06 [FR E6-12500]

GOVERNMENT ACCOUNTABILITY OFFICE

Public availability of records; congressional correspondence disclosure and interview records withholding; exemptions; comments due by 11-2-06; published 9-18-06 [FR E6-15474]

HEALTH AND HUMAN SERVICES DEPARTMENT

Centers for Medicare & Medicaid Services

Medicare:
- Medicare Advantage organizations offering plans in 2007 and subsequent years; enhancements; comments due by 10-31-06; published 9-1-06 [FR 06-07394]

HOMELAND SECURITY DEPARTMENT

Coast Guard

Drawbridge operations:
- Connecticut; comments due by 11-1-06; published 10-19-06 [FR 06-08814]
- Florida; comments due by 11-2-06; published 10-3-06 [FR E6-16285]
- New York; comments due by 11-3-06; published 7-11-06 [FR E6-10761]

Ports and waterways safety; regulated navigation areas, safety zones, security zones, etc.:
- Narragansett Bay, RI and Mount Hope Bay, MA; comments due by 11-1-06; published 5-25-06 [FR E6-08075]

JUSTICE DEPARTMENT

Drug Enforcement Administration

Schedules of controlled substances:
- Exempt anabolic steroid products; designations; comments due by 10-31-06; published 9-1-06 [FR E6-14516]

TRANSPORTATION DEPARTMENT

Procedural regulations:
- General aviation operators and service providers in Washington, DC, area; reimbursement

procedures; comments due by 11-3-06; published 10-4-06 [FR 06-08250]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Air carrier certification and operations:

Mitsubishi MU-2B series airplane; special training, experience, and operating requirements; comments due by 10-30-06; published 9-28-06 [FR 06-08310]

Air traffic operating and flight rules, etc.:

LaGuardia Airport, NY; congestion management rule; comments due by 10-30-06; published 8-29-06 [FR 06-07207]

Airworthiness directives:

Agusta S.p.A.; comments due by 10-31-06; published 9-1-06 [FR E6-14548]

BAE Systems (Operations) Ltd.; comments due by 10-30-06; published 9-28-06 [FR E6-15948]

Boeing; comments due by 10-30-06; published 2-9-06 [FR E6-01767]

Bombardier; comments due by 10-31-06; published 9-1-06 [FR E6-14617]

Empresa Brasileira de Aeronautica S.A. (EMBRAER); comments due by 10-30-06; published 9-28-06 [FR E6-15947]

TRANSPORTATION DEPARTMENT

Federal Railroad Administration

Practice and procedure:

Emergency Relief Dockets establishment and emergency safety regulations waiver petitions handling procedures; comments due by 10-30-06; published 8-30-06 [FR 06-07292]

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards:

Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act; implementation—

Early warning information; reporting requirements; comments due by 10-31-06; published 9-1-06 [FR E6-14580]

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:

Real estate mortgage investment conduit residual interests; REMIC net income accounting; cross-reference; comments due by 10-30-06; published 8-1-06 [FR E6-12364]

Treatment of controlled services transactions and allocation of income and deductions from intangibles stewardship expense; comments due by 11-2-06; published 8-4-06 [FR 06-06674]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html.*

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 138/P.L. 109–354

To revise the boundaries of John H. Chafee Coastal Barrier Resources System Jekyll Island Unit GA-06P. (Oct. 16, 2006; 120 Stat. 2017)

H.R. 479/P.L. 109–355

To replace a Coastal Barrier Resources System map relating to Coastal Barrier Resources System Grayton Beach Unit FL-95P in Walton County, Florida. (Oct. 16, 2006; 120 Stat. 2018)

H.R. 3508/P.L. 109–356

2005 District of Columbia Omnibus Authorization Act (Oct. 16, 2006; 120 Stat. 2019)

H.R. 4902/P.L. 109–357

Byron Nelson Congressional Gold Medal Act (Oct. 16, 2006; 120 Stat. 2044)

H.R. 5094/P.L. 109–358

Lake Mattamuskeet Lodge Preservation Act (Oct. 16, 2006; 120 Stat. 2047)

H.R. 5160/P.L. 109–359

Long Island Sound Stewardship Act of 2006 (Oct. 16, 2006; 120 Stat. 2049)

H.R. 5381/P.L. 109–360

National Fish Hatchery System Volunteer Act of 2006 (Oct. 16, 2006; 120 Stat. 2058)

S. 2562/P.L. 109–361

Veterans' Compensation Cost-of-Living Adjustment Act of 2006 (Oct. 16, 2006; 120 Stat. 2062)

H.R. 233/P.L. 109–362

Northern California Coastal Wild Heritage Wilderness Act (Oct. 17, 2006; 120 Stat. 2064)

H.R. 4957/P.L. 109–363

To direct the Secretary of the Interior to convey the Tylersville division of the Lamar National Fish Hatchery and Fish Technology Center to the State of Pennsylvania, and for other purposes. (Oct. 17, 2006; 120 Stat. 2074)

H.R. 5122/P.L. 109–364

John Warner National Defense Authorization Act for the Financial Year 2007 (Oct. 17, 2006; 120 Stat. 2083)

H.R. 6197/P.L. 109–365

Older Americans Act Amendments of 2006 (Oct. 17, 2006; 120 Stat. 2522)

S. 3930/P.L. 109–366

Military Commissions Act of 2006 (Oct. 17, 2006; 120 Stat. 2600)

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